

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1922

By: DeWitt

4
5
6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2011, Sections 1451, 1452, 1453, 1454, 1455,
9 1456, 1457, 1462A, as amended by Section 1068,
10 Chapter 304, O.S.L. 2012, 1462B, as amended by
11 Section 1069, Chapter 304, O.S.L. 2012, 1462C, as
12 amended by Section 1070, Chapter 304, O.S.L. 2012,
13 1464, 1465, 1466, 1467 and 1470 (82 O.S. Supp. 2012,
14 Sections 1462A, 1462B and 1462C), which relate to the
15 Scenic Rivers Act; updating statutory citation;
16 modifying definition of a certain term; modifying
17 legislative intent; deleting certain findings;
18 deleting stated purpose of the act; updating
19 statutory language; modifying name of the Scenic
20 Rivers Commission; deleting certain complaint
21 authorization; deleting littering prohibition;
22 modifying description of certain landowners; changing
23 certain state agency names; modifying criteria for
24 the list of certain water pollution sources;
modifying criteria for certain discharges from
wastewater treatment facilities; changing
requirements for certain pollution control programs
implemented by and certain reports made by the
Oklahoma Scenic Rivers Commission; re-creating the
Oklahoma Scenic Rivers Commission; creating the Board
of Commissioners; providing for membership and terms;
providing for selection of members; directing the
Board to promulgate certain rules; requiring rules to
be consistent with certain laws; establishing
procedure for filling vacancies; providing for
meetings, officers, quorum and travel reimbursement;
stating the powers and responsibilities of the Board;
requiring the Administrator and staff to perform
certain duties, tasks and responsibilities; making
the Administrator serve at the pleasure of the Board;
stating responsibilities of the Administrator;

1 authorizing the Administrator to appoint commissioned
2 peace officers; providing for powers and duties of
3 commissioned peace officers; making commissioned
4 peace officers unclassified; providing for election
5 of retirement systems for certain commissioned peace
6 officers; allowing certain commissioned peace
7 officers to retain the badge and firearm; authorizing
8 the Administrator to employ seasonal employees;
9 making seasonal employees unclassified; providing for
10 benefits for seasonal employees; requiring a summary
11 of the use of seasonal employees in the budget
12 request; authorizing the Administrator to employ
13 project employees; making project employees
14 unclassified; providing for benefits for project
15 employees; requiring a summary of the use of project
16 employees in the budget request; making it a
17 violation to make certain false statements;
18 authorizing the Board to assess an administrative
19 penalty after certain hearing process; establishing
20 amount of penalty; authorizing the Board to appoint
21 administrative law judges or hearing officers;
22 requiring hearings to be held in certain regions;
23 making certain violations a misdemeanor; allowing the
24 Board seek penalties in district court; providing for
the payment of certain costs and fees; providing for
payment of penalties, fees and fines to the
Commission; authorizing the Administrator to take
emergency action under certain circumstances;
requiring compliance; authorizing the Board to issue
certain notices; changing name of certain revolving
fund; directing the Director of the Office of
Management and Enterprise Services to provide certain
administrative support; modifying construction of
act; modifying area over which certain cities and
counties have powers and can provide funds; deleting
certain limitation on violations; making littering
and dumping on or near a scenic river subject to
certain law; modifying amount of certain annual use
fee; authorizing the Board to establish an annual use
fee subject to certain cap; establishing an
individual use fee; authorizing the Board to
establish an individual use fee subject to certain
cap; providing for the assessment of an additional
fee for failure to remit the individual use fee;
modifying fee for noncommercial, privately owned
devices; exempting certain property owners from
certain fees; requiring certain fees to be deposited

1 in certain revolving fund; deleting certain
2 limitation on camping site fees; modifying statutory
3 language; repealing 82 O.S. 2011, Sections 1458,
4 1460, 1461, 1462, 1463, 1469 and 1471, which relate
5 to the Scenic Rivers Act; providing for
6 recodification; providing for codification; and
7 declaring an emergency.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 82 O.S. 2011, Section 1451, is
10 amended to read as follows:

11 Section 1451. Sections 1452 through ~~1471~~ 1470 of this title
12 shall be known and may be cited as the "Scenic Rivers Act".

13 SECTION 2. AMENDATORY 82 O.S. 2011, Section 1452, is
14 amended to read as follows:

15 Section 1452. A. The Oklahoma Legislature finds that some of
16 the free-flowing streams and rivers of Oklahoma possess such unique
17 natural scenic beauty, water conservation, fish, wildlife and
18 outdoor recreational values of present and future benefit to the
19 people of the state that it is the policy of the Legislature to
20 preserve these areas for the benefit of the people of Oklahoma. For
21 this purpose there are hereby designated certain "scenic river
22 areas" to be preserved as a part of Oklahoma's diminishing resource
23 of free-flowing rivers and streams.

1 B. The areas of the state designated as "scenic river areas"
2 shall include:

3 1. The Flint Creek and the Illinois River above the confluence
4 of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;

5 2. The Barren Fork Creek in Adair and Cherokee Counties from
6 the present alignment of Highway 59 West to the Illinois River;

7 3. The Upper Mountain Fork River above the 600-foot elevation
8 level of Broken Bow Reservoir in McCurtain and LeFlore Counties;

9 4. Big Lee's Creek, sometimes referred to as Lee Creek, located
10 in Sequoyah County, above the 420-foot MSL elevation, excluding that
11 portion necessary for a dam to be built in the State of Arkansas
12 with a crest elevation of no more than the 420-foot MSL elevation.
13 The Oklahoma Water Resources Board shall make such classifications,
14 designations or adjustments to Oklahoma's water quality standards as
15 required to allow the impoundment of water by said dam; and

16 5. Little Lee's Creek, sometimes referred to as Little Lee
17 Creek, located in Adair and Sequoyah Counties, beginning
18 approximately four (4) miles east-southeast of Stilwell, Oklahoma,
19 and ending at its conjunction with Big Lee's Creek approximately two
20 (2) miles southwest of Short, Oklahoma.

