

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2850

By: Roberts (Sean)

AS INTRODUCED

An Act relating to waters and water rights; allowing compacts with other states for the sale of water; requiring aqueduct be constructed with certain funds; directing use of proceeds; authorizing the promulgation of certain rules and procedures; providing for distribution of fees collected; defining term; requiring proceeds go towards water storage infrastructure; requiring benefitting public agencies to develop water plans approved by that agency; requiring public agencies to submit report; creating the Oklahoma Water Sale Revolving Fund; describing certain fund specifics; amending 82 O.S. 2011, Section 1085.2, as amended by Section 1064, Chapter 304, O.S.L. 2012 (82 O.S. Supp. 2020, Section 1085.2), which relates to authority of the Oklahoma Water Resources Board; deleting language disallowing out-of-state water sales; amending 82 O.S. 2011, Section 1085.22, which relates to sale of water; deleting language disallowing out-of-state water sales; repealing 74 O.S. 2011, Section 1221.A, which relates to moratorium to preserve surface and ground water; repealing 82 O.S. 2011, Section 1B, which relates to a moratorium on the sale or exportation of water; repealing Section 1, Chapter 310, O.S.L. 2016 (82 O.S. Supp. 2020, Section 1E), which relates to the requirement of legislative approval before sale of water; 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 1900 of Title 82, unless there  
4 is created a duplication in numbering, reads as follows:

5 The Oklahoma Water Resources Board may enter into interstate  
6 compacts with neighboring states for the transfer and sale of water  
7 outside of Oklahoma via an aqueduct. The aqueduct shall carry water  
8 of this state to the neighboring states and shall be constructed  
9 with proceeds from the neighboring states. The proceeds from the  
10 interstate compacts shall be used to build surface water storage  
11 infrastructure facilities across Oklahoma as established in Section  
12 3 of this act. The Board shall promulgate all necessary rules and  
13 procedures for the implementation of the sale of water.

14 SECTION 2. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1901 of Title 82, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. The Oklahoma Water Resources Board shall deposit fees  
18 collected from the sale of water in the Oklahoma Water Sale  
19 Revolving Fund and shall distribute monies from the fund to public  
20 agencies for projects as established in Section 4 of this act.

21 B. For purposes of this act, a "public agency" shall be as  
22 defined in the Interlocal Cooperation Act, except public agencies of  
23 other states.

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1       SECTION 3.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1902 of Title 82, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. All funds distributed by the Oklahoma Water Resources Board  
5 to public agencies as provided for in Section 2 of this act shall be  
6 used by the public agency for the development of surface water  
7 storage infrastructure facilities in the state.

8       B. Each public agency receiving funds shall develop and adopt a  
9 water improvement plan which shall establish a priority for the  
10 implementation of projects using funds distributed pursuant to the  
11 provisions of this act.

12       C. Any project using funds distributed to a public agency  
13 pursuant to this act shall be approved by a majority of the  
14 governing body of the public agency.

15       D. Each public agency which receives funds from the Oklahoma  
16 Water Sale Revolving Fund during the preceding fiscal year shall  
17 make a written report to the Oklahoma Water Resources Board  
18 outlining the expenditure of the funds and any other information the  
19 Board may require.

20       SECTION 4.       NEW LAW       A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1903 of Title 82, unless there  
22 is created a duplication in numbering, reads as follows:

23       There is hereby created in the State Treasury a revolving fund  
24 for the Oklahoma Water Resources Board to be designated the

1 "Oklahoma Water Sale Revolving Fund". The fund shall be a  
2 continuing fund, not subject to fiscal year limitations, and shall  
3 consist of all monies received by the Oklahoma Water Resources Board  
4 from the fees received from water sales levied pursuant to Section 2  
5 of this act. All monies accruing to the credit of said fund are  
6 hereby appropriated and may be budgeted and distributed by the  
7 Oklahoma Water Resources Board as provided for in Sections 2 and 3  
8 of this act. Expenditures from said fund shall be made upon  
9 warrants issued by the State Treasurer against claims filed as  
10 prescribed by law with the Director of State Finance for approval  
11 and payment.

12 SECTION 5. AMENDATORY 82 O.S. 2011, Section 1085.2, as  
13 amended by Section 1064, Chapter 304, O.S.L. 2012 (82 O.S. Supp.  
14 2020, Section 1085.2), is amended to read as follows:

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

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

20 2. To make such contracts and execute such instruments as in  
21 the judgment of the Board are necessary or convenient to the  
22 exercise of any of the powers conferred upon it by law. ~~Provided,~~  
23 ~~however, no contract shall be made conveying the title or use of any~~  
24 ~~waters of the State of Oklahoma to any person, firm, corporation or~~

~~other state or subdivision of government, for sale or use in any other state, unless such contract be specifically authorized by an act of the Oklahoma Legislature and thereafter as approved by it;~~

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

4. To develop statewide and local plans to assure the best and most effective use and control of water to meet both the current and long-range needs of the people of Oklahoma; to cooperate in such planning with any public or private agency, entity or person interested in water, and is directed to prepare such plans for consideration and approval by the Legislature; and to aid, at all times, counties, incorporated cities and towns and special purpose districts in the state in promoting and developing flood control and water conservation in the state;

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

1       6. To adopt and use an official seal;

