

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1355 _____
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

Amendment submitted by: Casey Murdock

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1355

By: Murdock

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to regulatory authority; amending 27A O.S. 2011, Section 2-3-202, which relates to the powers of the Department of Environmental Quality; limiting regulatory reach; amending 82 O.S. 2011, Section 1085.2, as amended by Section 1064, Chapter 304, O.S.L. 2012 (82 O.S. Supp. 2016, Section 1085.2), which relates to the powers of the Water Resources Board; limiting regulatory reach; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-3-202, is amended to read as follows:

Section 2-3-202. A. Within its jurisdictional areas of responsibility, the Department of Environmental Quality, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1 1. Access any premises at any reasonable time upon presentation
2 of identification for purposes of administering this Code, and the
3 right to apply to and obtain from a judge of the district court, an
4 administrative or other warrant as necessary to enforce such access;

5 2. Determine and assess administrative penalties, take or
6 request civil action, request criminal prosecution or take other
7 administrative or civil action as specifically authorized by this
8 Code or other law against any person or entity who has violated any
9 of the provisions of this Code, rules promulgated thereunder, or any
10 permit, license or order issued pursuant thereto;

11 3. Investigate or cause to be investigated alleged violations
12 of this Code, rules promulgated thereunder, or permits, licenses or
13 orders issued pursuant thereto;

14 4. Conduct investigations, inquiries and inspections, including
15 but not limited to, the review of records and the collection of
16 samples for laboratory analyses;

17 5. Conduct hearings and issue subpoenas according to the
18 Administrative Procedures Act, this Code and rules promulgated by
19 the Environmental Quality Board, and file contempt proceedings
20 against any person disobeying or refusing to comply with such
21 subpoena;

22 6. Advise, consult, cooperate and enter into agreements with
23 agencies of the state, municipalities and counties, industries,
24 other states and the federal government, and other persons;

1 7. Enter into agreements for, accept, administer and use,
2 disburse and administer grants of money, personnel and property from
3 the federal government or any department or agency thereof, or from
4 any state or state agency, or from any other source, to promote and
5 carry on in this state any program relating to environmental
6 services or pollution control;

7 8. Require the establishment and maintenance of records and
8 reports, and the installation, use, and maintenance of monitoring
9 equipment or methods, and the provision of such information to the
10 Department upon request;

11 9. Establish a system of training for all personnel who render
12 review and inspection services in order to assure uniform statewide
13 application of law and rules;

14 10. Enforce the provisions of this Code and rules promulgated
15 thereunder and orders, permits and licenses issued pursuant thereto;

16 11. Charge and receive fees pursuant to fee schedules
17 promulgated by the Board;

18 12. Register persons, property and activities as required by
19 this Code or rules promulgated by the Board;

20 13. Conduct studies, research and planning of programs and
21 functions, pursuant to the authority granted by this Code;

22 14. Collect and disseminate information and engage in
23 environmental education activities relating to the provisions of
24 this Code;

1 15. Provide a toll-free hot line for environmental complaints;

2 16. Enter into interagency agreements;

3 17. Sell films, educational materials and other items produced
4 by the Department and sell, exchange or otherwise dispose of
5 obsolete personal property belonging to the Department unless
6 otherwise required by terms of federal grants;

7 18. Provide administrative and support services to the Board
8 and the Councils as necessary to assist them in the performance of
9 their duties; and

10 19. Exercise all incidental powers which are necessary and
11 proper to implement and administer the purposes of this Code.

12 B. The provisions of this part shall extend to all programs
13 administered by the Department regardless of whether the statutes
14 creating such program are codified in Title 27A of the Oklahoma
15 Statutes.

16 C. The Department shall not have the authority to promulgate
17 rules or to institute regulations more stringent than those provided
18 by the Environmental Protection Agency (EPA) or by federal laws.
19 However, if a situation arises that is not addressed by EPA
20 regulation or other federal laws, the Department retains the right
21 to promulgate rules relating to the situation.

22 SECTION 2. AMENDATORY 82 O.S. 2011, Section 1085.2, as
23 amended by Section 1064, Chapter 304, O.S.L. 2012 (82 O.S. Supp.
24 2016, Section 1085.2), is amended to read as follows:

1 Section 1085.2 In addition to any and all other authority
2 conferred upon it by law, the Oklahoma Water Resources Board shall
3 also have authority:

4 1. Generally to do all such things as in its judgment may be
5 necessary, proper or expedient in the accomplishment of its duties;

6 2. To make such contracts and execute such instruments as in
7 the judgment of the Board are necessary or convenient to the
8 exercise of any of the powers conferred upon it by law. Provided,
9 however, no contract shall be made conveying the title or use of any
10 waters of the State of Oklahoma to any person, firm, corporation or
11 other state or subdivision of government, for sale or use in any
12 other state, unless such contract be specifically authorized by an
13 act of the Oklahoma Legislature and thereafter as approved by it;

14 3. To negotiate contracts and other agreements with the federal
15 government to arrange for the development of water resources and for
16 the storage and distribution of water for beneficial purposes;
17 provided, however, that the Board shall act in such capacity only as
18 an intermediary in assisting others, and under no circumstances
19 shall the Board have any power or authority to build, construct or
20 finance any waterways, dams or other such projects for itself,
21 except as may be otherwise specifically provided by the laws of this
22 state;

23 4. To develop statewide and local plans to assure the best and
24 most effective use and control of water to meet both the current and

