

1 STATE OF OKLAHOMA

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

3 SENATE BILL 768

By: Brecheen

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5
6 AS INTRODUCED

7 An Act relating to the Department of Environmental
8 Quality; amending 27A O.S. 2011, Sections 1-2-101 and
9 2-2-101, which relate to the Secretary of Environment
10 and the Environmental Quality Board; requiring
11 Secretary of Environment to serve as Executive
12 Director of Department of Environmental Quality;
13 modifying certain vacancy appointment process; and
14 declaring an emergency.

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

16 SECTION 1. AMENDATORY 27A O.S. 2011, Section 1-2-101, is
17 amended to read as follows:

18 Section 1-2-101. A. The Secretary of Environment or successor
19 cabinet position having authority over the Department of
20 Environmental Quality shall serve as the Executive Director of the
21 Department of Environmental Quality and in addition have the
22 following jurisdictional areas of environmental responsibility:

23 1. Powers and duties for environmental areas designated to such
24 position by the Governor;

2. The recipient of federal funds disbursed pursuant to the
Federal Water Pollution Control Act, provided the Oklahoma Water

1 Resources Board is authorized to be the recipient of federal funds
2 to administer the State Revolving Fund Program. The federal funds
3 received by the Secretary of Environment shall be disbursed to each
4 state environmental agency and state agency with limited
5 environmental responsibilities based upon its statutory duties and
6 responsibilities relating to environmental areas as determined by
7 the Secretary of Environment in consultation with the Secretary of
8 Agriculture. Such funds shall be distributed to the appropriate
9 state environmental agency or state agency with limited
10 environmental responsibilities within thirty (30) days of its
11 receipt by the Secretary or as otherwise provided by grant or
12 contract terms without any assessment of administrative fees or
13 costs. Disbursement of other federal environmental funds shall not
14 be subject to this section. The Secretary of Environment shall make
15 an annual written report no later than November 1 to the President
16 Pro Tempore of the Senate, the Speaker of the House of
17 Representatives, and the Chair of each environmental committee of
18 both the House of Representatives and Senate detailing the
19 disbursement of federal funds;

20 3. Coordinate pollution control and complaint management
21 activities of the state carried on by all state agencies to avoid
22 duplication of effort including but not limited to the development
23 of a common data base for water quality information with a uniform
24 format for use by all state agencies and the public; and

1 4. Act on behalf of the public as trustee for natural resources
2 under the federal Oil Pollution Act of 1990, the federal
3 Comprehensive Environmental Response, Compensation and Liability Act
4 of 1980, as amended, the federal Water Pollution Control Act and any
5 other federal laws providing that a trustee for the natural
6 resources is to be designated. The Secretary is authorized to make
7 claims against federal funds, receive federal payments, establish
8 and manage a revolving fund in relation to duties as the natural
9 resources trustee consistent with the federal enabling acts and to
10 coordinate, monitor and gather information from and enter into
11 agreements with the appropriate state environmental agencies or
12 state agencies with limited environmental responsibilities in
13 carrying out the duties and functions of the trustee for the natural
14 resources of this state.

15 B. 1. The Secretary of the Environment or successor cabinet
16 position having authority over the Department of Environmental
17 Quality shall develop and implement, by January 1, 2000, public
18 participation procedures for the development and/or modification of:

- 19 a. the federally required list of impaired waters (303(d)
20 report),
- 21 b. the federally required water quality assessment
22 (305(b) report),
- 23 c. the federally required nonpoint source state
24 assessment (319 report), and

1 d. the continuing planning process document.

2 2. The procedures shall provide for the documents to be
3 submitted for formal public review with a published notice
4 consistent with the Administrative Procedures Act, providing for a
5 thirty-day comment period and the preparation of a responsiveness
6 summary by the applicable state environmental agency.

7 3. Information from current research shall be considered when
8 made available to the agency.

9 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-2-101, is
10 amended to read as follows:

11 Section 2-2-101. A. There is hereby created the Environmental
12 Quality Board to represent the interests of the State of Oklahoma
13 which shall consist of thirteen (13) members appointed by the
14 Governor with the advice and consent of the Senate.

15 B. To be eligible for appointment to the Board a person shall:

16 1. Be a citizen of the United States;

17 2. Be a resident of this state;

18 3. Be a qualified elector of this state; and

19 4. Not have been convicted of a felony pursuant to the laws of
20 this state, the laws of any other state or the laws of the United
21 States.