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

6       8. To institute and maintain, or to intervene in, any actions  
7 or proceedings in or before any court, board, commission or officer  
8 of this or any other state or of the United States to stop or  
9 prevent any use, misuse, appropriation or taking of any of the  
10 waters of this state which is in whole or in part in violation of  
11 any law, or of any rules, orders, judgments or decrees of any court,  
12 board, commission or officer of this or any state or of the United  
13 States; and to institute and maintain or intervene in any other  
14 action or proceeding where the Board deems it necessary to the  
15 proper execution and discharge of any of the powers or duties  
16 conferred or imposed upon it by law;

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

- 20           a. construct water use works,
- 21           b. appropriate groundwater,
- 22           c. appropriate stream water,
- 23           d. establish vested rights,
- 24           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 state for the purpose of obtaining assistance and cooperation in the accomplishment of the purpose of flood control and water conservation and use in the state. To that end, the Board may match funds with the federal government and with other states upon such terms as shall be agreed upon and approved by the Governor of the state, with the limitation that contracts or water compacts with other states for the division and apportionment of the cost and use of the water controlled by interstate projects shall be submitted to and approved by the Legislature of the state and the Governor of the

1 state, and Congress and the President of the United States  
2 conformable to the State and Federal Constitutions;

3 11. To accept gifts and grants of money and property or any  
4 interest therein;

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

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

10 14. To make appropriations of water to all special purpose  
11 districts;

12 15. To execute and deliver, without actual consideration  
13 therefor, a written release of any easement or easement deed  
14 heretofore given to the Conservation Commission of the State of  
15 Oklahoma, the Planning and Resources Board or the Oklahoma Water  
16 Resources Board on lands situated in this state, whenever it shall  
17 appear to said Oklahoma Water Resources Board that the need for such  
18 easement or easement deed no longer exists; provided, the owner of  
19 the lands affected shall file a written application for such release  
20 with the Oklahoma Water Resources Board;

21 16. To adopt, modify or repeal and promulgate standards of  
22 quality of the waters of the state and to classify such waters  
23 according to their best uses in the interest of the public under  
24 such conditions as the Board may prescribe for the prevention,



1 control, and abatement of pollution. The standard of quality of  
2 waters of the state adopted by the Board pursuant to the provisions  
3 of Section 1085.30 of this title shall be utilized by all  
4 appropriate state environmental agencies in implementing their  
5 respective duties to abate and prevent pollution to the waters of  
6 the state;

7 17. To review disputes involving service areas or territories,  
8 rates for raw or treated water, and abrogation clauses in contracts  
9 among municipalities and rural water districts or not-for-profit  
10 rural water corporations; to recommend mediation and refer parties  
11 in appropriate disputes to mediators and provide technical  
12 information to such mediators; and to recommend other means of  
13 resolving disputes; provided, that no party to such dispute may  
14 initiate action in any district court regarding the dispute until  
15 written notice of the dispute has been filed with the Board;  
16 provided further that the provisions of this paragraph shall not be  
17 construed to diminish any right of access to the court granted to a  
18 party by law;

19 18. To provide workshop training sessions for board members of  
20 rural water districts and not-for-profit rural water corporations  
21 throughout the year on a regional basis for the purpose of study and  
22 instruction in the areas of financing, law and the ethics, duties  
23 and responsibilities of such board members. Such training shall be  
24 provided by the Board in conjunction with the Oklahoma Rural Water

1 Association as required by law. To the extent possible, the Board  
2 shall attempt to schedule training workshops in three-hour segments  
3 to be held in any public facility at a time convenient to the  
4 attendees;

5 19. To establish an agency special account through the Office  
6 of Management and Enterprise Services and the State Treasurer's  
7 Office as necessary for the collection and distribution of funds,  
8 including funds of sponsors and registration fees related to  
9 conferences, meetings and training sessions; and

10 20. To accredit persons having requisite knowledge in  
11 floodplain management and in minimization and prevention of flood  
12 hazards and losses.

13 SECTION 6. AMENDATORY 82 O.S. 2011, Section 1085.22, is  
14 amended to read as follows:

15 Section 1085.22 For the purpose of providing water for  
16 municipal, agricultural, industrial and other uses the Commission is  
17 required to sell, transfer or lease, in whole or in part, any  
18 acquired storage facilities including land or interests therein to  
19 any municipality, industry or other local interests, upon the  
20 request of the contracting party at the conclusion of the pay-out of  
21 the storage, except that any such party requesting title shall be  
22 responsible for the pro rata part of the maintenance and operation  
23 costs of such storage. In no event shall the Commission require any  
24 payment for such transfer in excess of the costs to the Commission

1 of the construction and operation of the storage facility and the  
2 interest on obligations of the Commission. ~~The Commission shall not~~  
3 ~~permit the sale or resale of any water for use outside the State of~~  
4 ~~Oklahoma.~~ Where lands or interest therein are acquired by the  
5 Commission and not utilized for the purposes for which it was  
6 acquired, or which have been utilized but such utilization has  
7 ceased, then, after ten (10) years from the date of acquisition, or  
8 ten (10) years from the date utilization ceased, as the case may be,  
9 such land must be sold at public auction to the highest bidder; and  
10 mandamus by any interested party will be to require such sale.

11 SECTION 7. REPEALER 74 O.S. 2011, Section 1221.A, is  
12 hereby repealed.

13 SECTION 8. REPEALER 82 O.S. 2011, Section 1B and Section  
14 1, Chapter 310, O.S.L. 2016 (82 O.S. Supp. 2020, Section 1E), is  
15 hereby repealed.

16 SECTION 9. This act shall become effective November 1, 2021.

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