1 long-range needs of the people of Oklahoma; to cooperate in such
2 planning with any public or private agency, entity or person
3 interested in water, and is directed to prepare such plans for
4 consideration and approval by the Legislature; and to aid, at all
5 times, counties, incorporated cities and towns and special purpose
6 districts in the state in promoting and developing flood control and
7 water conservation in the state;

8 5. To employ and fix the compensation of such officers, agents,
9 attorneys, technical personnel and employees of the Board as it
10 shall deem necessary to the proper performance of its duties;

11 6. To adopt and use an official seal;

12 7. To promulgate such rules and make orders as it may deem
13 necessary or convenient to the exercise of any of the powers or the
14 performance of any of the duties conferred or imposed upon it by
15 this or any other law;

16 8. To institute and maintain, or to intervene in, any actions
17 or proceedings in or before any court, board, commission or officer
18 of this or any other state or of the United States to stop or
19 prevent any use, misuse, appropriation or taking of any of the
20 waters of this state which is in whole or in part in violation of
21 any law, or of any rules, orders, judgments or decrees of any court,
22 board, commission or officer of this or any state or of the United
23 States; and to institute and maintain or intervene in any other
24 action or proceeding where the Board deems it necessary to the

proper execution and discharge of any of the powers or duties conferred or imposed upon it by law;

9. To determine, charge and receive fees to be collected in advance for the filing and examination of applications for permits to:

- a. construct water use works,
- b. appropriate groundwater,
- c. appropriate stream water,
- d. establish vested rights,
- e. inspect water use works,
- f. file other papers,
- g. make copies of documents,
- h. make prints of maps and drawings,
- i. certify copies of documents, maps and drawings,
- j. file transfers of water rights,
- k. gauge wells and ditches, changes in point of diversion and changes in place of use of water,
- l. test wells, and
- m. hold hearings, make records and provide transcripts of hearings.

Such fees shall not be collected from any state agency or state institution;

10. To negotiate contracts or water compacts with the federal government or any department or bureau thereof, or with any other

1 state for the purpose of obtaining assistance and cooperation in the
2 accomplishment of the purpose of flood control and water
3 conservation and use in the state. To that end, the Board may match
4 funds with the federal government and with other states upon such
5 terms as shall be agreed upon and approved by the Governor of the
6 state, with the limitation that contracts or water compacts with
7 other states for the division and apportionment of the cost and use
8 of the water controlled by interstate projects shall be submitted to
9 and approved by the Legislature of the state and the Governor of the
10 state, and Congress and the President of the United States
11 conformable to the State and Federal Constitutions;

12 11. To accept gifts and grants of money and property or any
13 interest therein;

14 12. To provide funding from federal and state monies for water
15 and wastewater project purposes to eligible entities for preliminary
16 engineering reports and planning and feasibility studies;

17 13. To sell or dispose of real or personal property held by the
18 Board when no longer needed in such manner as provided by law;

19 14. To make appropriations of water to all special purpose
20 districts;

21 15. To execute and deliver, without actual consideration
22 therefor, a written release of any easement or easement deed
23 heretofore given to the Conservation Commission of the State of
24 Oklahoma, the Planning and Resources Board or the Oklahoma Water

1 Resources Board on lands situated in this state, whenever it shall
2 appear to said Oklahoma Water Resources Board that the need for such
3 easement or easement deed no longer exists; provided, the owner of
4 the lands affected shall file a written application for such release
5 with the Oklahoma Water Resources Board;

6 16. To adopt, modify or repeal and promulgate standards of
7 quality of the waters of the state and to classify such waters
8 according to their best uses in the interest of the public under
9 such conditions as the Board may prescribe for the prevention,
10 control, and abatement of pollution. The Board shall not have the
11 authority to promulgate rules or to institute regulations more
12 stringent than those provided by the Environmental Protection Agency
13 (EPA) or by federal laws. However, if a situation arises that is
14 not addressed by EPA regulation or other federal law, the Board
15 retains the right to promulgate rules relating to the situation.

16 The standard of quality of waters of the state adopted by the Board
17 pursuant to the provisions of Section 1085.30 of this title shall be
18 utilized by all appropriate state environmental agencies in
19 implementing their respective duties to abate and prevent pollution
20 to the waters of the state;

21 17. To review disputes involving service areas or territories,
22 rates for raw or treated water, and abrogation clauses in contracts
23 among municipalities and rural water districts or not-for-profit
24 rural water corporations; to recommend mediation and refer parties

1 in appropriate disputes to mediators and provide technical
2 information to such mediators; and to recommend other means of
3 resolving disputes; provided, that no party to such dispute may
4 initiate action in any district court regarding the dispute until
5 written notice of the dispute has been filed with the Board;
6 provided further that the provisions of this paragraph shall not be
7 construed to diminish any right of access to the court granted to a
8 party by law;

9 18. To provide workshop training sessions for board members of
10 rural water districts and not-for-profit rural water corporations
11 throughout the year on a regional basis for the purpose of study and
12 instruction in the areas of financing, law and the ethics, duties
13 and responsibilities of such board members. Such training shall be
14 provided by the Board in conjunction with the Oklahoma Rural Water
15 Association as required by law. To the extent possible, the Board
16 shall attempt to schedule training workshops in three-hour segments
17 to be held in any public facility at a time convenient to the
18 attendees;

19 19. To establish an agency special account through the Office
20 of Management and Enterprise Services and the State Treasurer's
21 Office as necessary for the collection and distribution of funds,
22 including funds of sponsors and registration fees related to
23 conferences, meetings and training sessions; and
24

1 20. To accredit persons having requisite knowledge in
2 floodplain management and in minimization and prevention of flood
3 hazards and losses.

4 SECTION 3. This act shall become effective November 1, 2017.

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