

OKLAHOMA STATUTES
TITLE 82. WATERS AND WATER RIGHTS

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§82-1B. Moratorium on sale or exportation of surface water and/or groundwater.

A. In order to provide for the conservation, preservation, protection and optimum development and utilization of surface water and groundwater within Oklahoma, the Legislature hereby establishes a moratorium on the sale or exportation of surface water and/or groundwater outside this state pursuant to the provisions of this section. Unless otherwise repealed or revoked by the Oklahoma Legislature, the moratorium shall be in effect for a five-year period beginning on the effective date of this act or until such time as the State of Oklahoma conducts and completes a comprehensive scientific hydrological study of the water resources of this state.

B. Subject to the moratorium set by subsection A of this section, no state agency, authority, board, commission, committee, department, trust or other instrumentality of this state or political subdivision thereof, nor elected or appointed officer, member of any governing body or other person designated to act for an agency or on behalf of the state, or a political subdivision thereof shall contract for the sale or exportation of surface water or groundwater outside the state, or sell or export surface water or groundwater outside the state without the consent of the Oklahoma Legislature specifically authorizing such sale or export of water.

C. Nothing in this section shall be construed as affecting or intending to affect:

1. Any contract for the sale or exportation of surface water or groundwater outside the state executed prior to the effective date of this act which has received legislative approval or was executed

pursuant to law, provided such sale or exportation of surface water or groundwater does not exceed eight million (8,000,000) gallons of water per month; or

2. Water contained in agricultural crops, animal and dairy products, beverages, or processed or manufactured products or to products transported in cans, bottles, packages, kegs, or barrels. Added by Laws 2002, c. 485, § 1, emerg. eff. June 6, 2002. Amended by Laws 2004, c. 392, § 1, eff. Nov. 1, 2004.

§82-1C. Repealed by Laws 2007, c. 93, § 16, eff. Nov. 1, 2007.

§82-1D. Oklahoma River - Designation of portion of North Canadian River.

A seven-mile section of the North Canadian River, between Meridian Avenue and Eastern Avenue in Oklahoma City, shall be designated as the Oklahoma River for economic development purposes. The Oklahoma Centennial Commission shall cause suitable markers to be placed along the seven-mile section of the river identifying the river as the "Oklahoma River".

Added by Laws 2004, c. 112, § 1, emerg. eff. April 15, 2004.

§82-1E. Protection of water - Preemption by Legislature.

Notwithstanding any other provision of law, the protection of the waters of the state as defined in Title 82 of the Oklahoma Statutes is declared to be a compelling state interest subject only to legislative authority and the regulatory authority granted by the Legislature to any state agency assigned with the responsibility within its respective areas of jurisdiction as set forth in Section 1-1-202 of Title 27A of the Oklahoma Statutes.

Added by Laws 2016, c. 310, § 1, eff. Nov. 1, 2016.

§82-105.1. Definitions.

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;

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

3. "Regular permit" means a permit granted by the Oklahoma Water Resources Board authorizing the holder to appropriate water on a

year-round basis in an amount and from a source approved by the Board;

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

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

6. "Term permit" means a permit granted by the Board authorizing the appropriation of water in an amount and from a source approved by the Board for a term of years which does not vest the holder with any permanent right and which expires upon expiration of the term of the permit; and

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

Added by Laws 1972, c. 256, § 1. Amended by Laws 1981, c. 35, § 1, emerg. eff. April 8, 1981; Laws 1995, c. 112, § 1, eff. Nov. 1, 1995.

§82-105.1A. Purpose of law - Legislative intent.

It is the intent of the Oklahoma Legislature that the purpose of Section 105.1 through Section 105.32 of this title is to provide for stability and certainty in water rights by replacing the incompatible dual systems of riparian and appropriative water rights which governed the use of water from definite streams in Oklahoma prior to June 10, 1963, with an appropriation system of regulation requiring the beneficial use of water and providing that priority in time shall give the better right. These sections are intended to provide that riparian landowners may use water for domestic uses and store water in definite streams and that appropriations shall not interfere with such domestic uses, to recognize through administrative adjudications all uses, riparian and appropriative, existing prior to June 10, 1963, and to extinguish future claims to use water, except for domestic use, based only on ownership of riparian lands.

Added by Laws 1993, c. 310, § 1, emerg. eff. June 7, 1993.

§82-105.2. Right to use water - Domestic use - Priorities.

A. Beneficial use shall be the basis, the measure and the limit of the right to the use of water; provided, that water taken for domestic use shall not be subject to the provisions of this act,

except as provided in Section 105.5 of this title. Any person has the right to take water for domestic use from a stream to which he is riparian or to take stream water for domestic use from wells on his premises. Water for domestic use may be stored in an amount not to exceed two (2) years' supply. The provisions of this act shall not apply to farm ponds or gully plugs which are not located on definite streams and which have been constructed under the supervision and specifications of the Soil and Water Conservation Districts.

B. Priority in time shall give the better right. From and after the date of June 10, 1963, the following priorities for the use of water and no other shall exist:

1. Prestatehood uses. Priorities to the quantity of water put to beneficial use prior to November 15, 1907, to the extent to which the priority has not been lost in whole or in part pursuant to Section 105.16 of this title when the same shall have been perfected as provided by this act and rules and regulations adopted by the Board. Such said priorities shall date from the initiation of the beneficial use.

2. Spavinaw, Grand, North Canadian, Blue and North Boggy adjudications. Priorities decreed to exist in adjudications brought in pursuance of this act where such adjudications have been initiated prior to the date of June 10, 1963, to the extent to which these priorities have not been lost in whole or in part pursuant to Section 105.16 of this title. Such said priorities shall be dated as of the date assigned to them in the respective adjudication decrees.

3. Spavinaw, Grand, North Canadian, Blue and North Boggy Rivers - Applications prior to June 10, 1963. Priorities based upon applications for appropriations where the same shall have been perfected heretofore under the law heretofore applicable to the extent to which the priority has not been lost in whole or in part pursuant to Section 105.16 of this title. Such said priorities shall be dated as of the date of the application therefor.

4. All other applications. Priorities based upon applications for appropriations to the extent the priority has not been lost in whole or in part pursuant to Section 105.16 of this title where the same shall be perfected after June 10, 1963, as provided by this act and rules and regulations adopted by the Board pursuant thereto. Such said priorities shall date from the date of application for the priority. Any permit to appropriate water issued by the Board from and after June 10, 1963, is hereby presumed to be valid and in full force and effect to the extent not lost in whole or in part due to nonuse, forfeiture or abandonment, pursuant to this title.

5. Federal withdrawals. Priorities based on the withdrawal of water by the United States pursuant to Section 105.29 of this title to the extent to which the priority has not been lost in whole or in part through nonutilization as provided by the said section or pursuant to Section 105.16 of this title. Such said priorities shall

vest in the users of said water as of the date of notification given pursuant to Section 105.29 of this title.

6. Poststatehood - Nonapplicant uses. Priorities based upon present beneficial use prior to June 10, 1963, and initiated on or subsequent to November 15, 1907, to the extent to which the priority has not been lost in whole or in part pursuant to Section 105.16 of this title where the same has been perfected as provided by this act and rules and regulations adopted by the Board pursuant thereto. Such said priorities as to each quantity of water shall date from the initiation of the beneficial use of that quantity of water. Provided, however, that no priority based solely upon this paragraph shall take priority over priorities which bear a priority date earlier than the effective date of June 10, 1963, and which arise by virtue of compliance with the provisions of the first five paragraphs of this subsection.

7. Soil Conservation Service sediment pools. Priorities based upon beneficial use of that portion of the water designated by the Soil Conservation Service engineers as necessary for the sediment pool where landowners have granted easements without compensation for upstream flood control impoundments under the sponsorship of Soil and Water Conservation Districts prior to June 10, 1963, to the extent to which the priority has not been lost in whole or in part pursuant to Section 105.16 of this title when the same shall have been perfected as provided by this act and rules and regulations adopted by the Board. Such said priorities shall date from the date of the grant of the easement. Subsequent to June 10, 1963, those landowners who shall grant easements for such upstream flood control impoundments may acquire a priority for beneficial use of that water designated as the sediment pool by complying with paragraph 4 of subsection B of this section.

C. When any person might claim a priority under more than one of the numbered paragraphs of subsection B of this section, he may elect which paragraphs shall control his priority date. Nothing in this provision shall be construed to prohibit his electing different priorities under one or more of the paragraphs of subsection B of this section for different quantities of water.

D. From and after June 10, 1963, the only riparian rights to the use of water in a definite stream, except water taken for domestic use, are those which have been adjudicated and recognized as vested through the proceedings under 82 O.S. Supp. 1963, Sections 5 and 6, orders of the Oklahoma Water Resources Board entered thereunder which became final, and those decreed to exist in the Spavinaw, Grand, North Canadian, and Blue and North Boggy adjudications, all to the extent such rights have not been lost, in whole or in part, due to nonuse, forfeiture or abandonment, pursuant to this title. Amended by Laws 1988, c. 203, § 2, emerg. eff. June 10, 1988.

§82-105.3. Right of eminent domain.

Any person, corporation or association may exercise the right of eminent domain to acquire right-of-way for the storage or conveyance of water for beneficial use, including the right to enlarge existing structures, and use the same in common with the former owner. Such right-of-way shall in all cases be so located as to do the least damage to private or public property, consistent with proper and economical engineering construction. Such rights may be acquired in the manner provided by law for the taking of private property for public use.

Laws 1972, c. 256, § 3.

§82-105.4. Diversion of water.

Water turned into any natural or artificial watercourse by any party entitled to the use of such water may be reclaimed below and diverted therefrom by such party, subject to existing rights, due allowance for losses being made by the Board.

Laws 1972, c. 256, § 4.

§82-105.5. Impairment of water rights - Suits in district court.

Any person having a right to the use of water from a stream as defined by this act or Section 60 in Title 60 of the Oklahoma Statutes whose right is impaired by the act or acts of another, or others, may bring suit in the district court of any county in which any of the acts complained of occurred. Provided, however, that nothing herein contained shall be construed to empower district courts to recognize rights to use the water of a stream unless such rights have heretofore been established pursuant to this act or are claimed under Section 60 in Title 60 of the Oklahoma Statutes. Provided, however, that the Attorney General shall intervene on behalf of the state in any suit for the adjudication of rights to the use of water if notified by the Board that the public interests would be best served by such action.

Laws 1972, c. 256, § 5.

§82-105.6. Adjudication of rights - Suit.

When the Board determines the best interests of the claimants to the use of water from a stream system will be served by a determination of all rights to the use of water of such system, the Board may institute a suit on behalf of the state for the determination of all rights to the use of such water and shall diligently prosecute the same to a final adjudication. The cost of such suit, including the costs on behalf of the state, shall be charged against each of the parties thereto in proportion to the amount of water rights allotted. Provided that after the effective date of June 10, 1963, neither the bringing of such suit nor an

adjudication in such a suit shall be a condition precedent to the granting of permits and licenses as authorized by this act.
Added by Laws 1972, c. 256, § 6.

§82-105.7. Parties to suit - Intervention - Orders.

In any suit for the determination of rights to the use of the waters of any stream, brought pursuant to Section 6, any person who is using or who has used water from the stream or who claims the right or who might claim the right to use water from the stream may be made a party to the suit. Any person who is using or who has used or who claims the right to use water from the stream may intervene. No person not a party to the suit shall be bound by the decree therein, but the rights determined between the parties thereto and their privities shall be bound in all subsequent litigation. When any such suit has been filed, the court may by its order, duly entered, direct the Board to furnish data necessary for the determination of the rights involved.

Laws 1972, c. 256, § 7.

§82-105.8. Decree - Contents - Copies to be filed.

Upon the adjudication of the rights of the use of the waters of a stream system, two or more certified copies of the decree shall be prepared by the clerk of the court, at the cost of the parties, and one copy shall be filed in the office of the Board and the other in the office of the registrar of deeds of each county in which such stream system is situated. Such decree shall in every case declare, as to the water right adjudged to each party, the priority, amount, purpose, place of use and, as to water used for irrigation, the specific tracts of land to which it shall be appurtenant together with such other conditions as may be necessary to define the right and its priority.

Laws 1972, c. 256, § 8.

§82-105.9. Application for water rights.

Any person, firm, corporation, state or federal governmental agency, or subdivision thereof, intending to acquire the right to the beneficial use of any water shall, before commencing any construction for such purposes or before taking the same from any constructed works, make an application to the Board, together with the filing fee authorized by law, for a permit to appropriate in the form required by rules and regulations established by the Board. Such rules and regulations shall, in addition to providing the form and manner of preparing and presenting the application, require that such application state all the data necessary for the proper description and limitation of the right applied for, as to the amount of water requested, together with such information as may be necessary to show

the method and practicability of the construction and the ability of the applicant to complete the same.

Added by Laws 1972, c. 256, § 9.

§82-105.10. Rules governing applications.

A. 1. The date of receipt of an application for use of stream water in the office of the Oklahoma Water Resources Board shall be endorsed and shall be noted in the records of the Board.

2. If the application is defective as to form or unsatisfactory as to feasibility or safety of the plan, or as to the showing of the ability of the applicant to carry the construction to completion, the Board shall advise the applicant of the correction, amendments or changes required. The applicant shall have not more than sixty (60) days from the date the Board so advises to refile such application. If refiled, corrected as required, within the specified time limit, the application shall, upon being accepted by the Board, take priority as of date of its original filing, subject to compliance with the further provisions of the law and the rules promulgated thereto. Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its refiling.

3. The plans of construction may be amended, with the approval of the Board, at any time, provided that no change shall authorize an extension of time for construction or placing the water to beneficial use beyond that authorized in the permit, except as provided in Section 105.15 of this title. A change in the proposed point of diversion of water from a stream shall be subject to the approval of the Board and shall not be allowed to the detriment of the rights of others having valid claims to the use of water from the stream.

B. 1. For applications that have been pending for more than three (3) years prior to the effective date of this section, the Board shall provide written notice to the applicant at the applicant's last-known address that the application shall be deemed withdrawn and the priority date based on the original filing date shall be lost unless the applicant provides notice of the application as instructed by the Board. The Board shall provide an opportunity for a hearing if requested in order for the applicant to show cause why:

- a. notice should not be published, and
 - b. the application should not be deemed withdrawn and the priority date lost.
2. Cause may be shown by substantial competent evidence that:
- a. the applicant has been diligently pursuing plans for the project for which the water is proposed to be used,
 - b. construction of the project is still practical, and
 - c. the applicant is still able to complete the project.

3. If the Board receives no response to the notice, the application shall be deemed withdrawn and priority date lost.

C. 1. After the effective date of this section, applications may remain pending for more than three (3) years and retain the priority date based on the original filing date if the applicant files a request to extend pending status of the application before the end of the first three-year period and each successive three-year period thereafter and as required by rules promulgated by the Board.

2. If a request to extend pending status is not filed in time and as required by Board rules, the application will be deemed withdrawn.

Added by Laws 1972, c. 256, § 10. Amended by Laws 1993, c. 164, § 1, emerg. eff. May 10, 1993; Laws 2000, c. 318, § 1, emerg. eff. June 5, 2000.

§82-105.11. Notice of application - Protest - Hearing.

A. Except as otherwise provided by Section 105.13 of this title for limited quantity stream water permits, upon the acceptance of an application which complies with the provisions of Chapter 1 of this title, and the rules promulgated by the Oklahoma Water Resources Board pursuant thereto, the Board shall instruct the applicant to publish, within the time required by the Board, a notice thereof, at the applicant's expense, in a form prescribed by the Board in a newspaper of general circulation in the county of the point of diversion, and in a newspaper of general circulation published within the adjacent downstream county and any other counties designated by the Board once a week for two (2) consecutive weeks. Such notice shall give all the essential facts as to the proposed appropriation, among them being the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to publish notice are given, and a thirty-day protest period as well as the manner in which a protest to the application may be made. At the time the Board provides the notice of application to the applicant, the Board shall publish on its website the applications and instructions for public notice, including the draft public notice prepared by the Board. The website publishing is in addition to, and not in lieu of, the requirement for applicants to publish notice in the newspaper. The time to protest shall run from the date of the first newspaper publication.

B. In case of failure to give such notice in accordance with the rules and regulations applicable thereto within the time required, or if such notice is defective, the priority of application shall be lost; however, if proper notice is given within thirty (30) days after the Board has notified the applicant of his or her failure to give effective and proper notice, the application shall thereafter carry the original date of filing, and shall supersede any subsequent

application to the same source of water supply. Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest.

C. If the Board does not schedule a hearing on the application before instructing the applicant to publish notice, a hearing shall be scheduled by the Board upon receipt of a protest which meets the requirements of the Board's rules, the Board shall notify the applicant and protestant of such hearing.

Added by Laws 1972, c. 256, § 11. Amended by Laws 1993, c. 164, § 2, emerg. eff. May 10, 1993; Laws 1995, c. 112, § 2, eff. Nov. 1, 1995; Laws 1996, c. 329, § 1, emerg. eff. June 12, 1996; Laws 2019, c. 411, § 1, eff. Nov. 1, 2019.

§82-105.12. Approval of application by Oklahoma Water Resources Board - Use of water outside the state.

A. In order to protect the public welfare of the citizens of Oklahoma and before the Oklahoma Water Resources Board takes final action on the application, the Board shall determine from the evidence presented whether:

1. There is unappropriated water available in the amount applied for;

2. The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use. In making this determination, the Board shall consider the availability of all stream water sources and other relevant matters as the Board deems appropriate, and may consider the availability of groundwater as an alternative source;

3. The proposed use does not interfere with domestic or existing appropriative uses;

4. If the application is for the transportation of water for use outside the stream system wherein the water originates, the proposed use must not interfere with existing or proposed beneficial uses within the stream system and the needs of the water users therein. In making this determination, the Board shall utilize the review conducted pursuant to subsection B of this section; and

5. If the application is for use of water out of state, the Board shall, in addition to the criteria set forth in this subsection, also evaluate whether the water that is the subject of the application could feasibly be transported to alleviate water shortages in the State of Oklahoma.

If the evidence is determined to be sufficient, and subject to subsection B of this section, the Board shall approve the application by issuing a permit to appropriate water. The permit shall state the time within which the water shall be applied to beneficial use. In the absence of appeal as provided by the Administrative Procedures Act, the decision of the Board shall be final.

B. 1. In the granting of water rights for the transportation of water for use outside the stream system wherein water originates, pending applications to use water within the stream system shall first be considered in order to assure that applicants within the stream system shall have all of the water required to adequately supply their beneficial uses.

2. The Board shall review the needs within the area of origin every five (5) years to determine whether the water supply is adequate for municipal, industrial, domestic, and other beneficial uses.

C. The review conducted pursuant to paragraph 2 of subsection B of this section shall not be used to reduce the quantity of water authorized to be used pursuant to permits issued prior to such review. Such permits, however, remain subject to loss, in whole or in part, due to nonuse, forfeiture or abandonment, pursuant to this title.

D. On the filing of an application or amendment to use water outside the state, the applicant shall designate an agent in the State of Oklahoma for service of process and to receive other notices.

E. In the event of a conflict between the conditions of use required in Oklahoma and conditions required in another state, the water right holder shall consent to conditions imposed by the Board.

F. Permits and amendments that authorize the use of water outside the state shall be subject to review by the Board at least every ten (10) years after the date of issuance to determine whether there has been a substantial or material change relating to any matters set forth in subsection A of this section. The Board may impose additional conditions as described by Board rules to address any such substantial or material change.

G. Notwithstanding the provisions of any other law that may be deemed inconsistent with this section, the Board shall promulgate rules and apply the provisions of Section 1 of this act and subsections A, B, D, E, and F of this section to applications for use of water for which no final adjudication has been made by the Oklahoma Water Resources Board before the effective date of this act. Added by Laws 1972, c. 256, § 12. Amended by Laws 1988, c. 203, § 3, emerg. eff. June 10, 1988; Laws 1993, c. 164, § 3, emerg. eff. May 10, 1993; Laws 2009, c. 403, § 2, emerg. eff. June 1, 2009.

§82-105.12A. Permits to use water outside of state.

A. The State of Oklahoma has long recognized the importance of the conservation and preservation of its public waters and the necessity to maintain adequate supplies for the present and future water requirements of the state and to protect the public welfare of its citizens, and has entered into interstate compacts for that purpose.

B. No permit issued by the Oklahoma Water Resources Board to use water outside the boundaries of the State of Oklahoma shall:

1. Impair the ability of the State of Oklahoma to meet its obligations under any interstate stream compact; or

2. Impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority or law, in, over and to water apportioned by interstate compacts.

C. Water apportioned to the State of Oklahoma by an interstate compact is subject to the right and power of the State of Oklahoma to control, among other matters, the method of diversion of the water and the place of use.

D. No permit for the use of water out of state shall authorize use of water apportioned to the State of Oklahoma under an interstate compact unless specifically authorized by an act of the Oklahoma Legislature and thereafter as approved by it.

Added by Laws 2009, c. 403, § 1, emerg. eff. June 1, 2009.

§82-105.13. Seasonal, temporary, term and provisional permits - Limited quantity stream water permits.

A. The Oklahoma Water Resources Board is authorized to issue, in addition to regular permits, seasonal, temporary, term or provisional temporary permits at any time the Board finds such issuance will not impair or interfere with domestic uses or existing rights of prior appropriators and may do so even where it finds no unappropriated water is available for a regular permit. All seasonal, temporary, term and provisional temporary permits shall contain a provision making them subject to all rights of prior appropriators. If any such permit is for water impounded in any works for storage, diversion or carriage of water, the applicant must comply with the provisions of Section 105.21 of this title.

B. Except as otherwise provided by this section, application, notice and administrative hearing as provided in Sections 105.9 through 105.12 of this title shall be required for all permits. A provisional temporary permit may be immediately and summarily granted upon administrative approval by the Board. Provisional temporary permits shall:

1. Not be effective for a period of more than ninety (90) days;

2. Be granted at the discretion of the Board; and

3. Be subject to such terms, conditions and rules promulgated by the Board for such purposes.

C. The Executive Director of the Board may administratively issue permits to use limited quantities of stream water. Notice, procedures and the maximum quantity authorized for limited quantity stream water permits shall be in compliance with rules promulgated by the Board. In no event shall the maximum quantity of water authorized in a limited quantity stream water permit exceed the

amount of stream water that would otherwise be determined by the Board pursuant to Section 105.12 of this title.

Added by Laws 1972, c. 256, § 13. Amended by Laws 1981, c. 35, § 2, emerg. eff. April 8, 1981; Laws 1996, c. 329, § 2, emerg. eff. June 12, 1996.

§82-105.14. Denial of permit - Approval of application for lesser amount - Appeal.

If, in the opinion of the Board, the applicant fails to establish the three requirements of Section 12, it shall reject the application. It shall notify the applicant of the rejection and the reason for its action. In the absence of appeal as provided by this act, the decision of the Board shall be final.

If the Board denies a permit on the basis that there is no unappropriated water available in the amount applied for but finds that the other requirements were complied with, the applicant may file an amended application and apply for a lesser amount. Such amendment shall be in writing and sent by certified mail no later than fifteen (15) days after notice of denial of the original application shall have been mailed by the Board. Upon receipt of the amended application, the Board shall approve the application for the lesser amount at its next regularly scheduled meeting if such amount is sufficient. Such amendment shall not be deemed a waiver of the right to appeal from the action of the Board in denying the permit on the original application. Time for perfecting an appeal shall begin to run upon the mailing of notice of either the denial of the permit or approval of the amended application, whichever is later.

Added by Laws 1972, c. 256, § 14.

§82-105.15. Time for commencement of works.

A. Any permit shall expire unless the applicant begins construction of the works within two (2) years of the issuance of the permit by the Board. The Board may, as necessary and deemed appropriate under the circumstances, extend the time for the beginning of construction beyond the time allowed in the permit for good cause shown, such as engineering difficulty or other valid reason over which the applicant has no control.

B. If the Board does not receive a written notice of commencement of works or request to extend time within thirty (30) days after the end of the two-year period, the permit shall be deemed expired after written notice to the applicant.

C. Provided, nothing in this section shall be construed as extending the time within which the waters authorized for use must be placed to actual beneficial use as provided in the permit and Sections 105.16 through 105.18 of this title.

Laws 1972, c. 256, § 15; Laws 1981, c. 35, § 3, emerg. eff. April 8, 1981; Laws 1993, c. 164, § 4, emerg. eff. May 10, 1993.

§82-105.16. Time for putting water to beneficial use.

A. Unless a schedule of use is provided by the Board as authorized in this section, a regular permit shall require that the whole of the amount of the water authorized by the permit be put to beneficial use within a period of less than seven (7) years.

B. If, upon evidence presented to the Board, and considering the present and future needs of the stream system of origin, it appears that the proposed project, improvement or structure will promote the optimal beneficial use of water in the state, and it further appears that the total amount of water to be authorized by the permit cannot be put to beneficial use within seven (7) years, then the Board shall provide in the permit the time within which the total amount to be authorized shall be put to beneficial use. This time shall be the useful life of the proposed project, improvement or structure as found by the Board. In order to insure orderly progress toward total beneficial utilization within the said time set by the Board, the Board shall provide in the permit a schedule of times within which certain percentages of the total amount to be authorized must be put to beneficial use.

C. Nothing in this act shall be deemed to reestablish any right to the use of any water which has been lost by failure to use same or by forfeiture prior to July 5, 1961.

Laws 1972, c. 256, § 16; Laws 1993, c. 164, § 5, emerg. eff. May 10, 1993.

§82-105.17. Reversion of water to public.

A. To the extent that the water authorized is not put to beneficial use as provided by the terms of the permit, that amount not so used shall be forfeited by the holder of the permit and shall become public water and available for appropriation.

B. When the party entitled to the use of water commences using water but thereafter fails to beneficially use all or any part of the water claimed by him, for which a right of use has been vested for the purpose for which it was appropriated for a period of seven (7) continuous years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

Laws 1972, c. 256, § 17; Laws 1993, c. 164, § 6, emerg. eff. May 10, 1993.

§82-105.18. Loss of right to use water - Notice - Hearing.

A. When the Board has reasonable cause to believe that the right to use water has been lost in whole or in part, as provided in Section 105.17 of this title, the Board may proceed to cancel administratively such right by notifying the claimant of such right, or his latest successor in such rights, by written notification mailed by registered or certified mail to his last known address that

there is reasonable cause for believing that he has lost his water rights under the provisions of Section 105.16 or 105.17 of this title.

B. Such notice shall be mailed at least thirty (30) days prior to the date set for the hearing and shall give the time and place set for the hearing on such water rights; provided that if there is evidence that delivery of such notice by registered or certified mail cannot be made to the claimant, or his successor in such water rights, the Board shall give notice by publishing the same in a local newspaper qualified to publish such notice, nearest the point where said water right had attached, once each week for two (2) consecutive weeks. Such hearing date shall be set not earlier than thirty (30) days after the last publication date of said notice.

C. At such hearing the claimant of such water right, or his successor in such right, shall have the right to show cause why such water right should not be declared to have been lost through nonuse. Such cause may be shown by substantial competent evidence that the failure to beneficially use the water subject to forfeiture was caused by circumstances beyond the control of the claimant and the claimant was ready and willing to use the water.

Procedures of hearings and appeals shall be governed by the Administrative Procedures Act.

D. Provided, that the failure of the Board to determine that a right to use water has been lost in whole or in part for nonuse shall not in any way revive or continue the said right.
Laws 1972, c. 256, § 18; Laws 1979, c. 140, § 1; Laws 1993, c. 164, § 7, emerg. eff. May 10, 1993.

§82-105.19. Surrender of water rights.

The Board may accept the surrender of any water right by the holder thereof pursuant to rules and regulations adopted by the Board.

Laws 1972, c. 256, § 19.

§82-105.20. Violations.

The unauthorized use of water, the unauthorized transfer of a water right, the continued use of works which are unsafe after receiving notice to repair, the waste of water, the unauthorized severance of a water right from the land to which it is appurtenant, the refusal to change unsafe works when directed to do so, or the injury or obstruction of waterworks shall be a misdemeanor and each day such violation continues shall be a separate violation. In addition to filing criminal complaints and any other remedies provided herein, the Board shall have the right to bring an action in the district court of the county wherein such act or omission occurs to enjoin the same. The Board and its authorized agents shall have a reasonable right to go upon private property in the performance of

their duties hereunder and shall have the duty to file complaints of violations of the penal provisions of this section.
Laws 1972, c. 256, § 20.

§82-105.21. Surplus water.

The owner of any works for the storage, diversion or carriage of water, which contain water in excess of his needs for irrigation or other beneficial use for which it has been appropriated, shall be required to deliver such surplus, at reasonable rates for storage or carriage, or both, as the case may be, to the parties entitled to the use of the water for beneficial purposes. In case of the refusal of such owner to deliver any such surplus water at reasonable rates as determined by the Board, he may be compelled to do so by the district court for the county in which the surplus water is to be used.
Laws 1972, c. 256, § 21.

§82-105.22. Severance and transfer of water right.

All water used in this state for irrigation purposes shall remain appurtenant to the land upon which it is used: Provided, that if for any reason it should at any time become impracticable to beneficially or economically use water for the irrigation of any land to which the right of use of same is appurtenant, said right may be severed from said land, and simultaneously transferred, and become appurtenant to other land, without losing priority of right theretofore established, if such change can be made without detriment to existing rights, on the approval of an application of the owner to the Board. Before the approval of such application, the applicant must give notice thereof by publication once a week for two (2) consecutive weeks in a newspaper or newspapers of general circulation in the county or counties in which each tract of land is located. The notice shall be in the form prescribed by the Board and shall include the name of the applicant, the date, time and place and kind of use and a description of the nature of the proposed change. The final publication of the notice shall precede the date of the hearing by at least thirty (30) days.

After proof of notice and hearing, the Board shall issue its order. The order may deny or grant the application in whole or in part upon such conditions as are necessary to preserve the rights of the parties. Any person aggrieved by the order may seek relief as provided for in The Administrative Procedures Act.
Laws 1972, c. 256, § 22.

§82-105.23. Use of water for other purposes.

Any appropriator of water including but not limited to one who uses water for irrigation, may use the same for other than the purposes for which it was appropriated, or may change the place of diversion, storage or use, in the manner and under the conditions

prescribed for the transfer of the right to use water for irrigation purposes in Section 105.22 of this title.

Amended by Laws 1988, c. 203, § 4, emerg. eff. June 10, 1988.

§82-105.24. Assignment of appropriation permit - Transfer of title to land.

Any permit to appropriate water may be assigned, but no assignment shall be binding, except upon the parties thereto, unless filed for record in the office of the Board. The evidence of the right to use water from any works constructed by the United States or its duly authorized agencies shall in like manner be filed in the office of the Board upon assignment; provided, that no permit to appropriate water for irrigation purposes shall be assigned, or the ownership thereof in any way transferred, apart from the land to which it is appurtenant, except in the manner specially provided by law; provided, further, that the transfer of title to land in any manner whatsoever shall carry with it all rights to use of water appurtenant thereto for irrigation purposes.

Laws 1972, c. 256, § 24.

§82-105.25. Notice of completion - Inspection.

On the date set for the completion of the work, or prior thereto, upon notice from the owner that the work has been completed, the Board shall cause the work to be inspected after due notice to the owner of the permit. Such inspection shall be thorough and complete, in order to determine the actual capacity of the works, their safety and efficiency. If not properly and safely constructed, the Board may require the necessary changes to be made within a reasonable time and shall not issue a certificate of completion until such changes are made. Failure to make such changes within the time required by the Board shall cause the postponement of the priority under the permit for such time as may elapse from the date for completing such changes until made to the satisfaction of the Board and applications subsequent in time shall have the benefit of such postponement of priority; provided, the Board may accept the report of inspection by a registered professional engineer.

Laws 1972, c. 256, § 25.

§82-105.26. Certificate of completion.

When the works are found in satisfactory condition, after inspection, the Board shall issue a certificate of completion of construction, setting forth the actual capacity of the works and such limitations upon the water right as shall be warranted by the condition of the works, but in no manner extending the rights described in the permit.

Added by Laws 1972, c. 256, § 26.

§82-105.27. Unsafe works to be changed - United States works not subject to inspection.

If the Board shall, in the course of its duties, find that any works used for storage, diversion or carriage of water are unsafe and a menace to life and property, it shall at once notify the owner or his agent, specifying the changes necessary and allowing a reasonable time for putting the works in safe condition. Upon the request of any party, accompanied by the estimated cost of inspection, the Board shall cause any alleged unsafe works to be inspected. If they shall be found unsafe by the Board, the money deposited by such party shall be refunded and the fees for inspection shall be paid by the owner of such works; and, if not paid by him within thirty (30) days after the decision of the Board, shall be a lien against any property of such owner, to be recovered by suit instituted by the district attorney of the county at the request of the Board. The Board may, when necessary, inspect any works for the storage, diversion or carriage of water and require any changes necessary to secure their safety; and the fees for such inspection shall be a lien on any property of the owner and shall be subject to collection as provided herein; provided, that any works constructed by the United States, or by its duly authorized agencies, shall not be subject to such inspection while under the supervision of officers of the United States. Provided, that liens provided for in this section shall be superior in right to all mortgages or other encumbrances, except ad valorem tax liens, placed upon the land and the water appurtenant thereto or used in connection therewith.

Amended by Laws 1988, c. 203, § 5, emerg. eff. June 10, 1988.

§82-105.28. Measurement of water.

The standard of measurement of the flow of water shall be the cubic foot per second of time; the standard measurement of the volume of water shall be the acre foot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand five hundred sixty (43,560) cubic feet.

Laws 1972, c. 256, § 28.

§82-105.29. Appropriations of water by the United States.

A. Whenever the proper officers of the United States, authorized by law to construct works for the utilization of waters within the state, shall notify the Board that the United States intends to utilize certain specified waters, the water so described, and unappropriated at the date of such notice, shall not be subject to further appropriation under the laws of this state, provided that upon receipt of notice as hereinabove provided the Board shall prepare and give public notice by publication in at least two newspapers qualified to publish such notices in each county or counties in which such stream system or stream systems are situated,

as may be affected by such proposed withdrawal by the United States. Provided that in counties in which there is but one such newspaper, it shall be sufficient to publish the said notice in that newspaper. Such notice shall be published at least thirty (30) days prior to the date set for the hearing, setting forth the date, time and place, together with a general description of the proposed works to be constructed by the United States and location in such stream system, the volume of water requested under such withdrawal and any other pertinent information that will be helpful in apprising all interested parties as to the probable effect of such withdrawal by the United States. Interested parties may make oral statements for the record at such hearing, or they may present written statements at the hearing or before the hearing, to the Board at its offices. After the hearing the Board shall consider all evidence submitted at the hearing and determine if the proposed withdrawal is in harmony with the best interests of the state. Provided further, if the Board finds that the withdrawal of waters requested is not in the best interests of the state, then the Board shall:

1. Have the authority to reduce the amount of water requested for withdrawal; and/or
2. Attach such conditions to the proposed withdrawal as the Board deems in harmony with the best interests of the state; or
3. Reject the request for withdrawal in its entirety. Provided further, that the Board shall notify the United States, or its proper officers, of its findings within thirty (30) days after the final decision has been reached by the Board. Provided further, that if the Board approves the withdrawal of all or a part of the waters requested to be withdrawn by the United States or its authorized officers, such officers shall, within a period of three (3) years from the date of said notice, file plans for the proposed works in the office of the Board for its information and no adverse claim to the use of the waters approved for withdrawal required in connection with such plans initiated subsequent to the date of such notice shall be recognized under the laws of the state, except as to such amount of the water described in such notice as may be formally released in writing by an officer of the United States, thereunder duly authorized; provided, that in case of failure to file plans for the proposed work within three (3) years, as herein required, the water approved for withdrawal specified in the notice given by the United States to the Board shall become public water, subject to general appropriation; provided further that in case the proposed work as detailed in the plans to be filed as herein required is not commenced and continued with due diligence within eight (8) years from the date of filing of the plans with the Board, the water approved for withdrawal specified in the request for withdrawal shall become public water subject to general appropriation; provided, that when actions relating to project authorization for initiation of

construction are delayed pending actions of the Congress, or water right adjudications by the state, national emergencies or other valid and good reasons, the Board may extend the period beyond eight (8) years within which work may be commenced or resumed as provided herein by making a finding of fact and filing a report in the office of the Board that it is the opinion of the Board that releasing the waters involved to general appropriation may be detrimental to the best interests of the state and the area involved. Such finding shall state specifically the additional time to be granted within which proposed work on the project or projects, covered by plans, shall be commenced or resumed.

