

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 4403

By: Pittman

7 COMMITTEE SUBSTITUTE

8 An Act relating to agriculture; creating the Oklahoma
9 Urban and Community Forestry Act; defining terms;
10 providing purpose; providing the Oklahoma Department
11 of Agriculture, Food, and Forestry may establish and
12 maintain an urban and community forestry program;
13 providing that the Department may assist cities,
14 counties, and federally recognized tribes in
15 establishing and maintaining urban and community
16 forestry programs; providing that the Department may
17 advise and encourage different entities in the
18 development and coordination of policies, programs
19 and activities for the promotion of urban and
20 community forestry; providing that the Department may
21 appoint a committee or council to advise in
22 establishing and carrying out an urban and community
23 forestry program; providing that the Department may
24 assist municipal and county tree maintenance
programs; providing for private property owners to
opt out of urban and community forestry programs;
providing the Department guidelines for receiving and
disbursing federal funds and other gifts, grants,
bequests, endowments and donations; providing the
Department may charge fees for attendance of
workshops, conferences and other publications or
materials; providing that the Department may enter
into agreements and contract with cities, counties,
tribes, and other entities; providing Department
guidelines for entering into agreements with
nonprofit organizations; providing that the
Department shall encourage urban planting and care,
through various programs; requiring the Department to
conduct an analyses of the needs and opportunities
related to urban forestry in the state by assessing

1 tree canopy cover and urban forestry inventory data;
2 requiring the Department to identify priority regions
3 for the implementation of urban forestry programs;
4 providing that the Department may consult with
5 external experts; requiring the Department to consult
6 with appropriate tribes in watersheds where urban
7 forestry work is occurring; requiring the Department
8 to identify areas where urban forestry will generate
9 the greatest confluence of benefits in relation to
10 canopy needs and health disparities; requiring a
11 certain percentage of resources are used to benefit
12 vulnerable populations and or for highly impacted
13 communities; providing that the Department shall
14 conduct a statewide inventory of urban and community
15 forests; requiring the Department to provide certain
16 assistances for the promotion of urban and community
17 forestry; providing that the Department may use
18 existing urban and community forestry inventory tools
19 or develop new tools to collect urban and community
20 forest tree data; providing that the Department shall
21 strive to enable cities urban forest managers to
22 access carbon markets; providing guidance to
23 communities developing urban forestry management
24 plans; providing guidance for communities developing
urban forestry ordinances; providing that the
Department may consult with the Oklahoma Department
of Commerce for certain issues; providing that the
Department may use existing or develop additional
tools to facilitate urban forestry programs;
requiring the Department to encourage communities to
include participation and input by vulnerable
populations; providing requirements for delivery of
resources; requiring the Department to manage the
application and evaluation of candidates for
evergreen community designation; requiring the
Department to develop the criteria for evergreen
community designation program; providing requirements
for designation of evergreen community; requiring the
Department to develop signage and logos for an
evergreen community; providing that the Department
can consult with the Oklahoma Department of Commerce
in implementing evergreen communities; providing for
codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 3031 of Title 2, unless there is
4 created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Oklahoma Urban
6 and Community Forestry Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3032 of Title 2, unless there is
9 created a duplication in numbering, reads as follows:

10 As used in this act:

11 1. "Department" means the Oklahoma Department of Agriculture,
12 Food, and Forestry;

13 2. "Evergreen community" means a city, county, or area of
14 tribal land that has developed an excellent urban forest management
15 program;

16 3. "Highly impacted community" means a community designated by
17 the State Department of Health based on cumulative impact analyses
18 or a community located in census tracts that are fully or partially
19 on "Indian country" as defined in 18 U.S.C., Section 1151;

20 4. "Management plan" means an urban forest management plan
21 developed pursuant to this act;

22 5. "Tree canopy" means the layer of leaves, branches, and stems
23 of trees that cover the ground when viewed from above and that can
24 be measured as a percentage of a land area shaded by trees;

1 6. "Tribes" means any federally recognized Indian tribes whose
2 traditional lands and territories include parts of the state;