21 C. The term "scenic river area" as used in the Scenic Rivers
22 Act is defined as the designated stream or river and the public use
23 and access areas located within or adjacent to the ~~area-designated~~
24 stream or river.

1 SECTION 3. AMENDATORY 82 O.S. 2011, Section 1453, is
2 amended to read as follows:

3 Section 1453. A. ~~Once an area is designated as a "scenic river~~
4 ~~area", it~~ It is the intent of the Legislature that:

5 1. ~~The a designated~~ stream or river ~~in the area designated~~
6 shall be preserved in its free-flowing condition, and

7 2. ~~The stream or river~~ shall not be impounded by any large dam
8 or structure except as specifically authorized by the Legislature.

9 B. No agency or official of state government shall authorize or
10 concur in plans of local, state or federal agencies for the
11 construction, operation, or maintenance of any dam or related
12 project in or adjacent to any "scenic river area", without
13 legislative consent, except as needed by the municipalities located
14 in the counties or the immediate vicinity of the "scenic river
15 area", for their own municipal or domestic water supply if such use
16 and structures will not significantly interfere with the
17 preservation of the stream as a scenic free-flowing stream.

18 SECTION 4. AMENDATORY 82 O.S. 2011, Section 1454, is
19 amended to read as follows:

20 Section 1454. A. ~~It is recognized by the Legislature that an~~
21 ~~effective program for preserving the scenic beauty of the free-~~
22 ~~flowing streams and rivers designated as "scenic river areas"~~
23 ~~necessarily involves the cooperation and support of the people in~~
24 ~~the operating areas of designated "scenic river areas", as well as~~

1 ~~the people using the "scenic river areas", and the agencies of state~~
2 ~~government administering these areas.~~

3 ~~B. The primary purpose of the Scenic Rivers Act is to encourage~~
4 ~~the preservation of the areas designated as "scenic river areas" in~~
5 ~~their natural scenic state.~~

6 ~~C. In order to assist in the public use and enjoyment of such~~
7 ~~scenic river areas, any the Oklahoma Scenic Rivers Commission, the~~
8 ~~Oklahoma Tourism and Recreation Department and the Oklahoma Wildlife~~
9 ~~Conservation Commission may acquire, develop and maintain public~~
10 ~~access points, easements or park areas in or near "scenic river~~
11 ~~areas". Such acquisitions Acquisitions shall be by private treaty~~
12 ~~only, and the use of the power of eminent domain for these purposes~~
13 ~~is specifically prohibited by the Scenic Rivers Act.~~

14 SECTION 5. AMENDATORY 82 O.S. 2011, Section 1455, is
15 amended to read as follows:

16 Section 1455. ~~A. It is recognized by the Legislature that~~
17 ~~littering by people using the "scenic river areas" is one of the~~
18 ~~most immediate threats to the scenic beauty of our free-flowing~~
19 ~~streams and surrounding areas.~~

20 ~~B. Any law enforcement, police or peace officer, game wardens~~
21 ~~or any other personnel of the Wildlife Conservation Commission, the~~
22 ~~personnel of the Tourism and Recreation Department, any landowner in~~
23 ~~the area, or any other interested party may file a complaint to~~
24 ~~enforce the provisions of the Scenic Rivers Act.~~

1 ~~C. Any person who deliberately places, throws, drops, deposits~~
2 ~~or discards any garbage, trash, waste, rubbish, refuse, debris or~~
3 ~~other deleterious substance on or near a scenic river area shall be~~
4 ~~subject to the provisions of Section 1761.1 of Title 21 of the~~
5 ~~Oklahoma Statutes.~~

6 ~~D.~~ The use of glass containers for any purpose shall be
7 prohibited in any boat, canoe, raft or inflatable watercraft in a
8 scenic river area or on the Lower Mountain Fork River, south of the
9 Broken Bow Lake Reregulation Dam to United States Highway 70. Any
10 person found in violation of this ~~subsection~~ section shall be
11 subject to the provisions of Section 1761.1 of Title 21 of the
12 Oklahoma Statutes.

13 SECTION 6. AMENDATORY 82 O.S. 2011, Section 1456, is
14 amended to read as follows:

15 Section 1456. The property rights of private landowners ~~in and~~
16 ~~around~~ adjacent to scenic river areas are the same as in any other
17 area of the state. The unauthorized use of private property is
18 trespassing and is subject to the penalties provided elsewhere in
19 the statutes for such an offense.

20 SECTION 7. AMENDATORY 82 O.S. 2011, Section 1457, is
21 amended to read as follows:

22 Section 1457. A. The ~~Executive Director of the~~ Department of
23 Environmental Quality, the Corporation Commission, the ~~State~~
24 Department of Agriculture, Food, and Forestry, the Oklahoma Water

1 Resources Board, the ~~Oklahoma~~ Department of Wildlife Conservation
2 ~~Commission~~ and the Conservation Commission are hereby given the
3 authority to assist the Oklahoma Scenic Rivers Commission in
4 maintaining and improving water quality and in preventing and
5 eliminating the pollution of waters within a "scenic river area".