B. Any waters withdrawn prior to May 23, 1967, by the United States under statutes of this state in the stream systems of the state shall be only those waters necessary for the plans filed for the project's economic justification and water supply. Any remaining portion of the waters of such stream system which are not required for the project as planned by the United States and for which plans are duly filed with the Board, as hereinabove provided, shall be subject to general appropriation as provided by state law; provided further, that any withdrawal notice by the United States and the filing of project plans by the United States prior to October 2, 1959, shall be considered as effective and continued in full force to the maximum time allowed above from October 2, 1959. Provided, that as to said water withdrawn by the United States prior to May 23, 1967, the Board may extend such time for the causes and in the manner as provided in this act for the extension of time for the building of works utilizing waters withdrawn after May 23, 1967.
Laws 1972, c. 256, § 29.

§82-105.30. Extension of period of withdrawal under national emergency.

In case of national emergency, such as war, during periods when materials for the construction of projects as herein contemplated by the United States may not be available, such periods of emergency shall not be chargeable to the maximum period provided for the construction of projects initiated under this act.
Laws 1972, c. 256, § 30.

§82-105.31. Records of Oklahoma Water Resources Board open to public.

The records of the office of the Board shall be public records, shall remain on file in its office and shall be open to the inspection of the public at all times during business hours. Such records shall show in full all lists of vested water rights in the several stream systems of the state, permits issued, completion of works reports, together with all actions thereon or decisions of the Board affecting any rights or claims to appropriate water. Certified

copies of any records or papers on file in the office of the Board shall be evidence equally with the originals thereof and when introduced as evidence shall have the same validity as the originals. Laws 1972, c. 256, § 31.

§82-105.32. Effect of act on forfeited water rights and priority dates.

The codifying and renumbering of the several sections of Chapter 1 in Title 82 of the Oklahoma Statutes shall not alter their effectiveness by the adoption of this act; nor shall this act with its several amendments to existing law be deemed to reestablish any water rights that have heretofore been lost or forfeited under laws heretofore in effect prior to the effective date of this act; nor shall the adoption of this act change in any manner priority dates for the right to use water under the laws in effect prior to the adoption of this act.

Laws 1972, c. 256, § 32.

§82-110.1. Short title.

This act shall be known and may be cited as the "Oklahoma Dam Safety Act".

Added by Laws 1992, c. 185, § 1, eff. July 1, 1992.

§82-110.2. Legislative intent.

It is recognized by the Oklahoma State Legislature that properly constructed, operated and maintained dams used to impound water and create reservoirs for the purposes of public and private water supply, irrigation, industrial use, recreation, fish and wildlife, water quality control, flood prevention and control, sediment control, and other beneficial uses constitute vital parts of the State of Oklahoma's water resources, and that reasonable regulation of such construction, operation and maintenance is beneficial and necessary for the public health and welfare and to protect lives and property. It is the intent of the Legislature that the provisions of this act shall reaffirm and clarify such regulation and the dam safety program of the Oklahoma Water Resources Board already established and shall further provide sufficient basis for communities in the National Flood Insurance Program to obtain favorable consideration of rate decreases for their citizens offered through the Community Rating System administered by the Federal Emergency Management Agency.

Added by Laws 1992, c. 185, § 2, eff. July 1, 1992.

§82-110.3. Definitions.

As used in this act:

1. "Board" means the Oklahoma Water Resources Board;

2. "Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water;

3. "Gully plug" means any grade stabilization structure that has less than five (5) acre-feet of water storage available below the principal spillway elevation and less than fifty (50) acre-feet of storage volume below the emergency spillway elevation;

4. "Owner" means any person who, jointly or severally, owns, controls, maintains, manages, or proposes to construct a dam or reservoir, and includes but is not limited to those persons shown by records of the county registrar of deeds in the county where the dam or reservoir lies to have some interest, by fee, easement, mortgage or otherwise, in the land on which the dam and lake lie, and may also include but is not limited to those persons who may derive a direct pecuniary benefit from the existence of the lake; and

5. "Person" means any individual, firm, partnership, association, corporation, any trust formed for the benefit of an individual, business or any public entity, federal agency, the State of Oklahoma and any political subdivision thereof, municipalities, and any other legal entity.

Added by Laws 1992, c. 185, § 3, eff. July 1, 1992.

§82-110.4. Dams subject to regulation under this act.

A. Dams, together with appurtenant works, which meet the following alternative criterion are subject to the provisions of this act and rules promulgated by the Oklahoma Water Resources Board pursuant to this act:

1. Dams which are or will be twenty-five feet (25') or more in height measured from the natural stream channel to the top of the dam; or

2. Dams which have or will have an impounding capacity of fifty (50) acre-feet or more; provided, that any barrier to the flow of water which does or may impound water and which is or will be six feet (6') or less in height, regardless of storage capacity, or which has or will have a storage capacity of fifteen (15) acre-feet or less, regardless of height, shall not be subject to regulation under this act unless it is determined to have a high hazard potential classification as established by the Board.

B. No barrier to the flow of water determined by the Board to be designated primarily for roadfill shall be subject to regulation under this act.

C. Gully plugs are not subject to regulation under this act.

D. Dams constructed by any agency of the United States Government shall not be subject to regulation under this act during or after construction while such dams remain under the supervision of any officer or agency of the United States.

Added by Laws 1992, c. 185, § 4, eff. July 1, 1992.

§82-110.5. Oklahoma Water Resources Board - Powers and duties.

The Oklahoma Water Resources Board, in addition to other powers and duties as provided by law, shall have the following powers and duties:

1. To promulgate rules necessary to carry out the provisions of this act, including but not limited to rules relating to hazard and size classifications, minimum standards for design, operation and maintenance of dams, and fee schedules for inspections and other services provided to carry out the dam safety program authorized by this act;

2. To review and grant or deny applications to approve plans and specifications for construction of new dams and modifications of existing dams, based on the applicable minimum standards adopted provided that an owner who proposes to construct a new dam classified as having a low hazard potential that will be used primarily for agriculture purposes, and will be designed or constructed with the assistance of a local conservation district or federal agriculture related agency, shall be required only to notify the Board of such construction;

3. To supervise and oversee construction of new dams and modifications of existing dams;

4. To inspect existing dams and dams under construction in accordance with the following requirements:

- a. dams classified as having a high hazard potential shall be inspected at least once annually,
- b. dams classified as having a significant hazard potential shall be inspected at least once every three (3) years, and
- c. dams classified as having a low hazard potential shall be inspected at least once every five (5) years;

provided, that the Board shall accept an inspection report of a registered professional engineer having practical experience in the analysis, design and construction of dams and employed or retained by the owner for dams classified as high or significant hazard potential, or by an engineer employed by any United States governmental agency acting in an official capacity, and provided further, for dams classified as low hazard potential, the Board may exempt such inspections as set forth in its rules and may accept an inspection report of a person trained in inspecting dams and who is employed or retained by the owner. Fees for such inspections conducted by the Board and for reviewing inspection reports prepared by others shall be as set forth in rules promulgated by the Board;

5. To require maintenance, repairs and modifications of existing dams as necessary, including compliance schedules, so that minimum standards can be met;

6. To have reasonable access to public and private property for the purpose of inspecting and investigating conditions related to dams and to require that records of owners of dams be inspected and copied;

7. To cooperate with agencies of federal, state and local governments and private persons, including but not limited to the Oklahoma Conservation Commission and local conservation districts, in carrying out its duties under this act;

8. To disseminate information about the dam safety program; and

9. To exercise all incidental powers which are necessary and proper to carry out the purposes of this act.

Added by Laws 1992, c. 185, § 5, eff. July 1, 1992.

§82-110.6. Effect of act on liability of dam owners.

Nothing in this act shall relieve an owner of a dam from any liability related to the construction and maintenance of such dam.

Added by Laws 1992, c. 185, § 6, eff. July 1, 1992.

§82-110.7. Supervision of dam safety program.

The dam safety program authorized by this act shall be supervised within the Oklahoma Water Resources Board by an engineer registered with the State Board of Registration for Professional Engineers and Land Surveyors or successor agency and who shall have practical training or experience concerning the analysis, design, and construction of dams and reservoirs.

Added by Laws 1992, c. 185, § 7, eff. July 1, 1992.

§82-110.8. Notice of completion of construction - Certification.

A. Certificates of completion of works from the Oklahoma Water Resources Board shall be required before any water may be impounded by a new dam or before water may be impounded at an elevation higher than that previously authorized by the Board at an existing dam which has been modified. Said certificate shall contain the date of approval of plans and specifications for the dam, date construction was completed on said dam, and any other conditions as may be required by the Board.

B. The owner must give notice of completion of construction of the new dam or of modifications to an existing dam to the Board, and the Board shall inspect such dam before issuing a certificate of completion.

C. The Board may modify, revoke or amend any said certificate as necessary to assure the safety of the dam.

D. Fees for the inspections and for the issuance of certificates required by this section shall be set forth in rules promulgated by the Board.

Added by Laws 1992, c. 185, § 8, eff. July 1, 1992.

§82-110.9. Records - Disclosure to Board - Notice of flood events.

A. Owners of dams are responsible for keeping accurate records pertaining to the design, construction, operation and maintenance of their dams and to make the same available upon request of the Oklahoma Water Resources Board.

B. Owners of dams must give timely notice to the Board of flood events or other circumstances that may affect the integrity or safety of the dam. Said notice must be given as required by rules of the Board.

Added by Laws 1992, c. 185, § 9, eff. July 1, 1992.

§82-110.10. Failure, neglect or refusal to comply with act - Orders - Penalties - Judicial relief.

A. When an owner fails, neglects or refuses to comply with this act, rules promulgated pursuant to this act, or orders of the Oklahoma Water Resources Board, and there is no imminent peril to the public health or welfare shown, the Board may, after notice and opportunity for hearing, issue an order requiring such owner to take whatever action the Board deems necessary to place the dam in a safe condition, meet the requirements of this act, rules of the Board, or the previous orders of the Board. Such action may include but is not limited to lowering the level of or removing all water in the reservoir, providing an adequate warning to the public downstream, repair or modification of the existing dam after having the appropriate application for approval of plans and specifications granted, cease all construction work on a dam, and implementation of an appropriate operation and maintenance plan.

B. When an owner fails, neglects or refuses to comply with this act, rules promulgated pursuant to this act, or orders of the Board, and there is an imminent peril to the public health or welfare shown, the Executive Director of the Board, or Assistant Director in the absence of the Executive Director, may, without notice or opportunity for hearing, issue an emergency order requiring such owner to take actions the Board deems necessary to place the dam in a safe condition. Said emergency order shall indicate the finding of imminent peril and shall specify the actions that are to be taken immediately. The order shall also specify a time and place for hearing to be held after such actions are taken.

C. The Board may impose administrative penalties against owners of dams who fail, refuse or neglect to comply with the provisions of this act, rules of the Board promulgated pursuant to this act, or orders of the Board. Such administrative penalties shall be imposed only after notice and opportunity for hearing on the proposed imposition of such penalties. The notice and opportunity for hearing required by this paragraph may be combined with the notice and hearing required in paragraph A of this section. Said penalties shall not exceed Five Hundred Dollars (\$500.00) per day for each

violation. Each day a violation continues shall constitute a separate violation.

D. The Board may seek judicial relief to enforce provisions of this act, rules promulgated pursuant to this act, and orders of the Board by instituting action in the district court where the dam or a major portion thereof is located.

E. If records and information available to the Board show that there may be more than one owner of the dam subject to administrative or judicial relief authorized by this section, the Board is not required to give all such owners notice of proceedings involving the dam, and such owners who do not receive notice or enter their appearance in the proceedings shall not be deemed indispensable parties, provided however, the Board shall use its best efforts to provide notice to all known owners, considering the number and type of interest of such owners, amount of control exercised over the operation and maintenance of the dam by such owners, the need to expeditiously proceed to hearing, and possible harm by not providing such notice.

Added by Laws 1992, c. 185, § 10, eff. July 1, 1992.

§82-110.11. Appeals of orders.

Appeals of orders issued by the Oklahoma Water Resources Board pursuant to this act, except emergency orders issued under subsection B of Section 10 of this act, shall be taken pursuant to Article II of the Administrative Procedures Act, Sections 205 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes.

Added by Laws 1992, c. 185, § 11, eff. July 1, 1992.

§82-110.12. Effect of act on other laws and rules.

The provisions of this act shall be supplementary to other provisions of law. Rules of the Oklahoma Water Resources Board relating to dams which were promulgated prior to the effective date of this act shall remain effective until amended.

Added by Laws 1992, c. 185, § 12, eff. July 1, 1992.

§82-110.20. Repealed by Laws 2007, c. 93, § 17, eff. Nov. 1, 2007.

§82-110.30. Repealed by Laws 2013, c. 88, § 1, eff. July 1, 2013.

§82-277. Short title.

Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Irrigation District Act".

Added by Laws 1992, c. 69, § 1, emerg. eff. April 13, 1992.

§82-277.1. Definitions.

As used in the Oklahoma Irrigation District Act:

1. "District" means an irrigation district, organized under the laws of this state, including but not limited to those which have a contract with this state or the United States Government, or agencies thereof, under the reclamation laws for the construction, maintenance and operation of an irrigation system;

2. "Board" means the board of directors of an irrigation district;

3. "Director" means a director of an irrigation district;

4. "Assessments" means any annual or special fee imposed by an irrigation district for the payment of organization, maintenance, operating and current expenses, water charges, cost of construction or improvements, emergency repairs and any other lawful expenditure authorized by the directors or the electors;

5. "Elector" means any person who is of legal voting age and is the owner in fee or the owner of a life estate in at least ten (10) acres or an undivided interest equaling ten (10) acres of irrigable land within said district or proposed district, or any trustee for a beneficiary or guardian of any ward who owns either in fee or a life estate in at least ten (10) acres of irrigable land; or an executor, administrator or trustee of any estate owning at least ten (10) acres of irrigable land in said district or proposed district. The owner of any remainder of any land subject to a life estate shall not be an elector;

6. "Irrigable land" means that land which is principally used for the cultivation of crops or the raising and feeding of livestock where value or use can be enhanced by watering through irrigation channels or systems;

7. "Reclassification" means the process of including or excluding land within the boundaries of an irrigation district; and

8. "Transfer" means the process of substituting land which is assessed for other land within or immediately adjacent to the boundaries of an irrigation district.

Laws 1973, c. 179, § 1, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 2, emerg. eff. April 13, 1992.

§82-277.2. Proposal by titleholders to organize irrigation district.

If a minimum of ten or a majority of the holders of title to irrigable lands from a common source or combined sources and by the same system or combined systems of works, desire to provide for the irrigation of such irrigable lands, the holders may propose the organization of an irrigation district by petition pursuant to the Oklahoma Irrigation District Act.

Laws 1973, c. 179, § 2, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 3, emerg. eff. April 13, 1992.

§82-277.3. Petition - Contents.

The petition shall be signed by the petitioners, filed with the Oklahoma Water Resources Board, and shall contain the following information:

1. A specific description of the lands within the proposed district;
 2. The names and addresses of all of the electors within the proposed district as reflected by the records of the county clerk of the county wherein the land is located;
 3. The proposed plan of operation and such additional data and information required by rules and regulations of the Oklahoma Water Resources Board;
 4. An attached map showing the boundaries of the proposed district; and
 5. A request that the district be organized.
- Laws 1973, c. 179, § 3, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 4, emerg. eff. April 13, 1992.

§82-277.4. Hearing - Notice - Order.

After receipt of the petition, the Oklahoma Water Resources Board shall:

1. Set the petition for hearing before a hearing officer in a place of general convenience at the nearest county seat. The Oklahoma Water Resources Board shall instruct the petitioners to publish, at their expense, notice of said hearing by legal publication for two (2) consecutive weeks in a newspaper of general circulation, published in each county containing lands within the boundaries of the proposed district. Such hearing date shall be set not earlier than thirty (30) days after the last publication date of said notice. In addition, owners of land included in the proposed district, as reflected by the records of the county clerk of the county wherein the land is located, shall be notified by the petitioners of the hearing by registered or certified mail. Such notice shall be mailed at least thirty (30) days prior to the date set for the hearing. The notice shall contain:
 - a. a brief statement describing the purpose of such hearing,
 - b. a description of the territory to be included within said district, and
 - c. the date and the time and place of the hearing at which all persons residing or owning property within the proposed district may appear and be heard concerning the petition;
2. Permit filing of statements supporting or opposing the same;
3. Approve or deny the petition and plan as the Oklahoma Water Resources Board deems advisable;
4. Include or exclude lands within the district, upon application of the owners thereof, provided the Oklahoma Water

Resources Board finds that it is in the best interest of the district and the owners of such land;

5. If the organization of the district is approved, issue an order describing the boundaries of the district. The order shall be filed of record within thirty (30) days after the date of issuance by the Oklahoma Water Resources Board in the office of the county clerk of each county or counties wherein lands included within the district are located; and

6. Call a meeting, and instruct the petitioners to give notice by mail of such meeting, of the district electors for the purpose of adopting bylaws and electing directors.

Laws 1973, c. 179, § 4, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 5, emerg. eff. April 13, 1992.

§82-277.5. Electors - Persons eligible to serve - First meeting - Adoption of bylaws - Other business.

A. 1. Any elector in the division of the district in which he resides may serve as a director in that division.

2. If an elector does not own irrigable land in the division of the district in which he resides, or resides outside the district, such elector may serve as a director in the division in which the majority of his land is located.

B. At the time and place established by the Oklahoma Water Resources Board for the first meeting of the electors of the district, the electors shall adopt bylaws. In addition to any other provisions normally and properly included in bylaws, the bylaws shall, at a minimum, include provisions regarding the following:

1. Establishing the district's name and principal place of business;

2. Requiring an annual meeting of electors and providing that a notice of such annual meeting be given, by mail, to each elector not less than fifteen (15) days prior to the annual meeting;

3. Requiring special meetings of electors and providing that a notice of such special meeting be given, by mail, to each elector not less than fifteen (15) days prior to the special meeting;

4. Requiring that the electors pursuant to the provisions of this section shall:

- a. establish qualifications and a process to elect a board of directors. The board of directors shall be composed of not less than five members nor more than nine. The board of directors shall be elected from divisions approximately equal in land area and number of electors. A director shall be twenty-one (21) years of age or older and an elector in the district, and
- b. set the director's terms of office. The terms of office of the initial board shall be until the date of the first, second, or third annual meeting of the

electors. Successors shall be elected for terms of three (3) years. For any vacancy on the board due to resignation, death, or any cause resulting in an unexpired term, the board shall appoint a person to complete such unexpired term;

5. Requiring that any director who ceases to qualify as an elector or a director during his term of office shall immediately cease to be a director and his office shall be vacant;

6. Requiring that a director may be removed from his office by:
- a. a majority vote of the electors in the electing division at any time, and for any reason at an election called upon a petition signed by at least sixty percent (60%) of the electors of the division, or
 - b. the district judge having jurisdiction of the district for dishonesty, incompetency or failure to perform the duties imposed upon him pursuant to the Oklahoma Irrigation District Act;

7. Requiring that each elector be entitled to one vote on any election, motion, resolution or proposal properly brought for vote before the electors;

8. Providing that each elector may vote in person, by proxy or by absentee ballot by procedures established and supervised by the directors; and

9. Providing for setting and modification of assessments.

C. Following the adoption of bylaws, the electors shall conduct such other business as may be necessary for the proper organization of the district including but not limited to:

1. Electing a board of directors pursuant to the district's bylaws; and
2. Adopting an official seal.

D. 1. Following the first meeting of electors, the board shall submit the initial bylaws to the Oklahoma Water Resources Board for their approval or disapproval. The Oklahoma Water Resources Board shall either approve or disapprove the bylaws within sixty (60) days after receiving written notification and a copy of the bylaws from the board. The failure of the Oklahoma Water Resources Board to disapprove the bylaws within sixty (60) days shall constitute approval.

2. Upon any subsequent modification or amendment of the bylaws by the electors, the modified or amended bylaws shall be submitted to the Oklahoma Water Resources Board for their approval or disapproval in the same manner and subject to the same conditions as the initial bylaws. Any modification or amendment of existing bylaws shall not become effective until the Oklahoma Water Resources Board has approved such modifications or amendments in whole, in part or as otherwise authorized by the Oklahoma Water Resources Board.

Laws 1973, c. 179, § 5, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 6, emerg. eff. April 13, 1992.

§82-277.6. Board of directors - Oath of office - Surety bond - Powers and duties - Effect of section on other laws.

A. Each director of the board shall take and subscribe to the official oath of office and execute a surety bond to the district conditioned upon the faithful discharge of his duties.

B. The board shall:

1. Elect a president or chairman and vice-president or vice-chairman from its members and elect or appoint a secretary-treasurer. The secretary-treasurer of the board shall be bonded;

2. Conduct its business in open meeting, pursuant to the Oklahoma Open Meeting Act;

3. Maintain its records pursuant to the Oklahoma Open Records Act, except those records which are considered private or confidential under applicable laws of the United States;

4. Have standing to appear before any court of this state. Such standing shall extend to all matters germane to the powers and duties of the district including but not limited to questions of the validity of the establishment and operation of the district, contracts and collection of delinquent assessments;

5. On a date specified by the board, each year, prepare a budget, estimating the amount of money required for the ensuing year to meet all obligations of the district and determine the assessments necessary to pay those obligations. Assessments may be modified or adopted by the Board when determined necessary;

6. Determine collection procedures for all assessments imposed by the district. Assessments may be set by the board for all expenses of the district including the establishment and maintenance of a reserve fund, provided, however, that any assessments for construction or improvements and the principal indebtedness and interest which may be incurred relating thereto shall be approved by vote of the electors. The amount approved by the electors for construction or improvements may include additional amounts necessary for the establishment of a reasonable reserve and the payment of costs of issuance and underwriters' discount. The maximum amount of principal indebtedness and interest shall not be less than one hundred ten percent (110%) of the estimated cost of such construction or improvement, in order to provide for contingencies. All plans of construction and improvements shall be submitted to the Oklahoma Water Resources Board;

7. Let contracts for public improvements or public construction projects of the district. Such improvements or construction projects shall be on sealed bids to the lowest and best responsible bidder and shall be conditioned upon the filing of a performance bond equal to one hundred percent (100%) of the contract price for the faithful

performance of the contract except as otherwise provided by the Public Competitive Bidding Act;

8. Cause an independent auditor to prepare and furnish an annual certified audit of the financial condition of the district for the preceding year to the board. A copy of such audit shall be submitted to the Oklahoma Water Resources Board, and made available to the electors and creditors of the district; and

9. In the best interests of the entire district, establish a written comprehensive and reasonable plan of operation for the release, distribution, and use of water among the owners of lands within the district. Prior to the adoption of any final plan of operation or amendments thereto, the board shall provide for a meeting on the proposed or modified plan of operation. Notice of the intended action shall be mailed to the electors. Copies of the plan or amendments thereto shall be made available, at no charge, to the electors. The board shall fully consider all written and oral submissions respecting the plan or amendments thereto. A final plan of operation or amendments thereto shall be submitted to the electors for approval at the annual meeting or at a special meeting of the electors called for such approval. Upon approval of such plan or amendments thereto, the plan or plan as amended shall constitute the official plan of operation for the district. Copies of the official plan of operation for the district shall be made available to the public.

C. The board shall have the power and authority to:

1. Manage and conduct the business affairs of the district;
2. Make and execute all necessary contracts;
3. Organize as a municipal corporation;
4. Employ such agents, officers and employees, including but not limited to a manager, as may be required and prescribe their duties and compensation;
5. Institute, maintain and defend any and all actions, suits and proceedings, in person or by counsel, in the name of the district;
6. Appear before the Oklahoma Water Resources Board to protest any application not in conformity with the district's plan of operation or not in the best interests of the district;
7. Perform any lawful act necessary to provide sufficient water to each elector in the district;
8. Provide for the proper drainage of all lands affected by the operations of the district;
9. Procure water either inside or outside of this state;
10. Develop comprehensive plans for efficient use of streams and groundwater and the control and prevention of waste. Such plans shall be filed with the Oklahoma Water Resources Board for informational purposes only;
11. Reclassify or authorize transfer of existing lands of the district as provided in the Oklahoma Irrigation District Act;

12. For the purposes of the district:
 - a. acquire by purchase, lease or grant, rights-of-way and improvement locations, and release such acquired interests, provided that the acquisition or release of the property or facilities of public service corporations shall be accomplished as provided for by Section 1722 of Title 69 of the Oklahoma Statutes,
 - b. enter upon lands for the making of surveys, provided consent for such entry is first obtained,
 - c. condemn lands in accordance with the procedure provided for condemnation of land by railroad corporations. The power of eminent domain shall not be exercised to acquire water rights unless the land is acquired in fee. Oil, gas and minerals shall not be subject to the power of eminent domain, except to the extent necessary to prevent activities adversely affecting the purposes of the district,
 - d. purchase and acquire leases of water rights,
 - e. make application for appropriations of water,
 - f. construct, use, maintain, repair and improve canals, wells, reservoirs and water supply and distribution facilities and appurtenances of all kinds, and
 - g. enter into contracts and obligations with this state and the United States under the provisions of the Federal Reclamation Act and all other state and federal acts for the acquisition of water supply and distribution facilities;

13. Accept the appointment of the district as fiscal agent of the United States or this state, or accept authorization of the district by the United States or this state to make collection of money for and on behalf of the United States or this state in connection with any federal or state project, and assume the duties and liabilities incident to such action, and do any and all things required by rules and regulations now or hereafter established by any agency or department of the federal or state government in regard thereto;

14. Accept gifts of money, property and services;

15. Sell and dispose of the property of the district if provision is made for the payment of indebtedness thereon and consent is obtained from all lienholders:

- a. all property except easements shall be sold by sealed bid to the highest bidder but the board has the right to reject all such bids,
- b. if real property has been acquired by the district through the exercise of the power of eminent domain or the imminent threat thereof and the district has determined that such property shall be sold, the

immediate former owner, or his heirs at law or devisees, as the case may be, shall have the first option to repurchase the property at the price at which the property was purchased from the owner,

- c. if any property acquired by the district through the exercise of the power of eminent domain or the imminent threat thereof is not needed for immediate use, the former owner, or his heirs at law or devisees, as the case may be, shall have first option to lease the property until such time as the property is actually needed for district purposes;

16. Make surveys;

17. Carry out research projects;

18. Construct dams and drainage systems;

19. Install pumps and equipment to recharge underground basins and subbasins;

20. Purchase real property;

21. Upon vote of the electors, borrow money and issue special assessment bonds or notes, in such principal amounts as do not exceed the maximum amount voted by the electors. All such bonds or notes may bear interest at such fixed or variable rate or rates, in any combination, as may be determined by the directors of the district. Provided, the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum;

22. Appoint committees of electors to undertake studies and report to the board upon any issue germane to the operations and management of the district; and

23. Generally perform all such acts as shall be necessary to conduct the affairs of the district.

D. The provisions of this section shall not be construed to affect or supercede any laws of this state relating to the authority or the jurisdiction of any agency of this state or political subdivision of this state to implement their respective duties pursuant to law, but shall be held and construed as auxiliary and supplementary thereto.

Added by Laws 1973, c. 179, § 6, emerg. eff. May 16, 1973. Amended by Laws 1989, c. 196, § 4, emerg. eff. May 8, 1989; Laws 1992, c. 69, § 7, emerg. eff. April 13, 1992; Laws 2009, c. 75, § 1, emerg. eff. April 21, 2009.

§82-277.7. Assessments - Collection - Delinquent assessments - Certificate.

A. Each year, the board shall determine the assessments for the ensuing year.

B. 1. Except as otherwise provided by this subsection, the county treasurer shall be responsible for the collection of any assessments and delinquent assessments made pursuant to the

provisions of the Oklahoma Irrigation District Act. Such assessments shall be collected as other special assessments according to law. The special assessment book maintained pursuant to subsection E of this section shall be the county treasurer's warrant and authority to demand and receive the assessments and delinquent assessments plus interest due and owing. Such assessments shall become due, payable and delinquent at the same time ad valorem taxes are due, payable and delinquent.

2. The Board may collect any assessments and delinquent assessments upon written notice to the county treasurer of such collection procedure and as provided for in the official plan of operation for the district. Such assessments shall be due, payable and delinquent on a specific date set by the board annually.

C. Any assessments remaining unpaid after they become delinquent shall bear a penalty of one and one-half percent (1 1/2%) per month, or any part of a month, from the date of delinquency until paid.

D. 1. Assessments collected by the county treasurer shall be certified not later than the first of October of each year to the county treasurer of the county in which the property is situated.

2. Assessments to be collected by the board which become delinquent shall be certified to the county treasurer of the county in which the property is situated.

E. 1. The certificate shall be substantially in the following form and shall set forth a table or schedule showing in properly ruled columns:

- a. the names of the owners of the property, which may be as they appear in the petition to establish the district until evidence is furnished the district of a change in ownership,
- b. the description of the property opposite the names of the owners,
- c. the total amount of all assessments on the property,
- d. the total amount of all delinquent assessments on the property,
- e. a blank column in which the county treasurer shall record, as applicable, the delinquent assessments collected by the district or the assessments and delinquent assessments collected by the county treasurer,
- f. a blank column in which the county treasurer shall record the date of payment of the amount due and owing to the district, and
- g. a blank column in which the county treasurer shall report the name of the person who paid the amount due and owing to the district.

2. The certificate and report shall be prepared in triplicate in a book named "Assessment Book of Irrigation District No. ____, or

District Name _____, _____ County, Oklahoma". This district number or name shall also be printed at the top of each page.

3. Two copies of the certificate shall be forwarded to the county treasurer of the county wherein the land is located. The county treasurer shall receive the certificate as a special assessment book, and shall certify it as other special assessment records.

4. It shall be unlawful for any county treasurer to accept payment of the ad valorem taxes levied against any property described therein until the owner has been notified that there is a special assessment noted in the special assessment book.

Laws 1973, c. 179, § 7, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 8, emerg. eff. April 13, 1992.

§82-277.8. Collection of assessments and delinquent assessments - Reports.

A. If the county treasurer of each county in which lands of the district are located collects any assessments and delinquent assessments, the county treasurer shall make monthly reports of the sums collected. On the first day of each month, the county treasurer shall issue a warrant payable to the district for all sums collected. The county treasurer shall make a report to the district, immediately after October 31 of each year, of the total sums collected and of the assessments not collected for the preceding year.

B. If the board collects assessments and delinquent assessments, the board shall make monthly reports of the sums collected. The board shall make a report to the district, at the annual meeting of the electors, of the total sums collected and of the assessments not collected for the preceding year.

Laws 1973, c. 179, § 8, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 9, emerg. eff. April 13, 1992.

§82-277.9. Liens - Collection of delinquent assessments - Invalid assessments - Deeds.

A. 1. All assessments and all costs and expenses of collecting them shall constitute a lien on the lands against which the assessments have been levied. Such lien shall attach the date the assessment certificate is filed in the office of the county treasurer and shall continue until paid. Such lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other liens.

2. Delinquent assessments to be collected by the county treasurer pursuant to Section 277.7 of this title shall be collected in the same manner and at the same time as delinquent ad valorem taxes are collected. Any tax sale shall include all charges, and such lien may be evidenced by any ad valorem tax sale certificate including said charge substantially in the form required by law.

3. For delinquent assessments to be collected by the board pursuant to Section 277.7 of this title, any actions by the board to enforce a lien established pursuant to this section shall be maintained in the same manner as actions to enforce a mortgage or deed of trust.

B. If any assessment is declared invalid, the board shall immediately amend all proceedings, remedy all defects or irregularities and make and provide for the collection of new assessments.

C. Unless expressly declared to the contrary, no warranty deed or deed made pursuant to a judicial sale shall warrant against any portion of any assessment or assessments levied pursuant to this section except installments due before the date of such deed. Laws 1973, c. 179, § 9, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 10, emerg. eff. April 13, 1992.

§82-277.10. Money judgments against district.

Money judgments against the district shall be satisfied in the manner provided in Sections 365.1 through 365.6 of Title 62 of the Oklahoma Statutes, for paying judgments against county or other municipal subdivisions of this state. The district is authorized to levy special assessments to carry out the provisions of this section. Laws 1973, c. 179, § 10, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 11, emerg. eff. April 13, 1992.

§82-277.11. Construction and assessment elections.

A. When the board calls an election and submits to the electors the question whether or not a construction plan and an assessment shall be levied to raise money to be used for any of the purposes provided in the Oklahoma Irrigation District Act, the election shall be called upon notice and shall be held and the result thereof determined and declared in all respects in conformity with the bylaws of the district.

B. The notice shall specify:

1. the proposed construction plan;
2. the total amount of money proposed to be raised;
3. the purpose for which it is intended to be used;
4. the maximum annual assessments proposed to be levied; and
5. the number of years the assessment shall continue.

C. The ballots shall contain the words "Construction and Assessment - Yes" and "Construction and Assessment - No." If a majority of the votes are "Construction and Assessment - Yes," the Board shall, at the time of the annual levy thereunder, levy an assessment sufficient to raise the amount payable. Laws 1973, c. 179, § 11, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 12, emerg. eff. April 13, 1992.

§82-277.12. Water delivery prohibited in delinquent cases.

No water shall be delivered to any land on which there are delinquent assessments owed to the district. Before any water user who has been delinquent is entitled to the delivery of water, such water user shall procure from the secretary-treasurer a certificate that all assessments have been paid.

Laws 1973, c. 179, § 12, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 13, emerg. eff. April 13, 1992.

§82-277.13. Repealed by Laws 1992, c. 69, § 27, emerg. eff. April 13, 1992.

§82-277.14. Irregularity or error in land description not jurisdictional.

Any irregularity or error in a description of land shall not be deemed jurisdictional if the land can otherwise be identified.

Laws 1973, c. 179, § 14, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 14, emerg. eff. April 13, 1992.

§82-277.15. Payment of claims against district.

No claims for goods or services shall be paid by the district until the claims have been allowed by the board. The claims shall be paid only upon warrants signed by the manager and countersigned by the secretary-treasurer. The warrants shall state the date authorized by the board and for what purpose. No warrant shall be issued or obligation incurred unless the district has sufficient funds on hand to pay such warrant when it is presented for payment. The district shall keep records of each warrant as issued and as presented for payment, showing the date and amount of such warrant, to whom payable, the date of the presentation for payment, and the date of payment. All warrants shall be drawn payable to the claimant or bearer.

Laws 1973, c. 179, § 15, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 15, emerg. eff. April 13, 1992.

§82-277.16. Consolidation.

Two or more districts desiring to consolidate into one district may file a petition with the Oklahoma Water Resources Board and shall attach the following:

1. A certified resolution authorizing the same approved by the board of directors of all the districts;

2. A certified resolution authorizing the same approved by the electors of the districts in a meeting called in each district for that purpose;

3. Approval by the bondholders of the districts; and

4. Any additional data and information required by rules and regulations of the Oklahoma Water Resources Board.

After receipt thereof, the Oklahoma Water Resources Board may approve or disapprove the petition as it deems advisable. If the petition is approved, an amended order shall be issued and filed of record in the office of the county clerk of each county or counties wherein lands included within the consolidated district are located within thirty (30) days after date of issuance. Laws 1973, c. 179, § 16, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 16, emerg. eff. April 13, 1992.

§82-277.17. Tax exemptions.

A. All property, owned or purchased by a district, both real and personal and reasonably necessary to accomplish the purposes of the district, shall be exempt from taxation by this state, or by any municipal corporation, county or other political subdivision or taxing district of this state. All property, products and benefits sold, leased or furnished by a district shall be exempt from sales tax.

B. All bonds, notes and warrants and the interest thereon issued pursuant to the provisions of the Oklahoma Irrigation District Act shall be exempt from taxation by this state or by any municipal corporation, county or other political subdivision or taxing district of this state.

C. 1. All districts organized under the provisions of the Oklahoma Irrigation District Act shall be exempt from the payment of sales and use taxes on purchases and use of tangible personal property in this state.

2. Districts shall be exempt from payment of the vehicle excise tax levied on the transfer for first registration of vehicles purchased and used in this state.

3. All districts organized under the provisions of the Oklahoma Irrigation District Act shall be exempt from the payment of motor fuel excise taxes, as provided in Section 500.10 of Title 68 of the Oklahoma Statutes.

Added by Laws 1973, c. 179, § 17, emerg. eff. May 16, 1973. Amended by Laws 1992, c. 69, § 17, emerg. eff. April 13, 1992; Laws 2009, c. 426, § 19, eff. July 1, 2009.

§82-277.18. Dissolution.

A. Upon petition by twenty-five percent (25%) of the electors of a district, the board shall call a special election to determine whether the district should be dissolved and a settlement of its financial obligations made.