3 7. "Urban and community forest" or "urban forest" is that land
4 in and around human settlements ranging from small communities to
5 metropolitan areas, occupied or potentially occupied by trees and
6 associated vegetation. Urban and community forestland may be
7 planted or unplanted, used or unused, and includes public and
8 private lands, lands along transportation and utility corridors, and
9 forested watershed lands within populated areas;

10 8. "Urban and community forest assessment" or "urban forest
11 assessment" means an analysis of the urban and community forest
12 inventory to:

- 13 a. establish the scope and scale of forest-related
14 benefits and services,
- 15 b. determine the economic valuation of such benefits,
16 highlight trends, and issues of concern,
- 17 c. identify high priority areas to be addressed,
- 18 d. outline strategies for addressing the critical issues
19 and urban landscapes, and
- 20 e. identify opportunities for retaining trees, expanding
21 forest canopy, and planting additional trees to
22 sustain Oklahoma's urban and community forests;

23 9. "Urban and community forest inventory" or "urban forest
24 inventory" means a management tool designed to gauge the condition,

1 management status, health, and diversity of an urban and community
2 forest. An inventory may evaluate individual trees or groups of
3 trees or canopy cover within urban and community forests, and will
4 be periodically updated by the Department.

5 10. "Urban and community forestry" or "urban forestry" means
6 the planning, establishment, protection, care, and management of
7 trees and associated plants individually, in small groups, or under
8 more naturally forested conditions within cities, counties, and
9 tribal lands;

10 11. "Urban and community forestry ordinance" or "urban forestry
11 ordinance" is an ordinance developed by a city, county, or tribe
12 that promotes urban forestry management and care of trees; and

13 12. "Vulnerable populations" means communities that experience
14 a disproportionate cumulative risk from environmental burdens due
15 to:

- 16 a. adverse socioeconomic factors, including unemployment,
17 high housing and transportation costs relative to
18 income, access to food and health care, and linguistic
19 isolation, and
- 20 b. sensitivity factors, such as low birth weight and
21 higher rates of hospitalization.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3033 of Title 2, unless there is
24 created a duplication in numbering, reads as follows:

1 The purpose of this act is to:

2 1. Encourage planning for, planting, maintaining, and managing
3 of trees in the state's cities, counties, and tribal lands and
4 maximize the potential of tree and vegetative cover in improving the
5 quality of the environment;

6 2. Encourage the coordination of activities by state and local
7 agencies and federally recognized tribes, and maximize resident
8 participation in the development and implementation of urban and
9 community forestry-related programs, including through capacity
10 building to facilitate participation from new partners;

11 3. Foster healthy economic activity for the state's urban and
12 community forestry-related businesses through cooperative and
13 supportive contracts with the private business sector;

14 4. Facilitate the creation of employment opportunities related
15 to urban and community forestry activities, including opportunities
16 for youth, especially in urban areas, to learn teamwork, resource
17 conservation, environmental appreciation, and job skills;

18 5. Provide meaningful voluntary opportunities for the state's
19 residents and organizations interested in urban and community
20 forestry activities; and

21 6. Contribute to improved human health through targeted
22 delivery of programs and activities in highly impacted communities
23 with greater health disparities.

1 SECTION 4. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 3034 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 A. The Department may establish and maintain a program in
5 urban and community forestry to accomplish the following:

6 1. Encourage planning for, planting, maintaining, and managing
7 of trees in the state's cities, counties, and tribal lands and
8 maximize the potential of tree and vegetative cover in improving the
9 quality of the environment;

10 2. Encourage the coordination of activities by state and local
11 agencies and federally recognized tribes, and maximize resident
12 participation in the development and implementation of urban and
13 community forestry-related programs, including through capacity
14 building to facilitate participation from new partners;

15 3. Foster healthy economic activity for the state's urban and
16 community forestry-related businesses through cooperative and
17 supportive contracts with the private business sector;

18 4. Facilitate the creation of employment opportunities related
19 to urban and community forestry activities, including opportunities
20 for youth, especially in urban areas, to learn teamwork, resource
21 conservation, environmental appreciation, and job skills;

22 5. Provide meaningful voluntary opportunities for the state's
23 residents and organizations interested in urban and community
24 forestry activities; and

1 6. Contribute to improved human health through targeted
2 delivery of programs and activities in highly impacted communities
3 with greater health disparities.