6 B. 1. The Secretary of Environment shall coordinate with the
7 appropriate state environmental agencies to create a coordinated
8 watershed restoration and protection strategy for each impaired
9 scenic river in this state. The strategy shall be submitted to the
10 Governor, the President Pro Tempore of the Senate and the Speaker of
11 the House of Representatives by January 31, 2003.

12 2. The coordinated watershed restoration and protection
13 strategy shall identify all permitted or registered water pollution
14 sources and shall include but not be limited to:

15 a. an overall pollutant-specific load reduction as
16 identified in a developed total maximum daily load
17 (TMDL), or as otherwise calculated in the absence of a
18 developed total maximum daily load, to bring each
19 impaired scenic river back into compliance with water
20 quality standards,

21 b. pollutant-specific load reduction goals for each state
22 environmental agency to accomplish through its water
23 quality protection programs,

24

- 1 c. detailed compliance schedules indicating how much of
2 the load reduction goal will be accomplished each year
3 by each state environmental agency,
- 4 d. industry-specific descriptions of how load reduction
5 goals for each state environmental agency will be
6 accomplished,
- 7 e. an outline of innovative, cooperative intrastate and
8 interstate strategies that will be pursued in order to
9 expedite pollutant reductions, in particular where
10 scenic river watersheds cross state lines. Such
11 strategies may include nutrient trading and
12 conservation reserve enhancement program (CREP)
13 initiatives, and
- 14 f. a list of all permitted or registered water pollution
15 sources subject to the jurisdiction of each state
16 agency within each impaired scenic river watershed.
17 ~~For the permitted or registered water pollution~~
18 ~~sources subject to each state environmental agency's~~
19 ~~jurisdiction, including the following information~~
20 ~~shall be included:~~
- 21 (1) types of operations or organizations regulated,
22 (2) list of the registrations or permits issued,
23 (3) details on governmental assistance given, and
24 (4) details of enforcement actions undertaken.

1 C. 1. The Secretary of Environment shall coordinate with the
2 appropriate state environmental agencies to create an annual
3 progress report, beginning January 31, 2004, and each year
4 thereafter. The progress report shall be submitted to the Governor,
5 the President Pro Tempore of the Senate, and the Speaker of the
6 House of Representatives.

7 2. The annual progress report shall include any revisions and
8 updates to the information provided in the original strategy, in
9 addition to the following:

- 10 a. identification of all actions taken by each state
11 environmental agency to reduce pollutant levels in
12 each impaired scenic river watershed,
- 13 b. identification of the sources of pollutants causing
14 impairment or continued degradation of each impaired
15 scenic river,
- 16 c. outline of further steps to be taken by each state
17 environmental agency to reduce pollutants from
18 identified sources in order to accomplish pollutant-
19 specific load reduction goals,
- 20 d. an analysis of the effectiveness of the pollutant
21 reduction efforts of each state environmental agency
22 based upon data collected by the Oklahoma Water
23 Resources Board's Beneficial Use Monitoring Program,
24 the Conservation Commission's Small Watershed

1 Rotational Monitoring Program and other appropriate
2 monitoring data, and

3 e. recommendations for further administrative, judicial
4 or legislative actions necessary to achieve the load
5 reduction goals assigned to each impaired scenic river
6 watershed and to overcome any identified limitations
7 or obstacles.

8 D. 1. For those impaired scenic river watersheds where a total
9 maximum daily load (TMDL) for phosphorus has been developed, the
10 Department of Environmental Quality shall initially allocate a
11 wasteload for phosphorus for discharges from wastewater treatment
12 facilities that enter the scenic river which is achievable by the
13 best available waste control process.

14 2. The annual report required by subsection C of this section
15 shall indicate how the Department has verified that each wastewater
16 treatment facility having a discharge has, in fact, implemented
17 appropriate waste controls for phosphorus.

18 3. If the state's water quality monitoring data demonstrate
19 that the water quality standards for phosphorus applicable to a
20 watershed remain impaired, and only after all permitted or
21 registered water pollution sources have also implemented the best
22 available waste control processes for phosphorus to address the
23 pollutant or pollutants contributing to the impairment of the
24 watershed, the Department shall again evaluate and require regulated

1 entities to take additional actions to achieve water quality
2 standards for phosphorus.

3 E. 1. The Oklahoma Scenic Rivers Commission shall require all
4 entities ~~using scenic rivers for recreational activities, which are~~
5 licensed by the Commission, to implement a program to control the
6 amount of pollution entering ~~an impaired~~ a scenic river watershed
7 ~~from such~~ that is impaired by recreational activities.