22 C. The Board shall be composed of:

23 1. One member who shall be a certified or registered
24 environmental professional. Such member shall be an environmental

- 1 professional experienced in matters of pollution control, who shall
2 not be an employee of any unit of government;
- 3 2. One member who shall be selected from industry in general.
4 Such member shall be employed as a manufacturing executive carrying
5 on a manufacturing business within the state;
- 6 3. One member who shall be selected from the hazardous waste
7 industry within the state;
- 8 4. One member who shall be selected from the solid waste
9 industry within this state;
- 10 5. One member who shall be well versed in recreational,
11 irrigational, municipal or residential water usage;
- 12 6. One member who shall be selected from the petroleum
13 industries being regulated by the Department of Environmental
14 Quality;
- 15 7. One member who shall be selected from the agriculture
16 industries regulated by the Department of Environmental Quality;
- 17 8. One member who shall be selected from the conservation
18 districts of the state;
- 19 9. Three members who shall be citizen members of any statewide
20 nonprofit environmental organization;
- 21 10. One member who shall be a member of the local governing
22 body of a city or town; and
- 23 11. One member who shall be from a rural water district
24 organized pursuant to the laws of this state.

1 D. The term of office of a member of the Board shall be for
2 five (5) years and until a successor is appointed and qualified.

3 E. 1. An appointment shall be made by the Governor within
4 ~~ninety (90)~~ thirty (30) days after a vacancy has occurred due to
5 resignation, death, or any cause resulting in an unexpired term. In
6 the event of a vacancy on the Board due to resignation, death, or
7 for any cause resulting in an unexpired term, if not filled within
8 ~~ninety (90)~~ thirty (30) days following such vacancy, the Board may
9 appoint a provisional member to serve in the interim until the
10 Governor acts.

11 2. A member may be reappointed.

12 3. In making appointments to the Environmental Quality Board,
13 the Governor shall recognize the geographic diversity of the state
14 and endeavor to appoint members representing each quadrant of the
15 state.

16 F. 1. The Board shall hold meetings as necessary at a place
17 and time to be fixed by the Board. The Board shall select, at its
18 first meeting, one of its members to serve as chair and another of
19 its members to serve as vice-chair. At the first meeting in each
20 calendar year thereafter, the chair and vice-chair for the ensuing
21 year shall be elected. Special meetings may be called by the chair
22 or by five members of the Board by delivery of written notice to
23 each member of the Board. A majority of the Board present at the
24 meeting shall constitute a quorum of the Board.

1 2. Members of the Board shall receive necessary travel expenses
2 according to the provisions of the State Travel Reimbursement Act.

3 G. The Board shall:

4 1. ~~Appoint and fix the compensation of the Executive Director~~
5 ~~of the Department of Environmental Quality;~~

6 ~~2.~~ Be the rulemaking body for the Department of Environmental
7 Quality;

8 ~~3.~~ 2. Review and approve the budget request of the Department
9 to the Governor;

10 ~~4.~~ 3. Assist the Department in conducting periodic reviews and
11 planning activities related to the goals, objectives, priorities and
12 policies of the Department;

13 ~~5.~~ 4. In conjunction with each regular meeting of the Board
14 pursuant to subsection F and at such other times as the Board may
15 determine to be necessary and appropriate, provide a public forum
16 for receiving comments and disseminating information to the public
17 and the regulated community regarding goals, objectives, priorities,
18 and policies of the Department. The Board shall have the authority
19 to adopt nonbinding resolutions requesting action by the Department
20 in response to comments received or upon the Board's own initiative;
21 and

22 ~~6.~~ 5. Review and evaluate the need for amendments or additions
23 to the Oklahoma Statutes regarding the programs and functions of the
24 Department and make legislative recommendations to the Legislature.

1 H. As the rulemaking body for the Department of Environmental
2 Quality, the Board is specifically charged with the duty of
3 promulgating rules which will implement the duties and
4 responsibilities of the Department pursuant to this Code. Except as
5 provided in this subsection, rules within the jurisdiction of a
6 Council provided for by ~~this act~~ the Oklahoma Environmental Quality
7 Act shall be promulgated with the advice of such Council. Proposed
8 permanent rules within the jurisdiction of a Council shall not be
9 considered by the Board for promulgation until receipt of the
10 appropriate Council's recommendation on such promulgation; however,
11 the Board may promulgate emergency rules without the advice of the
12 appropriate Council when the time constraints of the emergency, as
13 determined by the Board, do not permit the timely development of
14 recommendations by the Council. All actions of the Councils with
15 regard to rulemaking shall be deemed actions of the Board for the
16 purposes of complying with the Administrative Procedures Act.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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