B. The election shall be conducted as provided by the bylaws of the district. If the electors vote to dissolve the district, the board shall immediately notify all persons having claims against the district of the result of such election and shall adjust, settle and pay all claims.

C. If the amount realized from the sale of district property, together with other money of the district, is insufficient to pay the indebtedness of the district, assessments shall continue to be made against the land in the district until all obligations are paid.

D. Within thirty (30) days after all the property of the district has been disposed of and all of its obligations have been paid, the board shall file a certificate of dissolution in the office of the county clerk of each county in which the district is located, and in the office of the Oklahoma Water Resources Board. The certificate shall be signed by the president and attested by the secretary-treasurer, with the seal of the district affixed. The certificate shall state that the district has disposed of its property, has been dissolved and shall describe the lands released from the district.

Laws 1973, c. 179, § 18, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 18, emerg. eff. April 13, 1992.

§82-277.19. Inactive districts.

If a district is inactive, the district judge of the county in which the greater part of the district is situated may designate a board of directors who shall act with the same authority and in the same manner in dissolving the district as if such board had been duly elected officers of the district.

Laws 1973, c. 179, § 19, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 19, emerg. eff. April 13, 1992.

§82-277.20. Holding and conveyance of property.

The district shall hold title to its property in its corporate name for the uses and purposes of the district unless required to hold title in some other name or manner by the United States or this state. The formation of a district shall not transfer water rights to the district under lands included within the district. Any district which contracts with the State of Oklahoma or the United States may convey district property, with or without consideration, if such property is needed by this state or the United States in connection with the construction, operation or maintenance of an irrigation project.

Laws 1973, c. 179, § 20, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 20, emerg. eff. April 13, 1992.

§82-277.21. Conflict of interest.

A. Except for contracts of employment, directors and employees shall not be interested, directly or indirectly, in any contract entered into by the district unless the district court of the county wherein the principal office of the district is located considers the contract, the interest of such persons therein and approves the execution thereof.

B. Directors and employees shall not:

1. Directly or indirectly accept or request any compensation, gift, loan, entertainment, favor, or service given for the purpose of influencing such director and employee in the discharge of his official duties;

2. Directly or indirectly spend district funds or permit any property of the district to be used for political campaigns;

3. Engage in political campaigns in the name of the district;

4. Disclose confidential information acquired by reason of their official positions to any person, group, or others not entitled to receive such confidential information; or

5. Use confidential information acquired by reason of their official position for their personal gain or benefit.

C. A director shall immediately forfeit his office in the event he sues the district for any action, directly or indirectly, related to the operation of the district.

D. The failure of a director or employee to comply with these prohibitions shall constitute a willful neglect of duty and shall be grounds for removal from office.

E. Every person who knowingly and willfully violates this section shall, upon conviction, be guilty of a misdemeanor, and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment. Laws 1973, c. 179, § 21, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 21, emerg. eff. April 13, 1992.

§82-277.22. Repealed by Laws 1992, c. 69, § 27, emerg. eff. April 13, 1992.

§82-277.23. Electors, who may become.

A. A municipality may become an elector in the district by action of the council or trustees in execution of the petition by the mayor or chairman and attestation by the clerk. The mayor or chairman may cast one vote on behalf of such municipality in all district elections and shall agree to pay an amount equal to the assessments against lands owned or held in trust by such municipality. Membership by such municipality shall not prevent residents therein who are qualified pursuant to the provisions of the Oklahoma Irrigation District Act from being electors of the district.

B. A corporation may become an elector in the district by action of its board of directors and execution of the petition by its president and chairman and attestation by its secretary-treasurer. The president or chairman may cast one vote on behalf of such corporation in all district elections and shall agree to pay an amount equal to the assessments against lands owned or held in trust by such corporations.

C. The United States or the State of Oklahoma or any agency or instrumentality thereof, and the Commissioners of the Land Office, may become electors in districts organized pursuant to the Oklahoma Irrigation District Act and are authorized to agree to pay an amount equal to the assessments against lands owned or held in trust by such governmental entity, agency, instrumentality or department responsible for the supervision of land within a district, shall have one vote in the district and may exercise such vote through the chief officer of such agency or his designated representative. Laws 1973, c. 179, § 23, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 22, emerg. eff. April 13, 1992.

§82-277.24. Salt water - Exemption.

The provisions of the Oklahoma Irrigation District Act shall not apply to the taking, use, or disposal of salt water associated with the exploration, production and recovery of oil and gas. Laws 1973, c. 179, § 24, emerg. eff. May 16, 1973; Laws 1992, c. 69, § 23, emerg. eff. April 13, 1992.

§82-277.25. Reclassification of land - Procedure.

A. The reclassification of land within any irrigation district now or hereafter organized under the provisions of the Oklahoma Irrigation District Act, may be changed in the manner prescribed by this section. Such reclassification shall not impair or affect the irrigation district's organization, or its rights in or to property or any of its rights or privileges of whatsoever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it or the owner of lands therein were or might become liable or chargeable had such reclassification not been made.

B. The holder or holders of title or evidence of title of any body of land situated within the boundaries of any irrigation district, may file with the board a petition in writing, requesting that such land be reclassified. The petition shall describe the tracts or body of land owned by the petitioners. The petition shall be deemed to give the assent of the petitioners to the reclassification in said district of the lands described in the petition and such petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged.

C. 1. Upon the filing of a petition for reclassification and payment, by the petitioners to the secretary-treasurer, of sufficient monies to pay the costs of all proceedings on the petition, the secretary-treasurer of the district shall cause notice of such petition to be published once in a newspaper published in the county where the office of the directors is situated. If any portion of said district or land lies within another county or counties then

said notice shall be published in a newspaper published within each of said counties. The notice shall inform the public of:

- a. the filing of such petition,
- b. the description of the lands mentioned in said petition which are desired to be reclassified in the district,
- c. the reason for reclassification, and
- d. a meeting at which all persons interested may appear at the office of the board at the time named in said notice and show cause, if any, why said petition should be granted or denied.

2. The directors shall consider the petition at any regular or special meeting of the board and at the established office and place of business of the district upon a date not earlier than ten (10) days after the publication of the notice.

3. A copy of the notice, as published, shall be by the secretary-treasurer of the district mailed to each and all of the then owners of the tracts or parcels of land proposed to be reclassified. The notice shall be so mailed not later than ten (10) days prior to the date set for the hearing.

D. The board at the time and place mentioned in the notice shall proceed to hear and consider any written comments which may have theretofore been filed by any person interested in said petition for reclassification, and arguments, if any, by persons interested, in support or opposition to the petition.

E. 1. If, after giving due consideration, the board determines that:

- a. the reclassification is not in the best interest of the district,
- b. the reclassification will impair the current or future needs of the then existing electors, or
- c. the land is not irrigable, not suitable for irrigation or not otherwise necessary for the irrigation district,

the board shall, by resolution, order that the petition be denied. The resolution shall be included in the minutes of the regular or special meeting of the board held for such purpose.

2. If, after giving due consideration, the board determines that:

- a. the reclassification is in the best interest of the district,
- b. the reclassification will not impair the current or future needs of the existing electors, and
- c. the land is irrigable, is suitable for irrigation or is otherwise necessary for the irrigation district,

the board shall, by resolution, reclassify the lands mentioned in the petition or determine that some defined portion thereof be reclassified. The resolution shall be included in the minutes of the regular or special meeting of the board held for such purpose.

3. If, within thirty (30) days from the making of such determination, three-fourths (3/4) of the qualified electors of the district, in writing to the board, protest against the determination of the board, such determination shall be void.

F. 1. When the reclassification of land is commenced by petition, the board to whom such petition is presented may require as a condition precedent to the granting of the same that the petitioners severally pay to the district such respective sums, as nearly as the same can be estimated by the board, as the petitioners or their grantors would have been required to pay for:

- a. their pro rata share of all bonds and the interest thereon which may have previously thereto been issued by said district had the lands been included in the district at the time the same was originally formed or when the bonds were so issued, and
- b. irrigation works or water rights purchased other than by issue of bonds.

2. The board shall prepare an itemized expenditure listing of such costs incurred which shall also include information detailing how any such estimated sums were determined.

G. 1. Upon the reclassification of land in the district and if no protest has been filed with the board within thirty (30) days after the entry of said resolution as provided in subsection E of this section, a certified copy of the minutes of the board making such change, and a plat of such district showing such change, certified by the president or chairman and secretary-treasurer, shall be filed for record in the office of the county clerk of each county in which the lands of the district are situated. The district shall remain an irrigation district as fully to all intents and purposes as if the lands which were reclassified in the district had been included or excluded at the organization of the district. The district as so changed and all the lands therein shall be liable for all existing obligations and indebtedness of the organized district.

2. Upon filing of the copies of the minutes and the plat, copies thereof, certified by said county clerk, shall be admissible in evidence to prove the reclassification of said lands in the district.

H. 1. Lands within the boundaries of the district may also be reclassified by resolution of the board. Notice of the resolution to reclassify shall be given in the same manner as if the reclassification were by petition of the landowners except that the district shall bear all costs of publication and of the proceedings. The board at the time and place mentioned in the notice shall proceed to hear and consider any written objections which may have theretofore been filed by any person interested in the reclassification, and arguments, if any, by persons interested in support or opposition to the resolution.

2. The board shall give the same consideration required by subsection E of this section for determining whether the lands specified in the resolution should be reclassified. If, after the proceeding provided by this section, the board determines that the lands specified in the resolution should be reclassified, the board shall adopt the resolution. The resolution shall be included in the minutes of any regular or special meeting of the directors held for such purpose.

3. If, within thirty (30) days from the meeting of such determination, three-fourths (3/4) of the qualified electors of the district protest in writing to the board against the reclassification, the reclassification shall be void.

4. If any owner of the property reclassified pursuant to this subsection disputes the reclassification of such land, the owner may appeal the decision of the district court of the county having jurisdiction over the lands specified by the resolution.

I. In case of reclassification of any lands by proceedings under this section, the board shall, at least thirty (30) days prior to the next succeeding regular election, make an order redividing such district for the purpose of electing directors to ensure equality in land area and number of electors.

J. In case of the reclassification of any lands by proceedings under this section, the owners of the reclassified lands if they are to become assessable irrigable lands shall pay the reasonable costs of construction necessary to commence water delivery to said lands. Added by Laws 1992, c. 69, § 24, emerg. eff. April 13, 1992.

§82-277.26. Transfer and substitution of land unsuitable for irrigation.

A landowner who owns assessed irrigable land which is no longer useful or suitable for irrigation may transfer and substitute such land for other land owned by such landowner within the district or to land outside of but adjacent to the district when such transfer is approved by the board of directors of the district. The unsuitable land from which the transfer is made shall become nonirrigable land and the land to which the transfer is made shall become irrigable land.

Added by Laws 1992, c. 69, § 25, emerg. eff. April 13, 1992.

§82-501. State Board authorized to organize conservancy districts - Members of board as directors of districts.

In addition to the powers conferred upon the Conservation Commission of the State of Oklahoma by Article 5, Chapter 70, Oklahoma Statutes of 1931, as amended by House Bill Number 84, of the Fifteenth Legislature, the said Conservation Commission of the State of Oklahoma is hereby authorized and empowered to determine and map proposed water conservancy and/or water improvement districts and/or

soil erosion prevention districts and to perfect the organization of such proposed districts in the manner as hereinafter prescribed. For the purposes of this act and other Laws in connection therewith, the members of the Conservation Commission of the State of Oklahoma may be, by the courts upon which jurisdiction is hereinafter conferred, appointed directors of the conservancy districts hereafter created under the authority of this act.
Laws 1935, p. 343, § 1.

§82-502. Organization of districts - Petition - Notice.

When in the opinion of the Conservation Commission of the State of Oklahoma, the organization of irrigation, flood control, reforestation and/or soil erosion prevention districts is necessary and expedient to effect the purposes and intentions of House Bill No. 84, of the Fifteenth Legislature and all laws to which said act is cumulative, said Commission may perfect the organization of said district or districts by filing with the court hereinafter prescribed a petition alleging the necessity of said district, describing with common certainty the area proposed to be included therein and praying for an order of the court directing the formation and organization thereof. Upon the filing of such petition, without affidavit or further pleading, the clerk of such court shall give notice to all persons interested in or affected by the formation of any such district by publication once a week for two successive weeks in a newspaper, published in the county seat of each county in which any part of the proposed district is located. Said notice shall run in the name of the State of Oklahoma, shall be captioned "In the matter of the formation of the conservancy district" and shall be addressed "To all persons interested" in the formation thereof; said notice shall recite the filing of such petition and describe with common certainty the area proposed to be included in such district and shall notify all persons interested or affected by the organization of such district to appear in not less than fifteen (15) days after the date of the first publication of said notice and show cause, if any they have, why such district should not be organized.

(a) In cases where all of said proposed district lies within one county, the petition for the organization thereof shall be filed with the district court of such county and where the proposed district lies in more than one county, but within one judicial district, such petition may be filed in either county of such judicial district.

(b) In cases where the proposed conservancy district lies in more than one judicial district, the petition for the formation thereof shall be filed in the Supreme Court of the State of Oklahoma. When such petition is filed in the Supreme Court of the State of Oklahoma, the clerk shall docket the same as an original action in such Court and the Supreme Court or any member thereof, shall forthwith determine which district court of this state is more

conveniently near the center or middle of said proposed district and can hear and determine said petition to the greatest convenience of the people within said district, having in view the customary route of travel; and shall thereupon refer and assign said petition and proceeding to such district court and direct the hearing, determination and control and administration of such proceeding as an original action therein.

Laws 1935, p. 343, § 2 emerg. eff. April 26, 1935.

§82-503. Hearing on petition - Order for formation of district.

Upon the hearing had upon any such petition filed as hereinabove set out, if it shall appear to the court that the purposes of Chapter 70, Article 5, Oklahoma Statutes of 1931, as amended by House Bill No. 84, Of the Fifteenth Legislature, will be best served by the creation of the conservancy district and the owners of a majority of the area of land in the proposed district have not filed written protest against the formation of such district, the court shall, by its findings duly entered of record, adjudicate all questions of jurisdiction and declare the districts organized, giving it a name or number in its discretion, by which it shall be known in all proceedings; provided, that no assessment for benefits shall be levied by a conservancy district created under this act.

Laws 1935, p. 344, § 3.

§82-504. Decree to describe district - State Board as directors.

In such decree the court shall designate the general description of the outline of said district and shall appoint as directors thereof the members of the Conservation Commission of the State of Oklahoma and their successors in office, who shall thereupon have and exercise with reference to such conservancy districts all powers and duties conferred upon said Commission by Chapter 70, Article 5, Oklahoma Statutes of 1931, as amended by House Bill No. 84, of the Fifteenth Legislature of the State of Oklahoma.

Laws 1935, p. 344, § 4.

§82-505. State Board to control district - Redress accorded persons injuriously affected.

Upon the creation of any such conservancy district, as herein provided, the Conservation Commission of the State of Oklahoma, shall have authority and is hereby empowered and authorized to take such action as is deemed necessary by said Commission to properly carry out the intention and purpose of Chapter 70, Article 5, Oklahoma Statutes of 1931, as amended by House Bill No. 84, of the Fifteenth Legislature of the State of Oklahoma, and said Commission or any member thereof, its servants, agents and employees shall have the right of ingress and egress upon all property comprising said conservancy district; provided, that any person, firm or corporation,

private or public, who shall consider itself or himself injuriously affected in any manner whatsoever by any act performed by any official or agent of said Commission may seek redress according to subsection (L), Section 6, House Bill No. 84, of the Fifteenth Legislature of the State of Oklahoma.
Laws 1935, p. 344, § 5.

§82-506. Jurisdiction of courts over creation of districts.

Jurisdiction of all actions for the creation of conservancy districts as outlined in this act is hereby specifically conferred upon the various district courts of the State of Oklahoma and upon the Supreme Court of the State of Oklahoma to be exercised in the manner herein prescribed.

Laws 1935, p. 345, § 6.

§82-507. Costs.

Any petition filed under authority of this act by the Conservation Commission of the State of Oklahoma shall be accepted and filed by the clerk of the court in which the same is filed without costs, and all proceedings thereunder shall be had without cost to the Conservation Commission of the State of Oklahoma, except that such Commission shall be liable for all costs of publishing the notices herein prescribed.

Laws 1935, p. 345, § 7, emerg. eff. April 26, 1935.

§82-508. Appeal from organization of district - Collateral attack.

The Conservation Commission or any landowner affected by any proposed conservancy district or by the creation of any conservancy districts under the provisions of this act, who is aggrieved by any order refusing to establish or establishing such district may, within one hundred eighty (180) days after the rendition of such order, appeal from the same to the Supreme Court of the State of Oklahoma upon giving bond in the sum to be fixed by the court. Provided, however, that where any order is made organizing any such district, such judgment shall not be superseded pending appeal unless fifty-one percent (51%) of the landowners affected by such order join in the appeal. The organization of any conservancy district hereunder shall not be subject to collateral attack in any suit, action or proceeding except as to jurisdictional questions.

Laws 1935, p. 345, § 8.

§82-509. Act cumulative.

This act shall be cumulative to Chapter 70, Oklahoma Statutes of 1931, as amended by House Bill No. 84, of the Fifteenth Legislature of the State of Oklahoma, and the powers, duties and limitations hereby imposed upon the Conservation Commission of the State of Oklahoma shall be in addition to those already imposed by said laws.

Laws 1935, p. 346, § 10.

§82-510. Partial invalidity.

If any part of this act shall be declared invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions hereof.

Laws 1935, p. 346, § 11.

§82-521. County commissioners - Duties concerning conservation - Cooperation with State Board.

The board of county commissioners of the various counties of the State of Oklahoma are hereby authorized to cooperate with the Conservation Commission of the State of Oklahoma in all instances where such cooperation is necessary and will expedite the provisions of this act or any other act to which this act is cumulative, and such boards are further empowered and authorized to devise methods and means to stop and/or prevent soil erosion or soil drifting in their respective counties. In any county or any part thereof of the state where the Conservation Commission of the State of Oklahoma has not exercised its powers for the prevention and control of soil erosion, the board of county commissioners may order the land subject to soil erosion and drifting to be cultivated, plowed, listed or planted, or may in any other manner take such steps as are necessary to prevent such soil erosion and drifting. Upon any such order being made by the board of county commissioners, all owners of land within the district designated by the board of county commissioners shall forthwith take such steps as are designated by said board and in case any land owner shall fail or refuse to comply therewith, the board of county commissioners is hereby authorized to employ agents to go upon the land of any such person who shall fail or refuse to comply with such orders, for the purpose of plowing, ditching, listing or planting the same to prevent soil erosion and drifting, and said board of county commissioners is hereby expressly authorized to assess reasonable charges for such services against such lands affected thereby, which charges and assessments shall be levied and collected as other taxes on real estate; provided, that no order for the plowing, ditching, listing or planting of any lands in any given area shall be ordered by any board of county commissioners unless and until sixty percent (60%) of the land owners of such area have filed with such board of county commissioners written requests for such action.

Laws 1935, p. 345, § 9.

§82-526.1. Ratification and adoption of Compact.

The State of Oklahoma does hereby ratify, approve and adopt the aforesaid Compact, which is as follows:

CANADIAN RIVER COMPACT

The State of New Mexico, the state of Texas, and the State of Oklahoma, acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson, appointed by the president as the representative of the United States of America, have agreed respecting Canadian River as follows:

ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

ARTICLE II

As used in this Compact:

(a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.

(b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.

(c) The term "Commission" means the agency created by this Compact for the administration thereof.

(d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

ARTICLE III

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

ARTICLE IV

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian river in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of two hundred thousand 200,000 acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the

storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

ARTICLE V

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the households and domestic livestock actually living or kept on the property.

(b) Until more than three hundred thousand 300,000 acre-feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of north Canadian River, shall be limited to five hundred thousand 500,000 acre-feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to two hundred thousand 200,000 acre-feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this article, such excess shall be retained in storage until under the provisions of said paragraph Texas shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no state shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not exceeding twelve (12) months; and provided further that no state or user of water within any state shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each state shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three (3) commissioners, one from each of the signatory states, designated or appointed in accordance with the laws of each such state, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three states and be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each state into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Perform all functions required of it by this Compact and do all things necessary, proper, or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies.

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in co-operation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory states on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory state, on his request, any information within its possession at any time, and shall always provide access to its records by the Governors of the states, or their representatives, or by authorized representatives of the United States.

ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

(b) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any State or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact;

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each state and approved by the Congress of the United States. Notice of ratification by the Legislature of each state shall be given by the Governor of that state to the Governors of the other states and to the President of the United States. The President is hereby requested to give notice to the Governor of each state of approval by the Congress of the United States.

In Witness Whereof, the Commissioners have executed four counterparts hereof, each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each state.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

/s/ JOHN H. BLISS
John H. Bliss
Commissioner for the State of
New Mexico

/s/ E. V. SPENCE
E. V. Spence
Commissioner for the State of
Texas

/s/ CLARENCE BURCH
Clarence Burch
Commissioner for the State of
Oklahoma

Approved:

/s/ BERKELEY JOHNSON
Berkeley Johnson
Representative of the United
States of America.

Added by Laws 1951, c. 327, § 1.

§82-526.2. Notice of approval of compact.

Notice of approval of said Compact shall be given by the Governor of the State of Oklahoma to the Governor of Texas and to the Governor of New Mexico and to the President of the United States of America as provided in Article XI of said Compact.

Added by Laws 1951, p. 331, § 2.

§82-526.3. Approval by Texas and New Mexico - Consent of Congress.

The ratification and approval of said Compact by this state shall not be binding or obligatory until it shall have been likewise approved by the Legislature of the State of Texas and the Legislature

of the State of New Mexico and consented to by the Congress of the United States of America.
Laws 1951, p. 331, § 3.

§82-531. Short title - Definitions.

This act may be known and cited as the "Conservancy Act of Oklahoma"; the bonds which may be issued hereunder may be briefly called "conservancy bonds," and shall be so engraved or printed on their face; the districts created hereunder shall be briefly termed "conservancy districts."

The books and records provided for hereunder shall be termed "Conservancy Books of Conservancy Record," and such titles shall be printed, stamped or written thereon.

Wherever the term "publication" is used in this act and no manner specified therefor, it shall be taken to mean three insertions in a weekly paper or in one (1) issue a week for three (3) weeks in a daily newspaper of general circulation in the county or counties wherein such publication is to be made.

Wherever the term "person" is used in this act, and not otherwise specified, it shall be taken to mean person, firm, copartnership, association or corporation, other than county, city, town or other political subdivision. Similarly, the words "public corporation" shall be taken to mean counties, cities, towns, school districts, road districts, ditch districts, park districts, levee districts and all other governmental agencies clothed with the power of levying general or special taxes or assessments.

Wherever the term "court" is used, and not otherwise specified, it shall be taken to mean the district court wherein the petition for the organization of the district was filed or assigned.

Wherever the terms "land" or "property" are used in this act, they shall, unless otherwise specified, be held to mean real property, as the words "real property" are used in and defined by the laws of the State of Oklahoma, and shall embrace all railroads, tramroads, roads, electric railroads, street and interurban railroads, streets and street improvements, telephone, telegraph, and transmission lines, gas, sewerage and water systems, pipelines and rights-of-way of public service corporations, and all other real property whether public or private.

Laws 1923-24, c. 139, p. 161, § 1; Laws 1957, p. 552, § 1; Laws 1959, p. 374, § 1.

§82-532. Change of names of boards, commissions, etc. - Transfer of powers and duties to Oklahoma Planning and Resources Board.

Whenever the words "Commission of Drainage and Irrigation" occur in Chapter 139 of the 1923-1924 Session Laws of the State of Oklahoma, and where the words "Commission of Drainage and Irrigation and Reclamation," and whenever the words "Commission of Drainage and

Irrigation" occur in said chapter, and whenever the words "Commissioner of Drainage, Irrigation and Reclamation" occur in Chapter 148, Session Laws of Oklahoma 1925, and whenever the words "Conservation Commission" occur in Chapter 70 of the 1927 Session Laws of the State of Oklahoma, and whenever the words "Conservation Commission" occur in Article 2 and Article 3 of Chapter 70 of the 1935 Session Laws of the State of Oklahoma, and whenever the words "Oklahoma Forest Commission" occur in Chapter 146 of the Session Laws of 1925, and whenever the words "Oklahoma Forest Commission," or "Commission" occur in Chapter 102 of the Oklahoma Session Laws of 1927, and whenever the words "The Oklahoma State Planning Board" occur in Article 23 of Chapter 24 of the 1935 Session Laws of Oklahoma, and whenever the words "The State Engineer" occur in Article 2, Chapter 70 of the Oklahoma Statutes of 1931, occur, there shall be substituted therefor "Oklahoma Planning and Resources Board"; and whatever powers, rights and duties and limitation are conferred under Chapter 42 of the Session Laws of 1925 hereby be transferred to the said Oklahoma Planning and Resources Board. Laws 1927, c. 70, p. 93, § 4; Laws 1937, p. 74, § 6.

§82-541. Conservancy Districts - Master Conservancy Districts - Purpose - Board of Directors.

A. There is hereby authorized the formation of conservancy districts within this state. Each such district shall be designated as a "conservancy district" or "master conservancy district". Such districts shall not be political corporations or subdivisions of the state. All of the provisions of this chapter shall apply to all such districts except insofar as special provisions shall be made herein relating to master conservancy districts only. All provisions of this chapter prescribing the contents of pleadings or instruments and using the term "conservancy district" may be modified to use the term "master conservancy district", when the same shall be applicable. Provided that in the event a master conservancy district is organized, the obligation including the area of a conservancy district shall become the obligation of the master conservancy district to the extent such obligations relate to water resources development and control.

B. 1. The district court of any judicial district in this state, or any judge thereof when said court is in vacation, is vested with jurisdiction, power and authority, when the conditions stated in Section 542 of this title are found to exist, to establish conservancy districts, which may be entirely within, or partly within and partly without, the judicial district in which said court is located, for all or any of these purposes:

- a. of preventing floods,
- b. of regulating stream channels by changing, widening and deepening same,

- c. of reclaiming or of filling wet and overflowed land,
- d. of providing for irrigation where it may be needed,
- e. of regulating the flow of streams,
- f. of diverting or in whole or in part eliminating watercourses, or part of the flowage thereof, or
- g. of developing and providing water for domestic, industrial and agricultural requirements, and to persons within the territory of the district. This also may include the construction, operation and maintenance of storage, distribution, treatment, supply and other works, installation, improvements and facilities necessary or incidental thereto. Provided, that no conservancy district shall construct, operate or maintain distribution facilities within the limits of any municipal corporation.

2. Incident to any purpose provided in this subsection, and to further enable their accomplishment, a master conservancy district may:

- a. straighten, widen, deepen, divert or change the course or terminus of any natural or artificial watercourse,
- b. build or rebuild reservoirs, canals, levees, walls, embankments, bridges, or dams,
- c. maintain, operate and repair any of the construction herein named, and
- d. do all other things necessary for the fulfillment of the purposes of this chapter.

C. Master conservancy districts may be created to include lands constituting all or any part of the area of one or more conservancy and/or irrigation districts and/or municipal corporations and/or lands not included in any such area or areas. Provided, however, that no conservancy district nor portion thereof shall be incorporated into a master conservancy district without the consent of at least fifty-one percent (51%) of the owners of land and by owners of at least fifty-one percent (51%) of the land area embraced in the conservancy district or that portion thereof to be incorporated into a master conservancy district. In addition to any or all of the purposes enumerated in subsection B of this section, master conservancy districts may be created for any or all of the following purposes:

1. To conduct preliminary surveys and to develop a plan for the comprehensive control, regulation and/or use of water from any designated stream, watercourse or watercourse system and/or its basin;

2. To coordinate the operations, works and facilities of two or more conservancy districts with each other and with improvements, works, and facilities of the master conservancy district;

3. To enable the acquisition, construction and maintenance of improvements and facilities for common benefit and/or use of constituent areas;

4. To permit two or more municipal corporations and/or conservancy districts to pool their resources to effect any or all of the foregoing; and

5. To enter into contracts with municipal corporations, persons and public agencies for the furnishing to them of water, subject, however, to the proviso in subparagraph g of paragraph 1 of subsection B of this section.

D. 1. Immediately following organization of a master conservancy district, the first board of directors shall be appointed by the district judge and shall consist of such number of persons as the district judge shall designate to provide equitable representation for the component areas and/or for users contracting for a substantial service from the district, and said directors shall serve until their successors have been selected and qualified. At the first meeting the directors shall elect a president, vice-president, secretary and treasurer from their number, and shall adopt bylaws for the governing of the business of the district, subject to approval by the district judge, and attend to such other business as may come before said board. The president shall be the chief executive officer of the district, shall preside at the meetings of the board and shall perform all other functions which are necessary and proper for carrying out the provisions of this act, subject to approval of the board. The vice-president shall act as president whenever the president is absent, or otherwise incapacitated, or fails to act. The secretary shall be custodian of the district seal, attest to the signature of the president when law requires that it be attested to and shall be charged with the duty of keeping accurate and detailed minutes of meetings of the board. The treasurer shall be custodian of all monies, funds and credits of the district and shall keep the books and records of the district in proper form.

2. All officers and employees handling funds of a master conservancy district shall be bonded in a penal sum of not less than Twenty-five Thousand Dollars (\$25,000.00), such bond to be a corporate surety bond approved by the judge of the district court establishing the district, for the faithful performance of their duties. The bond premiums shall be paid by the district and benefits accrue to said district.

3. All officers and employees shall execute the customary oath of office, which shall be filed with the secretary of the district.

4. Within two (2) years after the first board of directors has been appointed by the district judge, the district judge shall appoint members to the board as hereinafter provided and fix the total number of such directors for equitable representation. Provided, however, each component area, including municipal

corporations, cities, towns, irrigation districts, and users contracting for a substantial service from the district may elect their respective representation to the board of directors.

5. Each component area, including municipal corporations, cities, towns, irrigation districts, and users contracting for a substantial service from the district shall be entitled to representation on the board of directors, in accordance with the ratio which their individual, actual and contingent water storage for which it has contractual obligations to the master conservancy district bears to the total water storage for which there are contractual obligations with said district. In fixing the number of directors to represent a master conservancy district, each component area or user contracting for a substantial service from the district shall be entitled to at least one director, but no such area or user shall be entitled to more than three directors. The total number of directors and the representation of each such area or user may be changed by the district judge whenever a reallocation is considered by said judge to be necessary for providing proper representation. Provided, however, that if a master conservancy district has been organized on or before January 5, 1957, under the provisions of this title, which has as a part of its purpose the inclusion of a proposed irrigation district or districts, each such proposed district shall be entitled to one representative on the board of directors of the master conservancy district for a period of five (5) years from the effective date of this act; provided, however, that if the proposed irrigation district or districts, as hereinabove described, are not legally organized and have not executed a contract for the repayment of the irrigation costs with the master conservancy district within the aforementioned five-year period, then said offices of directors representing the irrigation interests shall be discontinued and shall have no further representation on said board of directors; provided, further, that if the proposed irrigation districts are organized and have contracted with a master conservancy district under the laws of this state, then said directors shall be elected or selected as provided in this section pertaining to the second board of directors.

The governing body of each such area or user such as a municipal corporation, city, town, irrigation district, conservation district, and/or other user may select or cause to be elected the person or persons to represent them on the board of directors of the master conservancy district and shall submit the name or names of those selected to the district judge who shall appoint said person or persons to membership on the board of directors. Only a freeholder who is a qualified elector of this state as provided by law and residing within any county in which the district or any part thereof is located shall be eligible to be a member of the board of directors. A person who is a nonelected employee of a municipality that is a component area or a user of a master conservancy district

shall not be eligible to be a member of the board of directors of that district. Any person serving on a board of directors of a master conservancy district as of the effective date of this act who is not in compliance with the provisions of this paragraph shall be allowed to serve the remainder of his or her term of office and shall be eligible for reappointment or re-election to the board of directors.

6. Vacancies occurring of unexpired terms of office on the board of directors shall be filled through appointment by the district judge upon the recommendations of the component area or user authorized to make the original selection. The district judge shall determine whether persons who have been recommended for appointment hereunder are qualified as provided herein.

7. The board of directors first appointed, and those subsequently appointed, or elected, are hereby authorized and empowered to appoint a manager and such additional personnel as may be necessary and proper for conducting the business of said district; provided, however, that no employee of the district may be a member of the board.

8. Upon expiration of the two-year term of office of directors first appointed by the district judge, the next succeeding board of directors shall be elected or appointed so that as nearly as possible one-half (1/2) of their number shall serve a term of two (2) years and the remainder for a term of four (4) years. The board of directors shall meet and determine their respective term of office by lot. Thereafter, at the expiration of their respective term of office, directors shall be elected or appointed for a term of four (4) years.

9. On the first Wednesday following each biennial election or appointment of the members of the board of directors by the district judge, as the case may be, they shall meet and organize as a board and elect officers for service as provided above for the first board.

10. The board of directors shall perform official actions by resolution and a majority of their number shall constitute a quorum for the transaction of any and all business of the district. All official actions including final passage and enactment of all resolutions must be approved by a majority of the board of directors present, a quorum being present, at a regular or special meeting.

11. The board of directors shall hold regular meetings once a month, the date thereof to be established in the district's bylaws or by resolution. The president or any three members may call such special meetings as may be necessary in the administration of the district's business, provided that at least five (5) days prior to the meeting date the secretary shall have mailed notice thereof to the address which each member shall file with the secretary. Notices of special meetings may be waived in writing by any director.

12. Each director shall be reimbursed for all necessary and reasonable expenses incurred in the performance of his or her duties pursuant to law, as provided for in the State Travel Reimbursement Act. In addition to any reimbursement for necessary and reasonable expenses received by the director pursuant to this paragraph, each director shall be entitled to receive a per diem not to exceed One Hundred Dollars (\$100.00) per meeting for not more than two meetings a month.

Added by Laws 1923-24, c. 139, p. 162, § 3. Amended by Laws 1955, p. 468, § 1, emerg. eff. June 2, 1955; Laws 1957, p. 553, § 2, emerg. eff. June 6, 1957; Laws 1961, p. 619, § 2, emerg. eff. May 16, 1961; Laws 1963, c. 271, § 1, emerg. eff. June 13, 1963; Laws 1980, c. 30, § 1, emerg. eff. March 24, 1980; Laws 1992, c. 133, § 1, eff. July 1, 1992; Laws 2014, c. 308, § 1.

§82-541.1. Board of directors - Federal contracts.

The board of directors of any conservancy district or master conservancy district, notwithstanding any other provision of this chapter, and in addition to all other powers conferred by law, hereby is authorized and empowered to enter into any contract or contracts with the duly-constituted authorities of the federal government under and pursuant to the provisions of Act of Congress approved June 17, 1902, 32 Stat. at Large 388, and Acts amendatory thereof and supplementary thereto (43 U.S.C. Sections 371 - 611), and is further authorized and empowered to qualify as a "local organization" as defined in the Watershed Protection and Flood Prevention Act, as amended (68 Stat. 666, 70 Stat. 1088), and to cooperate with the Secretary of Agriculture of the United States in carrying out, maintaining, and operating the works of improvement authorized by said Act, for the accomplishment of the purposes of the district, and by such contract or cooperation to enter into such stipulations and undertakings, assume such duties, establish and enforce such regulations, make such conveyances and assignments, establish such tolls, rates, prices, charges, rentals and assessments, and conform to and enforce such regulations of the Department of the Interior, or such regulations, policies and procedures of the Secretary of Agriculture, pursuant to the aforesaid Federal Acts, as to enable said district to secure the benefits of said Federal Acts. The board is hereby further authorized and empowered to negotiate and contract with any other federal or state agency and/or any other public entity in matters relating to waters of the district. For the purpose of such contract or contracts, the board of directors hereby is vested with all powers necessary and requisite to comply with the conditions and requirements of said Federal Legislation, and of regulations promulgated thereunder; and no provision or limitation contained in this Chapter which shall be in conflict with the provisions of such contract or terms of cooperation shall apply to any contracting

district, nor shall they impair or limit the power and authority herein conferred. And such contract or terms of cooperation further may provide that they shall remain in force until the district has fully discharged all obligations incurred to the United States or the State of Oklahoma or its agencies thereunder. Providing, however, no contract shall be made conveying the title or use of any 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. Laws 1955, p. 469, § 1; Laws 1957, p. 554, § 3; Laws 1961, p. 622, § 3.

§82-541.2. Organization of master conservancy districts. Upon proper petition master conservancy districts may be organized in the State of Oklahoma under the provisions of this act. Laws 1955, p. 470, § 3; Laws 1957, p. 558, § 1; Laws 1961, p. 622, § 4.