8 2. The Oklahoma Scenic Rivers Commission shall include in the
9 coordinated watershed restoration and protection strategy, and all
10 subsequent annual reports, an identification of the pollution from
11 ~~recreational activities which are~~ all entities licensed by the
12 Commission and those actions taken and planned to reduce the amount
13 of the pollution ~~from entering an impaired scenic river watershed.~~

14 F. If the Legislature or the Governor finds, based on any of
15 the annual reports required by this section, that any of the state
16 environmental agencies have failed to appropriately protect water
17 quality standards in an impaired scenic river watershed, the
18 Governor and the Legislature shall take any and all necessary and
19 appropriate action to require the agency to meet its mandated
20 responsibilities.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1461.1 of Title 82, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. There is hereby re-created, to continue until July 1, 2018,
2 in accordance with the provisions of the Oklahoma Sunset Law, the
3 Oklahoma Scenic Rivers Commission. The Commission shall be governed
4 by a Board of Commissioners consisting of twelve (12) members, who
5 shall each serve a four-year term. The Commissioners shall be
6 selected as follows:

7 1. The Governor shall appoint three members, one of whom shall
8 be a representative of the Oklahoma Conservation Commission or the
9 Oklahoma Tourism and Recreation Commission;

10 2. The President Pro Tempore of the Senate shall appoint two
11 members who shall each be a member of a statewide citizens'
12 conservation or environmental group;

13 3. The Speaker of the House of Representatives shall appoint
14 two members who shall each be a representative of the agriculture
15 industry;

16 4. The registered voters who reside, own real property, or own
17 permanent residential structures within six hundred sixty (660) feet
18 of a scenic river within Delaware County shall elect one nonpartisan
19 member to represent them;

20 5. The registered voters who reside, own real property, or own
21 permanent residential structures within six hundred sixty (660) feet
22 of a scenic river within Adair County shall elect one nonpartisan
23 member to represent them;

24

1 6. The registered voters who reside, own real property, or own
2 permanent residential structures within six hundred sixty (660) feet
3 of a scenic river within Cherokee County shall elect one nonpartisan
4 member to represent them;

5 7. One of the current at-large members of the Commission
6 serving on the effective date of this act shall continue to serve
7 until the expiration of their current term. After the first
8 expiration of the term of an existing at-large member of the
9 Commission, the registered voters who reside, own real property, or
10 own permanent residential structures within six hundred sixty (660)
11 feet of a scenic river within Sequoyah County shall elect one
12 nonpartisan member to represent them; and

13 8. One of the current at-large members of the Commission
14 serving on the effective date of this act shall continue to serve
15 until the expiration of their current term. After the second
16 expiration of the term of an existing at-large member of the
17 Commission, the registered voters who reside, own real property, or
18 own permanent residential structures within six hundred sixty (660)
19 feet of a scenic river within McCurtain County shall elect one
20 nonpartisan member to represent them.

21 B. The Board of Commissioners shall promulgate rules governing
22 the procedure and conduct of elections for Commission members. The
23 rules shall be consistent with the purpose of general election laws
24 except where otherwise provided for by the Scenic Rivers Act.

1 C. Vacancies on the Board of Commissioners shall be filled, as
2 applicable, by the appointing authority or by election, pursuant to
3 the provisions of this section within ninety (90) days of the
4 vacancy. Members shall serve until their respective successors
5 shall be appointed and qualified, or be elected, unless terminated
6 by death or resignation.

7 D. The Board of Commissioners shall meet at least quarterly, at
8 time and place of their choosing, and special meetings may be called
9 by the chair, by five members, or by the Administrator. The Board
10 of Commissioners shall annually elect from its members a chair and
11 vice-chair, who may not hold the position for more than two (2)
12 terms in succession. A majority of the Board of Commissioners
13 present at the meeting shall constitute a quorum. Members of the
14 Board of Commissioners shall serve without salary and may receive
15 necessary travel expenses according to the provisions of the State
16 Travel and Reimbursement Act.

17 SECTION 9. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1461.2 of Title 82, unless there
19 is created a duplication in numbering, reads as follows:

20 The Board of Commissioners of the Oklahoma Scenic Rivers
21 Commission shall have the following powers and responsibilities:

- 22 1. Appoint and fix the salary of the Administrator of the
23 Oklahoma Scenic Rivers Commission, who shall be experienced in land
24 resource planning and management who shall serve at the pleasure of

1 the Board of Commissioners and in accordance with its policies,
2 budgets, powers, and responsibilities;

3 2. Promulgate rules necessary, expedient, or appropriate to the
4 performance, enforcement, or carry out any of the purposes,
5 objectives, or provisions or appropriate performance and issue
6 orders necessary to the exercise of the powers of the Commission and
7 to achieve the purposes of the Scenic Rivers Act, pursuant to the
8 Administrative Procedures Act;

9 3. Prepare and adopt a management plan or plans to guide and
10 control private activities and public programs and to include
11 varying degrees of protection and development based on the special
12 attributes of the area;

13 4. To consider and comment on public and private practices and
14 proposed actions that may affect a scenic river area;

15 5. To recommend standards for local government agencies whose
16 political boundaries include part of a scenic river area;

17 6. Enter into contracts on behalf of the Commission;

18 7. Accept, as the Board of Commissioners deems appropriate,
19 gifts and grants of money and real and personal property on behalf
20 of the Oklahoma Scenic Rivers Commission for public purposes;

21 8. Own and control public access points to the scenic river
22 area, issue use permits, and purchase easements and fee title to
23 land within the operating area of the Commission;

24

1 9. Identify public and private nuisances which are adverse to
2 the purposes of the Scenic Rivers Act and take action as permitted
3 by law to remove the public nuisances;

4 10. Hire an attorney or request legal assistance from the
5 district attorney or the State Attorney General when appropriate and
6 if there is no conflict in the legal interest of the parties;

