

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1204

By: Grego

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5  
6 AS INTRODUCED

7 An Act relating to waters and water rights; stating  
8 legislative intent; directing certain instream water  
9 studies be conducted; directing Oklahoma Water  
10 Resources Board to cooperate with certain other  
11 agencies; directing beneficial flows be established  
12 and maintained; prescribing promulgation of rules and  
13 procedures for conducting instream flow studies;  
14 specifying certain study details; requiring certain  
15 meetings and notice; providing for codification; and  
16 providing an effective date.

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

18 SECTION 1. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1085.30b of Title 82, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. It is the intent of this state to maintain control of our  
22 state's water as opposed to allowing federal intervention. It is  
23 recognized that Oklahoma is one of only two remaining Western states  
24 that have yet to address instream flow. Therefore, Oklahoma shall  
take this opportunity to join other Western states which have  
developed proper and scientific instream flow studies, which should  
help ensure against federal intervention.

1 B. The Oklahoma Water Resources Board is charged with  
2 administering water rights laws and Oklahoma Water Quality Standards  
3 under the Federal Clean Water Act. To meet federal guidelines, the  
4 Board shall work with federal and state agencies, such as the  
5 Oklahoma Department of Wildlife Conservation, Oklahoma Department of  
6 Tourism and Recreation, Oklahoma Department of Agriculture, Oklahoma  
7 Department of Environmental Quality, tribal governments and state  
8 universities, and with local governments through the county  
9 commissioners.

10 C. In order to properly administer water rights and meet the  
11 requirements of federal law for the streams of this state,  
12 beneficial flows shall be scientifically established. Therefore,  
13 beneficial flows shall be determined and conserved in each stream  
14 and river. In determining beneficial flows, the state shall provide  
15 for intergenerational equity and the Public Trust Doctrine. Placing  
16 beneficial flow and lake water management on an equal footing with  
17 permits, licenses and regulations for all other kinds of water uses  
18 is critical. The beneficial flows of water shall be maintained and  
19 protected and no further degradation should be allowed, while  
20 providing clean water for agriculture, recreation, fish and wildlife  
21 and economic development.

22 D. The Board shall promulgate rules and procedures to conduct  
23 instream flow studies in cooperation with federal and state agencies  
24 to provide a base recommendation prior to allowing future water

1 projects or permitting. These studies shall be completed prior to  
2 permitting any project which is projected to change the monthly flow  
3 of a river or stream by ten percent (10%) at any point along the  
4 stream. Studies shall adhere to instream flow incremental  
5 methodology or the latest peer-reviewed scientific procedures  
6 available. Study guidelines are crucial and shall be developed as  
7 part of any such water project. Study data shall include depth,  
8 velocity, substrate, climate change, cover and temperature data.  
9 Data shall be collected daily, compiled monthly and shall include  
10 seasonal variations. Data shall cover downstream to the next major  
11 confluence as well as address interstate compacts. Conclusions and  
12 information gleaned from the studies shall take into account all  
13 possible intrastate and interstate legal ramifications.  
14 Additionally, all potential projects or permitting projected to  
15 change the monthly flow of a river or stream by ten percent (10%)  
16 shall require public stakeholder meetings in the donor basin.  
17 Stakeholder meeting notices shall be published three weeks prior to  
18 the meeting in the largest newspaper in each of the counties  
19 affected and all counties downstream. In the event the stakeholder  
20 meeting fails to occur or occurs without proper notice, the project  
21 or permit under consideration shall be denied.

22 SECTION 2. This act shall become effective November 1, 2019.  
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