§82-542. Petition - Signatures - Contents - Transfer by Supreme Court to district court.

Before any court shall establish a district as outlined in Section 541 of this title, a petition shall be filed in the office of the Clerk of the Supreme Court of the State of Oklahoma. Said petition, shall be signed by owners of at least fifty-one percent (51%) of the land area and by not less than fifty-one percent (51%) of the landowners in the area embraced in the proposed district. The governing body of any city or town shall have the power to instruct the mayor or president of the Board of Trustees to sign any such petition by resolution duly passed and entered on the records of the city or town, and the signature for any city or town, as provided herein, shall be accepted in lieu of the signatures of one-half (1/2) of the owners of the platted land embraced in the corporate limits of said city or town. The petition for establishing a master conservancy district encompassing land outside the corporate limits of any city or town must contain the signatures of owners of at least fifty-one percent (51%) of the land area and not less than fifty-one percent (51%) of landowners in the area located outside any city or town embraced within the proposed district.

The petition shall be in writing and shall set forth:

First: The proposed name of the district.

Second: The necessity of the proposed work and that it will be conducive to the public health, safety, convenience and welfare.

Third: A general description of the purpose of the contemplated improvement and a map of the territory to be included in the proposed district. Said description may be given by legal subdivisions or metes and bounds, but it shall be sufficient to accurately describe

the outside boundary of the said territory to be included in the district. Said map and description of outside boundary shall be the basis upon which the court makes its findings of jurisdiction, and if the court finds that the required percentage of signatures of owners of land as shown by outside boundaries of the map attached to the petition have been filed, then the court shall have jurisdiction of the said district subject to appeal as provided herein. Said district need not be contiguous provided it be so situated that the public health, safety, convenience or welfare will be promoted by the organization as a single district of the territory described and provided further that the intervening territory be not benefited by the construction of the works in the district so formed.

Fourth: Said petition shall pray for the organization of the district by the name proposed.

The Clerk of the Supreme Court shall docket said petition as an original action in said Court under the name:

In re: Conservancy District No. _____, and all such proceedings shall successively be numbered serially from No. 1 upward.

The said Supreme Court shall within ten (10) days after the filing of such petition determine which district court of said State is most convenient near the center or middle of said district and can hear and determine said petition with greatest convenience to the people within said proposed district, having in view the customary routes of travel; and shall thereupon refer and assign said petition and proceedings to such district court and direct hearing, determination, control and administration of such proceedings as an original action therein, conformable to laws. Provided, that where all of proposed conservancy district is in one judicial district, the proceeding shall be filed originally with some court clerk in such judicial district in a county embraced within the proposed conservancy district and said court shall exercise complete jurisdiction.

No petition with the requisite signatures shall be declared null and void on account of alleged defects, if the court has once obtained jurisdiction, but the court may at any time after obtaining jurisdiction permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory, or in any other particular; and said petition may be further amended by including in the proposed district additional area; Provided, that there shall be sufficient signatures on the original petition, together with those upon any such amendment, to meet the requirements of inclusion of such area had the same been included in the original petition.

Several exactly similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed

prior to the first hearing of said petition shall be considered by the court as though filed with the first petition placed on file.

In determining when a sufficient number of landowners have signed the petition, the names of the owners of land as shown by the tax roll of the county shall be conclusive for all purposes of this act except that any successor in title to any owner so shown may sign for such person or persons named on the tax roll if it be appropriately indicated: Provided, if any city or town or any part thereof lies within any such proposed district, or if any such city or town has in such district or on any stream below any such improvements any water dams and reservoirs which will be rendered permanently benefited by such improvements, then all property in such city or town shall contribute to the cost of such improvements by contributing to the cost to such city or town as a whole in that proportion which the assessed value of each assessed unit of real property bears to the total assessed value of the real property in such city or town.

Nothing herein provided shall affect the legality of any district created prior to the effective date hereof; and all proceedings for formation of districts, and all districts established, pursuant to former law are hereby validated as though fully conforming to the provisions hereof.

Laws 1923-24, c. 139, p. 162, § 4; Laws 1957, p. 555, § 4; Laws 1961, p. 622, § 6; Laws 1963, c. 271, § 2, emerg. eff. June 13, 1963. der 82542

§82-543. Court costs.

At the time of filing the petition, the petitioners shall deposit as court costs the sum of Twenty-five Dollars (\$25.00), which deposit shall be in lieu of bond and the court may require such additional deposits of costs as may be necessary from time to time.

Laws 1923-24, c. 139, p. 164, § 5; Laws 1927, c. 70, p. 93, § 5; Laws 1959, p. 375, § 2.

§82-544. Notice of hearing on petition.

Immediately after the filing of such petition, the clerk of the district court, with whom such petition is filed, or to whom it has been assigned, shall cause notice by publication, to be made of the pendency of the petition and of the time and place of the hearing thereon, and said notice as provided herein shall be given in each county affected by the district, and the time of hearing shall be not less than sixty (60) days from the date of the first publication. Said notice shall also include a map of the proposed district. Provided, that for any district created prior to the passage of this act in which notice of hearing petition was published in only one newspaper in a county affected by the district, such notice shall be deemed sufficient. The district court in which the petition was filed, or to whom it was assigned, shall thereafter, for all purposes

of this act, except as hereinafter otherwise provided, maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of said district, and of lands and other property to be included in said district, or affected by said district, without regard to the usual or other limits of its jurisdiction and shall convene at the convenient county seat. Laws 1923-24, c. 139, p. 164, § 6; Laws 1927, c. 70, p. 94, § 6; Laws 1955, p. 471, § 1; Laws 1961, p. 624, § 8; Laws 1963, c. 271, § 3; Laws 1967, c. 382, § 25, emerg. eff. May 23, 1967.

§82-545. Hearing on petition - Objections - Declaration of organization - Corporate powers - Appeal - Decree as final order.

Any owner of real property in said proposed district who wishes to object to the organization and incorporation of said district shall, on or before the date set for the cause to be heard, file, by attorney or in person, his objections why such district should not be organized and incorporated. Such objections shall be heard by the court as an advance case without unnecessary delay. Upon the said hearing if it shall appear that the purpose of this act would be subserved by the creation of the conservancy district, and that fifty-one percent (51%) or more of the landowners and number of acres of land within the proposed district have filed written petitions requesting formation of said district, and that by the date of said hearing fifty-one percent (51%) of the number of owners and acres of land in the proposed district have not filed written protest against the formation of the district, the court shall after hearing all evidence and objections, as justice and equity require, by its findings, duly entered of record, adjudicate all questions, and declare the district organized and give it a corporate name, as "Conservancy District No. _____ of the State of Oklahoma," by which in all proceedings it shall thereafter be known. The district shall be a body corporate with all the powers of a corporation, shall have perpetual existence, with power to sue and be sued to the same extent as an individual in like cases, to incur debts, liabilities and obligations; to exercise the right of eminent domain and of taxation and assessment as herein provided; to issue bonds and to do and perform all acts as herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created, and for executing the powers with which it is invested. In such decree the court shall designate the general description of the outline of said district substantially as set out in petition and designate the place where the office or principal place of business of the district shall be located, which shall be within the corporate limits of the district, if practicable, and if not practicable, within one of the counties affected by the districts and which may be changed by order of court from time to time. The regular meetings of the board of directors shall be held at such

office or place of business but for cause may be adjourned to any other convenient place. The official records and files of the district shall be kept at the office so established. If the court finds that the property set out in said petition should not be incorporated into a district, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in the proportion of the interest represented by them. Any petitioner may within sixty (60) days after the refusal, appeal from an order refusing to establish or establishing such district, to the Supreme Court of the State of Oklahoma, upon giving bond in a sum to be fixed by the Court. After an order is entered establishing the district, such order shall, unless appeal be taken within ninety (90) days, be deemed final and binding upon the real property within the district, and shall finally and conclusively establish the regular organization of the said district, except as to jurisdictional questions, against all persons, except the State of Oklahoma upon suit commenced by the Attorney General. Any such suit by the Attorney General must be commenced within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized, except as to jurisdictional questions. Laws 1923-24, c. 139, p. 165, § 7; Laws 1927, c. 70, p. 94, § 7; Laws 1955, p. 471, § 2; Laws 1963, c. 271, § 4, emerg. eff. June 13, 1963.

§82-546. Decree of incorporation filed with Secretary of State.

Within ten (10) days after the said district has been declared a corporation by the court, the clerk of the court shall transmit to the Secretary of State, and the county clerk in each of the counties having lands in said districts, copies of the findings and the decree of the court incorporating said district.

The same shall be filed and recorded in the office of the Secretary of State in the same manner as articles of incorporation are now required to be filed and recorded under the general law concerning corporations and copies shall also be filed and recorded in the office of the county clerk of each county in which a part of the district may be, where they shall become a permanent record, and the county clerk of each county shall receive a fee of Two Dollars (\$2.00) for filing, recording and preserving the same, and the Secretary of State shall receive for filing and recording said copies such fees as now are or hereafter may be provided by law for like services in similar cases.

Added by Laws 1923-24, c. 139, p. 166, § 8. Amended by Laws 1955, p. 472, § 3.

§82-547. Irrigation districts - Formation.

Districts may be formed under the provisions of this act for irrigation, or partly for irrigation, by a substantial compliance with the terms as near as possible. But no such district in its construction or operation shall in any manner interfere with works for the prevention of floods, or the drainage of lands, or materially diminish their protective value. And the court organizing such irrigation district shall require a statement in the petition and proof to the effect that the organization and operation of the same will not materially interfere with any work or plans for flood prevention, the drainage or protection of lands, or the flow of waters covered by the terms of a contract. Nor shall any improvement under this act deprive the owners of lands lying upon any stream of water of the ordinary flow in said stream sufficient for domestic and stock uses, without compensation therefor.

Subject to the above, the board of directors shall have the same powers as are herein conferred generally by its provisions as far as applicable.

Special assessments shall be levied and bonds issued as already provided, using the words "Conservancy Special Assessments," or "Conservancy Bonds."

Laws 1923-24, c. 139, p. 198, § 70; Laws 1957, p. 556, § 5.

§82-548. Amendment of district boundaries to include other necessary lands - Validation.

Any time subsequent to the entry of the decree creating the district, and prior to the filing of the report of the board of appraisers, land situated outside of the district boundaries, necessary to accomplish the purposes of the district, may be included within the boundaries of said district. Said lands may be included within the boundaries of said district, by the filing, with the court having jurisdiction of said district, a petition, signed by owners of at least fifty-one percent (51%) of the land area and by not less than fifty-one percent (51%) of the landowners in the area proposed to be added to the said district. Proceedings of said petition shall conform to the proceedings to create a district as provided in this title. Upon said hearing, if the court finds that said land is reasonably necessary to be included within said district to accomplish the purposes for which said district was originally created, the court shall amend the boundaries of the district to include said land.

Any amendments to the boundaries of a district heretofore made by a court having jurisdiction thereof according to the procedure herein provided are hereby validated.

Added by Laws 1963, c. 271, § 15, emerg. eff. June 13, 1963.

§82-549. Amendment of district boundaries to include other necessary lands - Validation.

Any time subsequent to the entry of the decree creating the district, and prior to the filing of the report of the board of appraisers, land situated outside of the district boundaries, necessary to accomplish the purposes of the district, may be included within the boundaries of said district. Said lands may be included within the boundaries of said district, by the filing, with the court having jurisdiction of said district, a petition, signed by owners of at least fifty-one percent (51%) of the land area and by not less than fifty-one percent (51%) of the landowners in the area proposed to be added to the said district. Proceedings of said petition shall conform to the proceedings to create a district as provided in this title. Upon said hearing, if the court finds that said land is reasonably necessary to be included within said district to accomplish the purposes for which said district was originally created, the court shall amend the boundaries of the district to include said land.

Any amendments to the boundaries of a district heretofore made by a court having jurisdiction thereof according to the procedure herein provided are hereby validated.

Laws 1967, c. 382, § 23, emerg. eff. May 23, 1967.

§82-561. Appointment of directors - Election of successors.

Within thirty (30) days after entering the decree incorporating said district, the judge having jurisdiction shall call an election of a temporary board of directors, and cause notice thereof to be given by publication thereof in each county in which lands of the district are situated, the last insertion to be not less than thirty (30) nor more than sixty (60) days before the date of such meeting, calling a meeting of all of the owners of land within the district at a day and hour specified, at some place in the judicial district in which the district was organized, for the purpose of electing a temporary board of three (3) directors who shall be residents within a county in which the district is located and shall be owners of land within the district; provided, that not more than one director shall be chosen from any one county affected by the district, if there are more than two counties affected by the district. The district judge shall conduct the election and at such election each and every owner of any land within the district shall be entitled to one vote for each director, in person or by proxy in writing, duly signed and verified by affidavit. The owners of land voting in such election, either in person or by proxy, shall constitute a quorum for the purpose of holding such election. The directors elected shall serve until the first permanent board of directors is elected, as hereinafter provided.

Within twenty (20) days after the confirmation of appraisements of benefits for said district, the court clerk of the district court in which the petition has been filed, or to which it has been

assigned, shall give notice, as heretofore provided, calling a meeting of the owners of all the lands on which appraised benefits have been confirmed situated in said district, at a day and hour specified at some public place in the judicial district in which the district was organized, for the purpose of electing a permanent board of three (3) directors who shall be residents within a county in which the district is located and shall be owners of land on which appraised benefits have been confirmed. The president of the temporary board of directors shall, in open court and under the supervision of the district judge, conduct the election, and at such election each and every owner of any lands on which appraised benefits have been confirmed shall be entitled to one vote for each director, in person or by proxy in writing duly signed and verified by affidavit. Said election shall be for terms of one (1), two (2) and three (3) years, and thereafter the terms of directors shall be three (3) years from the date of said election and they shall serve until their successors shall have been elected and qualified as hereinbefore provided.

Each year the court clerk of the district court shall give notice, as heretofore provided, for the yearly election of the Director whose term expires. The director with the longest term left shall, in open court and under the supervision of the district judge, conduct the election.

The Oklahoma Water Resources Board at any election or meeting may represent the State of Oklahoma and shall have the right to vote for directors or in any matter that shall come up properly before any election or meeting to the extent of the assessment against land owned by the state in such district, which vote may be cast by any person designated by said Oklahoma Water Resources Board; guardians may represent their wards, executors and administrators may represent estates of deceased persons, and private corporations may be represented by their officers or duly-authorized agents; and any city, county or municipality may be represented by its officers or agents duly-authorized.

The owners of land on which appraised benefits have been confirmed, voting in the election of a permanent board of directors, either in person or by proxy, shall constitute a quorum for the purpose of holding such election or any election thereafter. The persons receiving a majority of the votes cast in any election shall be elected, and the district judge under whose supervision the election is held shall make and enter an order setting forth the results of said election, naming the elected Directors and specifying their respective terms.

Any director appointed or elected may be removed by the district judge having jurisdiction of the conservancy district, for dishonesty, incompetency or failure to perform the duties imposed upon him by this chapter, and any vacancies which may occur in any

office shall be filled by appointment by the district judge having jurisdiction of the district for the unexpired term of said Director, such appointee to be qualified as herein set forth.
Laws 1923-24, c. 139, p. 166, § 9; Laws 1955, p. 470, § 2; Laws 1959, p. 375, § 3; Laws 1967, c. 382, § 1, emerg. eff. May 23, 1967; Laws 1976, c. 254, § 1, emerg. eff. June 15, 1976. 9

§82-562. Board of Directors to organize - Records.

Each director before entering upon his official duties shall take and subscribe to the Constitutional oath before a suitable officer and further that he will honestly, faithfully and impartially perform the duties of his office, and that he will not be interested directly or indirectly in any contract let by said district, which said oath shall be filed in the office of the clerk of said court in the original case. Upon taking the oath, the Board of Directors shall choose one of their number President of the Board, and shall elect some suitable person Secretary of the Board, who may or may not be a member of the Board. Upon organization of the Board of Directors, and as often thereafter as may be necessary to correctly reflect all changes therein, a certificate shall be filed in the initial case, by the President of the Board, setting forth the names, addresses and official titles of all officers of the District. Such Board shall adopt a seal, and shall keep in a well-bound book a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts, which record and proceedings, so recorded, shall be signed by the said Board of Directors or such members of said Board, concurring in said acts or proceedings, at the time of the making of such record or on date of the first meeting of the Board thereafter, which shall be open to the inspection of the owners of property in the district, as well as to all other interested parties, said record is hereby declared to be the official record of the district, and shall be conclusive evidence as to all actions, proceedings and notices and the contents thereof affecting said district.

Laws 1923-24, c. 139, p. 167, § 10; Laws 1967, c. 382, § 2, emerg. eff. May 23, 1967.

§82-563. Quorum.

A majority of the directors shall constitute a quorum, and a concurrence of the majority in any matter within their duties shall be sufficient for its determination.

Added by Laws 1923-24, c. 139, p. 168, § 11.

§82-564. Secretary and other employees or staff.

The secretary shall be the custodian of the records of the district and of its corporate seal and shall assist the board in particulars as it may direct in the performance of its duties. It

shall be the duty of the secretary to attest, under the corporate seal of the district, all certified copies of the official records and files of the district that may be required of the secretary by the provisions of this act, or by any person ordering the same and paying the reasonable cost of transcription and any portion of the record so certified and attested shall be prima facie evidence of the facts contained in the record. The secretary shall serve also as treasurer of the district, unless a treasurer is otherwise provided for by the board. The board may also employ a district manager and any engineers, attorneys or other staff as may be useful and necessary. The board may provide for compensation of employees of the board, which, with all other necessary expenditures, shall be taken as a part of the cost of the improvement. The employment of persons or entities by the district shall be evidenced by agreements in writing which shall specify the amounts or rates to be paid for their services. The district manager shall be superintendent of all the works and improvements, and shall make a full report to the board each year, or more often if required by the board, and may make suggestions and recommendations to the board as the manager may deem proper.

Added by Laws 1923-24, c. 139, p. 168, § 12. Amended by Laws 2010, c. 175, § 1, emerg. eff. April 26, 2010.

§82-565. Plan of improvements - Inspection - Objections - Hearing - Dissolution in certain cases - Proceedings concerning plan.

Upon their qualification, the board shall prepare or cause to be prepared a plan for the improvements for which the district was created. Such plans shall include such maps, profiles, plans and other data and descriptions as may be necessary to set forth properly the location and character of the work, and of the property benefited or taken or damaged, with estimates of cost and specifications for doing the work.

In case the board of directors finds that any former survey made by any other district or in any other manner is useful for the purposes of the district, the board of directors may take over the data secured by such survey, or such other proceedings as may be useful to it, and may pay therefor an amount equal to the value of such data of such district. No construction shall be made under the authority of this act which will cause the flooding of any land, village or city or which will cause the water to back up into or on any land, village or city, unless the board of directors shall have acquired and paid for the right to use the land affected for such overflow purpose and shall have paid all damages incident thereto. No railroad shall be required to be constructed with a grade in excess of the ruling grade then existing upon that division of said railroad whereon said change is required, without just compensation. Upon the completion of such plan, the board shall file a copy of the plan with

the court clerk of the court having jurisdiction of such district and cause the court clerk to give notice by publication as provided herein in each county of said district, of the completion of said plan, and shall permit the inspection thereof at his office, by all persons interested. Said notice shall fix the time and place for the hearing by the court of all objections to said plan, not less than ten (10) days nor more than thirty (30) days after the last publication of said notice. Any owner of land which will be benefited or directly affected by the construction, operation and maintenance of works proposed in said plan, whether inside or outside of said district, may object to the approval of said plan. All objections to said plan shall be in writing and be filed with the said court clerk at least five (5) days before the date of hearing fixed in said notice, provided, however, that the court, for good cause shown, shall have authority to extend the time for filing said objections in its discretion. If at said date the owners of a majority of the area of land in the said district shall file a protest and objection to the plan as a whole, then the court shall order an assessment of the properties in said district sufficient to pay the cost of the proceedings up to said time, said costs to be fixed by the court, and to be prorated equally upon the property included in said district, provided, however, that no assessment for said purpose shall be more than twenty cents (\$0.20) per acre on agricultural lands. Upon the collection of said assessments the court shall order said district dissolved. If said district be not dissolved by the court, the court shall hear said objections and adopt, reject or refer back said plan to said board of directors. If said court shall reject said plan, then said board shall proceed as in the first instance under this section to prepare another plan.

If the court should refer back said plan to said board for amendment, then the court shall continue the hearing to a day certain without publication of notice.

If the court refers back said plan to said board, then a certified copy of said journal entry of said court shall be filed with the secretary of the board of directors, and by him be incorporated into the records of the district. The official plan may be altered in detail from time to time until the assessment roll is filed, and of all such alterations the appraisers shall take notice. But after the assessment roll has been filed in court, no alterations of the official plan shall be made except as provided herein.

Laws 1923-24, c. 139, p. 168, § 13; Laws 1955, p. 473, § 4; Laws 1959, p. 376, § 4; Laws 1967, c. 382, § 3, emerg. eff. May 23, 1967.

§82-565.1. Dissolution of conservancy districts.

A conservancy district created under the provisions of the Conservancy Act of Oklahoma may be dissolved by the district court having jurisdiction of said district, upon an application for that

purpose filed by a majority of the members of the board of directors of such district, or upon the petition of a majority of the landowners in such district. Any such application shall be in writing and shall set forth either that a plan for the improvements for which the district was created has not been prepared and that there is little likelihood that such a plan will be prepared within the next three (3) years; or, that a plan has been prepared but no assessments have been approved by the court and that a period of ten (10) years has elapsed since approval of the plan and that there is little likelihood that such assessment will be made against the benefited land within the next three (3) years. Such application shall further set forth that all indebtedness of said district has been paid in full and that said district has no indebtedness outstanding and that it will be in the best interests of all landowners within said district to have the district dissolved. Said application must be signed by a majority of the members of the board of directors, or by a majority of the landowners within such conservancy district. Said application shall be filed with the clerk of the district court having jurisdiction of such district. If the judge of the district court having jurisdiction of such district is satisfied that the application is in conformance with the provisions of this act, he shall order the clerk of said court to give notice by publication, to be made of the pendency of the application and of the time and place of the hearing thereon, and said notice as provided herein shall be given in each county affected by the district and the time of hearing shall not be less than sixty (60) days from the date of the first publication. Any owner of land in said district who desires to object to the dissolution of said district shall, before the date set for the application to be heard, file his objections and state the reasons why such district should not be dissolved. Upon said hearing, if the court finds from the evidence presented that the application has been signed by a majority of the members of the Board of Directors or by a majority of the landowners in said district and either that a plan for the improvements for which the district was created has not been prepared and that there is little likelihood that such a plan will be prepared within the next three (3) years; or, that a plan has been prepared but no assessments have been approved by the court and that a period of ten (10) years has elapsed since approval of the plan and that there is little likelihood that such assessment will be made against the benefited land within the next three (3) years, and if the court further finds that all indebtedness of said district has been paid in full and that said district has no indebtedness outstanding and that it will be in the best interests of all landowners in the district to have the district dissolved, the court shall declare said conservancy district dissolved. Within thirty (30) days after the court has declared said district dissolved, the clerk of said court shall transmit to the

Secretary of State, and the county clerk in each of the counties having lands in said district, copies of the order of the court dissolving said district.

Laws 1968, c. 337, § 1, emerg. eff. May 9, 1968; Laws 1976, c. 122, § 1, emerg. eff. May 18, 1976.

§82-566. Execution of plan - Powers of directors.

The board of directors shall have full power and authority to devise, prepare for, execute, maintain and operate any or all works or improvements necessary or desirable to complete, maintain, operate and protect the official plan. They may secure and use men and equipment under the supervision of the chief engineer or other agents, or they may in their discretion let contracts for such works, either as a whole or in parts.

Added by Laws 1923-24, c. 139, p. 170, § 14.

§82-567. Entry upon lands for surveys and examinations.

The board of directors of any district organized under this act, or their employees or agents, including the contractors and their employees, and the members of the Board of appraisers and their assistants, may enter upon lands within or without the district in order to make surveys and examinations to accomplish the necessary preliminary purposes of the district, or to have access to the work, the district being liable, however, for actual damages done, but no unnecessary damage shall be done.

Added by Laws 1923-24, c. 139, p. 170, § 15.

§82-568. Protection, reclamation or irrigation of lands - Petition and notice of action.

A. In order to effect the protection, reclamation or irrigation of the land and other property in the district, the board of directors is authorized and empowered to:

1. Clean out, straighten, widen, alter, deepen or change the course or terminus of any ditch, drain, sewer, river, water course, pond, lake, creek or natural stream in or out of the district;
2. Fill up any abandoned or altered ditch, drain, sewer, river, watercourse, pond, lake, creek or natural stream;
3. Concentrate, divert or divide the flow of water in or out of the district;
4. Construct and maintain main and lateral ditches, sewers, canals, levees, dikes, dams, retardation dams, irrigation dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations and siphons and any other works and improvements deemed necessary to construct, preserve, operate or maintain the works in or out of the district;
5. Construct or enlarge or cause to be constructed or enlarged any and all bridges that may be needed in or out of the district;

6. Construct or elevate roadways and streets;

7. Construct any and all works and improvements across, through or over any public highway, canal, railroad right-of-way, track, grade, fill or cut, in or out of the district;

8. Remove or change the location of any fence, building, railroad, canal or other improvements in or out of the district; and

9. Hold, encumber, control, acquire by donation, purchase or condemnation, construct, own, lease, use and sell real and personal property, and acquire, construct, own, lease, use or sell any easement, riparian right, railroad right-of-way, canal, cemetery, sluice, reservoir, holding basin, mill dam, water power, wharf, holding basin or franchise in or out of the district for right-of-way, or for any necessary purpose, or acquire, own, lease, use and sell any real estate for material to be used in constructing and maintaining said works and improvement, replat or subdivide land, open new roads, streets and alleys, or change the course of any existing one.

B. All engineering, planning, design and execution, the operations of the district, and the construction, operation, and maintenance of infrastructure to serve the purpose for which the district was established, or to serve any purposes as may have been amended from time to time as provided for in this act, may be implemented at the discretion of the board of directors under the administration of the district manager. Except for engineering, operations, and the construction, operation and maintenance of infrastructure to implement its approved purposes, the board of directors shall not exercise any of the powers specified in this section without first filing in the court having jurisdiction a full and complete petition stating in detail the acts intended to be done. Upon the filing of the petition, a notice shall be published in the county or counties in the district, as hereinbefore provided, setting forth the nature of the relief prayed for, which notice shall be published for not less than thirty (30) days, and shall specify a date on which the petition will be heard by the court. In the event a protest is filed, the court shall hear all parties interested and make its decree. The court shall base its decision on the petition, granting the relief sought in whole or in part, or denying the relief prayed for, upon whether the proposed action of the district lies within the scope of its authority pursuant to this act and the agreements and decrees establishing the district and governing its operation. The decree may be appealed to the Supreme Court of the State of Oklahoma, as is provided in the statutes relating to civil procedure.

Added by Laws 1923-24, c. 139, p. 170, § 16. Amended by Laws 1927, c. 70, p. 95, § 8; Laws 2010, c. 175, § 2, emerg. eff. April 26, 2010.

§82-569. Contracts - Advertisement - Bond - Waiver of advertisement in emergency - District bidding process.

A. When it is determined to let the work of a master conservancy district by contract, contracts in amounts to exceed Fifty Thousand Dollars (\$50,000.00) shall be advertised after notices calling for bids have been published once a week, for three (3) consecutive weeks completed on date of last publication, which shall not be less than fourteen (14) days from the first publication, in at least one newspaper in each county, where any part of the work under terms of the contract is to be performed. The board may let the contract to the lowest and best bidder, who shall give a good and approved bond, with ample security, equal in amount to the total of the bid, conditioned on the carrying out of the contract to completion, and shall file the bond and contract with the secretary of the district in amount and conditions as provided by law, conditioned on the carrying out of the contract. The contract shall be in writing and shall be approved by the board of directors and signed by the president of the board and by the contractor. In the case of sudden emergency when it is necessary in order to protect the district or when the board determines that the contract must be implemented by a sole source or in any situation in which the Public Competitive Bidding Act of 1974 would allow a state agency to do so, the advertising of contracts may be waived.

B. The board of directors of any conservancy district may adopt rules establishing a district competitive bidding process not in conflict with the provisions of this section.

Added by Laws 1923-24, c. 139, p. 171, § 17. Amended by Laws 1927, c. 70, p. 96, § 9, emerg. eff. March 23, 1927; Laws 1963, c. 271, § 5, emerg. eff. June 13, 1963; Laws 1992, c. 133, § 2, eff. July 1, 1992; Laws 2008, c. 93, § 1, eff. Nov. 1, 2008; Laws 2010, c. 175, § 3, emerg. eff. April 26, 2010.

§82-570. Dominant right of eminent domain.

Said board, where necessary for the purpose of this act, shall have dominant right of eminent domain over the right of eminent domain of railroad, telegraph, telephone, gas, water power and other companies and corporations, and over townships, villages, counties and cities. In the exercise of this right due care shall be taken to do no unnecessary damage to other public utilities, and, in case of failure to agree upon the mode and terms of interference, their operation or usefulness shall not be interfered with beyond the actual necessities of the case, due regard being paid to the other public interest involved.

Oil, gas and minerals are specifically excluded from the right to condemn, except to the extent necessary to prevent activities adversely affecting the purposes of the district.

Laws 1923-24, c. 139, p. 171, § 18; Laws 1967, c. 382, § 4, emerg. eff. May 23, 1967.

§82-571. Condemnation under general law.

Said board shall also have the right to condemn for the use of the district any land or property within or without said district, according to the procedure provided by law for the condemnation of land or other property taken for telegraph, telephone and railroad rights-of-way.

Added by Laws 1923-24, c. 139, p. 171, § 19.

§82-571.1. Condemnation for easement purposes - Damages.

When the board of directors of a conservancy district determines that a lesser estate is needed for flood control purposes than fee simple absolute, the board shall have the right to condemn for easement purposes an easement as may be required.

In such cases, the measure of damages payable to a landowner shall be the difference in the fair market value of the entire tract with the easement and the fair market value of the entire tract without the easement. Commissioners or jurors shall take into consideration in assessing damages for permanent inundation or for flowage easements for intermittent inundation of land, the estimated or anticipated frequency of inundation, the value of the remnant of the estate for landowner's agricultural or other economic use, and such other relevant factors as may be ascertained or anticipated by reasonable evaluation.

Added by Laws 1988, c. 50, § 1, eff. Nov. 1, 1988.

§82-572. Regulations to protect works - Enforcement - Penalty.

Where necessary in order to secure the best results from the execution and operation of the plans of the district, or to prevent damage to the district by the deterioration or misuse, or by the pollution of the waters, of any water course therein, the board of directors may make regulations for and may prescribe the manner of building bridges, roads, or fences or other works in, into, along or across any channel, reservoir, or other construction; and may prescribe the manner in which ditches or other works shall be adjusted to or connected with the works of the district or any watercourse therein.

The construction of any works in a manner harmful to the district or to any water course therein, and in a manner contrary to that specified by the directors, shall be a misdemeanor, and upon conviction shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00). The directors shall have authority to enforce by mandamus or otherwise all necessary regulations made by them and authorized by this act, and may remove any harmful construction or may close any opening improperly made. Any person,

corporation or municipality willfully failing to comply with such regulations shall be liable for all damages caused by such failure and for the cost of renewing any construction damaged or destroyed. Laws 1923-24, c. 139, p. 171, § 20.

§82-573. Bridges or other structures - Changes - Notice - Damages - Appeal.

Whenever the official plan requires the building, modification, removal, or rebuilding of any bridge, grade, aqueduct, or other construction, and a hearing upon the report of the appraisers has been had and a final order issued by the court for appraisals and assessments affecting such construction, the owner of said bridge, grade, aqueduct or other structure shall be bound to make such changes or adjustments within the time specified in the official plan, or within the time directed by the court, which time shall be a reasonable one under all circumstances. In case such changes or adjustments are not made, the board of directors may make such adjustments or removals. If the change or improvement of a natural water course is made necessary by the insufficiency of the bridge or other structure to permit the water of the stream to pass through it in time of high water, the work of altering or removing said bridge or other structure shall be at the expense of the owner. Before the removal or modification of any works outlined in this section, the board of directors shall give thirty (30) days' notice to the owner of such bridge or such construction that the same be adapted to the plans. In case the owner of any bridge or other structure shall object to the modification or removal of such bridge or other structure on the ground that the cost of the modification will be greater than the benefits resulting from such removal, a hearing shall be had before the district court having the original case, and if such contention is sustained, such modification or removal shall not be required. If said building, modification or removal, or rebuilding of any bridge, aqueduct or other construction causes damage to the owner or owners thereof, which damages are required under this act to be paid by the conservancy district, the owner or owners thereof shall not be required to make any changes or alterations until the damages have been paid them by the district. The board of directors of any district organized under this law shall have full power and authority to improve in alignment, section, grade or in any other manner any watercourse, and they may require the removal, widening, lengthening, deepening, raising or other change of any public or private road bridge, or railroad bridge, or any aqueduct, or telephone, telegraph, gas, oil, sewer, water or other pipelines or any other construction over, along, across, under or through such watercourse. In case such change is made necessary in any such structure by the failure of such bridge or other structure to permit the free flow of the water in such stream in time of flood,

then the owner of any such construction shall make such change, without cost to the district, or without any claim for damages against the district, except that the district shall pay the cost of excavating the earth for the enlargement of any channel where such excavation or filing is required as a part of plans of the district in making the changes outlined in this section, but the district shall not be required to make such fill or excavation unless it would be necessary to the plans of the district if the bridge or other construction did not exist; provided, however, that the board of directors shall not exercise any of the duties mentioned herein, without first publishing a notice in the county affected, for at least thirty (30) days before the contemplated action is taken and any interested taxpayer may appeal from the decision of the board and the district court that had original jurisdiction of the matter, which appeal shall be lodged by filing a motion in the court of the appellant and any order of the said district court may be appealed from to the Supreme Court of the State of Oklahoma.

Laws 1923-24, c. 139, p. 172, § 21; Laws 1927, c. 70, p. 97, § 10.

§82-574. Passing equipment through bridge or grade - Notice to owner.

In case it is necessary to pass any dredge boat or other equipment through a bridge or grade of any railroad company or other corporation, county, township, or municipality, the board of directors shall give thirty (30) days' notice to the owner of said bridge or grade that the same shall be removed temporarily to allow the passage of such equipment or that an agreement be immediately entered into in regard thereto. The owner of said bridge or grade shall keep an itemized account of the cost of the removal and if necessary, of the replacing of said bridge or grade, and said actual cost shall be paid by the district. In case the owner of said bridge or grade shall refuse to provide for the passage of said equipment, the board of directors may remove such bridge or grade at its own expense, interrupting traffic in the least degree consistent with good work and without delay or unnecessary damage. In case they shall be prevented from doing so, the owner of said bridge or grade shall be liable for all damage caused by the resulting delay.

Added by Laws 1923-24, c. 139, p. 173, § 22.

§82-575. Establishing stream and rain gauges, etc. - Surveys and investigations.

The board of directors shall also have the right to establish and maintain streamgauges, rain gauges, a flood warning service with telephone or telegraph service, and may make such surveys and examination of rainfall and flood conditions, stream flow, and other scientific and engineering subjects as are necessary and proper for

the purposes of the district, and they may issue reports of their findings.

Laws 1923-24, c. 139, p. 173, § 23.

§82-576. Cooperation with federal government or other agencies - Outlets in other states.

The board of directors shall also have the right and authority to enter into contracts or other arrangements with the United States Government or any department thereof, with persons, railroad or other corporations, with public corporations, cities and towns, and the state government of this or other states with drainage conservation, conservancy, or other improvement districts, in this or other states, for cooperation or assistance in constructing, maintaining, using and operating the works of the district or the waters thereof, not in violation of Article VI of the Constitution or for making surveys and investigations or reports; and may purchase, lease or otherwise acquire land or other property in adjoining states in order to secure outlets or spend money for securing such outlets or reservoirs or other works in adjoining states, and the Governor of the State of Oklahoma is hereby authorized to assist any conservancy district in negotiating any agreements with other states and the United States, under the power conferred upon him by Section 8 of Article VI of the Constitution of Oklahoma. That the streams constituting boundaries between this and other states for more than one hundred (100) miles shall not be organized within the conservancy districts until the state governments of this and other states affected shall have executed agreements as to equitable division of costs and benefits between the areas with different states affected by the agreement. Laws 1923-24, c. 139, p. 173, § 24; Laws 1957, p. 556, § 6.

§82-577. Law governing.