7 11. Bring an action in the district court of any county of the
8 state where service can be obtained on one or more of the
9 defendants, to enjoin the acts or practices which appear to
10 constitute a violation of any provision of the Scenic Rivers Act or
11 any rule or order promulgated and to enforce compliance with the
12 provisions of the Scenic Rivers Act or any rule or order. Upon a
13 proper showing, a restraining order, permanent or temporary
14 injunction, writ of mandamus, or other appropriate remedies
15 including damages shall be granted. The court may not require the
16 Administrator or the Board of Commissioners to post a bond;

17 12. Initiate and prosecute administrative, civil, or criminal
18 actions and proceedings necessary under the Scenic Rivers Act;

19 13. To hear appeals of determinations by hearing examiners for
20 the Oklahoma Scenic Rivers Commission and issue final orders in
21 administrative matters;

22 14. To consider matters as are brought to it for consideration
23 by the Administrator; and
24

1 15. To maintain the administrative offices of the Oklahoma
2 Scenic Rivers Commission in Cherokee County in existence as of the
3 effective date of this act and to establish field offices, as the
4 Board of Commissioners finds necessary.

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1461.3 of Title 82, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The daily duties, tasks and responsibilities of the Oklahoma
9 Scenic Rivers Commission shall be performed by the Administrator and
10 staff of the Commission.

11 B. The Administrator shall serve at the pleasure of and assist
12 the Board of Commissioners. To assist the Board of Commissioners in
13 implementing the purposes of the Scenic Rivers Act, the
14 Administrator shall:

15 1. Be experienced in land resource planning and management;

16 2. Be commissioned as a peace officer after completion of all
17 training required by the Council on Law Enforcement Education and
18 Training, and for the purpose of supervising peace officers employed
19 by the Oklahoma Scenic Rivers Commission, and may be utilized for
20 any law enforcement purpose as may be necessary;

21 3. Select, appoint, and employ individuals, including peace
22 officers, to fill personnel positions authorized, budgeted and
23 deemed necessary by the Board of Commissioners;

24

1 4. Maintain the records, facilities, and property of the
2 Oklahoma Scenic Rivers Commission and otherwise carry out the
3 ministerial task of the agency;

4 5. Bring matters before the Board of Commissioners as believed
5 advisable; and

6 6. Cooperate with local, state, and federal agencies on behalf
7 of the Oklahoma Scenic Rivers Commission.

8 C. 1. The Administrator may appoint commissioned peace
9 officers certified by the Council on Law Enforcement Education and
10 Training (CLEET) to secure scenic river areas, including all
11 roadways and adjacent areas within the designated scenic river
12 areas. All persons appointed by the Administrator as peace officers
13 shall be and shall have the full powers and authority of peace
14 officers of the State of Oklahoma in securing scenic river areas,
15 including all roadways and adjacent areas of the scenic river areas.

16 2. All peace officers appointed by the Administrator shall be
17 in the unclassified service.

18 3. Peace officers who become employed under this subsection or
19 who are transferred to the Oklahoma Scenic Rivers Commission
20 pursuant to the Scenic Rivers Act who have service credit in the
21 Oklahoma Law Enforcement Retirement System may, within thirty (30)
22 days after becoming employed or transferred, elect to continue
23 membership in the Oklahoma Law Enforcement Retirement System. If
24 the peace officer does not make the election within thirty (30)

1 days, they may be eligible to enroll only in the Oklahoma Public
2 Employees Retirement System.

3 4. Any peace officer who has completed twenty (20) years of
4 service or retires from the Oklahoma Scenic Rivers Commission may
5 maintain possession of the badge and firearm assigned to the peace
6 officer.

7 D. The Administrator is authorized to employ seasonal
8 employees, including commissioned peace officers certified by the
9 Council on Law Enforcement Education and Training (CLEET) throughout
10 the calendar year to secure scenic river areas, including all
11 roadways adjacent within the designated scenic river areas. For the
12 purposes of the Scenic Rivers Act, seasonal employees shall be
13 unclassified employees employed by the Administrator who work less
14 than one thousand six hundred (1,600) hours in any twelve-month
15 period. The Administrator may employ seasonal employees throughout
16 the calendar year. Seasonal employees employed by the Administrator
17 for a period of time necessary to complete a project shall be in the
18 unclassified service of the state as provided by the Oklahoma
19 Personnel Act. Seasonal employees shall not be entitled to paid
20 leave, paid holidays, retirement, health, dental or life insurance,
21 and shall be exempt from any laws, rules or practices providing for
22 such benefits. The Administrator, in the annual budget request for
23 the Oklahoma Scenic Rivers Commission, shall include a summary of
24 the use of seasonal employees, which shall include the number of

1 seasonal employees employed under the provisions of this subsection
2 and the total wages paid to these employees.

3 E. Project labor employed by the Oklahoma Scenic Rivers
4 Commission for a period of time necessary to complete a project
5 shall be in the unclassified service of the state as provided by the
6 Oklahoma Personnel Act. Project employees shall not be entitled to
7 paid leave, paid holidays, retirement, health, dental or life
8 insurance, and shall be exempt from any laws, rules or practices
9 providing such benefits. The Administrator, in the annual budget
10 request for the Oklahoma Scenic Rivers Commission, shall include a
11 summary of the use of project labor that shall include the number of
12 project workers employed under the provisions of this subsection and
13 the total wages paid to these employees.

14 SECTION 11. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1461.4 of Title 82, unless there
16 is created a duplication in numbering, reads as follows:

17 In addition to other penalties as may be imposed by law, it is a
18 violation of the Scenic Rivers Act for any person to knowingly make
19 or provide any false statement, representation, or certification to
20 the Oklahoma Scenic Rivers Commission.