4 B. The Department may assist cities, counties, and federally
5 recognized tribes in establishing and maintaining urban and
6 community forestry programs and encourage appropriate and improved
7 tree management and care.

8 C. The Department may advise, encourage, and assist cities,
9 counties, tribes, and other public and private entities in the
10 development and coordination of policies, programs, and activities
11 for the promotion of urban and community forestry.

12 D. The Department may appoint a committee or council to advise
13 the Department in establishing and carrying out a program in urban
14 and community forestry.

15 E. The Department may assist municipal and county tree
16 maintenance programs by making surplus equipment available on loan
17 where feasible for urban and community forestry programs and
18 cooperative projects.

19 F. An owner of private property may opt out of a voluntary
20 urban and community forestry program established by a city, county,
21 or federally recognized tribe pursuant to this act. The property
22 owner opting out must provide notice to the city, county, or
23 federally recognized tribe in either written or electronic form.
24

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 3035 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 The Department may:

5 1. Receive and disburse any and all moneys contributed,
6 allotted, or paid by the United States under authority of any act of
7 congress for the purposes of this act;

8 2. Receive such gifts, grants, bequests, and endowments and
9 donations of labor, material, seedlings, and equipment from public
10 or private sources as may be made for the purpose of carrying out
11 the provisions of this act, and may spend the gifts, grants,
12 bequests, endowments, and donations as well as other monies from
13 public or private sources;

14 3. Charge fees for attendance at workshops and conferences, and
15 for various publications and other materials that the Department may
16 prepare; and

17 4. Enter into agreements and contracts with cities, counties,
18 tribes, nonprofit organizations, and others having urban and
19 community forestry-related responsibilities.

20 SECTION 6. NEW LAW A new section of law to be codified

21 in the Oklahoma Statutes as Section 3036 of Title 2, unless there is
22 created a duplication in numbering, reads as follows:

23 The Department may enter into agreements with one or more
24 nonprofit organizations whose primary purpose is urban tree

1 planting. The agreements must be directed at furthering public
2 education about and support for urban tree planning, planting,
3 establishment, care, and long-term maintenance, and for obtaining
4 voluntary activities by the local community organizations in tree
5 planting programs. The agreements must ensure these programs are
6 consistent with the purposes of the urban and community forestry
7 program under this act.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3037 of Title 2, unless there is
10 created a duplication in numbering, reads as follows:

11 The Department shall encourage urban planting and care through
12 establishment and long-term management of trees, encouraging
13 varieties that are site-appropriate and provide the best combination
14 of energy and water conservation, fire safety and other safety,
15 wildlife habitat, stormwater management, and aesthetic value. The
16 Department may provide technical assistance in developing programs
17 in tree planting for energy conservation in areas of the state where
18 such programs are most cost-effective. The Department must conduct
19 analyses and prioritize target regions for delivery of programs,
20 policies, and activities that include criteria related to human
21 health as provided in Section 8 of this act.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3038 of Title 2, unless there is
24 created a duplication in numbering, reads as follows:

1 A. The Department must conduct analyses of the needs and
2 opportunities related to urban forestry in the state by assessing
3 tree canopy cover and urban forestry inventory data.

4 1. The Department must utilize existing recent tree canopy
5 study and inventory data when available.

6 2. The Department may add additional canopy analysis in regions
7 where adequate data is not available through internal analysis and
8 the use of research consultants as needed.

9 3. In collaboration with local governments, the Department may
10 conduct prioritized inventories of urban forests where adequate data
11 is not available.

12 B. The Department must identify priority regions for the
13 implementation of urban forestry programs. Priority must be
14 determined through the use and review of analyses and tools
15 including, but not limited to, the following:

16 1. Canopy analysis and inventory of urban and community
17 forestry data as determined in paragraph 1 of subsection A of this
18 section;

19 2. Health disparity mapping tools that identify highly
20 impacted communities. Communities should be identified at the
21 census tract level; and

22 3. The Department's twenty-year forest health strategic plan.