The rights of conservancy districts, landowners, municipalities, corporations, and other users of water in conservancy districts shall be governed by the laws of the State of Oklahoma providing for the use of water.

Added by Laws 1923-24, c. 139, p. 174, § 25. Amended by Laws 1957, p. 557, § 7; Laws 1967, c. 382, § 5, emerg. eff. May 23, 1967.

§82-601. Appraisers - Appointment - Organization - Additional board.

At the time of making its order, organizing the district or at any suitable time thereafter; either in term or in vacation the court or judge shall appoint three (3) appraisers, who shall in every case where appraisers are appointed under this act be recommended by the board of directors, and whose duty it shall be to appraise the lands or other property within and without the district to be acquired for rights-of-way, reservoirs and other works of the district and to appraise all benefits and damages accruing to all lands within and

without the district by reason of the extension of the official plan. Said appraisers shall be freeholders residing within the counties affected by the district but not interested in said district. Each of the appraisers shall, before taking up his duties, take and subscribe to an oath that he will faithfully and impartially discharge his duties as such appraiser, and that he will make a true report of such work done by him. The said appraisers shall at their first meeting elect one of their own number chairman, and the secretary of the board of directors or his deputy shall be ex officio secretary of said board of appraisers during their continuance in office. A majority of the appraisers shall constitute a quorum and a concurrence of the majority in any matter within their duties shall be sufficient for its determination. Said appraisers shall continue to hold their offices until excused by the court, and the court shall fill all vacancies in the board of appraisers, or may appoint a new board for subsequent appraisals, as occasion may require. Such new board, if appointed, shall fill all the requirements of the board of appraisers and perform its duties.

Provided, that if the court shall find that one board of appraisers cannot appraise the lands and property in said district within reasonable time, then the court may appoint such other boards of appraisers as may be found necessary, specifying their territory of operation.

Laws 1923-24, c. 139, p. 176, § 26.

§82-602. Appraisals, how made - Duties of appraisers.

(a) During the preparation of the official plan, the board of appraisers shall examine and become acquainted with the nature of plans for the improvement of the lands and other property affected thereby, in order that they may be better prepared to make appraisals.

When the official plan is filed with the secretary of the district, he shall at once notify the board of appraisers, and they shall thereupon proceed to appraise the benefits of every kind to all property within or without the districts which will result from the organization of said district and execution of the official plan; provided, however, that in the case of a district composed in whole or in part of municipal corporations, state or federal institutions, and/or political subdivisions, the board of appraisers may, in lieu of appraising benefits against each separately owned parcel of realty situated within the same, appraise the benefits as a whole to all property situated within the boundaries of said municipal corporation, institution and/or political subdivision. In such event, the benefits appraised as a whole shall be considered as benefits to the municipal corporation, institution and/or political subdivision. It shall be the duty of the governing body of the said municipal corporation, institution, and/or political subdivision to

collect assessments levied on the appraisal of benefits, as provided in the Conservancy Act of Oklahoma. Provided, however, that to the extent legally permissible, as now or hereafter provided, such municipal corporation, institutions and/or political subdivisions may pay such portion of any assessments levied under the provisions of this act from funds and revenues otherwise collected and held by them, to the extent such manner of payment is deemed desirable. In the progress of their work, they shall have the assistance of the attorney, engineer, secretary and other agents and employees of the board of directors. The board of appraisers shall also appraise the benefits, if any, accruing to cities, villages, counties, townships and other public corporations, as political entities and to the State of Oklahoma.

The appraisers in appraising benefits shall consider only the effect of the execution of the official plan. The appraisers in making appraisals of benefits shall give due consideration and credit to any other works or of the systems of reclamation already constructed or under construction which form a useful part of the work of the district according to the official plan.

(b) While making the appraisal of benefits as above provided, the board of appraisers shall, if directed by the court, estimate the damages to be sustained to each tract of land and to other property which will result from the execution of the official plan, including an estimate of the damages to be sustained by the taking in fee simple of the title to, or of an easement over any land specified by the board of directors as desired to be so taken, for the execution of the official plan; and the board of appraisers shall make a separate detailed report of the same to the clerk of the court, and to the board of directors for its guidance in thereafter fixing the payment of such damages or in determining to proceed by condemnation as provided in Section 607 of this title.

Laws 1923-24, c. 139, p. 177, § 27; Laws 1961, p. 626, § 11; Laws 1963, c. 271, § 6, emerg. eff. June 13, 1963.

§82-603. Lands outside district, appraisalment of - Bringing in additional owners.

If the appraisers find that lands or other property not embraced within the boundaries of the district will be necessary for or affected by, the proposed improvement, or should be included in the district, they shall appraise the benefits and damages to such land and shall file notice, in the court of the appraisal which they have made upon the lands beyond the boundaries of the district, and to land which in their opinion should be included in the district. The appraisers shall report to the court any lands which in their opinion should be eliminated from the district.

Provided, that the court in determining the properties benefited by the proposed project or projects and in assessing the benefits

derived therefrom, and in the matter of assessments for the construction and maintenance thereof shall upon proper petition and showing, cause to be brought in and made parties to the action all property owners found to be benefited throughout the course of the stream below the points of diversion of water, or to the crossing of the state line by any such stream, whether such property be originally included in the petition or not, such action to be taken by the court after service of summons as required in civil actions upon such property owners of record.

Added by Laws 1923-24, c. 139, p. 178, § 28.

§82-604. Hearing on land excluded from or taken into district - Notice.

If the report of the board of appraisers includes recommendations that other lands be included in the district, or that certain lands be excluded from the district, it shall be the duty of the court clerk where the proceeding is pending to give notice to the owners of such property by publication, to be made as provided in this act for a hearing on the petition for the creation of the district. Such notice to those owners whose lands are to be added to the district may be substantially as shown in the schedule herein. The time and place of the hearing may be the same as those of hearing of appraisals. To the owners of property to be excluded from the district it will be sufficient to notify them of that fact, which notice may be recorded with acknowledgment of the owner.

Laws 1923-24, c. 139, p. 178, § 30; Laws 1959, p. 377, § 5; Laws 1961, p. 627, § 12; Laws 1963, c. 271, § 7, emerg. eff. June 13, 1963.

§82-605. Report of appraisers - Contents - Filing.

The board of appraisers shall prepare a report of its findings which shall be arranged in tabular form and which shall be known as the conservancy appraisal record. Such record shall contain the name of the owner of property appraised as it may appear on the current tax roll of the county, a description of the property appraised as per government survey in tracts not exceeding three hundred twenty (320) acres in extent, except as to properties of public service, transportation and public corporations the property of which shall be described as a whole, and the amount of benefits to each tract. They shall also make report of any other benefits, or any other matter which in their opinion should be brought to the attention of the court. The name of the owner of each tract as the same appears upon the current tax roll of the county shall be conclusive of the fact of such ownership for the purposes of said appraisal record and all proceedings thereon pursuant to this title. No error in the names of owners of real property or in the description thereof shall invalidate said appraisal or the levy of assessments based thereon if

sufficient description is given to identify such real property and the owner or owners thereof as aforesaid.

When their report is completed, it shall be signed by at least a majority of the appraisers and deposited with the proper court clerk who shall file it in the original case. At the same time, copies of that part of the report giving the appraisal of benefits in any county, shall be made, certified to and filed with the court clerk of such county. Provided, however, that in the case of appraisals of benefits in a district to a municipal corporation, institution and/or political subdivision as provided in Section 602 of this act, the appraisal record need contain only the name of the municipal corporation, institution and/or political subdivision with the amount of the benefits appraised to said municipal corporation, institution and/or political subdivision.

Laws 1923-24, c. 139, p. 178, § 30; Laws 1959, p. 377, § 5; Laws 1961, p. 627, § 12; Laws 1963, c. 271, § 7, emerg. eff. June 13, 1963.

§82-606. Notice of hearings on appraisals.

Upon the filing of the report of the appraisers, the clerk of the court shall give notice thereof, as provided in this act, in each county wherein appraisals of lands reflect benefits thereto. Said notice shall be in the name of the state, directed by name to every person returned by the appraisers as the owner of any lot or parcel of lands affected by the proposed improvement, or of any interest therein, and also generally to all other persons, without mentioning their names, who may own such land or any part thereof or may interest therein notifying them of the filing of the report of the appraisers and that on the day fixed in the notice the court will hear said report and any objections that may be filed thereto and any evidence that may be adduced concerning the same, and requiring the persons so informed, and each of them, on the day fixed for hearing, to appear before the court and show cause, if any they have, why said report should not be confirmed as made or as the court may amend the same, and the improvements and assessments made as therein described or as the report may be amended. Such notice shall contain in appropriate columns, a tabulated description which may be abbreviated as land descriptions usually are abbreviated, of every lot or parcel of land that will be benefited by the proposed improvements, and shall be published as herein provided, the last insertion to be before the day set for the hearing. Where lands in different counties are mentioned in said report, it shall not be necessary to publish a description of all lands in the district in each county, but only of that part of the said lands situate in the county in which publication is made. The day for the hearing on the report of the appraisers, so set, shall not be less than thirty (30) days nor more than sixty (60) days from the first publication of the notice.

Provided, that the court shall sit for hearing on appraisals under this section in each of the counties where the lands affected be situated.

If the appraisers have prepared an appraisal of damages at the direction of the court, said notice shall include the report of the board of appraisers of their estimates of damages, if any, to be sustained by each property owner as provided in Section 602(b) of this title.

Laws 1923-24, c. 139, p. 179, § 31; Laws 1961, p. 628, § 13; Laws 1963, c. 271, § 8; Laws 1967, c. 382, § 6, emerg. eff. May 23, 1967.

§82-607. Hearing on appraisals.

Any property owner may accept the appraisals in his favor of benefits, made by the appraisers, and shall be construed to have done so unless he shall before the date set for hearing in the notice by publication provided for in the preceding section, file exceptions to said report or to any appraisals of benefits. All exceptions shall be heard by the court, on the day set for hearing, or in case of necessity on order of the court, beginning not less than twenty (20) nor more than thirty (30) days after the date set for the hearing herein, and determined in advance of other business so as to carry out, liberally, the purposes and needs of the district. The court may, if it deems necessary, return the report to the Board of appraisers for their further consideration and amendment, and enter its order to that effect, and new notice shall be published as provided herein as to any changes made, but shall not be necessary as to the whole report. If, however, the appraisal roll as a whole is referred back to the appraisers, the court shall not resume the hearing thereon, but new notice shall be given. But, the court may, without losing jurisdiction over the roll, or without giving new notice, order the appraisers to recast the roll when the order of the court specified the precise character of the changes thereof.

The district, by its Board of directors and any property owner may accept the appraisals of damages and of the value of lands to be taken made by the appraisers by filing their written acceptance with the proper court clerk. And if within thirty (30) days both the district and the said owner or public or private corporation shall not have filed written acceptance as above, the district, through its Board of directors, shall bring condemnation proceedings to acquire the rights appraised as provided for by the condemnation laws of the state.

Laws 1923-24, c. 139, p. 180, § 32; Laws 1963, c. 271, § 9; Laws 1967, c. 382, § 11, emerg. eff. May 23, 1967.

§82-608. Decree on appraisals.

If it appears to the satisfaction of the court after having heard and determined all said exceptions that the estimated cost to the

conservancy district of constructing the improvement contemplated in the official plan is less than the benefits appraised, then the court shall approve and confirm said appraisers' report as so modified and amended, and such findings and appraisals shall be final and incontestable as to property within the district. In considering the appraisals made by the board of appraisers, the court shall take cognizance of the official plan and of the degree to which it is effective for the purposes of the district. In case the court shall find that the estimated benefits appraised are less than the total costs to the conservancy district of the execution of the official plan, exclusive of interest or deferred payments, or that the official plan is not suited to the requirements of the district, it may at its discretion return said official plan to the directors of the district with the order for them to prepare new or amended plans, or it may disorganize the district after having provided for the payment of all expenditures by assessment prorated as provided herein, in the meantime holding the report of the appraisers in abeyance until such official plan has been prepared and refiled with the court clerk.

Added by Laws 1923-24, c. 139, p. 180, § 33. Amended by Laws 1967, c. 382, § 12, emerg. eff. May 23, 1967.

§82-609. Appeal from award.

Any person, or public or private corporation desiring to appeal from an award as to compensation or damages or benefits, shall within thirty (30) days from the judgment of the court confirming the report of appraisers, file with the clerk of the court a written notice of appeal and proceed with his appeal as provided by law in civil cases, taking up only so much of the record as presents the error complained of.

Added by Laws 1923-24, c. 139, p. 181, § 34.

§82-610. Payment before entry.

No property shall be taken under this act until compensation fixed by appraisal, agreement, donation or condemnation has been paid, according to law.

Laws 1923-24, c. 139, p. 181, § 35.

§82-611. Filing decree.

Upon the entry of the order of the court approving the report of the appraisers as provided for in this act, the clerk of said court in which the same is entered shall transmit a certified copy of the said decree, and of the appraisals as confirmed by the court, except those parts from which appeals have been perfected but not determined to the secretary of the district.

When any appeal has been finally determined, the Clerk of the Supreme Court shall certify the amount of each item of the judgment

to the clerk of the court having the original case, who shall file the same therein and thereupon transmit certified copies of the same as in this section above provided.

Laws 1923-24, c. 139, p. 181, § 36.

§82-612. Change of official plan - Powers and duties of directors.

The board of directors may at any time, when necessary to fulfill the objects for which the district was created alter or add to the official plan, and when such alterations or additions are formally approved by the board and by the court, and are filed with the secretary, they shall become a part of the official plan, but they shall neither materially modify the general character of the work, nor materially increase resulting damages for which the board is not able to make amicable settlement, nor increase the cost more than ten per cent (10%), no action other than a resolution of the Board of directors shall be necessary for the approval of such alterations or additions. In case the proposed alterations or additions materially modify the resulting damages or materially reduce the benefits, for which the board is not able to make amicable settlement, or materially increase the benefits in such a manner as to require a new appraisal, or increase the cost more than ten per cent (10%), the court shall direct the board of appraisers (which may be the original board, or a new board appointed by the court on petition of the board of directors or otherwise) to appraise the property to be taken, benefited or damaged, by the proposed alterations or additions. Upon the completion of the report of the Board of appraisers, notice shall be given in the same manner as in the case of the original report of the board of appraisers, and the same right of appeal shall exist. Provided, that where few land owners are affected, if found to be more economical and convenient, personal notice of the pendency of the report of said appraisers shall be given instead of notice by publication; and provided, that if the only question at issue is additional damages or reduction of benefits to property, due to modifications or additions to the plans, the board of directors, may, if they find it practicable, make settlements with the owners of the property damaged instead of having appraisals made by the board of appraisers. In case such settlements are made, notice and hearing need not be had. After bonds have been sold, in order that their security may not be impaired, no reduction shall be made in the amount of benefits appraised against property in the district, but in lieu of such reduction in benefits, if any are made, the amount shall be paid to the party in cash. This provision shall apply to all changes in appraisals under this act.

Laws 1923-24, c. 139, p. 181, § 36.

§82-613. Appeal not to delay proceedings - Appeal by directors - Waiver by failure to appeal.

No appeal under this act shall be permitted to interrupt or delay any action or the prosecution of any work under this act.

The board of directors of any district organized under the terms of this act shall have the right to appeal from any order of the district court made in any proceeding under this act.

The failure to appeal from any order of the court after the court acquires jurisdiction of the district in any proceedings under this act within the time specified herein shall constitute a waiver of any irregularity in the proceedings, and the remedies provided for in this act shall exclude all other remedies except as herein provided. Any person having been awarded damages under the provisions of this act may demand and receive the amount awarded to him, as damages without prejudice to his right of appeal from said award.

Laws 1923-24, c. 139, p. 182, § 38.

§82-614. Lands exempt and later liable to assessment.

If any lands in any district organized under this act on which benefits have been appraised and confirmed, are not liable for assessment at the time of the execution of the work, but afterwards during the period when such work is being paid for, become liable to taxation or assessment by reason of some change in condition or ownership, such lands shall thereupon be assessed as other lands in said district receiving equal benefits. Providing that lands owned by Indians, by the State of Oklahoma, or any political subdivision, or any school district, shall be assessable under this act; provided, however, districts established under this act are authorized to enter into contracts providing for payment in lieu of assessments on any such lands. Any assessments made on lands previously exempt shall not be retroactive or cumulative, and such lands shall be assessed, proportionate to the benefits appraised thereon, for the remaining time required for payment of the cost of such work.

Laws 1923-24, c. 139, p. 182, § 39; Laws 1967, c. 382, § 7, emerg. eff. May 23, 1967.

§82-615. Subsequent appraisals - Procedure.

In case any real property within or without any district is benefited which for any reason was not appraised in the original proceedings, or was not appraised to the extent of benefits received, or in case any individual, corporation, municipality, political subdivision or other district shall make use of or profit by the works of any district organized under the act to a degree not compensated for in the original appraisals or in case the directors of the district find it necessary, subsequent to the time when the first appraisals are made to take or damage any additional property within the district, the directors of said district, at any time such conditions become evident shall direct the board of appraisers to appraise the benefits or the enhanced benefits received by such

property, including future benefits and future enhanced benefits thereto, or such damages or value of property taken, and the proceedings outlined in this act for appraising lands not at first included within the boundaries of the district, shall in all matters be conformed with, including notice to the party or parties, and as to lands or property without the district, the board of directors shall proceed under the condemnation laws of the State of Oklahoma, or the board may, at its discretion, make any suitable settlement with such individual, other district, corporation, county or municipality for such use, benefit, damage or property taken. Laws 1923-24, c. 139, p. 182, § 40; Laws 1967, c. 382, § 8, emerg. eff. May 23, 1967.

§82-616. Defects and irregularities, how cured.

No fault in petition or any notice or other proceedings shall affect the validity of any proceedings under this act, except to the extent to which it can be shown that such fault resulted in a material denial of justice to the property owner complaining of such fault, and except as to matters concerning the acquirement of original jurisdiction of the district.

In case it is found upon a hearing that by reason of some irregularity or defect in the proceedings the appraisal has not been properly made, the court may nevertheless on having proof that expense has been incurred which is a proper charge against the property of the complainant render a finding as to the amount of benefits to said property, and appraise the proper benefits accordingly, and thereupon said land shall be assessed as other land equally benefited, if original jurisdiction has been acquired and an appeal shall be allowed as is provided in the case of the original appraisement. In the event that at any time either before or after the issuance of bonds pursuant to the provisions of this act, the appraisals of benefits, either as a whole or in part, be declared by any court of competent jurisdiction to be invalid by reason of any defect or irregularity in the proceedings therefor, whether jurisdictional or otherwise, the said district court is hereby authorized and directed on the application of the board of directors of said district or on the application of any holder of any bonds which may have been issued pursuant thereto, properly and without delay to remedy all defects or irregularities as the case may require, by directing and causing to be made in the manner hereinbefore provided, a new appraisal of the amount of benefits against the whole or any part of the lands in the said district as the case may require.

Laws 1923-24, c. 139, p. 183, § 41.

§82-630. Funds, how carried - Vouchers.

A. The monies of every conservancy district organized pursuant to this act shall be administered through the following funds:

1. A preliminary fund, by which is meant the funds borrowed in accordance with Section 632 of this title, which shall be used for the payment of expenses incurred for the purposes for which the funds may be borrowed;

2. An improvement fund, by which is meant the proceeds of levies made against the special assessments of benefits equalized and confirmed under the provisions of this act which have not been pledged for the retirement of bonds, notes, warrants or agreements or the payment of interest thereon and the proceeds of all bonds, notes or warrants issued, which shall be used for defraying expenditures incurred in the execution of the official plan and the relocation of utilities, acquisition or construction of properties, works, and improvements of the district including the cost of preparing the official plan and the appraisal, except as paid out of the preliminary funds, the entire cost of construction and superintendence, with all charges incidental thereto, and the cost of administration during the period of construction and may also be used for defraying preliminary expenses in accordance with Section 632 of this title;

3. A bond fund, by which is meant the proceeds of levies made against the special assessment of benefits equalized and confirmed under the provisions of this act which has been anticipated in the issuance of bonds, notes or warrants together with all other receipts pledged for the retirement of bonds, notes or warrants or the payment of interest thereon, which shall be used only for such purposes; and

4. A maintenance fund, which is a special assessment to be levied annually for the purpose of upkeep, administration and current expenses as hereinafter provided.

B. Any surplus monies in any fund of a conservancy district may be transferred to any other fund by the board, but no transfer shall be made from the bond fund prior to the final maturity of the bonds, notes or warrants payable therefrom, and no transfer shall thereafter be made which would reduce the balance in the fund below the amount required for the payment of all obligations outstanding against the fund.

C. No vouchers shall be drawn against the maintenance fund of a conservancy district until assessments have been levied as provided by this act. No bonds shall be issued against the bond fund until an assessment-levying resolution shall have been properly passed by the board of directors and duly entered upon its records, and not until the property owners shall have been given an opportunity for a period of not less than thirty (30) days to pay the assessments so levied against their respective properties.

Added by Laws 1923-24, c. 139, p. 183, § 42. Amended by Laws 1959, p. 377, § 6; Laws 1963, c. 271, § 10, emerg. eff. June 13, 1963; Laws 2010, c. 175, § 4, emerg. eff. April 26, 2010.

§82-631. Abandonment of project - Sale of lands and property.

In case any such project, or any part thereof, be abandoned as a flood control project, or in the event any land and property acquired by purchase or condemnation in fee simple shall no longer be necessary for the purposes of the district, the same shall not revert to the former owner or owners or their subsequent grantees of the property but shall be sold at public sale to the highest bidder by the board of directors subject to confirmation by the court, with the proceeds to be paid into the improvement fund created by Section 630 of this title; provided, however, members of the board of directors and agents, servants and employees of the district shall have no right to acquire such lands. The former owner shall be given thirty days (30) notice by certified or registered mail of the sale, and of his right within ten (10) days after the sale to file an election with the court to buy the land at the highest bid price. If the address of such owner is unknown then said notice shall be given by publication for two (2) consecutive weeks in a newspaper of general circulation in the county in which the land is located. Such former owner shall have ten (10) days after such sale to file an election to take such land at the highest bid price; and unless such election is filed within said ten-day period, such rights shall expire and the court shall confirm the sale free of such right. Such preference right and the requirement that a public sale be held shall not apply if the sale is made to any agency, department or instrumentality of the State of Oklahoma; and a district may sell, transfer or assign property of the district, subject to confirmation of the court, to the State of Oklahoma or any agency department or instrumentality thereof by resolution of the board of directors of said district.

Where lands or interests therein are acquired by the district and not utilized for the purposes for which it was acquired, or which have been utilized but such utilization has ceased, then, after ten (10) years from the date of acquisition, or ten (10) years from the date utilization ceased, as the case may be, such land must be sold at public auction to the highest bidder; and mandamus by any interested party will lie to require such sale.

Laws 1923-24, c. 139, p. 184, § 43; Laws 1963, c. 271, § 11, emerg. eff. June 13, 1963.

§82-632. Preliminary work, loans for.

In order to facilitate the preliminary work, which shall include, but not be limited to, the preparation of the official plan, the appraisals and the cost of administration incidental thereto, the board, by resolution, may borrow money at a rate of interest not

exceeding six percent (6%), per annum, evidenced by interim bonds or notes of the district payable not later than five (5) years from the date thereof, which resolution shall provide for the levy and collection of an assessment against all property included in the district for the payment of the principal and interest on maturity. Provided, the total amount of money so borrowed with interest shall not exceed twenty-five cents (\$0.25) per acre of all lands embraced in the project, and any such interim bonds or notes issued in excess thereof shall be void, but such board shall not issue interim bonds or notes to borrow money as provided above, until such board has been authorized by the court having jurisdiction of such district, after a public hearing, to issue such interim bonds or notes. Notice by publication, setting forth the purpose, time and place of said hearing shall be given by the Clerk of such court. Upon said hearing if it appears that it is necessary to fulfill the purposes of such district to borrow money as set forth in the application to the court, the court shall enter an order to such effect. If said interim bonds or notes shall not have been paid, or refunded by the issuance of bonds or notes for completion of the project prior to the time for the levy and collection of the assessment for payment of the principal and interest thereof, such an assessment shall be levied and collected to pay said principal and interest as hereinabove in this title provided.

Added by Laws 1923-24, c. 139, p. 184, § 44. Amended by Laws 1959, p. 378, § 7; Laws 1963, c. 271, § 12, emerg. eff. June 13, 1963.

§82-634. Levy of assessments.

After the list of real property, with the appraised benefits as approved by the court, or that part thereof from which no appeal is pending has been filed with the secretary of the district, then from time to time, as the affairs of the district demand it, the board of directors shall levy on all real or other property upon which benefits have been appraised, an assessment of such portion of said benefits as may be found necessary by said board to pay the cost of the execution of the official plan including superintendence of construction and administration, plus ten percent (10%) of said total, to be added for contingencies, but not to exceed, in the total of principal, the appraised benefits so adjudicated. The said assessment shall be apportioned to and levied on each tract of land or other property in said district in proportion to the benefits appraised, and not in excess thereof and in case bonds are issued as provided herein and hereafter, then the amount of interest, which will accrue on such bonds, as estimated by said board of directors, shall be included in and added to the said assessment, but the interest to accrue on account of the issuing of said bonds shall not be construed as a part of the cost of construction in determining whether or not the expenses and costs of making said improvements are

or are not equal to or in excess of the benefits appraised. As soon as said assessment is levied, the board shall report it to the court for confirmation. Upon the entry of the order of the court confirming the assessment the clerk of the court shall transmit a certified copy of said order to the governing or taxing body of each political subdivision assessed and said governing or taxing body shall receive and file the same. After the court has confirmed the assessment, the secretary of the board of directors, at the expense of the district, shall prepare in duplicate an assessment record of the district.

Laws 1923-24, c. 139, p. 184, § 45; Laws 1959, p. 378, § 9.

§82-635. Owners may pay assessments in full - Bonding resolution for unpaid assessments.

When the assessment roll is placed on file in the office of the district, notice by publication shall be given to property owners that they may pay their assessments. Any owner of real property assessed for the execution of the official plan under the provision of this act shall have the privilege of paying such assessment to the treasurer of the board of directors within thirty (30) days from the time such assessment is placed on file in the office of the district, and the amount to be paid shall be the full amount of the assessment less any amount added thereto to meet interest. When such assessment has been paid, the secretary of the board shall enter upon the said assessment record opposite each tract for which payment is made the words "paid in full" and such assessment shall be deemed satisfied. The payment of such assessment shall not relieve the land owners from the necessity for the payment of a maintenance assessment nor for the payment of any further assessment which may be necessary as herein provided. Any property owner failing to pay assessments in full as provided for herein shall be deemed to have consented to the issuance of bonds as provided for in this act, and to payment of interest thereon.

After the expiration of the period of thirty (30) days within which the property owners may pay their respective assessments, as limited herein, the treasurer of the district shall certify to the board of directors the aggregate of the amount so paid, and thereupon the board of directors shall pass and spread upon their records a bonding resolution in which shall be stated the amount of the assessment, and the amount thereof paid as aforesaid, and thereupon the board shall in the same resolution apportion the uncollected assessment into installments or levies, provide for the collection of interest upon the unpaid installments, and they may order the issuance of bonds (in an amount not exceeding ninety percent (90%) of the levy) in anticipation of the collection of said installments. The residue of the special assessment so levied (not less than ten percent (10%)) shall constitute a contingent account to protect the

bonds from casual default, and any part thereof in excess of the ten percent (10%) of the next installment of maturing bond principal, together with the next two installments of semiannual interest, if not needed for this purpose, may be transferred from time to time to the maintenance fund of the district.

Laws 1923-24, c. 139, p. 185, § 46.

§82-636. Bonds - Issuance - Election - Sale of bonds.

The board of directors may, if in their judgment it seems best, issue bonds not to exceed ninety percent (90%) of the total amount of the assessment exclusive of interest, levied under the provisions of this act, in denomination of not less than One Hundred Dollars (\$100.00) bearing interest from date at a rate not to exceed eight and one-half percent (8 1/2%), per year, payable semiannually, to mature at annual intervals within thirty (30) years, commencing not later than five (5) years, to be determined by the board of directors, both principal and interest payable at such place as may be designated by the board, but such board of directors shall not issue any such bonds until a special election shall have been called and held throughout the territory comprising said improvement district and said election shall be held under the laws of this state, and it shall be necessary that sixty percent (60%) of the owners of property in said district assessed for the execution of the official plan, voting in said election, shall vote in favor of issuing said bonds. Said bonds shall be signed by the president of the board of directors, attested with the seal of said district and by the signature of the secretary of said board, and shall be approved as to proceedings by the Attorney General as ex officio bond commissioner and registered by the State Treasurer. Facsimile signatures may be used as provided in the Registered Public Obligations Act of Oklahoma. In case any of the officers whose signatures, counter signatures or certificates appearing upon bonds or coupons issued pursuant to this act, shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures, or counter signatures and certificates shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of the bonds. All of said bonds shall be executed and delivered to the State Treasurer for said district and if said district shall comprise all or part of two or more counties and if said district is elected entirely within one county said bond shall be delivered to the county treasurer of said county, and the board or appointed agent shall sell the same in such quantities and at such dates as the board of directors may deem necessary to meet the payments for the works and improvements of the district. They shall show on their face the purpose for which they are issued and shall be payable out of the money derived from the conservancy bond fund. A sufficient amount of the assessment shall

be appropriated by the board of directors for the purpose of paying the principal and interest of bonds and the same shall, when collected, be set apart in a separate fund for that purpose based on an equal percentage of increase of all assessments therefor made, such percentage increase to be approved by the district court having jurisdiction, and no other. All bonds and coupons not paid at maturity shall bear interest at the rate of eight and one-half percent (8 1/2%), per year, from maturity until paid or until sufficient funds have been deposited at the place of payment. Any expenses incurred in paying said bonds and interest thereon and reasonable compensation for the fiscal agent for registering and paying same, shall be paid out of the other funds in the hands of the district treasurer and collected for the purpose of meeting the expenses of the administration. It shall be the duty of said board of directors in making the annual assessment levy, as heretofore provided, to take into account the maturing bonds and interest on all bonds, and to make ample provisions in advance for the payment thereof. In case the proceeds of the original special assessment made under the provisions of this act are not sufficient to pay the principal and interest of all bonds issued, then the board of directors shall make such additional levy or levies as are necessary for this purpose, and under no circumstances shall any assessment levies be made that will in any manner or to any extent impair the security of the principal and interest of the same. For such deposits the district shall receive not less than three percent (3%), per year, on daily balances. The funds derived from the sale of said bonds or any of them shall be used for the purpose of paying the cost of the works and improvements and such costs, expenses, fees and salaries as may be authorized by law and shall be used for no other purpose.

If at any time after the bonds are ready to be issued, the board shall be of the opinion that such bonds cannot advantageously be issued and sold in whole or in part, the said board may sell parts only of the entire issue. No bonds issued by any conservancy district shall be sold for less than par, and accrued interest to date, and any member of the board of directors or other official of the conservancy district, who shall participate in the sale of said bonds for less than provided above, shall be liable on his official bond for twice the value of the amount lost to the district, by the sale at the suit of the district or any person interested therein.

The district may secure the payment of loans from the United States government in the same manner as it may secure the payment of bonds, and the board of directors may make any necessary regulations to provide for such payment.

A party who has not sought a remedy against any proceeding under this act until after the bonds or any part thereof have been sold or the work or any part thereof constructed, cannot for any cause have

an injunction against the collection of special assessments for the payment of said bonds except as to original jurisdiction.

The bonds shall have all the qualities of negotiable paper under the negotiable instrument law of the state, and when executed, sealed, approved and registered in the office of the State Treasurer in conformity with the provisions of this act, and when sold in the manner prescribed herein and the consideration therefor received by the district, shall be incontestable after thirty (30) days from approval by the Attorney General, ex officio bond commissioner. No proceedings in respect to the issuance of such bonds shall be necessary except such as are required by this act. Whenever the owners of any coupon bond issued pursuant to the provisions of this act shall present such bond to the treasurer or appointed agent of the district with a request for the conversion of such bond into a registered bond, the said treasurer or appointed agent shall cut off and cancel the coupons of any such coupon bond so presented and shall stamp, print or write either upon the back or the face of such bonds, as may be convenient, a statement to the effect that the said bond is registered in the name of the new owner and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter and from time to time, such bonds may be transferred by such registered owner in person or by attorney duly authorized on presentation of such bond to the treasurer of the district and the bond again registered as before, a similar statement being stamped, printed or written thereon, such statement stamped, printed or written upon any such bond may be substantially in the following form:

(Date, giving month, year and day)

This bond is registered pursuant to the statutes in such case made and provided, in the name of (here insert name and address of owner) and the interest and principal thereof and hereafter is payable to such owner.

Treasurer Conservancy District.

If any bond shall be registered as aforesaid, the principal and interest of such bond shall be payable to the registered owner. The treasurer or appointed agent of the district shall enter in a register of bonds to be kept by him or in a separate book, the fact of the registration of such bond and the name and address of the registered owner thereof, so that said register or books shall at all times show what bonds are registered and the name and address of the registered owner thereof.

Amended by Laws 1983, c. 170, § 60, eff. July 1, 1983. Amended by Laws 1983, c. 170, § 60, eff. July 1, 1983.

§82-636.1. Authority to contract indebtedness.

The board of directors of any Conservancy District or Master Conservancy District, notwithstanding any other provision of the

Conservancy Act of Oklahoma, and in addition to all other powers conferred by law, may borrow money and otherwise contract indebtedness for the purposes set forth in the Conservancy Act of Oklahoma, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and, in connection with such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to issue its bonds, notes or obligations therefor, and to secure the payment thereof by mortgage, pledge or deed of trust on all or any property, assets, franchises, rights, privileges, licenses, rights-of-way, easements, revenues, or income of the District. The bonds, notes or obligations issued pursuant to this section shall not be secured or retired by any assessment of real property located within the District nor shall they be deemed a general obligation of the State of Oklahoma, any municipality or the District.

Added by Laws 1995, c. 112, § 7, emerg. eff. April 21, 1995.

§82-637. Maintenance assessment - Apportionment - To be additional tax.

To maintain, operate and preserve the reservoirs, ditches, drains, dams, levees, canals or other improvements made pursuant to this act and to strengthen, repair and restore the same, when needed, and for the purpose of defraying the current expenses of the district, the board of directors may upon the substantial completion of said improvements and on or before the first day of October in each year thereafter, levy an assessment upon each tract or parcel of land and other property, upon corporate property, within the district subject to assessments under this act, to be known as a "Conservancy Maintenance Assessment". Said maintenance assessment shall be apportioned upon the basis of the total appraisal of benefits accruing for the original and subsequent construction, shall not exceed one percent (1%) thereof in any one year unless the court shall by its order find a necessity exists and authorize an assessment of a larger percentage, and shall be certified in duplicate to the county clerk of each county in which lands of said district are situated, said maintenance assessment shall be entered in the same book as general assessments but in a separate column, or in a separate book kept for the purpose of maintenance assessments and if in a separate book, it shall be entered in like manner and at the same time as the annual installment special assessment is entered. Said county clerk shall certify the same to the treasurer of the county at the same time that he certified the annual installment of the bond fund, and make return thereof and shall be liable for the same penalties for failure or neglect so to do, as may be provided herein for the annual installment of the assessment. The

amount of the maintenance tax paid by any parcel of land shall not be credited against the benefits assessed against such parcel of land; but the maintenance special assessment shall be in addition to any special assessment that has been or can be levied against the benefit appraisal.

Added by Laws 1923-24, c. 139, p. 189, § 48. Amended by Laws 1967, c. 382, § 13.

§82-638. Petition for readjustment of maintenance assessment - Notice and hearing.

Whenever the owners, or representatives of twenty-five percent (25%) or more of the acreage or value of the lands in the district shall file a petition with the court clerk in whose office the petition was filed, stating that there has been a material change in the value of the property in the district since the last previous appraisal of benefits, and praying for a readjustment of the appraisal of benefits for the purpose of making equitable basis for the levy of the maintenance assessment, the said clerk shall give notice of the filing and hearing of said petition in the manner hereinbefore provided.

Upon hearing said petition if said court shall find there has been a material change in the value of property in said district since the last previous appraisal of benefits, the court shall order that there be a readjustment of the appraisal benefits for the purpose of providing a basis upon which to levy the maintenance assessment of said district. Thereupon the court shall direct the appraisers of the conservancy district to make such readjustment of appraisal in the manner provided in this act, and said appraisers shall make their report; and the same proceedings shall be had thereon, as nearly as may be, as are herein provided for the appraisal of benefits accruing for original construction. Provided, that in making the readjustment of the appraisal of benefits said appraisals shall not be limited to the aggregate amount of the original or any previous appraisal benefits, and that after the making of such readjustment of limitations of such annual maintenance assessment to one percent (1%) of the total appraised benefits shall apply to the amount of the benefits as readjusted; and provided, further, that there shall be no such readjustment of benefits oftener than once in ten (10) years.