21 SECTION 12. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1461.5 of Title 82, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. If the Board of Commissioners of the Oklahoma Scenic Rivers
2 Commission finds any person in violation of the Scenic Rivers Act or
3 any rule promulgated or order issued pursuant to the act, the Board
4 of Commissioners, after notice and opportunity for a hearing in
5 accordance with the Administrative Procedures Act, shall have the
6 authority to assess an administrative penalty of not less than Fifty
7 Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00)
8 for each violation. Each action or each day a violation continues
9 may constitute a separate and distinct violation.

10 B. The Board of Commissioners may appoint administrative law
11 judges or hearing officers to conduct the hearing. Hearings shall
12 be held within the region in which the alleged violation occurred or
13 at the Oklahoma Scenic Rivers Commission Headquarters in Tahlequah,
14 Oklahoma.

15 C. Any person who fails to comply with the provisions of the
16 Scenic Rivers Act or rules promulgated by the Board of Commissioners
17 shall be deemed guilty of a misdemeanor unless a violation is
18 specifically identified with a penalty or as a felony.

19 D. Nothing in the Scenic Rivers Act shall preclude the Board of
20 Commissioners from seeking penalties in district court in the
21 maximum amount allowed by law. The assessment of penalties in an
22 administrative enforcement proceeding shall not prevent the
23 subsequent assessment by a court of the maximum civil or criminal
24

1 penalties for violations of the Scenic Rivers Act and rules
2 promulgated pursuant to the act.

3 E. Any person assessed an administrative penalty or civil
4 penalty may be required to pay, in addition to the penalty amount
5 and interest thereon, attorney fees and costs associated with the
6 collection of the penalties.

7 F. All penalties, fees, fines, and monies collected shall be
8 paid to the Oklahoma Scenic Rivers Commission.

9 G. Whenever the Board of Commissioners finds that an emergency
10 exists requiring immediate action to protect the public health,
11 welfare, or the environment, the Administrator of the Oklahoma
12 Scenic Rivers Commission may without notice or hearing issue an
13 order, effective upon issuance, reciting the existence of an
14 emergency and requiring action be taken as specified in the order to
15 meet the emergency. Any person to whom an order is directed shall
16 comply immediately but may request an administrative enforcement
17 hearing within fifteen (15) days after the order is served. The
18 hearing shall be held by the Board of Commissioners within ten (10)
19 days after receipt of the request. On the basis of the hearing
20 record, the chairman of the Board of Commissioners shall sustain or
21 modify the original order.

22 H. The Board of Commissioners shall have the authority to issue
23 notices of violation, citations, compliance orders, conditional
24 orders, or any other action authorized by the Scenic Rivers Act.

1 SECTION 13. AMENDATORY 82 O.S. 2011, Section 1462A, as
2 amended by Section 1068, Chapter 304, O.S.L. 2012 (82 O.S. Supp.
3 2012, Section 1462A), is amended to read as follows:

4 Section 1462A. A. The Director of the Office of Management and
5 Enterprise Services is hereby authorized to establish a special fund
6 in the State Treasury for ~~each~~ the Oklahoma Scenic Rivers
7 Commission.

8 B. Said fund shall consist of all monies received by the
9 Commission under statutory authority or appropriated for its use.
10 The fund shall be a continuing fund not subject to fiscal year
11 limitations.

12 C. Monies accruing to the credit of the fund shall be expended
13 pursuant to laws of the state in carrying out the duties and
14 responsibilities of the Commission, and without legislative
15 appropriation.

16 D. Warrants for expenditure from the fund shall be made
17 pursuant to claims prepared by the Administrator of the Scenic
18 Rivers Commission and approved by the Director of the Office of
19 Management and Enterprise Services for payment.

20 E. Expenditures made pursuant to the provisions of the Scenic
21 Rivers Act may be spent for water quality monitoring, streambank
22 stabilization projects, and riparian area protection agreements
23 located within the drainage basin of a scenic river that will stop
24 degradation or improve the water quality of a scenic river.

1 SECTION 14. AMENDATORY 82 O.S. 2011, Section 1462B, as
2 amended by Section 1069, Chapter 304, O.S.L. 2012 (82 O.S. Supp.
3 2012, Section 1462B), is amended to read as follows:

4 Section 1462B. A. The Director of the Office of Management and
5 Enterprise Services is hereby authorized to establish a Petty Cash
6 Fund for ~~each~~ the Oklahoma Scenic Rivers Commission in an amount not
7 to exceed Five Hundred Dollars (\$500.00).

8 B. The fund shall be established and replenished from any
9 monies available to ~~a~~ the Oklahoma Scenic Rivers Commission for
10 operating expenses.

11 C. The Director of the Office of Management and Enterprise
12 Services shall prescribe all forms, systems and procedures for
13 administering a Petty Cash Fund so established.

14 SECTION 15. AMENDATORY 82 O.S. 2011, Section 1462C, as
15 amended by Section 1070, Chapter 304, O.S.L. 2012 (82 O.S. Supp.
16 2012, Section 1462C), is amended to read as follows:

17 Section 1462C. A. The fees collected pursuant to the
18 provisions of ~~subsection B of Section 1470 of this title shall~~ the
19 Scenic Rivers Act may be used to purchase additional public access
20 areas along the ~~Flint Creek and Illinois River Scenic River Areas~~
21 ~~within Adair, Cherokee and Delaware Counties and those portions of~~
22 ~~Barren Fork Creek within Cherokee County~~ designated scenic rivers or
23 for the general operations of the Commission.

