

SUBCOMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1388 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Doug Cox _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 PROPOSED SUBCOMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1388

By: David of the Senate

and

Cox of the House

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8
9
10 PROPOSED SUBCOMMITTEE SUBSTITUTE

11 An Act relating to waters and water rights;
12 transferring functions, duties, assets, debts,
13 property and employees of the Scenic Rivers
14 Commission to the Grand River Dam Authority (GRDA) on
15 certain date; providing for certain monies to be
16 transferred; providing for transfer of personnel;
17 terminating the Scenic Rivers Board of Commissioners
18 by certain date; authorizing reappointment of members
19 to advisory board to GRDA; providing for continuation
20 of Scenic River functions upon certain circumstance;
21 authorizing the GRDA to implement certain annual fee
22 for use of flotation devices on certain waters;
23 authorizing GRDA to promulgate rules to establish
24 certain payment processes; amending 82 O.S. 2011,
Sections 1452, 1454, 1455 and 1457, which relate to
the Scenic Rivers Commission; transferring certain
duties to GRDA; deleting obsolete language; providing
for recodification; repealing 82 O.S. 2011, Sections
1451, 1458, 1460, 1461, as last amended by Section 1,
Chapter 348, O.S.L. 2013, 1462, 1462A, as amended by
Section 1068, Chapter 304, O.S.L. 2012, 1462B, as
amended by Section 1069, Chapter 304, O.S.L. 2012,
1462C, as amended by Section 1070, Chapter 304,
O.S.L. 2012, 1463, 1464, 1465, 1466, 1467, 1468,
1469, 1470 and 1471 (82 O.S. Supp. 2015, Sections
1461, 1462A, 1462B and 1462C), which relate to the

1 Scenic Rivers Act; providing for codification; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 896.1 of Title 82, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Effective July 1, 2016, the Scenic Rivers Commission created
9 pursuant to Section 1461 of Title 82 of the Oklahoma Statutes shall
10 be terminated. All assets, funds, liabilities, allotments, purchase
11 orders, outstanding financial obligations, encumbrances, records,
12 equipment and property of the Scenic Rivers Commission are hereby
13 transferred and under the supervision and control of the Grand River
14 Dam Authority. Monies collected or accruing to the credit of the
15 Scenic Rivers Commission in the State Treasury or under the
16 management of the Office of Management and Enterprise Services
17 pursuant to the provisions of Section 1462A, 1462B or 1462C of Title
18 82 of the Oklahoma Statutes shall be transferred to the Grand River
19 Dam Authority to assist in implementing this act or as otherwise
20 directed to support the activities previously conducted by the
21 Scenic Rivers Commission or the employees thereof.

22 B. Personnel employed by the Scenic Rivers Commission on the
23 effective date of this act shall be transferred to the Grand River
24 Dam Authority, under the supervisory authority of the Lake

1 Management Division or as otherwise directed, subject to the
2 following provisions:

3 1. Classified employees transferred shall remain subject to the
4 provisions of the Merit System of Personnel Administration, as
5 provided in the Oklahoma Personnel Act;

6 2. Unclassified employees transferred shall remain in the
7 unclassified service and shall serve at the pleasure of the Grand
8 River Dam Authority;

9 3. All employees transferred pursuant to this act shall retain
10 leave, sick and annual time earned and any retirement and longevity
11 benefits which have accrued during their employment with the state.
12 The salaries of employees who are transferred shall not be reduced
13 as a direct and immediate result of the transfer;

14 4. Should the Grand River Dam Authority implement a reduction
15 in force, all employees transferred pursuant to this act shall be
16 credited for the time they were employed by the Scenic Rivers
17 Commission; and

18 5. The transfer of personnel shall be coordinated with the
19 Office of Management and Enterprise Services.

20 C. The Scenic Rivers Board of Commissioners shall cease
21 operating as a Commission no later than July 1, 2016. The Grand
22 River Dam Authority Board of Directors may create an advisory board
23 relating to the management of the property and area previously under
24 the authority of the Scenic Rivers Commission with consideration of

1 and adherence to statutes governing the mission and purpose of the
2 Scenic Rivers Commission and as directed by this act. Members
3 currently serving on the Board of Commissioners may be eligible to
4 serve in an advisory capacity if so appointed by the Grand River Dam
5 Authority and may serve for terms as authorized by the Board of
6 Directors of the Authority.

7 D. In the event the Grand River Dam Authority is sold,
8 transferred, separated or otherwise abolished as a state agency, the
9 functions previously conducted by the Scenic Rivers Commission and
10 transferred pursuant to this act shall be retained or transferred to
11 any successor agency with responsibility for lake area management
12 issues.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 896.2 of Title 82, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Effective July 1, 2017, the Grand River Dam Authority is
17 authorized to set a daily, multi-day or annual fee for each person
18 who uses a commercially or privately owned flotation device to float
19 upon designated scenic river areas. Landowners located immediately
20 adjacent to the designated scenic river areas shall not be required
21 to pay any fee authorized by this section or otherwise by law.