Laws 1923-24, c. 139, p. 189, § 49.

§82-639. Annual levy of special assessment - Special assessment book.

The board of directors shall each year thereafter determine, order and levy the part of the local assessment levied under this act, which shall become due and collectable during each year at the same time the state and county taxes are due and collected, which

annual levy shall be evidenced and certified by said board not later than October first of each year to the county clerk of each county in which the real or other property affected by said district is situated. The certificate of said annual levy shall be substantially as in the schedule herein.

They shall follow a table or schedule showing in properly ruled columns: 1. The name of the owners of said property, which may be as they appear in the decree of the court confirming appraisals, including the name of a city, county, town or township. 2. The description of the property opposite the names of the said owners. 3. The total amount of the said annual installment of all assessments on such piece of property for the account of the funds. 4. A blank column in which the county treasurer shall record the several amounts as collected by him. 5. A blank column in which the clerk shall record the date of payment of the different sums. 6. A blank column in which the county treasurer shall report the names of the person or persons paying the several amounts.

The said certificates and report shall be prepared in triplicate in a well-bound book which shall be endorsed and named "Conservancy Assessment Book of District County, Oklahoma", which endorsement shall also be printed at the top of each page in said book.

Two copies of that part of such triplicate affecting lands in any county shall be forwarded to the county clerk of such county, one for his use and one for the county treasurer, to whom the clerk shall certify one copy. It shall be the duty of the county clerk of each county to receive the same as a special assessment book, and to certify the same as other special assessment records to the county treasurer of his county, whose duty it shall be to collect the same according to law. And such special assessment book shall be the treasurer's warrant and authority to demand and receive the assessment due in his county as found in the same, and it shall be unlawful for any such county treasurer to accept payment of the general taxes levied against any tract, parcel, piece of land or property described in such conservancy assessment book, until the owner has been notified by him that there is a special assessment noted in the conservancy book against such tract of land or other property.

Laws 1923-24, c. 139, p. 190, § 50; Laws 1967, c. 382, § 14, emerg. eff. May 23, 1967.

§82-640. Collection of assessments - Duties of county officers - Delinquents.

The county treasurer of each county in which lands of the district lie, shall make daily report to the county clerk of the county of the sums collected by him, and it shall be the duty of the county clerk on the first day of each month to issue his warrant

payable to the treasurer of the district for all sums in the hands of the treasurer of the county, according to his report as aforesaid. Said county clerk shall, as soon as the county treasurer's books report the collections through October 31st, each year, make a report to the treasurer of said district of the sums collected and of the assessments not collected as returned to him by the treasurer of the county.

All assessments or taxes provided for in this act, remaining unpaid after they become due and collectable shall be delinquent and bear a penalty of one per cent (1%) per month from the date of delinquency until paid, and be enforceable by tax sale as a part of the ad valorem tax charge each year.

Laws 1923-24, c. 139, p. 191, § 51; Laws 1967, c. 382, § 9, emerg. eff. May 23, 1967.

§82-641. Bond of county treasurer.

Before receiving the aforesaid "Assessment Book" the treasurer of each county in which lands or other property of the district are located, shall execute to the board of directors of the district a bond with at least two good and sufficient sureties or a surety company, and which shall be paid for by the district in a sum not less than the probable amount of any annual levy of said assessment to be collected by him during any one (1) year, on condition that said treasurer shall pay over and account for all assessments so collected by him according to law. Said bond after approval by said board of directors shall be deposited with the secretary of the board of directors who shall produce same for inspection and use as evidence whenever and wherever lawfully requested so to do.

Laws 1923-24, c. 139, p. 191, § 52.

§82-642. Lien of assessments - Correcting irregular assessments - Deeds.

All conservancy assessments as provided for in this title, together with all costs in collecting the same, remaining unpaid after they become due and collectable, shall constitute a lien on the specific properties against which the said assessments have been levied, said lien to be coequal with the lien of ad valorem taxes and all other taxes and all special assessments and shall be prior and superior to all other liens upon all the lands and other property against which such assessments shall be levied as is provided in this title. Such assessments shall be collected in each county by the county treasurer of each county as and at the time ad valorem taxes are collected, and any tax sale shall include all charges, and such lien may be evidenced by any ad valorem tax sale certificate including said charge substantially in the form required by law.

If any assessment made pursuant to the provisions of this title shall prove invalid, the board of directors shall subsequently amend

all acts or proceedings promptly, and without delay remedy all defects or irregularities as the case may require by making and providing for the collection of new assessments or otherwise.

Unless expressly declared to the contrary, no warranty deed or other deed made pursuant to a judicial sale shall warrant against any portion of any assessment or assessments levied hereunder except installments due before the date of such deed.

Added by Laws 1923-24, c. 139, p. 191, § 53. Amended by Laws 1961, p. 629, § 15; Laws 1963, c. 271, § 13; Laws 1967, c. 382, § 15; Laws 1970, c. 328, § 3, emerg. eff. April 28, 1970.

§82-643. Assessment book to be prima facie evidence.

The "Delinquent Conservancy Book" of the district court shall be prima facie evidence in all courts of all matters therein contained. Added by Laws 1923-24, c. 139, p. 192, § 54.

§82-644. Duties of municipal officers as to assessments against municipality - Dissolution of district - Rights of bond holders.

Whenever assessments are made against a county, city, town or township, it shall be the duty of the governing or taxing body of said political subdivision, upon receipt of the order of the court which established the district, confirming the appraisal of benefits and assessments based thereon, to receive and file the said order, and to immediately take all the legal and necessary steps to collect the same. It shall be the duty of the said governing or taxing body or persons to levy and assess a tax by a uniform rate in addition to all other taxes authorized, or limitations fixed, upon all the taxable property within the political subdivision, to make out the proper estimate, and fix the proper rate, and certify the same to the county clerk and county treasurer of the county in which such subdivision is, whose duty it shall be to receive same, certify the same for collection to the treasurer of the county as other ad valorem taxes, and his duty it shall be to collect the same for the benefit of the conservancy district, all of said officers above named being authorized and directed to take all the necessary steps for the levying, collection and distribution of such tax.

Nothing in this section shall prevent the assessment of the real estate or other property of corporations or persons situated within such political subdivision, which may be subject to assessment for special benefits to be received.

In the event of any dissolution or disincorporation of any conservancy district organized pursuant to the provisions of this act, such dissolution or disincorporation shall not affect the lien of any assessment for benefits imposed pursuant to the provisions of this act, or the liability of any land or lands in such district to the levy of any future assessments for the purpose of paying the principal and interest of any bonds issued hereunder, and that in

event of any failure on the part of the officers of any district to qualify and act or in the event of any resignations or vacancies in office, which shall prevent action by the said district or by its proper officers, it shall be the duty of the county clerk and of all officers charged in any manner with the duties of assessing, levying and collecting for public purposes in any county, municipality, political subdivision in which such lands shall be situated to do and perform all acts which may be necessary and requisite to the collection of any such assessment which may have been imposed and to the levying, imposing and collecting of any assessment which it may be necessary to make for the purpose of paying the principal and interest on said bond.

Any holder of any bonds issued pursuant to the provisions of this act or any person or officers being a party in interest may either at law or in equity by suit, action or mandamus, enforce and compel performance of the duties required by this act of any of the officers or persons mentioned in this act.

Laws 1923-24, c. 139, p. 192, § 55.

§82-645. Use of surplus funds.

Any surplus funds in the treasury of the district may be used for retiring bonds, reducing loans or obligations, reducing the rate of assessments or for the accomplishing of any other of the legitimate objects of this district.

Added by Laws 1923-24, c. 139, p. 193, § 56. Amended by Laws 1967, c. 382, § 16, emerg. eff. May 23, 1967.

§82-646. Compensation of officials.

Each member of the board of directors and each appraiser shall receive compensation allowed by the court and his necessary expenses for the time actually employed in performing his duties. Before any duties devolve upon a county clerk or county treasurer under this act the board of directors of the district shall consult them and agree upon the salaries for the extra clerical force, if any, required in their respective offices to carry out the requirements of the law by reason of the establishment of said district, and the said board of directors shall provide for and pay said salaries to said clerk or clerks, while engaged on the work of the district, which clerk shall be selected and appointed by each of said county officers for their respective offices. In case of disagreement as to the compensation of such extra clerical force, the matter shall be referred to the court for its determination.

Added by Laws 1923-24, c. 139, p. 193, § 57. Amended by Laws 1967, c. 382, § 17.

§82-647. Borrowing of money - Approval.

Conservancy districts may borrow money in any amount, which, exclusive of interest, does not exceed the assessments then levied but not collected, for any purpose incident to its powers and functions and for any purpose provided by law, and may evidence such debt by contract, agreement, notes or warrants payable within any term not to exceed forty (40) years, and to bear interest at not to exceed the market prime rate per year, provided that the interest rate not exceed twelve and one-half percent (12 1/2%) per year. To secure such loan or loans, the directors may pledge any assessment then levied but not collected by the district and may agree to such other terms and conditions, not incompatible with the provisions of this title. Before any such loan is entered into by the district, the board of directors shall make application to the district court having jurisdiction of said district for approval of such loan. The application shall set forth, the amount of the loan, the interest rate, the purpose for which the loan is needed and a plan of repayment. The application shall be set for hearing by the court and notice by publication given to all owners of land upon which assessment has been made by the district, without naming such owners individually. Upon said hearing, if the owners of land in the district upon which a majority of assessment has been made have not filed written protests before the date of the hearing, and if the court finds that such loan is necessary and in the best interests of the district, the court shall approve the application. Amended by Laws 1987, c. 208, § 33, operative July 1, 1987; Laws 1987, c. 236, § 62, emerg. eff. July 20, 1987.

§82-648. Necessity and amount of assessments in master conservancy districts.

The board of directors of any master conservancy district formed under the provisions of this act may determine, by resolution, the necessity and amount of assessments and the respective portions thereof to be paid by the component areas of said district, based upon the relative benefits anticipated for said component areas, and may be adjusted by said board, from time to time, as necessary to insure equitable allocation thereof. Funds secured in the manner herein provided shall be used to defray the expenses of initial organization, conducting project studies, investigations and payment of other expenses necessary to accomplish the objectives and purposes of the district. Such component areas through their governing bodies are hereby authorized to make the necessary contributions for defraying the expenses set forth above. Added by Laws 1961, p. 629, § 14.

§82-649. Designation of fiscal year - Reports - Accounting.

The board of directors shall designate the fiscal year for the district, which fiscal year shall not be changed except with approval of the district court.

Annually, or more often if the court shall order, and within thirty (30) days of the ending of the fiscal year, the board of directors shall make and file with the clerk of the court having jurisdiction of the district, a report of its proceedings and an accounting of the receipts and disbursements for such fiscal year, using forms approved by the State Auditor and Inspector. Any interested person may object to such report, in writing, within sixty (60) days of the ending of the fiscal year. When objections are filed, the Court may order the auditing of district accounts and may order a hearing on such objections, and after giving such notice as the court may direct.

Laws 1967, c. 382, § 20, emerg. eff. May 23, 1967; Laws 1979, c. 30, § 158, emerg. eff. April 6, 1979.

§82-661. Lands in more than one district.

The same land, if conducive to public health, safety, convenience or welfare, may be included in more than one district and be subject to the provisions of this act for each and every district in which it may be included, provided, that no district shall be organized under this act, in whole or in part, within the territory of a district already organized under this act until the court or courts determine whether the public health, safety, convenience or welfare demand the organization of an additional district, or whether it demand that the territory proposed to be organized into an additional district shall be added to the existing district, and in case the proceedings concerning two or more such districts are before the district court of two or more counties, such determination shall be as provided in the next section.

Laws 1923-24, c. 139, p. 193, § 58.

§82-662. Jurisdiction of courts as to districts being organized in same territory.

In case any district or districts are being organized within or partly within and partly without, the same territory in which some other district or districts have been or are being organized, then one district judge of each judicial district in which said conservancy districts have been or are being organized shall confer at the earliest convenient moment after they ascertain the possibility of a conflict in jurisdiction, the sitting to be had in the county having the largest assessed valuation in the proposed district or districts.

At such conference the several judges shall determine to what extent the several districts should be consolidated or to what extent the boundaries should be adjusted in order to most fully carry out

the purposes of this act, and they shall by suitable orders make such determination effective. In the event notices have been issued or jurisdiction acquired in any proceedings concerning territory which is transferred to the district court of another county, such notice shall not become void and jurisdiction so acquired shall not be lost, but in each case the court acquiring jurisdiction over such transferred territory shall hold the same without further notice, as if originally embraced in said district.

At such conferences the decision of the majority of the judges shall be necessary for the determination of any matter, and from such decision or from a failure to decide, appeal may be taken.

The provisions of this and the preceding section shall not operate to delay or to interrupt any proceedings under this act until the question of jurisdiction has been fully determined by the court or courts.

Laws 1923-24, c. 139, p. 193, § 59.

§82-663. Union of districts - Petition - Notice - Order.

In case two or more districts have been organized under this act in a territory which, in the opinion of the directors of either of the districts, should constitute but one district, the board of directors of any one of the districts may petition the court uniting said districts into a single district. Said petition shall be filed in the office of the court clerk of that county which has the greatest valuations of real property, within the districts sought to be included, as shown by the tax duplicates of the respective counties. Said petition shall set forth the necessity for such union of the two or more districts and that the union of said districts would be conducive to the public health, convenience, safety or welfare, and to the economical execution of the purpose for which the districts were organized. Upon receipt of said petition the court clerk shall give notice by publication or by personal service, to the board of directors of the district or districts which it is desired to unite with the district of the petitioners. Such notice shall contain the time and place where the hearing on the petition will be had and the purpose of the same. Such hearing shall be had in accordance with the provisions of this act in original hearing. After the hearing, should the court find that the averments of the petition are true and that the said districts, or any of them, should be united it shall so order, and thereafter proceed as such. The court shall designate the corporate name of such, as provided for in this act. The court shall direct in such order who shall be the directors of such united district who shall thereafter have powers and be subject to such regulations as are provided for directors in districts created in the first instance. All legal proceedings already instituted by or against any of such constituent districts may be revived and continued against such united districts by an

order of court substituting the name of such united district for such constituent district and such proceedings shall then proceed as herein provided.

Instead of organizing a new district from such constituent districts the court may, in its discretion, direct that one or more of such districts described in the petition be included into another of said districts, which order shall continue under its original corporate name and organization, or it may direct that the district or districts so absorbed shall be represented on the board of directors of the original district, designating what members of the board of directors of the original district shall be retired from the new board and what members take their places; or it may direct that the included districts or districts shall become subdistricts of the main district. In case the districts sought to be united were organized in different judicial districts, then the court, to determine the question involved, shall consist of one judge from each of the judicial districts and a majority shall be necessary to render a decision. From such a decision, or from a failure to decide, any interested property owner may appeal, as herein provided. No action under the provisions of this section shall operate to interrupt or delay any proceeding under this Act until the questions involved are finally determined.

Laws 1923-24, c. 139, p. 194, § 60.

§82-663.1. Union or conversion of drainage districts.

The provisions of Title 82 Oklahoma Statutes, Section 663, relating to the union of conservancy districts shall apply equally to drainage districts organized under the provisions of Title 82 Oklahoma Statutes. Any drainage district so organized may unite with a conservancy district under those provisions, or any drainage district may become a conservancy district and henceforth be under and governed by the provisions of Title 82 Oklahoma Statutes, Sections 531-687 by following those provisions.

Said petition to unite or convert the form of organization and government need contain no other allegations than that the governing board or boards desire to accept the provisions of this act.

Laws 1955, p. 471, § 1.

§82-663.2. Order for union or conversion of drainage district - Rights, remedies, and obligations.

If such union or reorganization is ordered by the court, the order shall set out the fact that all pending litigation and claims, and outstanding bonds, refunding bonds, warrants, assessments, and obligations shall continue in their status quo, and that all rights, remedies, and obligations are preserved as under the former organization. Such order shall set the effective date of such change, and on such date all funds, levies, taxes, and assessments

shall become operative under the newly formed or organized conservancy district.

Laws 1955, p. 471, § 2.

§82-664. Remedy for injury by district - Procedure.

Except as otherwise provided or authorized by the Conservancy Act of Oklahoma, any person or public corporation injuriously affected in any manner whatsoever by an act performed by any official or agent of a district established pursuant to the Conservancy Act of Oklahoma, or by the execution, maintenance or operation of the official plan, pursuant to the provisions of the Conservancy Act of Oklahoma, may seek relief for such injury. Any such remedy shall be subject to the provisions of the Governmental Tort Claims Act.

Added by Laws 1923-24, c. 139, p. 195, § 61. Amended by Laws 1967, c. 382, § 18, emerg. eff. May 23, 1967; Laws 2000, c. 59, § 3, emerg. eff. April 14, 2000.

§82-665. Subdistricts - Administration.

Whenever it is desired to construct improvements wholly within or partly within and partly without any district organized under this act, which improvements will affect only a part of said district, for the purpose of accomplishing such work, subdistricts may be organized upon petition of the owners of real property, within or partly within and partly without the district, which petition shall fulfill the same requirements concerning the subdistricts as the petition outlined in Section 4 of this act is required to fulfill concerning the organization of the main district, and shall be filed with the clerk of the same district court, and shall be accompanied by a bond as provided for in Section 5 of this act. All proceedings relating to such subdistricts shall conform in all things to the provisions of this act relating to the organization of districts. Whenever the court shall, by its order duly entered of record, declare and decree such subdistricts to be organized, the clerk of said court shall thereupon give notice of such order to the directors of the district, who shall thereupon act also as directors of the subdistricts. Thereafter, the proceedings in reference to the subdistricts shall in all matters conform to the provisions of this act; except that in appraisal of benefits and damages for the purposes of such subdistricts, in the issuance of bonds, in the levying of assessments or taxes, and in all other matters affecting only the subdistricts, the provisions of this act shall apply to this subdistrict as though it were an independent district, and it shall not, in these things be amalgamated with the main district.

The board of directors, board of appraisers, chief engineer, attorney, secretary and other agents and employees of the district shall, so far as it may be necessary, serve in the same capacities for such subdistrict, and contracts and agreements between the main

district and the subdistrict may be made in the same manner as contracts and agreements between two districts. The distribution of administrative expense between the main district and subdistrict shall be in proportion to the interests involved and the amount of service rendered, such division to be made by the board of directors with an appeal to the court establishing the district. This section shall not be held to prevent the organization of independent districts for local improvements under other laws, within the limits of a district organized under this act, as provided in Sections 59 and 60 of this act.

Laws 1923-24, c. 139, p. 196, § 62.

§82-666. Other improvements may come under act - Procedure.

Any territory in which a proceeding has been instituted or is pending for construction of a single or joint or interstate, or county ditch, or township ditch, or underground drain, or levee, or county sewer, or for the cleaning of drains and water courses, or for the removal of drifts, or for the drainage of marshes; or for any sewer district outside of a municipality, or organized under any other law of this state, may become a district or subdistrict under this act, or may be absorbed in and amalgamated with any district organized under the terms of this act in the following manner:

When the officials in charge of any such improvement, or in the board of directors of any district organized under this act, which may desire to annex or absorb such territory, petition the court in which such district was organized under this act, or the court having jurisdiction over all or part of the territory affected by the proceedings which is desired to bring under this act, for an order making the territory affected by any of the improvements above noted a district or subdistrict under the terms of this act, or for amalgamating such territory with an existing district, organized under the terms of this act, the court clerk shall give notice of the pendency of said petition and of a hearing thereon in the same manner as herein provided for notice and hearing on a petition for the organization of a district under this act. At the time of such hearing the court shall hear the evidence and shall grant the petition or deny the same, as seems most advantageous to all the interests affected thereby.

The court, in its order shall specify whether such territory shall be organized into a district or subdistrict under the terms of this act, or whether it shall be absorbed in or amalgamated with an existing district, organized under this act. Thereafter the territory affected by said order and the improvements for which said territory was assessed, or for which contracts have been let therein, shall be subject to the terms of this act, and all such orders and procedure shall be had, as are necessary for fulfilling the requirements of this act; provided, that no order of the court shall

be made under this section, which shall lessen the security of any issue of bonds or other obligations issued under the terms of this or any other statute.

If a proceeding sought to be joined to or amalgamated with a proceeding under this act is under the jurisdiction of a district court other than the one having jurisdiction of the district organized under this act, then at such hearing the district judge or judges of the county or counties in which such ditch or other improvements is located shall sit with the judge in whose county the district was established under this act, and a majority of those sitting shall be necessary to a decision; and from such decision or from a failure to decide appeal may be taken.

Laws 1923-24, c. 139, p. 196, § 63.

§82-667. Annexation of additional land to a master conservancy district.

Additional territory may be annexed to a master conservancy district in the following manner:

(a) A petition praying for such annexation signed by fifty or a majority of the qualified voters residing in the territory and who own taxable property therein, and who duly rendered the same for taxes to the county or counties, (if not situated within a city or town), shall be filed with the board of directors of the master conservancy district. The petition shall describe the territory by metes and bounds or by other appropriate description, unless such territory is the same as that of a city or town, in which event it shall be sufficient to state that the territory to be annexed is the same as that which is contained within such city or town.

(b) If the board of directors finds that the petition is signed by the required number of qualified persons and otherwise complies with the foregoing subsection, that the annexation would be to the interest of the territory and the master conservancy district, and that the master conservancy district will be able to render service to the territory, it shall, provided a majority of all the board members vote in favor thereof, adopt a resolution stating the conditions, if any, under which such territory may be annexed to the master conservancy district, and declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the master conservancy district, and fixing a time and place when and where a hearing shall be held on the question of whether the territory will be benefited by the improvements, works and facilities then owned and operated by the master conservancy district. Railroad right-of-way, transmission lines and other property of telephone and telegraph and electric and gas utilities which are not situated within the defined limits of an incorporated city or town that will not be benefited by improvements, works and facilities which the

master conservancy district is authorized to construct; therefore, no railroad right-of-way, or transmission lines, or other property of electric and gas utilities or right-of-way or other property and facilities of telephone and telegraph utilities shall thereafter be annexed to the master conservancy district except such right-of-way, transmission lines and other property of electric and gas utilities as are contained within the limits of an incorporated city or town then or thereafter annexed to the master conservancy district.

(c) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory shall be published once each week for three (3) consecutive weeks in a newspaper designated by the board of directors and having a general circulation in the territory, the last publication to be at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner as hereinabove required or permitted for the petition. If no newspaper is published in the territory to be annexed, it shall be sufficient if notices are posted at five public places therein and published as aforesaid in a newspaper having general circulation in the territory. The secretary shall also mail notice of such hearing addressed to the Mayor and governing body of each constituent city at least thirty (30) days prior to the hearing.

(d) All interested persons who reside in the master conservancy district or in the territory seeking annexation may appear at such hearing and offer evidence for or against the intended annexation. Such hearing shall proceed in such order and under such rules as may be prescribed by the board of directors, and the hearing may be recessed from time to time. If at the conclusion of the hearing, the board of directors finds that all or a part of the lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the master conservancy district, it shall adopt a resolution calling an election in the territory to be annexed, stating therein the date of the election, the place or places of holding the same and appointing a presiding judge for each voting place, who shall appoint the necessary assistant judges and clerks to assist in holding the election.

(e) Notice of said election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the board of directors for that purpose, and the place or places for holding the same, shall be published once each week for three (3) consecutive weeks in a newspaper published in the territory to be annexed and designated by the board of directors, the last publication to be at least ten (10) days before the day set for the election. If no newspaper is published in the territory to be annexed, it shall be sufficient if notices are posted at five public

places therein and published as aforesaid in a newspaper having general circulation in the territory.

(f) Only qualified electors who reside in such territory, who own taxable property therein, and who have duly rendered the same for taxes to the county or counties, in which it is situated (if not situated within a city or town), shall be qualified to vote in said election. Returns of said election shall be made to the board of directors.

(g) The board of directors shall canvass the returns of the election and adopt a resolution declaring the results thereof. If such resolution shows that a majority of the votes cast are in favor of annexation to the master conservancy district, such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the general election laws. A certified copy of said order shall be recorded in the deed records of the county and/or counties in which a territory is situated.

(h) In calling an election on the proposition for annexation of territory, the board of directors may include as a part of the same proposition the assumption of its part of any obligations of the master conservancy district then outstanding and in force, and, in the case of bonds, those theretofore voted but not yet sold, and for the levy of ad valorem taxes on taxable property in said territory on the same basis as taxes are levied in the remainder of the master conservancy district for the payment of such tax obligations. If the proposition thus submitted carries by a majority vote, the effect thereof shall be the same as that resulting from the separate assumption election provided for in the next succeeding subparagraph (i).

(i) After territory is added to the master conservancy district, the board of directors of the master conservancy district shall call an election over the entire master conservancy district for the purpose of determining whether the entire master conservancy district as enlarged shall assume the taxes and obligations then outstanding and in force, and, in the case of bonds, those theretofore voted but not yet sold, and whether ad valorem taxes shall be levied, on the basis of benefits, upon all taxable property within the master conservancy district as enlarged for the payment thereof, unless such proposition is favorably voted along with the annexation election and becomes lawfully binding upon the territory annexed. Notice of the elections provided for in this and the next preceding subparagraph (h) shall be given and said election shall be held in the same manner as elections for the issuance of bonds as provided in the Conservancy Act of Oklahoma.

Laws 1961, p. 624, § 9.

§82-668. Payment of monies due United States from master conservancy districts - Levies and assessments.

All payments to become due to the United States under any federal contract entered into between a master conservancy district and the United States may be paid from revenues or derived from assessments upon the real property of the district, as provided in the Conservancy Act. It shall be the duty of the board of directors of a contracting district, pursuant to the provisions of the Conservancy Act, to make and establish all levies, assessments, tolls or charges to meet each year the contract indebtedness and obligation as the same may be provided for in any federal contract heretofore or hereafter entered into by a contracting district and to do any and all acts necessary to carry out the provisions of any such federal contract.

Laws 1961, p. 626, § 10.

§82-669. Suits for or against district - Name - Service of process.

In all suits in any court for damages, condemnation or other proceedings, whether brought for or against such conservancy district, the same shall be brought in the name of the conservancy district as fixed and established by the decree of incorporation, and shall be under the direction of its board of directors and in all suits against such conservancy district service of summons shall be issued and served upon the president of the board of directors; or, if the president of said board of directors is not found in the county, then upon a member of the board of directors of said district, or if none of the aforesaid directors can be found, then by serving the secretary or treasurer and by leaving a copy thereof at the principal office or usual place of business of said district, with the person having charge thereof.

Added by Laws 1967, c. 382, § 19, emerg. eff. May 23, 1967.

§82-671. Directors may police district.

The board of directors shall have the right to police the works of the district, and in times of great emergency may compel assistance in the protection of such work, and shall, also, have the right to prevent persons, vehicles or live stock from passing over the works of the district in any manner which would result in damage thereto.

Added by Laws 1923-24, c. 139, p. 197, § 64.

§82-672. Injury to survey marks prohibited - Penalty.

The willful destruction, injury or removal of any bench marks, witness marks, stakes or other reference marks, placed by surveyors or engineers of the district, or by contractors in constructing the works of the district, shall be a misdemeanor, punishable by a fine not exceeding One Hundred Dollars (\$100.00).

Added by Laws 1923-24, c. 139, p. 197, § 65.

§82-673. Owners liable for damage to district - Repairs.

All persons and corporations shall be liable for damage done to works of the district by themselves, their agents, their employees, or by their livestock. All persons guilty of willful damage shall be guilty of a misdemeanor, and shall on conviction be fined not to exceed Five Hundred Dollars (\$500.00), and costs, and shall be liable for all damages and costs. The board of directors shall have authority to repair such damage at the expense of the person or corporation committing it.

Laws 1923-24, c. 139, p. 198, § 66.

§82-674. Fraud or other illegal acts of officials - Fine.

The making of profit, directly or indirectly, by any officer of any district organized under this act, or by any public officer within the state, out of any contracts entered into by the district, or by use of any contracts entered into by the district, or by use of any money belonging to a district by lending it or otherwise using it, or by depositing the same in any manner, contrary to law, or by removal of any money by any such officer or by his consent and placing elsewhere than is prescribed either by law or by the official acts of the board of directors for the purpose of profit, or any person who shall misrepresent any material fact concerning the proposed project to any property owner when procuring signatures to a petition to inaugurate such project, shall constitute a felony, and on conviction thereof shall subject such officer to imprisonment in the State Penitentiary for a term not exceeding two (2) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment, and the officer offending shall be liable personally and upon his official bond for all losses to such district and for all profits realized by such unlawful use of monies.

Added by Laws 1923-24, c. 139, p. 198, § 67. Amended by Laws 1997, c. 133, § 593, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 429, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 593 from July 1, 1998, to July 1, 1999.

§82-675. Officials removed for cause.

Any director or appraiser of any district organized under this act may be removed for cause upon a motion filed in the original case where said district was organized after a hearing.

Laws 1923-1924, c. 139, p. 198, § 68.

§82-676. Performance of duties enforced by mandamus.

The performance of all duties prescribed in this act concerning the organization and administration or operation of the district may be enforced against any officer or against any person or corporation refusing to comply with any order of the board by mandamus at the

instance of the board or of any person or corporation interested in any way in such district or proposed district. And the board may institute such proceedings in the court in the first instance. Laws 1923-24, c. 139, p. 198, § 69.

§82-681. Faulty notice - How corrected.

In any and every case where a notice is provided for in this act, if the court finds that due notice was not given, the court shall not thereby lose jurisdiction, and the proceedings in question shall not thereby be void; but the court shall in that case order due notice to be given, and shall continue the hearing until such time as such notice shall be properly given and thereupon shall proceed as though notice had been properly given in the first instance.

In case any individual appraisal or appraisals, assessment or assessments, or levy or levies, shall be held void for want of legal notice, or in case the board may determine that any notice with reference to any land or lands may be faulty, then the board may file a motion in the original cause asking that the court order notice to the owner of such land or lands given and set a time for hearing as provided in this act. And in case the original notice as a whole, was sufficient, and was faulty with reference to publication as to certain tracts, only the owners of and persons interested in those particular tracts need be notified by such subsequent notice, and if the publication of any notice in any county was defective or not made in time, republication of the defective notice need be had only in the county in which the defect occurred.

Laws 1923-24, c. 139, p. 199, § 71.

§82-682. Questions of validity of districts to be expedited in court.

All cases in which there arises a question of validity of the organization of conservancy districts shall be advanced as a matter of immediate public interest and concern, and heard in all courts at the earliest practicable moment.

The court shall be open at all times for the purpose of this act. Laws 1923-24, c. 139, p. 199, § 72.

§82-683. Act to be liberally construed.

This act being necessary for securing the public health, safety, convenience or welfare, and being necessary for the prevention of great loss of life and for the security of public and private property from floods and other uncontrolled waters, it shall be liberally construed to effect the control and conservation and drainage of the waters of this state.

Laws 1923-24, c. 139, p. 199, § 73.

§82-684. Partial invalidity.

In case any section or sections or part of any sections of this act shall be found to be unconstitutional, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

Laws 1923-24, c. 139, p. 199, § 74.

§82-685. Repeals - Certain laws not affected.

All acts or parts of acts conflicting in any way with any of the provisions of this act, in regard to improvements of this or a similar character, or otherwise interfering with the execution of this law according to its terms, are hereby declared inoperative and ineffective as to this act, as if they did not exist. But all such laws and parts of laws shall not be in any way affected by this law. This act shall not repeal Chapter 38 of the Oklahoma Compiled Statutes, 1921, or any amendment thereto, but it shall be an additional remedy.

Laws 1923-24, c. 139, p. 200, § 75.

§82-686. Short forms and abbreviations.

For the sake of convenience:

(a) In any orders of the court the words, "The court now here finds that it hath jurisdiction of the parties to and of the subject matter of this proceeding," shall be equivalent to a finding that each jurisdiction upon the court, beginning with the proper signing and filing of the initial petition to the date of the order containing such recital, have been scrutinized by the court and found to meet every legal requirement imposed by this act.

(b) No other or further evidence of the legal hypothecation of the special assessment to the payment of the bonds shall be required than the passage of a bonding resolution by the board of directors and the issuance of bonds in accordance therewith.

(c) In the preparation of any assessment or appraisal roll the usual abbreviations employed by engineers, surveyors and abstractors may be used.

(d) Where properly to describe any parcel of land it would be necessary to use a long description, the appraisers, after locating the land generally may refer to the book and page of the public record of any instrument in which the land is described, which reference shall suffice to identify for all the purposes of this act the land described in this public record referred to.

(e) It shall not be necessary in any notice required by this act to be published to specify the names of the owners of the lands or of the persons interested therein; but any such notice may be addressed, "To All Persons Interested," with like effect as though such notice named by name every owner, of any lands within the territory specified in the notice and every person interested therein, and

every lienor, actual or inchoate, except that the notice of assessments or appraisals shall be as provided otherwise herein.

(f) Every district heretofore created or hereinafter declared upon hearing to be a conservancy district shall be an improvement district as provided in Article 16 of the Constitution of Oklahoma, and shall be invested with all the powers and privileges conferred upon such districts by the Constitution of Oklahoma and this act. Added by Laws 1923-24, c. 139, p. 200, § 76. Amended by Laws 1959, p. 381, § 11.

§82-687. Forms and suggestions.

The following forms may suffice to illustrate the character of the procedure contemplated by this act; and if substantially complied with, those things being changed which (to meet the requirements of the particular case) should be changed, such procedure shall be held to meet the requirements of this act.

I. Form of Notice of Hearing on the Petition: To all persons interested, public notice is hereby given:

(1) That on the day of 19.., pursuant to the provisions of the Conservancy Acts of Oklahoma, there was filed in the office of the court clerk of the district court of County, Oklahoma, the petition of and others for the establishment of a conservancy district to be known as Conservancy District. (Here insert the purposes.)

(2) That the lands sought to be included in said district comprise lands in and counties, Oklahoma, described substantially as follows: (Here insert description of land.)

(3) That a public hearing on said petition will be had in said court on the day of at the hour of o'clock .. M., by the district court of County, at the court house in the city of , County, Oklahoma.

All persons and public or private corporations owning or interested in real estate or other freeholders within the territory hereinbefore described will be given the opportunity to be heard at the time and place above specified, as to whether said district should be established or not.

.....,
Court Clerk of County, Oklahoma. Dated Oklahoma,
..... 19....

II. Form of Finding on Hearing: The court at its discretion may order the formation of said conservancy district in following form substantially:

State of Oklahoma, County, ss:
In the district court of County.
In the matter of Conservancy District.

On this day of 19... this cause coming on for hearing upon the petition of and others, for the organization of a conservancy district under the Conservancy Act of the State of Oklahoma, the court after a full hearing now here finds:

(1) That it hath jurisdiction of the parties to, and the subject matter of this proceeding.

(2) That the purposes for which said district is established are: (Insert the purposes.)

And that it is a public necessity.

(3) That the public safety, health, convenience and welfare will be promoted by the organization of a conservancy district substantially as prayed in said petition (if additional lands are added by petition) except that the following additional lands at the petition of the owners thereof should be, and hereby are included in said districts: (Here insert additional lands.)

(4) That the general boundaries of said district until specifically delimited by the viewers and engineers are as follows: (Here insert boundaries of district.)

(5) That the said territory last above described should be erected into and created a conservancy district under the Conservancy Act of the State of Oklahoma under the corporate name of Conservancy District.

Wherefore, it is by the court ordered, adjudged and decreed:

That the territory as above described be, and the same hereby is erected into and created a conservancy district, under the Conservancy Act of Oklahoma under the corporate name of Conservancy District, with its office and principal place of business at, in County, Oklahoma.

(If directors are appointed at the same time)

And the following persons are hereby appointed directors of said conservancy district, until their successors are elected and qualified:

.....
.....
.....

who are hereby directed to qualify and proceed according to law.

For consideration of other matters herein, this course is retained on the docket.

.....

Judge.

III. Form of Notice to Property Owners to Pay Assessment:
..... Conservancy District.

To All Persons Interested,
Public Notice is Hereby Given:

(1) That on the day of 19..., the board of directors of Conservancy District No..... levied an assessment on all the property in said district in the aggregate sum of \$..... and

has caused the same to be extended upon the assessment duplicate, which is now in collection by the county treasurer of the county in which the lands are situated.