23 C. The Department may consult with external experts as part of
24 the review and analysis that will determine priority regions for the

1 purposes of this act. Consultation may be conducted with experts
2 such as: Other state agencies; a statewide organization representing
3 urban and community forestry programs; health experts; and other
4 technical experts as needed.

5 D. The Department must consult with the appropriate tribes in
6 watersheds where urban forestry work is taking place.

7 E. The Department shall, through its analysis and
8 consultation, seek to identify areas where urban forestry will
9 generate the greatest confluence of benefits in relation to canopy
10 needs and health disparities.

11 F. The Department must ensure a minimum of fifty (50%) percent
12 of the resources used in delivering the policies, programs, and
13 activities of this act are benefiting vulnerable populations and are
14 delivered in or within one-quarter (1/4) mile of highly impacted
15 communities as identified by the tools described in paragraph 2 of
16 subsection B of this section, and scale these resources so the most
17 resources are allocated to the highest impacted communities within
18 these areas. This includes resources for establishing and
19 maintaining new trees as well as maintenance of existing tree
20 canopy.

21 G. The Department shall conduct a statewide inventory of urban
22 and community forests using urban forest inventory and assessment
23 protocols established by the United States forest service to produce
24 statistically relevant estimates of the quantity, health,

1 composition, and benefits of urban trees and forests. Inventory
2 data must be maintained and periodically updated.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3039 of Title 2, unless there is
5 created a duplication in numbering, reads as follows:

6 A. The Department must provide technical assistance and
7 capacity-building resources and opportunities to cities, counties,
8 federally recognized tribes, and other public and private entities
9 in the development and coordination of policies, programs, and
10 activities for the promotion of urban and community forestry.

11 B. The Department may use existing urban and community forestry
12 inventory tools or develop additional tools to assist cities,
13 counties, federally recognized tribes, and other public and private
14 entities to collect urban and community forest tree data that
15 informs urban and community forestry management, planning, and
16 policy development.

17 C. The Department shall strive to enable Oklahoma's cities'
18 urban forest managers to access carbon markets by working to ensure
19 tools developed under this section are compatible with existing and
20 developing urban forest carbon market reporting protocols.

21 D. The Department may use existing tools to assist communities
22 to develop urban forestry management plans. Management plans may
23 include, but not be limited to, the following elements:

24

- 1 1. Inventory and assessment of the jurisdiction's urban and
2 community forests utilized as a dynamic management tool to set
3 goals, implement programs, and monitor outcomes that may be adjusted
4 over time;
- 5 2. Canopy cover goals;
- 6 3. Reforestation and tree canopy expansion goals within the
7 city's, town's, and county's boundaries;
- 8 4. Restoration of public forests;
- 9 5. Achieving forest stand and diversity goals;
- 10 6. Maximizing vegetated stormwater management with trees and
11 other vegetation that reduces runoff, increases soil infiltration,
12 and reduces stormwater pollution;
- 13 7. Environmental health goals specific to air quality, habitat
14 for wildlife, and energy conservation;
- 15 8. Vegetation management practices and programs to prevent
16 vegetation from interfering with or damaging utilities and public
17 facilities;
- 18 9. Prioritizing planting sites;
- 19 10. Standards for tree selection, siting, planting, and
20 pruning;
- 21 11. Scheduling maintenance and stewardship for new and
22 established trees;
- 23 12. Staff and volunteer training requirements emphasizing
24 appropriate expertise and professionalism;

1 13. Guidelines for protecting existing trees from construction-
2 related damage and damage related to preserving territorial views;

3 14. Integrating disease and pest management;

4 15. Wood waste utilization;

5 16. Community outreach, participation, education programs, and
6 partnerships with nongovernment organizations;

7 17. Time frames for achieving plan goals, objectives, and
8 tasks;

9 18. Monitoring and measuring progress toward those benchmarks
10 and goals;

11 19. Emphasizing landscape and revegetation plans in residential
12 and commercial development areas where tree retention objectives are
13 challenging to achieve; and

14 20. Maximizing building heating and cooling energy efficiency
15 through appropriate siting of trees for summer shading, passive
16 solar heating in winter, and for wind breaks.