24

1 B. 1. For these purposes, there is hereby created in the State
2 Treasury a revolving fund for the Oklahoma Scenic Rivers Commission,
3 to be designated the "Oklahoma Scenic Rivers Commission Revolving
4 Fund".

5 2. The fund shall be a continuing fund, not subject to fiscal
6 year limitations, and shall consist of all monies received by the
7 Oklahoma Scenic Rivers Commission from all fees and fines collected
8 pursuant to the Scenic Rivers Act. All monies accruing to the
9 credit of said fund are hereby appropriated and may be budgeted and
10 expended by the Oklahoma Scenic Rivers Commission for the purpose of
11 performing the duties imposed by law upon the Oklahoma Scenic Rivers
12 Commission.

13 3. Expenditures from said fund shall be made upon warrants
14 issued by the State Treasurer against claims filed as prescribed by
15 law with the Director of the Office of Management and Enterprise
16 Services for approval and payment.

17 SECTION 16. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1462D of Title 82, unless there
19 is created a duplication in numbering, reads as follows:

20 The Director of the Office of Management and Enterprise Services
21 shall provide administrative support for payroll, human resources,
22 accounts payable and other bookkeeping and accounting functions of
23 the Oklahoma Scenic Rivers Commission.

24

1 SECTION 17. AMENDATORY 82 O.S. 2011, Section 1464, is
2 amended to read as follows:

3 Section 1464. A. Nothing in the Scenic Rivers Act shall be
4 construed to unduly restrict or adversely affect the use of property
5 within the jurisdiction of ~~any~~ the Oklahoma Scenic Rivers Commission
6 for farming, ranching, forestry, silviculture and other agricultural
7 uses so long as they are not inconsistent with the purposes of the
8 Scenic Rivers Act.

9 B. Present farming, ranching, forestry, silviculture and other
10 agricultural uses and practices, including existing building and
11 replacement structures, are hereby exempt from the provisions of ~~any~~
12 the Oklahoma Scenic Rivers Commission.

13 C. The Scenic Rivers Act shall not be construed in any way to
14 affect existing rights between a landowner and utility or pipeline
15 companies.

16 SECTION 18. AMENDATORY 82 O.S. 2011, Section 1465, is
17 amended to read as follows:

18 Section 1465. A. All cities and incorporated towns and
19 counties that make up a part of a ~~jurisdiction of a certified Scenic~~
20 ~~Rivers Commission~~ scenic river area are hereby invested with full
21 power to plan, zone and enact all ordinances and regulations that
22 are necessary and proper to carry out the purposes of the Scenic
23 Rivers Act.

24

1 B. The cities, incorporated towns and counties shall follow
2 their respective general procedures in the conduct of legislative
3 functions.

4 C. In exercising planning and zoning functions, ~~said~~ the
5 cities, incorporated towns and counties shall utilize the
6 organization and procedures available to cities and incorporated
7 towns under the general planning and zoning laws of the state.
8 Provided that, when a county exercises the powers provided by the
9 Scenic Rivers Act, the board of county commissioners of that county
10 shall perform the obligations and exercise the powers in the same
11 manner as a local legislative body or mayor of a city, incorporated
12 town or municipality.

13 SECTION 19. AMENDATORY 82 O.S. 2011, Section 1466, is
14 amended to read as follows:

15 Section 1466. Each county, city, incorporated town or other
16 governmental entity ~~that makes up a part of the operating area of a~~
17 ~~Scenic Rivers Commission~~ whose political boundaries include all or
18 part of a scenic river area is hereby authorized to grant or
19 otherwise provide funds for the operation of the Oklahoma Scenic
20 Rivers Commission.

21 SECTION 20. AMENDATORY 82 O.S. 2011, Section 1467, is
22 amended to read as follows:

23 Section 1467. A. Any person who willfully violates any rule or
24 order issued pursuant to the Scenic Rivers Act, ~~except such rules or~~

1 ~~orders as relate solely to procedural matters,~~ upon conviction
2 thereof, shall be guilty of a misdemeanor.

3 B. Any person who deliberately places, throws, drops, dumps,
4 deposits, or discards any garbage, trash, rubbish, refuse, debris or
5 other deleterious substance on or near a scenic river shall be
6 subject to the provisions of Section 1761.1 of Title 21 of the
7 Oklahoma Statutes.

8 SECTION 21. AMENDATORY 82 O.S. 2011, Section 1470, is
9 amended to read as follows:

10 Section 1470. A. 1. The Oklahoma Scenic Rivers Commission ~~for~~
11 ~~the Flint Creek and Illinois River within Adair, Cherokee and~~
12 ~~Delaware Counties and those portions of Barren Fork Creek within~~
13 ~~Cherokee County~~ is authorized and directed to charge an annual use
14 fee of ~~Thirty-five Dollars (\$35.00)~~ Five Dollars (\$5.00) per
15 commercially owned and operated flotation device until such time as
16 the Board of Commissioners of the Oklahoma Scenic Rivers Commission
17 establishes an annual use fee in an amount not to exceed Fifteen
18 Dollars (\$15.00) per commercially owned and operated flotation
19 devices which are floating upon the Flint Creek and Illinois River
20 within Adair, Cherokee and Delaware Counties and those portions of
21 Barren Fork Creek within Cherokee County. The annual use fee shall
22 be deposited into the Oklahoma Scenic Rivers Commission Revolving
23 Fund.