(2) That the entire assessment against any parcel of land may be paid at any time on or prior to 19... without costs and without interest.

(3) That as soon after day of 19..., as conveniently may be, the board of directors of said district will divide the uncollected part of said assessment into convenient installments, and will issue bonds bearing interest not exceeding eight and one-half percent (8 1/2%) per year in anticipation of the collection of the several installments of said assessment, pursuant to the Conservancy Act of the State of Oklahoma.

.....
President.
.....
Secretary.

IV. Form of Bond and Coupon:

No..... \$.....
UNITED STATES OF AMERICA.
State of Oklahoma.
..... Conservancy District.
CONSERVANCY BOND.

KNOW ALL MEN BY THESE PRESENTS:

That Conservancy District, a legally organized conservancy district of the State of Oklahoma, acknowledging itself to owe and for value received hereby promises to pay to bearer Dollars (\$.....) on the first day of, 19..., with interest thereon from the date hereof until paid at the rate of percent (....%) per year, payable 19..., and semiannually thereafter on the first day of and of in each year on presentation and surrender of the annexed interest coupons as they severally become due. Both principal and interest of this bond are hereby made payable in lawful money of the United States of America, at the fiscal agency of the State of Oklahoma, in the city of New York.

(Here insert a concise and condensed statement of the proceedings up to the issuing of the bond.)

This bond is one of a series of bonds issued by Conservancy District No. for the purpose of paying the cost of constructing a system of flood prevention (or for the other works) for said district and in anticipation of the collection of the several installments of an assessment duly levied upon lands within said district and benefited by said improvement in strict compliance with the Conservancy Act of Oklahoma, and pursuant to an order of the board of directors of said district duly made and entered of record. And it is hereby certified and recited that all acts, conditions and

things required to be done in locating and establishing said district and in equalizing appraisals of benefits and in levying assessments against lands benefited thereby, and in authorizing, executing and issuing this bond, have been legally had, done and performed in due form of law; that the total amount of bonds issued by said district does not exceed ninety percent (90%) of the assessments so levied and unpaid at the time said bonds are issued or any legal limitation thereof.

And for the performance of all the covenants and stipulations of this bond and of the duties imposed by law upon said district for the collection of the principal and interest of said assessments and the application thereof to the payment of this bond and the interest thereon, and for the levying of such other and further assessments as are authorized by law and as may be required for the prompt payment of this bond and the interest thereon, the full faith, credit, and resources of said Conservancy District No. are hereby irrevocably pledged.

IN TESTIMONY WHEREOF, The board of directors of Conservancy District has caused this bond to be signed by its president and sealed with the corporate seal of said district, attested by its secretary, and registered by the State Auditor and Inspector of the State of Oklahoma, and the coupons hereto annexed to be executed by the facsimile signature of said president and secretary, as of the day of 19....

.....
President

Attest:

Secretary.

FORM OF COUPONS.

No. \$

On the first day of 19..., Conservancy District promises to pay the bearer Dollars (\$.....) lawful money of the United States of America, at the office of the being semiannual interest due on that date on its conservancy bond dated 19..., No.

.....
President.

.....
Secretary.

V. Forms of Notice of Enlargement of District:
State of Oklahoma, County ofss:
In the district court of County.
In the matter of Conservancy District.

NOTICE OF ENLARGEMENT OF DISTRICT.

To all persons and public or private corporations interested:
Public Notice Is Hereby Given:

(1) That heretofore on the day of, 19...., in the district court of County of Oklahoma, duly entered a final decree erecting and creating Conservancy District and appointing a board of directors therefor.

(2) That thereafter this court duly appointed:

.....
.....
.....

to be the board of appraisers for said district; that said board of appraisers on the day of, 19...., filed their report recommending the following described lands not originally included in the district, be added thereto: (Here describe generally the lands which the report of the board of appraisers recommends should be added to the district.)

(3) That on the day of 19... (or as soon thereafter as the convenience of the court will permit) at the court house in Oklahoma, the district court of County, Oklahoma, will hear all persons and public or private corporations who are owners of or interested in the property described in this notice upon the question whether said lands should be added to and included in said Conservancy District.

.....
Court Clerk, District Court,
..... County, Oklahoma.

FORM OF CERTIFICATE OF LEVY OF
ASSESSMENTS:

State of Oklahoma, County of ss:

To the County Clerk and County Assessor of County, Oklahoma:

This is to certify that by virtue and under the authority of the Conservancy Act of Oklahoma, the board of directors of Conservancy District have and do hereby levy the sum of Dollars (\$.....) which said assessment bears interest as provided by law and is payable in installments, with interest as follows: (Here insert.)

You are further notified that for the account of the maintenance fund, for the year 19...., this board has levied the sum of Dollars (\$.....)

The amounts of said levies upon the several parcels of land upon which the same are imposed are set forth upon the schedule hereto attached, marked Conservancy District Assessment Book. The said assessment shall be collectable and payable the present year in the sums herein specified at the same time that the state and county taxes are due and collectable and you are directed and ordered to warrant and require the treasurer of County, Oklahoma, to demand and collect such assessments as provided by law, and this

Conservancy Assessment Book shall be your authority and the authority of the treasurer to make such collections.

Witness, the signature of the president of said board of directors, attested by the seal of said corporation and the signature of its secretary, this the day of 19....

.....

President.

(SEAL)

.....

Secretary.

Laws 1967, c. 382, § 21, emerg. eff. May 23, 1967.

§82-688. Exemption from taxation.

All properties owned by the district, both real and personal, and reasonably necessary to accomplish the purposes of district shall be exempt from taxation by the State of Oklahoma, or by any municipal corporation, county or other political subdivision. All properties, products and benefits sold, leased or furnished by such districts shall be exempt from sales tax.

All bonds, notes and warrants and the interest thereon, issued pursuant to the provisions of this act, shall be exempt from taxation (except inheritance taxes) by the State of Oklahoma, or by any municipal corporation, county or other political subdivision, or taxing district of the state.

Added by Laws 1967, c. 382, § 21, emerg. eff. May 23, 1967.

§82-688.1. Exemption from payment of sales, use and vehicle excise taxes - Registration of vehicles.

Conservancy districts and master conservancy districts organized under the provisions of the Conservancy Act of Oklahoma shall be exempt from the payment of sales and use taxes on purchases and use of tangible personal property in this state, from the payment of motor fuel taxes as provided in Section 500.10 of Title 68 of the Oklahoma Statutes and from payment of the vehicle excise tax levied on the transfer or first registration of vehicles purchased and used in Oklahoma, and the vehicles of such districts shall be registered each year for a nominal fee of One Dollar (\$1.00), after having obtained the proper Oklahoma certificate of title.

Added by Laws 1969, c. 64, § 1, emerg. eff. March 5, 1969. Amended by Laws 2009, c. 426, § 20, eff. July 1, 2009.

§82-861. District created and territory included - Governmental agency and body politic - Powers - Designation of land and water.

There is hereby created within the State of Oklahoma a conservation and reclamation district to be known as "Grand River Dam Authority", hereinafter called the district, and consisting of that part of the State of Oklahoma which is included within the boundaries

of the Counties of Adair, Cherokee, Craig, Delaware, Mayes, Muskogee, Ottawa, Osage, Pawnee, Payne, Lincoln, Logan, Tulsa, Wagoner, Sequoyah, Haskell, Latimer, Pittsburg, McIntosh, Creek, Okmulgee, Nowata, Washington and Rogers. Such district shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges and functions hereinafter specified, including the control, storing, preservation and distribution of the waters of the Grand River and its tributaries, for irrigation, power and other useful purposes and reclamation and irrigation of arid, semiarid and other lands needing irrigation, and the conservation and development of the forests, minerals, land, water and other resources and the conservation and development of hydroelectric power and other electrical energy, from whatever source derived, of the State of Oklahoma.

Nothing in this act or in any other act or law contained, however, shall be construed as authorizing the district to levy or collect taxes or assessments, or to create any indebtedness payable out of the taxes or assessments, or in any manner to pledge the credit of the State of Oklahoma, or any subdivision thereof.

All that body of land and the water impounded above the Pensacola Dam, Pensacola Project, shall be hereafter designated and known as "Grand Lake O'The Cherokees". All that body of land and the water impounded above Robert S. Kerr Dam, Markham Ferry Project, shall be hereafter designated and known as "Lake Hudson". All that body of land and the water impounded above Chimney Rock Dam, Salina Pumped-Storage Project, shall be designated and known as "W. R. Holway Reservoir".

Laws 1935, p. 350, § 1; Laws 1937, p. 481, § 1; Laws 1941, p. 472, § 1; Laws 1941, p. 475, § 1; Laws 1949, p. 633, § 1; Laws 1957, p. 562, § 1; Laws 1978, c. 283, § 1, emerg. eff. May 10, 1978; Laws 1981, c. 204, § 9, emerg. eff. May 26, 1981.

§82-861A. Grand River Dam Authority - Designation as state agency.

A. The Grand River Dam Authority, created pursuant to the provisions of the Grand River Dam Authority Act, Section 861 et seq. of this title, is a nonappropriated agency of the State of Oklahoma. The Grand River Dam Authority herein referred to as the "district" is subject to the laws of the state as they apply to state agencies except as specifically exempted by statute. All funds generated, received and expended by the district are public funds and subject to state laws and regulations governing the receipt and expenditure of public funds in the same manner as all other state agencies except as otherwise provided by statute. The employees of the district are both classified and unclassified state employees subject to the same benefits and restrictions applicable to all state agencies except as otherwise provided by statute.

B. Recognizing that the district is a unique agency of this state, whose mission requires the ability of the district to function in competition with private industry within the competitive power market, the Legislature hereby requires the Grand River Dam Authority Board of Directors as the rulemaking authority for the district to:

1. Promulgate appropriate rules governing operations of the district pursuant to the provisions of Article I of the Administrative Procedures Act, with the exception of rules dealing with the waters of the Grand River and its tributaries; and
2. Set fees for services performed by the district; provided that such fees shall not exceed the cost to the district of providing such services;
3. Develop written policies and procedures governing the district's activities including purchasing, procurement and bidding, purchase and disposition of real and personal property, fleet management marketing, consumer education, community relations and customer service functions performed by the district to the extent it deems necessary; and
4. Develop written hiring and compensation policies of employees of the district, subject to the provisions of Section 864 of this title.

C. The district is required to document business expenses necessary to carry out the business of the district. Expenses shall meet current State of Oklahoma and Internal Revenue Service guidelines for business expense deductibility.

D. If necessary to comply with the provisions of this act, the Board may, by majority vote, employ an independent audit firm to assist it in its duties. Funds required for this purpose shall be borne by the district with approval by the Board.

E. The Board of Directors or the management of the district may seek advice from the State Treasurer or the State Bond Advisor as it deems necessary.

F. After the effective date of this act, the district shall not provide retail electric power or retail electric service to electric consuming facilities except to:

1. An existing electric consuming facility if such electric power was being provided by the district on the effective date of August 29, 2003; and
2. Any entity located within the boundary of the Oklahoma Ordnance Works Authority/Mid-America Industrial Park or within a two-mile radius of the boundary.

Retail distribution of electric power shall be defined as any sale not for resale.

Added by Laws 2003, c. 459, § 1. Amended by Laws 2019, c. 507, § 1, eff. July 1, 2019.

§82-862. Powers, rights and privileges of district.

The district shall have and is hereby authorized to exercise the following powers, rights and privileges:

1. To control, store and preserve, within the boundaries of the district, the waters of Grand River and its tributaries, for any useful purpose, and to use, distribute and sell the same within the boundaries of the district; provided, however, that any municipal corporation within the area included within the jurisdiction of the Grand River Dam Authority shall be entitled to take water from the Grand River and any of its tributaries in any quantities that may be needed by such municipal corporation;

2. To develop and generate water power, electric power and electric energy, from whatever source, within the boundaries of the district; to acquire coal or other minerals to be used for the purposes of providing energy sources for electrical generating plants; to acquire or lease any and all railroad connections, equipment, rolling stock, trackage and otherwise, necessary to the transporting of coal and other minerals to generating plant sites within the district; and to buy, sell, resell, interchange and distribute electric power and energy in order to carry forward the business and functions of the district now or hereafter authorized by law and may enter into contracts for such purposes, such contracts to run for a period of not to exceed fifty (50) years except those contracts provided for in paragraphs 6 and 7 of this section. All contracts may contain such reasonable provisions, limitations, qualifications, protective clauses and rights and obligations of purchase and sale, and such provisions for the dedication of the use of facilities and the construction of additional facilities to serve the load requirements of all the parties as may be deemed advisable by the district to safeguard the business and properties of all the parties to such contracts, all within the limits of sound business judgment and practice, good conscience, and not contrary to the public policy of the state. The district is further authorized to participate in the Southwest Power Pool Integrated Marketplace or any other program established by a Federal Energy Regulatory Commission authorized Regional Transmission Organization in which the district is a member and to engage in the buying and selling of electricity products, fuel commodities, and financial instruments as deemed necessary and prudent by the district and specifically excludes any expansion of retail activities of the district. The Board of Directors shall adopt a hedging policy to enable the district to take advantage of standard market products to reduce risk while preventing speculative trading and potential abuses;

3. To prevent or aid in the prevention of damage to person or property from the waters of the Grand River and its tributaries;

4. To forest and reforest and to aid in the foresting and reforesting of the watershed area of the Grand River and its

tributaries and to prevent and to aid in the prevention of soil erosion and floods within the watershed area;

5. To acquire by purchase, lease, gift, or in any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of any and all property of any kind, real, personal, or mixed, or any interest therein, including trucks of any size or weight and passenger vehicles and to own, construct, operate and maintain any project or works in conjunction or jointly with, as tenants in common, any public or private corporation duly authorized and qualified to do business within this state including, but not limited to, rural electric cooperatives of the State of Oklahoma or the United States of America, or any department, subdivision or agency of the State of Oklahoma or the United States of America, or with any "public agency" as defined under the Interlocal Cooperation Act, within or without the boundaries of the district, necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the Grand River Dam Authority Act;

6. In addition to any other powers conferred, the district shall have power and authority to participate and enter into agreements with any public or private corporation duly authorized and qualified to do business within the State of Oklahoma including, but not limited to, rural electric cooperatives, the state or the United States of America or any department, subdivision or agency of the state or the United States of America, or with any "public agency" as defined under the Interlocal Cooperation Act, for the purpose of planning, acquiring, financing, owning, operating and maintaining an undivided ownership of any electric generating plant or plants or any facilities of every kind necessary, incidental or convenient for the production, generation and transmission of electric power and energy including, but not limited to, any and all related transmission facilities, which shall be used as common facilities. The agreements shall provide that the district and any participants therein shall have the incidents of tenant in common to any plant or facility. It shall also be provided in the agreements that the district and any participant in the project shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own a like percentage of the electrical output thereof.

Each participant shall defray its own interest payments and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall further provide a

uniform method of determining and allocating operation and maintenance expenses of the common facility.

In carrying out the powers granted in this section, the district and each participant shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions or obligations of others. No money or property supplied by the district or any participant for the planning, financing, acquiring, constructing, operating or maintaining of any common plant or facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of the district or any participant therein be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon the district except as expressly authorized and provided for in the participation agreement;

7. In addition to the powers conferred in paragraph 6 of this section, the district shall have power and authority to participate and enter into agreements with any public or private corporation duly authorized and qualified to do business within this state including, but not limited to, rural electric cooperatives, the State of Oklahoma or the United States of America or any department, subdivision or agency of the State of Oklahoma or the United States of America, or with any "public agency" as defined under the Interlocal Cooperation Act, for the purpose of planning, acquiring, financing, owning, operating and maintaining undivided ownership interests in any electric generating plant or plants or any other facilities of every kind necessary, incidental or convenient for the production, generation and transmission of electric power and energy including, but not limited to, any and all related transmission or other facilities which are to be used as common facilities and to cooperate with other state agencies and public trusts to promote economic development in the state and to assist in attracting industry to the state. Such undivided ownership interests may be created by an agreement entered into with respect to property to be acquired by the district. Any such agreement may be a sale agreement, with the purchase price payable at one time or in installments at such time and over such period as shall be agreed to by the parties thereto, a lease agreement, with a nominal purchase option, or any other type of agreement. In addition to the purchase price, the district shall be fully indemnified as to operation, maintenance, administrative and other expenses incurred with respect to such undivided interest. The district is hereby authorized to enter into any such agreement in order to sell, lease or otherwise convey undivided ownership interests in any such property. Any such agreement shall specify the undivided interest to be owned or acquired by each of the participants, provide for a waiver of partition, prescribe the time of vesting of such interest and the

amount of electrical output to be owned and controlled by any participant.

Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

In carrying out the powers granted in this section, the district and each participant shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions or obligations of others. No money or property supplied by the district or any participant for the planning, financing, acquiring, constructing, operating or maintaining of any common plant or facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of the district or any participant therein be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon the district except as expressly authorized and provided for in the participation agreement;

8. To acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the district, necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the Grand River Dam Authority Act, in the manner provided by general law with respect to condemnation; provided that nothing in the Grand River Dam Authority Act shall ever be construed to authorize the district to acquire by condemnation any privately, municipally or publicly owned electric public utility system or any part thereof outside of the high-water mark of a reservoir area or outside a properly located damsite, except the districts may require the relocation of transmission lines and substations so owned where such relocation is necessary for the construction and maintenance of dams, reservoirs, levees, spillways and floodways, and in such event just compensation shall be paid. Provided that the Grand River Dam Authority shall have the right to cross transmission lines of other electric utility companies under proper engineering standards of construction as approved by the Corporation Commission;

9. Subject to the provisions of the Grand River Dam Authority Act, from time to time sell, which shall include, but not be limited to, an installment sale agreement, lease with nominal purchase options, or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district;

10. To overflow and inundate any public lands and public property and to require the relocation of roads and highways in the manner and to the extent necessary to carry out the purposes of the Grand River Dam Authority Act; provided, that the district shall be liable in damages to the State of Oklahoma or any subdivision thereof for any injury occasioned or expense incurred by reason thereof;

11. To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate any and all facilities of any kind necessary, incidental or convenient to the exercise of such powers, rights, privileges and functions;

12. To sue and be sued in its corporate name in contracts, reverse condemnation, tort, equity, mandamus and similar actions and in its own name plead and be impleaded, provided, however, that any and all actions of law or in an equity against the district shall be brought in the county in which the principal office of the district shall be located or in the county where the cause of action arose;

13. To adopt, use and alter a corporate seal;

14. To make bylaws for the management and regulation of its affairs;

15. To appoint officers, agents and employees, to prescribe their duties and to fix their compensation; and enter into contracts with labor unions, provided, that contracts with labor unions shall not abrogate the rights of the district to cooperate and carry out Veterans on the Job Training;

16. To make contracts and to execute instruments necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by the Grand River Dam Authority Act;

17. To borrow money for its corporate purposes and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to make and issue its bonds, notes, loans, commercial paper, and credit or liquidity support for money borrowed, in the manner provided in the Grand River Dam Authority Act. Nothing in the Grand River Dam Authority Act shall authorize the issuance of any bonds, notes or other evidences of indebtedness of the district, except as specifically provided in the Grand River Dam Authority Act;

18. To prescribe and enforce rules for the use for recreational and commercial purposes of the lakes created by the district by impounding the waters of the lakes, and the shorelands of the district bordering thereon, including the use of firearms, the inspection of all boats of every character proposing to operate or

operating on the lakes, the issuance of permits for the operation of boats, surfboards, aquaplanes, sea-skis or similar devices on the lakes for hire; the charging and collection of fees for the inspection or operation of such boats, surfboards, aquaplanes, sea-skis or other similar devices on the lakes for hire; preventing the launching or operation of any commercial or for-hire boat, surfboard, aquaplane, sea-ski or similar device for hire, on the waters of the lakes, without a certificate of inspection and a permit for such use; prescribing the type, style, location and equipment of all wharves, docks and anchorages along the shores and upon the water of the lakes; the issuance of permits for wharfage, dock or anchorage privileges and charging fees for such commercial or private permits; and the establishment and maintenance of public wharves, docks or anchorages and the charging and collection of fees for the use thereof by the public; to appoint or employ such persons, including CLEET-certified volunteer reserve officers, as the district may deem proper and suitable for the purpose of enforcing such rules and regulations as may be issued hereunder, or as may be issued pursuant to the provisions of the Oklahoma Boating Safety Regulation Act, and for the enforcing of the provisions of the Grand River Dam Authority Act, and all violations of criminal laws occurring within the boundaries of the counties where real property owned or leased by the Grand River Dam Authority is located, which employees shall have the power of peace officers during the performance of those duties, except in the serving or execution of civil process.

Any municipal, county or state law enforcement officer employed by the Grand River Dam Authority to serve as a part-time or seasonal commissioned peace officer shall be exempt from the restrictions on dual office holding as provided for in paragraph 16 of subsection A of Section 6 of Title 51 of the Oklahoma Statutes;

19. To do any and all other acts or things necessary, incidental or convenient to the exercise of the powers, rights, privileges or functions conferred upon it by the Grand River Dam Authority Act or any other act or law. Provided the district shall be liable for damage caused by the district, its agents, servants and employees in creating, constructing, maintaining or operating the district to any corporation, partnership, person or individual whose property, either real or personal, within or without said district, has been damaged and the damages may be determined by appropriate action as provided by law. Nothing in the Grand River Dam Authority Act shall be construed as rendering the district liable for damage where it is not liable on general principles of law or statute or Constitutional provision.

Provided, however, that in the course of exercising its powers as herein enumerated, the district shall at all times consider the rights and needs of the people living within and upon the land lying within the watershed of the rivers or streams developed by the

district; provided, however, that nothing herein shall prevent the district from selling for irrigation purposes within the boundaries of the district any water impounded by it under authority of law, provided that nothing herein contained shall authorize the state to engage in agriculture except for educational and scientific purposes and for the support of its penal, charitable, and educational institutions;

20. To support and assist the efforts of state, regional and local development organizations, political subdivisions, industrial committees, chambers of commerce, tourism organizations, agricultural organizations, environmental organizations, educational institutions and other similar public and private agencies to obtain new and foster expansion of existing service, industrial and manufacturing facilities, businesses and enterprises to enhance the quality of life for the citizens of the district and the state. Provided, support and assistance shall be limited to an amount not to exceed a total of Twenty-five Thousand Dollars (\$25,000.00) per year for one or more projects or efforts that are for the benefit of or impact the quality of life for each city or community located within the boundaries of the district; and

21. Notwithstanding any other provision of law, the Chief Executive Officer, department heads and other essential employees of the district, as designated by the Chief Executive Officer, may be permitted to use a district owned vehicle to provide transportation between the employee's residence and the assigned place of employment and between the residence and any location other than the assigned place of employment to which the employee travels in the performance of the employee's official duty.

Added by Laws 1935, p. 351, § 2. Amended by Laws 1941, p. 472, § 2; Laws 1945, p. 413, § 2; Laws 1947, p. 622, § 1, emerg. eff. May 21, 1947; Laws 1949, p. 634, § 2, emerg. eff. April 21, 1949; Laws 1957, p. 563, § 1, emerg. eff. May 22, 1957; Laws 1970, c. 263, § 1, emerg. eff. April 23, 1970; Laws 1981, c. 204, § 10, emerg. eff. May 26, 1981; Laws 1986, c. 276, § 19, operative July 1, 1986; Laws 1990, c. 94, § 1, emerg. eff. April 18, 1990; Laws 1998, c. 391, § 13, emerg. eff. June 10, 1998; Laws 2003, c. 459, § 2; Laws 2004, c. 524, § 1; Laws 2008, c. 301, § 1, emerg. eff. June 2, 2008; Laws 2012, c. 217, § 1; Laws 2016, c. 297, § 2, eff. July 1, 2016; Laws 2017, c. 42, §39; Laws 2019, c. 507, § 2, eff. July 1, 2019.

NOTE: Laws 2016, c. 266, § 1, emerg. eff. May 9, 2016 repealed by Laws 2017, c. 42, § 40.

§82-862.1. Grand River Dam Authority - Exemptions.

In addition to the powers, rights and privileges enumerated in Section 862 of this title, the Grand River Dam Authority shall be exempt from the provisions of the:

1. The Oklahoma Open Records Act, exclusively limited to:

- a. customer proprietary information the Authority is contractually obligated to keep confidential, and
 - b. security plans and procedures in its role as an electric utility regulated by the federal government;
2. The Oklahoma Open Meeting Act, exclusively limited to authorizing the Grand River Dam Authority Board of Directors to confer on:
- a. coal or gas fuel supply and transportation contracts,
 - b. power purchase agreements, and
 - c. security plans and procedures in its role as an electric utility regulated by the federal government; and
3. Title 61 of the Oklahoma Statutes;
4. The Information Technology Consolidation and Coordination Act;
5. The State Travel Reimbursement Act; and
6. The Surplus Property Act; provided that the district may, on a transactional basis, elect to make itself subject to the requirements of the Surplus Property Act.
- Added by Laws 2001, c. 397, § 7, emerg. eff. June 4, 2001. Amended by Laws 2003, c. 461, § 18, eff. July 1, 2003; Laws 2004, c. 524, § 2; Laws 2015, c. 325, § 1, eff. Nov. 1, 2015; Laws 2019, c. 507, § 3, eff. July 1, 2019.

§82-862.2. Repealed by Laws 2019, c. 507, § 15, eff. July 1, 2019.

§82-863. Repealed by Laws 1998, c. 391, § 16, eff. Jan. 1, 1999.

§82-863.1. Repealed by Laws 1949, p. 641, § 7.

§82-863.2. Board of Directors.

A. The powers, rights and privileges and functions of the Grand River Dam Authority, hereinafter referred to as the "district", shall be exercised by a seven-member Board of Directors, to be appointed according to the provisions of this section.

B. The Board shall have rulemaking authority pursuant to the provisions of the Grand River Dam Authority Act. By majority vote, the Board shall have the authority to grant exemptions from any rules not promulgated pursuant to the Administrative Procedures Act which deal with the waters of the Grand River and its tributaries. The Board shall be responsible for approving business expenses of the district necessary to carry out the business of the district. It shall be the duty of the Board of Directors to oversee the functions of the district and ensure the operations of the district are in compliance with all applicable state laws and that expenses of the district comply with state and federal guidelines for business expense deductibility.

C. Members appointed to the Board or who serve as designees shall be domiciled in the State of Oklahoma and shall have paid state income taxes for a minimum of one (1) year prior to the date of appointment.

D. No person shall be eligible to serve on the Board of Directors if the person, during the three (3) years prior to the appointment, has been employed by an investor-owned utility company, or has held a federal, state or county office, elective or appointive.

E. A member of the Board may be eligible to serve on the Oklahoma Ordnance Works Authority Board of Trustees, if appointed to that position by the Governor.

F. Members of the Board of Directors shall be appointed as follows:

1. The Governor shall appoint a director to represent the industrial and commercial customers of the district;

2. The Governor shall appoint a director to represent economic development interests, lake enthusiasts and property owners;

3. The Governor shall appoint an at-large director;

4. The President Pro Tempore of the Oklahoma State Senate shall appoint an at-large director;

5. The Speaker of the House of Representatives shall appoint an at-large director;

6. The General Manager of the Oklahoma Association of Electric Cooperatives, or designee, shall be a voting ex officio director; and

7. The Executive Director of the Municipal Electric Systems of Oklahoma, or designee, shall be a voting ex officio director.

G. A successor to a director of the Board shall be appointed in the same manner as the original director and shall serve a term of five (5) years. Directors may be eligible to serve more than one term if so reappointed by the original appointing authority or a different or successor appointing authority.

H. Any director appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

I. Each director shall qualify by taking the official oath of office prescribed by general statute.

J. Notwithstanding any other provisions of law, any director or designee may be removed by the member's appointing authority only for just cause. Additionally, any member who fails to attend a total of three (3) regularly scheduled board meetings in one (1) calendar year may be removed by the member's appointing authority.

K. Each director shall be allowed actual and necessary expenses incurred by such director for attending meetings of the Board and authorized business of the district pursuant to the provisions of the State Travel Reimbursement Act. No director shall hold any other

position of employment within the Grand River Dam Authority at the same time such director is serving on the Board.

L. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of the district. Four directors shall constitute a quorum at any meeting, and, except as otherwise provided in the Grand River Dam Authority Act or in the bylaws, all action may be taken by the affirmative vote of the majority of the Board present at any such meeting, except that no bonds, notes or other evidence of indebtedness, and no amendment of the bylaws, shall be valid unless authorized or ratified by the affirmative vote of at least four directors.

M. At the first meeting of the Board following July 1, 2003, the members appointed pursuant to this section shall, by majority vote, elect a chair and chair-elect who shall serve as the vice-chair. The chair and the chair-elect shall serve a term of one (1) year. Thereafter, the membership of the Board shall elect a chair-elect, at the first meeting of each year and the previous chair-elect shall assume the position of chair for the ensuing year. A member may serve more than one term as chair or chair-elect during their tenure on the Board, provided, however, they may only serve one term in any three-year period.

N. The Asset Committee shall be chaired by the director appointed to represent economic development interests, lake enthusiasts and property owners. Other members of the Committee may be selected by the Board.

O. The Board may appoint temporary or permanent subcommittees which may include employees of the district or other persons for any purpose it deems necessary or appropriate.

P. The Board is authorized to adopt or amend the bylaws of the district as necessary to comply with the provisions of the Grand River Dam Authority Act.

Q. For the purposes of Section 4254 of Title 74 of the Oklahoma Statutes, the directors of this board, appointed pursuant to this section, shall not be considered state officers or state employees. Added by Laws 2003, c. 459, § 3. Amended by Laws 2004, c. 524, § 3; Laws 2012, c. 27, § 1, emerg. eff. April 9, 2012; Laws 2012, c. 112, § 1; Laws 2019, c. 507, § 4, eff. July 1, 2019.

NOTE: Editorially renumbered from § 863.1 of this title to avoid a duplication in numbering.

§82-863.3. Joint Legislative Task Force on the Grand River Dam Authority - Members - Travel reimbursements.

A. There is hereby created the Joint Legislative Task Force on the Grand River Dam Authority for the purpose of studying the functions, activities, policies, procedures and expenditures performed by the district and any related issues the task force deems

appropriate. Members of the task force shall be appointed in January of each year following a state general election by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Membership shall be made up of five members of the Senate and five members of the House of Representatives whose legislative districts include a portion of the Grand River Dam Authority district to be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively. The President Pro Tempore and Speaker shall each designate one of their members to be cochair of the task force. The task force shall be required to meet at least once biennially during the first session of each new legislature. Additional meetings may be called as the cochair determine necessary. Meetings of the task force shall be called by the cochair. A majority of the appointed members shall constitute a quorum for any meeting of the task force. Staffing assistance shall be provided by the staff of the Senate and House of Representatives.

B. The members of the task force created herein shall continue to serve until new members are appointed pursuant to the provisions of subsection A of this section. The task force is authorized to adopt any recommendations or issue any report it deems necessary. Any recommendations or reports shall be approved by a majority of the appointed members. Copies of any recommendations or reports issued by the task force shall be distributed to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the members of the Grand River Dam Authority Board of Directors and the Chief Executive Officer of the Grand River Dam Authority.

C. The Grand River Dam Authority shall annually provide a copy of the district's most recent annual report to the members of the task force in addition to any information requested pursuant to the provisions of this section.

D. Members serving on the task force shall not be entitled to travel reimbursement.

Added by Laws 2007, c. 192, § 3. Amended by Laws 2011, c. 247, § 1; Laws 2019, c. 507, § 5, eff. July 1, 2019.

§82-863A. Repealed by Laws 2003, c. 459, § 13.

§82-864. Appointment of secretary and other officers - Compensation of officers, agents and employees.

A. 1. The Board of Directors of the Grand River Dam Authority shall select a secretary who shall keep true and complete records of all proceedings of the Board. Until the appointment of a secretary, or in the event of absence or inability to act, a secretary pro tempore shall be selected by the Board.

2. The Board shall also select a chief executive officer of the district, and a treasurer, who may also hold the office of secretary.

3. All such officers shall have the powers and duties, and shall hold office for such term and be subject to removal in such manner as may be provided in the compensation of such officers. The Board may appoint such officers, fix their compensation and term of office and the method by which they may be removed and delegate to them such other powers and duties as it may deem appropriate.

4. Except for the purpose of inquiry, the Board and its members shall deal with the operations of the district solely through the Chief Executive Officer. The Board and its members shall not:

- a. direct or request the Chief Executive Officer or other authority to appoint or remove officers or employees except as herein provided,
- b. participate in any manner in the appointment or removal of officers and employees of the district, except as provided by law, or
- c. give orders or ordinary administrative matters to any subordinate of the Chief Executive Officer either publicly or privately.

B. The Chief Executive Officer may appoint such other officers, agents, and employees, fix their compensation pursuant to the provisions of this section, and term of office and the method by which they may be removed, and delegate to them such of its power and duties as the Chief Executive Officer may deem proper.

Added by Laws 1935, p. 353, § 4. Amended by Laws 1993, c. 299, § 1, eff. July 1, 1993; Laws 1997, c. 240, § 2, emerg. eff. May 23, 1997; Laws 1998, c. 391, § 15, eff. Jan. 1, 1999; Laws 2003, c. 459, § 4; Laws 2012, c. 304, § 1061; Laws 2015, c. 88, § 1, eff. Nov. 1, 2015; Laws 2019, c. 507, § 6, eff. July 1, 2019.

§82-864.1. Retired employees - Payment of health insurance premiums.

Except as otherwise provided for in this section, for the life of a retired employee, the Grand River Dam Authority shall pay not less than Sixty Dollars (\$60.00) of its retired member's, employee only, health insurance premiums as long as the retiree elects to continue participation in one of the plans offered by the State and Education Employees Group Insurance Board. Such payment made by the Grand River Dam Authority shall be in addition to any amount contributed by the Oklahoma Public Employees Retirement System pursuant to Section 1316.2 of Title 74 of the Oklahoma Statutes. At its discretion, the Board of Directors of the Grand River Dam Authority may elect to pay more than Sixty Dollars (\$60.00) toward the health insurance premium of a retired employee.

If the sum of the amount paid by the Grand River Dam Authority plus the medical supplement paid by the Oklahoma Public Employees Retirement System pursuant to Section 1316.2 of Title 74 of the

Oklahoma Statutes exceeds the amount of the retired member's, employee only, health insurance premium, the Authority may reduce the amount it contributes.

Added by Laws 2003, c. 459, § 5. Amended by Laws 2004, c. 524, § 4; Laws 2005, c. 234, § 4, emerg. eff. May 26, 2005.

§82-864.2. Repealed by Laws 2015, c. 169, § 3.

§82-865. District funds - Deposit - Official bonds - Surety.

The funds of the district shall be deposited in accordance with Section 870 of this title and any bond resolutions or indentures issued thereunder. The Chief Executive Officer, the treasurer and all other officers, agents and employees of the district who shall be charged with the collection, custody or payment of any funds of the district shall give bond conditioned on the faithful performance of their duties and an accounting for all funds and property of the district coming into their respective hands, each of which bonds shall be in form and amount and with a surety, which shall be a surety company authorized to do business in the state, approved by the Board, and the premiums on such bonds shall be paid by the district and charged as an operating expense.

Added by Laws 1935, p. 353, § 5. Amended by Laws 1947, p. 624, § 2; Laws 1957, p. 565, § 2; Laws 1970, c. 263, § 3, emerg. eff. April 23, 1970; Laws 1981, c. 204, § 12, emerg. eff. May 26, 1981; Laws 2019, c. 507, § 7, eff. July 1, 2019.

§82-866. Domicile of district - Accounts and records - Contracts - Annual audit - Filing - Public inspection.

The domicile of the district shall be in the City of Vinita, County of Craig, where the district shall maintain its principal office in charge of its Chief Executive Officer, until otherwise designated by the affirmative vote of four directors. The district shall cause to be kept complete and accurate accounts conforming to any generally accepted accounting principles. The accounts and all contracts, documents and records of the district shall be kept at the principal office. The accounts and contracts shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year an audit of the books of account and financial records of the district for such calendar year, such audit to be made by an independent certified public accountant or firm of certified public accountants. Electronic copies of the audit report, certified to by the accountant or accountants, shall be placed and kept on file with the Governor, the State Treasurer, Oklahoma Department of Libraries and the State Auditor and Inspector of the State of Oklahoma, and at the principal office, and shall be open to public inspection at all reasonable times. The audit shall also be filed with the Director of

the Office of Management and Enterprise Services, in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1935, p. 353, § 6. Amended by Laws 1939, p. 561, § 2, emerg. eff. April 8, 1939; Laws 1955, p. 475, § 2, emerg. eff. Feb. 14, 1955; Laws 1981, c. 204, § 13, emerg. eff. May 26, 1981; Laws 1996, c. 290, § 20, eff. July 1, 1996; Laws 2012, c. 304, § 1062; Laws 2019, c. 507, § 8, eff. July 1, 2019.