22 B. The Grand River Dam Authority is authorized to promulgate
23 rules establishing an online payment system or any other means by
24 which the public may conveniently purchase permits for the operation

1 of a flotation device upon designated scenic river areas as
2 authorized by this section.

3 SECTION 3. AMENDATORY 82 O.S. 2011, Section 1452, is
4 amended to read as follows:

5 Section 1452. A. The Oklahoma Legislature finds that some of
6 the free-flowing streams and rivers of Oklahoma possess such unique
7 natural scenic beauty, water conservation, fish, wildlife and
8 outdoor recreational values of present and future benefit to the
9 people of the state that it is the policy of the Legislature to
10 preserve these areas for the benefit of the people of Oklahoma. For
11 this purpose there are hereby designated certain "scenic river
12 areas" to be preserved as a part of Oklahoma's diminishing resource
13 of free-flowing rivers and streams.

14 B. The areas of the state designated as "scenic river areas"
15 shall include:

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

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

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

22 4. Big Lee's Creek, sometimes referred to as Lee Creek, located
23 in Sequoyah County, above the 420-foot MSL elevation, excluding that
24 portion necessary for a dam to be built in the State of Arkansas

1 with a crest elevation of no more than the 420-foot MSL elevation.
2 The Oklahoma Water Resources Board shall make such classifications,
3 designations or adjustments to Oklahoma's water quality standards as
4 required to allow the impoundment of water by ~~said~~ the dam; and

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

10 C. The term "scenic river area" as used in ~~the Scenic Rivers~~
11 ~~Act~~ this act is defined as the stream or river and the public use
12 and access areas located within the area designated, subject to
13 modification by the Grand River Dam Authority, following the
14 effective date of this act.

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

17 Section 1454. A. It is recognized by the Legislature that an
18 effective program for preserving the scenic beauty of the free-
19 flowing streams and rivers designated as "scenic river areas"
20 necessarily involves the cooperation and support of the people in
21 the operating areas of designated "scenic river areas", as well as
22 the people using the "scenic river areas", and the agencies of state
23 government administering these areas.

24

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

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

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

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

18 B. Any law enforcement, police or peace officer, game wardens
19 or any other personnel of the ~~Wildlife Conservation Commission, the~~
20 ~~personnel of the Tourism and Recreation Department~~ Grand River Dam
21 Authority, any landowner in the area, or any other interested party
22 may file a complaint to enforce the provisions of the Scenic Rivers
23 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 shall be subject to the
11 provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

12 SECTION 6. AMENDATORY 82 O.S. 2011, Section 1457, is
13 amended to read as follows:

14 Section 1457. A. The Executive Director of the Department of
15 Environmental Quality, the Corporation Commission, the State
16 Department of Agriculture, the Oklahoma Water Resources Board, the
17 Oklahoma Wildlife Conservation Commission and the Conservation
18 Commission are hereby given the authority to assist the ~~Scenic
19 Rivers Commission~~ Grand River Dam Authority in maintaining and
20 improving water quality and in preventing and eliminating the
21 pollution of waters within a "scenic river area".

22 B. 1. The Secretary of Environment shall coordinate with the
23 appropriate state environmental agencies to create a coordinated
24 watershed restoration and protection strategy for each impaired

1 scenic river in this state. ~~The strategy shall be submitted to the~~
2 ~~Governor, the President Pro Tempore of the Senate and the Speaker of~~
3 ~~the House of Representatives by January 31, 2003.~~

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

- 7 a. an overall pollutant-specific load reduction as
8 identified in a developed total maximum daily load
9 (TMDL), or as otherwise calculated in the absence of a
10 developed total maximum daily load, to bring each
11 impaired scenic river back into compliance with water
12 quality standards,
- 13 b. pollutant-specific load reduction goals for each state
14 environmental agency to accomplish through its water
15 quality protection programs,
- 16 c. detailed compliance schedules indicating how much of
17 the load reduction goal will be accomplished each year
18 by each state environmental agency,
- 19 d. industry-specific descriptions of how load reduction
20 goals for each state environmental agency will be
21 accomplished,
- 22 e. an outline of innovative, cooperative intrastate and
23 interstate strategies that will be pursued in order to
24 expedite pollutant reductions, in particular where

1 scenic river watersheds cross state lines. Such
2 strategies may include nutrient trading and
3 conservation reserve enhancement program (CREP)
4 initiatives, and

5 f. a list of all permitted or registered water pollution
6 sources subject to the jurisdiction of each state
7 agency within each impaired scenic river watershed.
8 For the permitted or registered water pollution
9 sources subject to each state environmental agency's
10 jurisdiction, the following information shall be
11 included:

- 12 (1) types of operations or organizations regulated,
- 13 (2) list of the registrations or permits issued,
- 14 (3) details on governmental assistance given, and
- 15 (4) details of enforcement actions undertaken.

