

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

☐ FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

☐ COMMITTEE AMENDMENT

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 865, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Silk

Silk-CB-FS-Req#2055  
3/13/2019 1:32 PM

(Floor Amendments Only)    Date and Time Filed: \_\_\_\_\_

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE  
FOR

SENATE BILL NO. 865

By: Silk and Bullard of the  
Senate

and

Humphrey of the House

FLOOR SUBSTITUTE

[ water and water rights - stream water use -  
instream flow - instream flow volume - rulemaking -  
term permit - codification - effective date ]

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

SECTION 1. AMENDATORY 82 O.S. 2011, Section 105.1, is  
amended to read as follows:

Section 105.1. As used in Sections 105.2 through 105.32 of this  
title:

1. "Definite stream" means a watercourse in a definite, natural  
channel, with defined beds and banks, originating from a definite  
source or sources of supply. The stream may flow intermittently or  
at irregular intervals if that is characteristic of the sources of  
supply in the area;

1        2. "Domestic use" means the use of water by a natural  
2 individual or by a family or household for household purposes, for  
3 farm and domestic animals up to the normal grazing capacity of the  
4 land and for the irrigation of land not exceeding a total of three  
5 (3) acres in area for the growing of gardens, orchards and lawns,  
6 and for such other purposes, specified by Board rules, for which de  
7 minimis amounts are used;

8        3. "Regular permit" means a permit granted by the Oklahoma  
9 Water Resources Board authorizing the holder to appropriate water on  
10 a year-round basis in an amount and from a source approved by the  
11 Board;

12        4. "Seasonal permit" means a permit granted by the Board  
13 authorizing the holder of such permit to divert available water for  
14 specified time periods during the calendar year;

15        5. "Temporary permit" means a permit granted by the Board  
16 authorizing the appropriation of water in an amount and from a  
17 source approved by the Board which does not exceed a time period of  
18 three (3) months, which does not vest in the holder any permanent  
19 right and which may be canceled by the Board in accordance with its  
20 terms;

21        6. "Term permit" means a permit granted by the Board  
22 authorizing the appropriation of water in an amount and from a  
23 source approved by the Board for a term of years which does not vest  
24

1 the holder with any permanent right and which expires upon  
2 expiration of the term of the permit; ~~and~~

3 7. "Provisional temporary permit" means a nonrenewable permit  
4 which may be summarily granted upon administrative approval by the  
5 Board and which authorizes an appropriation of water in an amount  
6 and from a source approved by the Board. A provisional temporary  
7 permit shall not authorize an appropriation for a period of time  
8 exceeding ninety (90) days, shall not vest in the holder any  
9 permanent water right and shall be subject to cancellation by the  
10 Board at any time within its term in accordance with its provisions;  
11 and

12 8. "Instream flow" means the minimum amount of water flowing in  
13 a definite stream that seasonally protects and preserves fish and  
14 wildlife, tourism, recreation, aesthetics, tribal ceremonies and  
15 water quality.

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 105.34 of Title 82, unless there  
18 is created a duplication in numbering, reads as follows:

19 The purpose of this act is to provide for the determination of  
20 the seasonal amounts of water that must remain in streams selected  
21 by the Oklahoma Water Resources Board or by interested stakeholder  
22 groups, while preserving existing property and water rights, to  
23 assure abundant fish and wildlife, healthy streams and sufficient  
24

1 water levels to meet the needs of Oklahomans now and for future  
2 generations.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 105.35 of Title 82, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Water Resources Board shall promulgate rules  
7 for and may develop, oversee and provide technical support for the  
8 development of an instream flow regime for definite streams under  
9 its jurisdiction, using suitable methodology to determine specific  
10 levels of stream flow varying by seasons to protect a definite  
11 stream from damage caused by excess withdrawals of future  
12 appropriations. The Board shall solicit guidance from the Oklahoma  
13 Comprehensive Water Plan Instream Flow Advisory Group. No instream  
14 flow shall be inconsistent with the annual yields of any applicable  
15 interstate river compact.

16 B. After an instream flow has been developed pursuant to  
17 subsection A of this section, the Board shall submit the information  
18 to the rulemaking process of the Oklahoma Administrative Procedures  
19 Act to be promulgated as a water right. The Board shall notify  
20 other state environmental agencies and tribal governments in the  
21 stream area. It shall publish notice of rulemaking in the same  
22 manner as water right applications.

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SECTION 4. This act shall become effective November 1, 2019.

57-1-2055 CB 3/13/2019 1:32:07 PM