17 E. The Department may use existing tools to assist communities
18 to develop urban forestry ordinances. Ordinances may include, but
19 not be limited to, the following elements:

20 1. Tree canopy cover, density, and spacing;

21 2. Tree conservation and retention;

22 3. Vegetated stormwater runoff management using native trees
23 and appropriate nonnative, nonnaturalized vegetation;

1 4. Clearing, grading, protection of soils, reductions in soil
2 compaction, and use of appropriate soils with low runoff potential
3 and high infiltration rates;

4 5. Appropriate tree siting and maintenance for vegetation
5 management practices and programs to prevent vegetation from
6 interfering with or damaging utilities and public facilities;

7 6. Native species and nonnative, nonnaturalized species
8 diversity selection to reduce disease and pests in urban forests;

9 7. Tree maintenance;

10 8. Street tree installation and maintenance;

11 9. Tree and vegetation buffers for riparian areas, critical
12 areas, transportation and utility corridors, and commercial and
13 residential areas;

14 10. Tree assessments for new construction permitting;

15 11. Recommended forest conditions for different land use types;

16 12. Variances for hardship and safety;

17 13. Variances to avoid conflicts with renewable solar energy
18 infrastructure, passive solar building design, and locally grown
19 produce; and

20 14. Permits and appeals.

21 F. The Department may consult with the Oklahoma Department of
22 Commerce in the process of providing technical assistance on issues
23 including, but not limited to, intersections between urban forestry
24 programs and growth management act planning.

1 G. The Department may use existing and develop additional
2 innovative tools to facilitate successful implementation of urban
3 forestry programs including, but not limited to, comprehensive tool
4 kit packages (tree kits) that can easily be shared, locally adapted,
5 and used by cities, counties, tribes, and community stakeholders.

6 H. The Department must encourage communities to include
7 participation and input by vulnerable populations through community
8 organizations and members of the public for urban and community
9 forestry plans in the regions where they are based.

10 I. Delivery of resources must be targeted based on the analysis
11 and prioritization provided in Section 8 of this act.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3040 of Title 2, unless there is
14 created a duplication in numbering, reads as follows:

15 A. The Department shall manage the application and evaluation
16 of candidates for evergreen community designation.

17 B. The Department shall develop the criteria for an evergreen
18 community designation program. Under this program, the state may
19 recognize as an evergreen community a city, county, or area of
20 tribal land that has developed an excellent urban forest management
21 program.

22 C. Designation as an evergreen community must include no fewer
23 than two graduated steps. The Department may require additional
24

1 graduated steps and establish the minimum requirements for each
2 recognized step.

3 1. The first graduated step of designation as an evergreen
4 community includes satisfaction of the following requirements:

- 5 a. the development and implementation of a tree board or
6 tree Department,
- 7 b. the development of a tree care ordinance,
- 8 c. the implementation of an urban forestry program with
9 an annual budget of at least Two Dollars (\$2.00) for
10 every city resident,
- 11 d. official recognition of Arbor Day, and
- 12 e. the completion of or update to an existing urban
13 forest inventory for the city, county, or tribal land,
14 or the formal adoption of an inventory developed for
15 the city, county, or tribe by the Department.

16 2. The second graduated step of designation as an evergreen
17 community includes the adoption of an urban forestry management
18 plan. The management plan must:

- 19 a. exceed the minimum standards determined by the
20 Department, and
- 21 b. incorporate meaningful community engagement from
22 vulnerable populations located in the area so needs
23 and priorities of these communities inform
24 implementation of the plan.

1 D. The Department shall develop gateway signage and logos for
2 an evergreen community.

3 E. The Department may consult with the Oklahoma Department of
4 Commerce in carrying out the requirements of this section.

5 SECTION 11. This act shall become effective November 1, 2022.

6

7 58-2-10881 JL 03/02/22

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24