16 C. 1. The Secretary of Environment shall coordinate with the
17 appropriate state environmental agencies to create an annual
18 progress report, beginning January 31, 2004, and each year
19 thereafter. The progress report shall be submitted to the Governor,
20 the President Pro Tempore of the Senate, and the Speaker of the
21 House of Representatives.

22 2. The annual progress report shall include any revisions and
23 updates to the information provided in the original strategy, in
24 addition to the following:

- a. identification of all actions taken by each state environmental agency to reduce pollutant levels in each impaired scenic river watershed,
- b. identification of the sources of pollutants causing impairment or continued degradation of each impaired scenic river,
- c. outline of further steps to be taken by each state environmental agency to reduce pollutants from identified sources in order to accomplish pollutant-specific load reduction goals,
- d. an analysis of the effectiveness of the pollutant reduction efforts of each state environmental agency based upon data collected by the Oklahoma Water Resources Board's Beneficial Use Monitoring Program, the Conservation Commission's Small Watershed Rotational Monitoring Program and other appropriate monitoring data, and
- e. recommendations for further administrative, judicial or legislative actions necessary to achieve the load reduction goals assigned to each impaired scenic river watershed and to overcome any identified limitations or obstacles.

D. 1. For those impaired scenic river watersheds where a total maximum daily load (TMDL) for phosphorus has been developed, the

1 Department of Environmental Quality shall initially allocate a
2 wasteload for phosphorus for discharges from wastewater treatment
3 facilities which is achievable by the best available waste control
4 process.

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

9 3. If the state's water quality monitoring data demonstrate
10 that the water quality standards for phosphorus applicable to a
11 watershed remain impaired, and only after all permitted or
12 registered water pollution sources have also implemented the best
13 available waste control processes for phosphorus to address the
14 pollutant or pollutants contributing to the impairment of the
15 watershed, the Department shall again evaluate and require regulated
16 entities to take additional actions to achieve water quality
17 standards for phosphorus.

18 E. 1. The ~~Scenic Rivers Commission~~ Grand River Dam Authority
19 shall require all entities using scenic rivers for recreational
20 activities, which are licensed by the Commission, to implement a
21 program to control the amount of pollution entering an impaired
22 scenic river watershed from such recreational activities.

23 2. The ~~Scenic Rivers Commission~~ Grand River Dam Authority shall
24 include in the coordinated watershed restoration and protection

1 strategy, and all subsequent annual reports, an identification of
2 the pollution from recreational activities which are licensed by the
3 ~~Commission~~ Authority and those actions taken and planned to reduce
4 the amount of pollution from entering an impaired scenic river
5 watershed.

6 F. If the Legislature or the Governor finds, based on any of
7 the annual reports required by this section, that any of the state
8 environmental agencies have failed to appropriately protect water
9 quality standards in an impaired scenic river watershed, the
10 Governor and the Legislature shall take any and all necessary and
11 appropriate action to require the agency to meet its mandated
12 responsibilities.

13 SECTION 7. RECODIFICATION 82 O.S. 2011, Section 1452, as
14 amended by Section 3 of this act, shall be recodified as Section
15 896.3 of Title 82 of the Oklahoma Statutes, unless there is created
16 a duplication in numbering.

17 SECTION 8. RECODIFICATION 82 O.S. 2011, Section 1453,
18 shall be recodified as Section 896.4 of Title 82 of the Oklahoma
19 Statutes, unless there is created a duplication in numbering.

20 SECTION 9. RECODIFICATION 82 O.S. 2011, Section 1454, as
21 amended by Section 4 of this act, shall be recodified as Section
22 896.5 of Title 82 of the Oklahoma Statutes, unless there is created
23 a duplication in numbering.

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1 SECTION 10. RECODIFICATION 82 O.S. 2011, Section 1455,
2 as amended by Section 5 of this act, shall be recodified as Section
3 896.6 of Title 82 of the Oklahoma Statutes, unless there is created
4 a duplication in numbering.

5 SECTION 11. RECODIFICATION 82 O.S. 2011, Section 1456,
6 shall be recodified as Section 896.7 of Title 82 of the Oklahoma
7 Statutes, unless there is created a duplication in numbering.

8 SECTION 12. RECODIFICATION 82 O.S. 2011, Section 1457,
9 as amended by Section 6 of this act, shall be recodified as Section
10 896.8 of Title 82 of the Oklahoma Statutes, unless there is created
11 a duplication in numbering.

12 SECTION 13. REPEALER 82 O.S. 2011, Sections 1451, 1458,
13 1460, 1461, as amended by Section 1, Chapter 348, O.S.L. 2013, 1462,
14 1462A, as amended by Section 1068, Chapter 304, O.S.L. 2012, 1462B
15 as amended by Section 1069, Chapter 304, O.S.L. 2012, 1462C, as
16 amended by Section 1070, Chapter 304, O.S.L. 2012, 1463, 1464, 1465,
17 1466, 1467, 1468, 1469, 1470 and 1471 (82 O.S. Supp. 2015, Sections
18 1461, 1462A, 1462B and 1462C), are hereby repealed.

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

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