24

1 2. The operation of a commercial flotation device which is
2 floating upon the Flint Creek and Illinois River within Adair,
3 Cherokee and Delaware Counties and those portions of Barren Fork
4 Creek within Cherokee County without displaying a proper Oklahoma
5 Scenic Rivers Commission license ~~is~~ shall be subject to a fine not
6 to exceed One Hundred Dollars (\$100.00). The penalty will be
7 assessed upon the owner or operator of the commercial flotation
8 device business and not upon the individual renting the commercial
9 flotation device.

10 3. In addition to the annual use fee imposed pursuant to
11 paragraph 1 of this subsection on a commercially owned and operated
12 flotation device floating upon the Flint Creek and Illinois River
13 within Adair, Cherokee and Delaware Counties and those portions of
14 Barren Fork Creek within Cherokee County, the Oklahoma Scenic Rivers
15 Commission is authorized and directed to charge a user fee of One
16 Dollar (\$1.00) per person per flotation device per day to be paid by
17 the individual renting the commercial flotation device until such
18 time as the Board of Commissioners establishes a user fee in an
19 amount not to exceed Two Dollars (\$2.00) per person per flotation
20 device per day to be paid by the individual renting the commercial
21 flotation device. The individual user fee shall be deposited into
22 the Oklahoma Scenic Rivers Commission Revolving Fund.

23 4. If a commercial float operator fails to remit the individual
24 user fees on schedule as required by the Oklahoma Scenic Rivers

1 Commission, the operator shall be assessed an additional fee of
2 Fifty Dollars (\$50.00) per week for each week the operator remains
3 in arrearage. The fee shall be deposited into the Oklahoma Scenic
4 Rivers Commission Revolving Fund.

5 B. 1. The Oklahoma Scenic Rivers Commission ~~for the Flint~~
6 ~~Creek and Illinois River within Adair, Cherokee and Delaware~~
7 ~~Counties and those portions of Barren Fork Creek within Cherokee~~
8 ~~County is authorized and directed to charge:~~

9 ~~1. An~~ may establish an annual use fee of Ten Dollars (\$10.00)
10 ~~per noncommercial, privately owned device; or~~

11 ~~2. A use fee of One Dollar (\$1.00) per day for all~~
12 ~~noncommercial, privately owned flotation devices floating upon~~
13 ~~state designated scenic rivers areas located within the operating~~
14 ~~area of jurisdiction of the Commission; provided, however,~~
15 ~~landowners~~ the Flint Creek and Illinois River within Adair, Cherokee
16 and Delaware Counties and those portions of Barren Fork Creek within
17 Cherokee County. The fee shall not exceed Ten Dollars (\$10.00) per
18 noncommercial, privately owned device. The noncommercial, privately
19 owned device fee shall be deposited into the Oklahoma Scenic Rivers
20 Commission Revolving Fund.

21 2. Property owners located immediately adjacent to ~~state-~~
22 ~~designated scenic rivers areas shall not be required to pay either~~
23 ~~fee authorized by this subsection~~ the Flint Creek and Illinois River
24 within Adair, Cherokee and Delaware Counties and those portions of

1 Barren Fork Creek within Cherokee County may own and operate one
2 noncommercial flotation device for their individual use without
3 paying the fees assessed pursuant to this section.

4 C. The Board of Commissioners of the Oklahoma Scenic Rivers
5 ~~Commission for the Flint Creek and Illinois River within Adair,~~
6 ~~Cherokee and Delaware Counties and those portions of Barren Fork~~
7 ~~Creek within Cherokee County Scenic River Areas~~ shall promulgate
8 rules ~~and regulations~~ for the implementation, collection and
9 administration of the fees imposed pursuant to the provisions of
10 this section in accordance with Article I of the Administrative
11 Procedures Act.

12 D. The Board of Commissioners of the Oklahoma Scenic Rivers
13 Commission may establish a fee for use of camping sites located in
14 public use and access areas controlled by the Commission. ~~The fee~~
15 ~~charged by the Commission shall not exceed the rate charged by the~~
16 ~~Oklahoma Tourism and Recreation Department for camping sites. The~~
17 ~~Commission is authorized to promulgate rules to implement such fee~~
18 ~~pursuant to Article I of the Administrative Procedures Act.~~

19 E. The ~~administrator~~ Administrator of the Oklahoma Scenic
20 Rivers Commission is authorized to be commissioned as a peace
21 officer after completion of all required training for the purpose of
22 supervision of peace officers employed by the Commission and ~~such~~
23 ~~administrator~~ may be utilized for any law enforcement purpose as may
24 be necessary.

1 F. For the purposes of this section, "commercial flotation
2 device" means a canoe, boat, kayak, inner tube, raft or other
3 similar device suitable for the transportation of a person or
4 persons on waterways which is available for hire by the public for
5 use on waterways within the operating area of the Oklahoma Scenic
6 Rivers Commission.

7 SECTION 22. RECODIFICATION 82 O.S. 2011, Section 1455,
8 as amended by Section 5 of this act, shall be recodified as Section
9 4209.9 of Title 63 of the Oklahoma Statutes, unless there is created
10 a duplication in numbering.

11 SECTION 23. REPEALER 82 O.S. 2011, Sections 1458, 1460,
12 1461, 1462, 1463, 1469 and 1471, are hereby repealed.

13 SECTION 24. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17

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