§82-867. Officers and employees to have no interest in contracts - Fine.

No director, officer, agent, or employee of the district shall be directly or indirectly interested in any contract for the purchase of any property or construction of any work by or for the district, and if any such person shall be or become so interested in any such contract, he shall be guilty of a felony and, on conviction thereof shall be subject to a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00) or to confinement in the county jail for not less than one (1) year nor more than ten (10) years, or both.

Added by Laws 1935, p. 354, § 7. Amended by Laws 1997, c. 133, § 594, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 430, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 594 from July 1, 1998, to July 1, 1999.

§82-868. Board authorized to fix and collect rates and charges - State's power to fix charges not to impair contracts.

The board shall establish and collect rates and other charges for the sale or use of water, water connections, power, electric energy or other services sold, furnished, or supplied by the district which fees and charges shall be reasonable and nondiscriminatory and sufficient to produce revenue adequate:

(a) To pay all expenses necessary to the operation and maintenance of the properties and facilities of the district;

(b) To pay the interest on and principal of all debt issued under Section 861 et seq. of this title when and as the same shall become due and payable;

(c) To pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such debt, and payable out of such revenues, when and as the same shall become due and payable;

(d) To fulfill the terms of any agreements made with the holders of such bonds and/or with any person in their behalf; and

(e) To pay any other amounts that the district is required to pay by law or contract.

Out of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), (d) and (e) above, the board shall establish a reasonable

depreciation and emergency fund, and retire (by purchase and cancellation or redemption) bonds issued under Section 861 et seq. of this title, or apply the same to any corporate purpose. It is the intention of the Grand River Dam Authority Act that the rates and charges of the district shall not be in excess of what may be necessary to fulfill the obligations imposed upon it by the Grand River Dam Authority Act.

Nothing herein shall be construed as depriving the State of Oklahoma of its power to regulate and control fees and/or charges to be collected for the use of water, water connections, power, electric energy, or other services, provided, that the State of Oklahoma does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the power hereby vested in the district to establish and collect such fees and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), (d) and (e) of this section, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the district in connection with such bonds are fully met and discharged.

Added by Laws 1935, p. 354, § 8. Amended by Laws 2019, c. 507, § 9, eff. July 1, 2019.

§82-869. Sources for payment of obligations of district.

A. Any and every indebtedness, liability or obligation of the district, for the payment of money, however entered into or incurred, and whether arising from contract, implied contract or otherwise, shall be payable solely (1) out of the revenues received by the district in respect of its properties, or other accounts held for the payment and security thereof, subject to any prior lien thereon conferred by any resolution or resolutions theretofore adopted as in Section 861 et seq. of this title provided, authorizing the issuance of bonds or (2), if the Board shall so determine out of the proceeds of sale or issuance by the district of bonds or bond anticipation notes payable solely from such revenues or such other amounts, or such credit or liquidity support as may be obtained by the district for such purposes, repayable solely from such revenues or other amounts.

B. Notwithstanding the provisions of this section, the district is hereby authorized to accept state appropriations to pay any lease-purchase obligations for property purchased from the sale of bonds as provided by law in Section 301 et seq. of Title 73 of the Oklahoma Statutes.

Added by Laws 1935, p. 354, § 9. Amended by Laws 1981, c. 204, § 14, emerg. eff. May 26, 1981; Laws 2001, c. 71, § 1, emerg. eff. April 10, 2001; Laws 2019, c. 507, § 10, eff. July 1, 2019.

§82-870. Bonds - Authorization to issue - Provisions of resolution and indenture or agreement - Approval by Attorney General - Registration - Notice of meetings and conference concerning certain coal plants.

The district shall have power and is hereby authorized to issue from time to time, as the need therefor arises, revenue bonds for its corporate purposes in such amount or amounts not to exceed One Billion Four Hundred Ten Million Dollars (\$1,410,000,000.00) outstanding at any time as are necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this act, or any other act or law, and without limitations of the generality of the powers, rights and privileges heretofore granted, for acquiring a steam generating plant or plants and related facilities, and to extend, improve and reconstruct the same; and for constructing, installing and acquiring dams, reservoirs, hydroelectric power plants, or any electrical generating plant or plants or any other electrical power or generating facilities; or any plant or plants for the production of steam for heating and processing purposes; and all and any facilities of every kind necessary, incidental or convenient for the production and generation of electric power and energy; and for acquiring, constructing and installing transmission lines, substations and all facilities necessary, incidental or convenient to the sale, resale, interchange and distribution of electric power and energy; and for carrying on the business and functions of the district, as is now or hereafter may be authorized by law; and for acquiring additions and improvements to and extensions of facilities, at any time existing, of the district; and for the acquisition of lands and rights-of-way for such use as is now, or may be, authorized by law for the construction, replacement and repair of any dams, plants or other facilities of the district; and to enable it to finance, in cooperation with any "public agency", as defined under the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, any other agency of government, rural electric co-op corporation, or any private or public corporation, the development and utilization of electrical energy or the water resources and rights in waters vested in said district for such purposes as are, or may be, authorized by the laws of Oklahoma, and for financing and refinancing present outstanding obligations of the district, including the payment of any claims, charges or interest on bonds required to be paid. The bonds herein authorized may either be (1) sold for cash, at public or private sale, at such price or prices as the Board shall determine with the advice and assistance of the State

Bond Advisor, or (2) may be issued on such terms as the Board shall determine in exchange for property of any kind, real, personal or mixed, or any interest therein which the Board shall deem necessary, incidental or convenient for any such corporate purposes, or (3) may be issued in exchange for like principal amounts of other obligations of the district, matured or unmatured, or (4) may be issued in such principal amounts that when the proceeds thereof are invested in legal and qualified investments, the proceeds together with the resulting proceeds of such investments will be sufficient to retire the outstanding indebtedness or any portion thereof at maturity or at prior redemption or upon purchase or tender for purchase. The proceeds of sale of such bonds shall be deposited in such bank or banks or trust company or trust companies, and shall be paid out pursuant to such terms and conditions as may be agreed upon between the district and the purchasers of such bonds. All such bonds shall be authorized by resolutions of the Board concurred in by at least four of the members thereof, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Oklahoma as such resolution or resolutions may provide. Any resolution or resolutions, including any related trust indenture or indentures, authorizing any bonds may contain provisions which shall be part of the contract between the district and the holders thereof from time to time (a) reserving the right to redeem such bonds at such time or times, in such amounts and at such prices as may be provided, (b) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof, (c) pledging to secure the payment of the principal of and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds all or any part of the gross or net revenues thereafter received by the district in respect of the property, real, personal or mixed, to be acquired or constructed with such bonds or the proceeds thereof, or all or any part of the gross or net revenues thereafter received by the district from whatever source derived and monies and securities held under such resolutions or indentures or contract rights with respect to any of the foregoing, (d) prescribing the purposes to which such bonds or any bonds thereafter to be issued, or the proceeds thereof, may be applied, (e) agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay the items specified in subparagraphs (a), (b), (c), (d) and (e) of Section 868 of this title and prescribing the use and

disposition of all revenues, and the investment of such revenues and other monies pending their expenditures in investments authorized or permitted by law, (f) prescribing limitations upon the issuance of additional bonds and upon the agreements which may be made with the purchasers and successive holders thereof, (g) with regard to the construction, extension, improvement, reconstruction, operation, maintenance and repair of the properties of the district, carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risk, (h) fixing the procedure, if any, by which, if the district shall so desire, the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (i) for the execution and delivery by the district to a bank or trust company authorized by law to accept trusts, or to the United States of America or any office or agency thereof, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or from the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements, and (j) such other provisions, not inconsistent with the provisions of the act, as the Board may approve.

Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that (a) default shall be made in the payment of the interest on any or all bonds when and as the same shall become due and payable, or (b) default shall be made in the payment of the principal of any or all bonds when and as the same shall become due and payable, whether at the maturity thereof, by call for redemption or otherwise, or (c) default shall be made in the performance for any agreement made with the purchasers or successive holders of any bonds, and such default shall have continued such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized thereby, or if there shall be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five percent (25%) in aggregate principal amount of the bonds authorized thereby and at the time outstanding may, and, upon the written request of the holders of twenty-five percent (25%) in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, but for the equal and proportionate benefit of the holders of all of such bonds, and with or without possession thereof,

(1) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds,

(2) Bring suit upon such bonds and/or the appurtenant coupons,

(3) By action or suit in equity, require the district to account as if it were the trustee of an express trust for the bondholders,

(4) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, and/or

(5) After such notice to the district as such resolution may provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holder or holders of twenty-five percent (25%) in aggregate principal amount of such bonds at the time outstanding annul such declaration and its consequence; provided, however, that the holders of more than a majority in principal amount of the bonds authorized thereby and at the time outstanding by instrument or instruments in writing delivered to such trustee have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the district and operate and maintain the same, and fix, collect and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), (d) and (e) of Section 868 of this title and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of Section 861 et seq. of this title and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expense of such trustee and of the receiver or receivers, if any, shall constitute taxable disbursements and all costs and disbursements, and all costs and disbursements allowed by the court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Oklahoma, the courts of the County of Craig, or other county wherein the domicile may be situated, shall have jurisdiction of any such suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their right.

Before any bonds shall be sold by the district, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Oklahoma may require, shall be submitted to

the Attorney General and if he shall find that such bonds have been issued in accordance with law he shall approve such bonds and execute a certificate to that effect which shall be filed in the Office of the State Auditor and Inspector of the State of Oklahoma and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the State Auditor and Inspector, who shall so register the same if the Attorney General shall have filed with the State Auditor and Inspector his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided. All bonds approved by the Attorney General as aforesaid, and registered by the State Auditor and Inspector as aforesaid, and issued in accordance with the proceedings so approved shall be valid and binding obligations of the district and shall be incontestable for any cause from and after the time of such registration.

Added by Laws 1935, p. 354, § 10. Amended by Laws 1939, p. 561, § 1; Laws 1945, p. 410, § 1; Laws 1949, p. 637, § 4; Laws 1957, p. 565, § 3; Laws 1975, c. 117, § 1, emerg. eff. May 9, 1975; Laws 1977, c. 24, § 1, emerg. eff. April 25, 1977; Laws 1981, c. 204, § 15, emerg. eff. May 26, 1981; Laws 1982, c. 185, § 1, emerg. eff. April 20, 1982; Laws 2007, c. 192, § 1; Laws 2015, c. 169, § 1; Laws 2019, c. 507, § 11, eff. July 1, 2019.

§82-870.1. Bond anticipation notes.

Whenever the board shall have adopted a resolution authorizing the issuance of any series of bonds thereunder but prior to the time the bonds can be delivered the board finds it necessary to borrow money for the purpose for which the bonds were authorized, the board may, by appropriate resolutions and subject to all other provisions of Sections 861 through 889 of this title, authorize the borrowing of money in anticipation of the issuance of the bonds, and the issuance of notes of the board to evidence such borrowing. The amount so borrowed shall not exceed the principal amount of the bonds and shall not bear interest at a rate exceeding the allowable interest rate of the bonds. Such notes shall be signed in the manner prescribed by the board and shall be made payable at such times as the board may prescribe not later than five (5) years from their respective dates and may be renewed from time to time by the issuance of new notes hereunder. The proceeds of any loan made under this section shall be devoted exclusively to the purposes for which the bonds shall have been authorized and the notes and the interest thereon shall be paid with the proceeds of the bonds or any legally available funds simultaneously with the delivery of the bonds. If for any reason the bonds shall not be issued, the holder or holders of the notes shall be entitled to all rights which would have been enjoyed by the holders of the bonds had they been issued, and the notes shall be paid from the revenues provided for the payment of the bonds and

shall be entitled to the benefit of all covenants, agreements and rights appearing in the resolution authorizing the bonds for the benefit of the bonds.

Added by Laws 1977, c. 24, § 2, emerg. eff. April 25, 1977. Amended by Laws 2019, c. 507, § 12, eff. July 1, 2019.

§82-870.2. Repealed by Laws 2004, c. 524, § 6.

§82-871. Bonds negotiable.

All bonds issued by the district pursuant to the provisions of this act shall constitute negotiable instruments within the meaning of The Negotiable Instruments Law.

Laws 1935, p. 357, § 11.

§82-872. District to establish rules and regulations concerning labor and materials - Authority to request aid of United States engineers.

The district may, but without intending by this provision to limit any powers of the district as granted to it by this act, enter into and carry out such contract, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or projects as the District may deem desirable or as may be requested by the United States of America, or any corporation or agency created, designated or established thereby, which may assist in the financing of any such project or projects. The district shall have the authority to request engineering aid of the Corps of Engineers of the United States Army, the Federal Power Commission, or any other federal agency, in the designing and construction of any project authorized under the terms of this act and to use such aid, if and when offered, and to pay any reasonable cost therefor.

Laws 1935, p. 357, § 12.

§82-873. District authorized to purchase, fund or refund bonds, etc. - Interest rate swaps and other financial instruments.

A. The Grand River Dam Authority is hereby authorized to fund and refund any and all lawful obligations and any and all revenue bonds issued, or contracted to be sold, by it by the issuance of new revenue bonds, or from the proceeds of sale of new revenue bonds, or by the exchange of new revenue bonds and to renegotiate any agreement of indenture whereunder said obligations or revenue bonds authorized to be funded and refunded hereby may be outstanding, or contracted, but any new revenue bonds issued, exchanged or sold to fund or refund the outstanding obligations and revenue bonds and all agreements and indentures providing for the payment and securing thereof shall conform to the provisions of the Grand River Dam Authority Act, as amended; provided, that no outstanding obligations or revenue bonds

shall be funded or refunded or exchanged on the basis of a price in excess of principal, accrued interest, redemption premium, or charges in excess of those provided by the obligations or revenue bonds or the indenture or agreement whereunder issued or incurred, plus the necessary and reasonable costs of funding, refunding or exchange thereof; provided, further that said Authority shall have the power to purchase any revenue bonds issued, or contracted to be issued, by it at a price not exceeding the redemption price applicable at the time of purchase thereof, or, if no redemption price is fixed, then at principal plus accrued interest, from any funds available and provided for the payment of the revenue bonds.

B. The Authority is further authorized to enter into interest rate swaps and other derivative products, and other financial instruments intended to hedge interest rate risk or manage interest rate costs, including any option to enter into or terminate any of them, that the Authority deems to be necessary or desirable in connection with any bonds issued prior to, at the same time as, or after entering into such arrangement, and containing such terms and provisions, and may be with such parties, as determined by the Authority. Provided, any action taken by the Authority pursuant to this subsection must first be approved by the Office of the State Bond Advisor and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act. Added by Laws 1935, p. 357, § 13. Amended by Laws 1945, p. 409, § 1; Laws 1949, p. 640, § 5; Laws 2007, c. 192, § 2; Laws 2019, c. 507, § 13, eff. July 1, 2019.

§82-874. Mortgage, sale, lease or other disposition of property - Pledge of revenues - Exemption from forced sale - Section not applicable to certain agreements.

A. Nothing in Sections 861 through 890 of this title shall be construed as authorizing the district and it shall not be authorized to mortgage or otherwise encumber any of its property of any kind, real, personal or mixed, or any interest therein, or to acquire any property or interest subject to a mortgage or conditional sale, provided that this section shall not be construed as preventing the pledging of the revenues of the district as herein authorized. Any pledge of revenues, monies, securities or contract rights made by the district pursuant to the provisions of this title shall be valid and binding from the date the pledge is made. The revenues, monies, securities and contract rights so pledged and then held or thereafter received by the district or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district without regard to the provisions of Title 12A of the Oklahoma Statutes, the bond

resolution, trust indenture, security agreement or other instrument by which a pledge is created need not be filed or recorded in any manner.

B. Nothing in Sections 861 through 890 of this title shall be construed as authorizing the sale, lease or other disposition of any property or interest of the district by the district or any receiver of any of its properties or through any court proceeding or otherwise.

C. 1. The district may sell for cash, subject to competitive bidding as provided by the Board of Directors of the Grand River Dam Authority, any property or interest in an aggregate value not exceeding the sum of Five Hundred Thousand Dollars (\$500,000.00) in any one (1) year, except that the district may sell any or all surplus property that the district may have acquired without regard to the limitations herein, if the Board, by the affirmative vote of five or more of the members, shall have determined that the same is not necessary to the business of the district and shall have approved the terms of any sale.

2. Notwithstanding any other provision of law, the district may sell real and personal property directly used for the generation, transmission or distribution of electricity to any corporation, limited liability company, association, cooperative, municipal corporation or a beneficial trust thereof engaged in the furnishing of wholesale or retail electric if the Board approves by a vote of five or more members that the property is not necessary to the business of the district. Sales pursuant to this paragraph shall be exempt from the requirements and limitations of paragraph 1 of this subsection and from the requirements of Section 129.4 of Title 74 of the Oklahoma Statutes.

3. If approved by affirmative vote of five or more members, the Board may authorize the district to enter into agreements to purchase letters of credit or other financial instruments to facilitate the exercise of the powers, rights, and privileges granted it.

D. The district may lease any of its lands if the Board, by the affirmative vote of five or more of the members, shall have determined that the same can be leased without injury to or without interference with the operations of the project, and shall have approved the terms of any lease. Except as otherwise provided, no shorelands (lands lying between the low and high water marks) shall be leased for a term longer than two (2) years and not more than one-fourth (1/4) mile of the lake front shall be leased to any one person, firm or corporation. The district may lease shorelands for a term longer than two (2) years and more than one-fourth (1/4) mile of lake front may be leased to any one person, firm, or corporation without regard to the limitations herein, if the Board, by the affirmative vote of a majority of the members, determines that the lease is necessary or beneficial to the business of the district.

The district may lease shorelands to political subdivisions, agencies of the State of Oklahoma, or tax-exempt public trusts, for any public purpose, on such terms as are mutually satisfactory to the parties, notwithstanding the limitations herein. No lease shall deprive the owner of any land adjacent to the shorelands or lake front, or abutting thereon, of ingress or egress to and from the water of the lakes and shall not deprive the owner of any wharf, dock or boat anchorage privileges that would belong to the owner if the shorelands or lake front were not leased.

E. It is the intention of Sections 861 through 890 of this title that, except by sale, lease or agreement as expressly authorized in Sections 861 through 890 of this title, no property or interest of the district shall ever come into the ownership or control, directly or indirectly, of any person, firm or corporation other than a public authority created under the laws of the State of Oklahoma.

F. Nothing in this section shall be construed as preventing the district from contracting with the United States or any agency thereof for the temporary possession, control and use of properties by the United States or any agency thereof for the safety and defense of the United States in time of a national emergency or in anticipation thereof.

G. All property of the district shall be at all times exempted from forced sale, and nothing contained in Sections 861 through 890 of this title shall authorize the sale of any of the property of the district under any judgment rendered in any suit, and such sales are hereby prohibited and forbidden. The provisions of this subsection shall not apply to any property constructed on a lease or the interest in a lease of shoreland that has been entered into by the district pursuant to subsection B of this section for a term of longer than two (2) years, provided the provisions of the lease authorizing the mortgage and forced sale of the property or lease interest has been approved by an affirmative vote of a majority of the members of the Board.

H. The provisions of this section shall not apply to any sale agreement, lease agreement or other agreement entered into by the district pursuant to paragraphs (f) or (g) of Section 862 of this title, provided that the agreement is in compliance with any applicable provision restricting the sale or leasing of property by the district contained in any resolution of the district providing for the issuance of revenue bonds.

Added by Laws 1935, p. 357, § 14. Amended by Laws 1941, p. 474, § 3; Laws 1947, p. 625, § 3; Laws 1949, p. 640, § 6, eff. April 21, 1949; Laws 1955, p. 475, § 3, eff. Feb. 14, 1955; Laws 1957, p. 570, § 1; Laws 1981, c. 204, § 17, eff. May 26, 1981; Laws 1982, c. 185, § 2, emerg. eff. April 20, 1982; Laws 2005, c. 234, § 5, emerg. eff. May 26, 2005; Laws 2007, c. 163, § 1, emerg. eff. May 31, 2007; Laws 2008, c. 346, § 2, emerg. eff. June 2, 2008; Laws 2015, c. 327, § 1,

eff. Nov. 1, 2015; Laws 2016, c. 210, § 48, emerg. eff. April 26, 2016; Laws 2019, c. 507, § 14, eff. July 1, 2019.

NOTE: Laws 2015, c. 169, § 2 repealed by Laws 2016, c. 210, § 49, emerg. eff. April 26, 2016.

§82-874.1. Watercraft landing on leased land.

A lease entered into by the Authority shall contain a clause prohibiting the collection of a fee from the public for the use of watercraft landing on said leased land.

Added by Laws 1957, p. 570, § 2.

§82-874.2. Licenses for real property encroachment.

The Grand River Dam Authority is hereby authorized in its discretion to issue licenses to encroach upon real property owned by the Authority to adjacent property owners for structures built upon the real property prior to June 1, 2005. The Authority shall receive from the licensee for any license issued pursuant to this section the fair market value of the unimproved land and any administrative costs, including appraisals or surveys, required by the Authority.

Added by Laws 2005, c. 234, § 6, emerg. eff. May 26, 2005.

§82-875. Rights of public - Fees - Rules and regulations - Permits - Attorney General to enforce compliance - Acquisition for land for park or road purposes

A. Except as may be provided in this subsection, the Grand River Dam Authority shall not prevent free public use of its lands and lakes for recreation purposes and for hunting and fishing, except at such points where, in the opinion of the Board of Directors, such use would be dangerous or would interfere with the proper conduct of its business. The Authority may, in the interest of public health and safety, make reasonable regulations governing such use and, in the interest of defraying costs associated with the maintenance and policing of public lands administered by the Authority, prescribe reasonable fees for camping and the use of Authority facilities and for the use of off-road and all-terrain vehicles on Authority lands.

B. All existing public rights-of-way to the areas to be flooded by the impounded waters shall remain open as a way of free public passage to and from the lakes created, and no charge shall ever be made to the public for right to engage in hunting, fishing, boating or swimming in the lakes, and no charges shall ever be made for a permit to operate or use or for the inspection of boats and equipment, except that the Authority may prescribe an annual fee for the issuance or renewal of a permit for a private anchorage, wharf, dock or boathouse. Such fee shall be used to defray the expenses of operating and equipping the Authority's Lake Patrol. The public shall have free use of and access to the waters of the lakes for private use, and shall have the right to anchorage, wharf, dock, boat

dock, houseboat and landing privileges free of charge when used for private boating, but such anchorage, wharf, dock, boat dock, houseboat and landing privileges shall only be allowed after a permit therefor has been issued. Provided that no permit for any anchorage, wharf, dock, boat dock, houseboat and landing privileges shall be issued which would deprive the owner of land adjacent to the shoreland or lake front or abutting thereon of any anchorage, wharf, dock, boat dock, houseboat and landing privileges. The Authority may designate areas closed to such use, where in its opinion such use would interfere with the health or safety of the public, or with the proper conduct of the business of the Authority. The Authority shall prescribe suitable rules for the use of firearms on its lands and lakes and suitable rules and regulations and rules of travel, in the interest of public safety, for the use of the waters of the lakes.

C. The Authority shall prescribe, in the interest of public safety, suitable rules and regulations governing the keeping for hire or operations of a boat or boats, surfboards, aquaplanes, sea-skis or similar devices for pecuniary profit or gain on the waters of the lakes. The keeping for hire or operation of a boat or boats, surfboards, aquaplanes, sea-skis or similar devices, for pecuniary profit or gain, on the waters of the lake, shall only be allowed after a permit therefor has been issued by the Authority. Applications for such permits are to be in writing, upon a form prescribed and furnished by the Authority, and containing such information as is required by the Authority. For the issuance of such a permit the Authority shall charge a fee in an amount as specified by the Authority, and shall have the power to prescribe the size and type of boat or boats allowed to operate under such permit and the equipment necessary to such operation. A permit shall be procured for the construction of wharves, docks, landings and anchorages when constructed for commercial or rental purposes. For the issuance of such a permit the Authority shall charge a fee in an amount as specified by the Authority. The Authority shall prescribe the type, style and location and equipment of wharves, docks, anchorages and landings from which such boats operate and their rules of travel. Issuance of permits is to be deferred and withheld unless and until the applicant therefor has paid the permit fee and procured and deposited with the Authority a good and sufficient bond, either in cash, or by a surety company licensed to do business in this state, or public liability and property damage insurance, written by a company licensed to do business in Oklahoma, in an amount and in such form as the Authority shall specify, so as to assure compensation for injuries to or death of persons, and loss or damage to property for which the holder of such permit may be legally liable. Upon it being called to the attention of the Attorney General of Oklahoma by any citizen of Oklahoma that this section has not been complied with, it shall be the duty of the Attorney General

of Oklahoma to institute the proper legal proceedings to require the Authority, or its successor, to comply with the provisions of this section.

D. The Authority may acquire, by purchase, condemnation, or otherwise, lands suitable for park purposes or roadways along the shores of the lakes. After acquiring such lands the Authority may, but shall not be required to, assign or lease the lands to the State of Oklahoma for park or road purposes and if such assignment is made the lands shall be under the supervision and control of the Oklahoma Tourism and Recreation Commission or the Department of Wildlife Conservation, which shall keep the lands so assigned open to the public so that the public in general may have free access to the lakes.

Added by Laws 1935, p. 357, § 15. Amended by Laws 1941, p. 471, § 1; Laws 1970, c. 263, § 4, emerg. eff. April 23, 1970; Laws 1981, c. 204, § 18, emerg. eff. May 26, 1981; Laws 2016, c. 297, § 3, eff. July 1, 2016.

§82-876. Bonds exempted from taxation except inheritance taxes - Bonds and securities.

All bonds and the interest thereon issued pursuant to the provisions of this act shall be exempt from taxation, except inheritance taxes, by the State of Oklahoma or by any municipal corporation, county or other political subdivision or taxing district of the state.

Bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies, agencies and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest funds including capital in their control or belonging to them. Such bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.
Laws 1935, p. 358, § 16; Laws 1981, c. 204, § 19, emerg. eff. May 26, 1981.

§82-877. Act to constitute only authority for bond issues - Other acts inapplicable.

This act without reference to other statutes of the State of Oklahoma shall constitute full authority for the authorization and issuance of bonds, hereunder, and no other act or law with regard to the authorization or issuance of obligations or the deposit of the proceeds thereof, or in any way impeding or restricting the carrying out of the acts herein authorized to be done shall be construed as

applying to any proceedings taken hereunder or acts done pursuant hereto.

Laws 1935, p. 358, § 17.

§82-878. Construction of act.

This act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Laws 1935, p. 358, § 18.

§82-879. Partial invalidity.

If any provision of this act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Laws 1935, p. 358, § 19.

§82-880. Short title.

This act may be cited as the Grand River Dam Authority Act.

Laws 1935, p. 358, § 20.

§82-882. Judicial determination by Supreme Court of validity of bonds, contracts and other acts - Notice.

The district is authorized in its discretion to file an application with the Supreme Court of Oklahoma for approval by said court of any bonds to be issued under this act, or to file a petition for a judgment determining the validity of any proposed contract or action arising from the exercise of any of the powers, rights, privileges and functions conferred upon the district under this act; and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application or petition. It shall be the duty of the Court to give such applications and petitions precedence over the other civil business of the Court except habeas corpus proceedings, and to consider and pass upon the applications and petitions and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application and petition shall be given by a notice published in a newspaper of general circulation in the state that on a day named the district will ask the Court to hear its application and approve the bonds, or hear its petition and enter a declaratory judgment. Such notice shall inform property owners, taxpayers, ratepayers, citizens, and all persons having or claiming any right, title, or interest in such matter or properties or funds to be affected by the issuance of such bonds, or proposed contract or action, or affected in any way thereby, that they may file protests against the issuance of the bonds, or declaratory judgment, and be present at the hearings and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the

hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this act and that, when issued, they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds, and shall, upon application of the district, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such bonds, or of the rates, fees or charges authorized to be charged for the payment thereof, or the pledge of revenues to secure such payment, and shall fix the time within which a petition for rehearing may be filed. If the Court shall be satisfied that the proposed contract or action is in accordance with this act, the Court shall enter a judgment approving and declaring such contract or action to be valid, and shall, upon application of the district, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such contract or action, and shall fix the time within which the petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the district, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma, and any declaratory judgment on any contract or action of the district entered pursuant to this section shall have the force and effect of a final judgment or decree.

Laws 1957, p. 568, § 4.

§82-887. Waters of Grand River and reservoirs thereon as nonnavigable and waters of State of Oklahoma.

That the waters of Grand River in Oklahoma and the Pensacola and Markham Ferry Reservoirs, located thereon, be and are hereby determined and declared to be non-navigable and waters of the State of Oklahoma.

Laws 1963, p. 759, H.J.R.No.548, § 1.

§82-888. Distribution of copies of resolution.

That a copy of this resolution be transmitted to the President of the United States, the Secretary of the United States Senate and the Clerk of the House of Representatives of the United States, and to each member of Congress, from the State of Oklahoma and to the Commandant of the United States Coast Guard, Washington, D.C.

Laws 1963, p. 759, H.J.R.No.548, § 2.

§82-889. Permits for maintaining docks, wharves, vessels, etc. - Limitation - Rules.

The Grand River Dam Authority shall issue no permit for any dock, wharf, landing, boathouse or for any houseboat, vessel or other floating structure of a stationary or semistationary nature and no permit heretofore issued shall be valid unless said dock, wharf, landing, boathouse or such stationary or semistationary houseboat, vessel or other floating structure of any nature shall be securely attached to the shorelands adjacent to the water's edge by means of suitable cables or metal stiff-arms as approved by the Authority. Said cables or stiff-arms and any walkway extending to the shorelands shall conform to the rules promulgated by the Authority. Laws 1971, p. 1040, H.J.R. No. 1029, § 1, emerg. eff. June 17, 1971; Laws 2005, c. 234, § 7, emerg. eff. May 26, 2005.

§82-890. Control of segment of Grand River downstream from Fort Gibson Dam.

The Grand River Dam Authority shall have no control over that portion of the Grand River downstream from Fort Gibson Dam to the point of confluence of the waters of the Grand River with those of the Arkansas River.

Added by Laws 1975, c. 108, § 1, emerg. eff. May 6, 1975.

§82-895. Certain municipal annexations prohibited.

Municipalities are prohibited from annexing property which is covered by any body of water subject to the control of the Grand River Dam Authority or from annexing any property located within one thousand (1,000) feet of the high water mark of such body of water, without prior approval of the Grand River Dam Authority Board of Directors. Provided, however, municipalities may annex property by crossing a body of water if the property has been improved with a bridge or similar permanent structure.

Added by Laws 1997, c. 240, § 5, emerg. eff. May 23, 1997. Amended by Laws 2003, c. 459, § 7.

§82-896.1. Termination of Scenic Rivers Commission - Transfer of rights and authorities to Grand River Dam Authority

A. Effective July 1, 2016, the Scenic Rivers Commission created pursuant to Section 1461 of Title 82 of the Oklahoma Statutes shall be terminated. Effective July 1, 2016, the rights and authorities of the Scenic Rivers Commission shall be transferred to the Grand River Dam Authority. Effective July 1, 2016, all assets, funds, liabilities, allotments, purchase orders, outstanding financial obligations, encumbrances, records, equipment and property of the Scenic Rivers Commission are hereby transferred to and placed under the supervision and control of the Grand River Dam Authority. Monies collected or accruing to the credit of the Scenic Rivers Commission in the State Treasury or under the management of the Office of Management and Enterprise Services pursuant to the provisions of

Section 1462A, 1462B or 1462C of Title 82 of the Oklahoma Statutes as of the effective date of this act and after shall be transferred to the Grand River Dam Authority to assist in implementing this act or as otherwise directed to support the activities previously conducted by the Scenic Rivers Commission or the employees of the Commission. Any other monies from appropriations, fees, licenses, fines, penalties or other similar types of monies that accrue in any funds or accounts after the effective date of this act in the name of the Scenic Rivers Commission or maintained for the benefit of the Commission are transferred to the Grand River Dam Authority.

B. Personnel employed by the Scenic Rivers Commission on the effective date of this act shall be transferred to the Grand River Dam Authority subject to the following provisions:

1. Classified employees transferred shall remain subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act;

2. Unclassified employees transferred shall remain in the unclassified service and shall serve at the pleasure of the Grand River Dam Authority;

3. All employees transferred pursuant to this act shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their employment with the state. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer;

4. Should the Grand River Dam Authority implement a reduction in force, all employees transferred pursuant to this act shall be credited for the time they were employed by the Scenic Rivers Commission; and

5. The transfer of personnel shall be coordinated with the Office of Management and Enterprise Services.

C. The Scenic Rivers Commission shall cease operating as a Commission no later than July 1, 2016. The Grand River Dam Authority Board of Directors may create an advisory board relating to the management of the property and area previously under the authority of the Scenic Rivers Commission with consideration of and adherence to the provisions of the Scenic Rivers Act. Members currently serving on the Commission may be eligible to serve in an advisory capacity if so appointed by the Grand River Dam Authority Board of Directors and may serve for terms as authorized by the Board of Directors of the Authority.

D. The Administrator and Chief Ranger of the Scenic Rivers Commission employed by the Commission on the effective date of this act may maintain possession of the badge and assigned firearm issued by the Commission.

Added by Laws 2016, c. 297, § 4, eff. July 1, 2016.

§82-896.2. Fees for use of flotation devices upon scenic rivers.

A. Effective January 1, 2017, the Grand River Dam Authority is authorized to set a daily, multiday or annual fee for the use of a commercially or privately owned flotation device to float upon designated scenic rivers. Landowners located immediately adjacent to the designated scenic river shall not be required to pay any fee for private use as authorized by this section or otherwise by law.

B. The Grand River Dam Authority is authorized to promulgate rules establishing an online payment system or any other means by which the public may conveniently purchase permits for the operation of a flotation device upon designated scenic river areas as authorized by this section.

C. In the interest of public safety, the Grand River Dam Authority is authorized to promulgate rules protecting the natural resources of the scenic rivers, regulating public use areas, establishing use permits for scenic rivers, establishing licensing requirements for commercial float operators and setting fees for the issuance of the licenses. The Authority shall be the sole grantor of licenses issued pursuant to the rules.

D. With regard to all rights and authorities transferred to the Grand River Dam Authority pursuant to this section, Section 896.1 of this title and Chapter 10- and 15- rules of the Oklahoma Administrative Code 630: Scenic Rivers Commission relating to licensing, use permits and protection of natural resources, are hereby transferred to the Grand River Dam Authority to the extent the rules are consistent with state law and rules of the Authority for the purpose of implementing and enforcing the provisions of the Scenic Rivers Act.

Added by Laws 2016, c. 297, § 5, eff. July 1, 2016. Amended by Laws 2017, c. 41, § 2, eff. Jul. 1, 2017.

§82-896.3. Powers and duties for purposes of the Scenic Rivers Act

For purposes of the Scenic Rivers Act, the Grand River Dam Authority shall have additional powers and duties to:

1. Prepare, adopt and publish management plans and other documents to guide public and private activities and programs;
2. Consider and comment on public and private practices and proposed actions that may affect a scenic river;
3. Recommend standards for local government agencies whose political boundaries include all or part of a scenic river;
4. Own and control public access points for scenic rivers, and purchase easements and fee title to land along the scenic rivers for public purposes which are to be held by the Authority as an agency of the State of Oklahoma; and
5. Identify public and private nuisances that adversely affect a scenic river and take lawful action to abate nuisances.

Added by Laws 2016, c. 297, § 6, emerg. eff. July 1, 2016.

§82-896.4. Short title

Sections 7 through 19 of this act shall be known and may be cited as the "Scenic Rivers Act".

Added by Laws 1970, c. 68, § 1, emerg. eff. March 17, 1970. Amended by Laws 2003, c. 305, § 1, emerg. eff. May 28, 2003; Laws 2016, c. 297, § 7, eff. July 1, 2016. Renumbered from § 1451 of this title by Laws 2016, c. 297, § 24, eff. July 1, 2016.

§82-896.5. Preservation of certain free-flowing streams and rivers - Designation of scenic river areas

The Oklahoma Legislature finds that certain free-flowing streams and rivers of Oklahoma possess such unique natural scenic beauty, water, fish, wildlife and outdoor recreational values of present and future benefit to the people of the state that it is the policy of the Legislature to preserve these areas for the benefit of the people of Oklahoma. For this purpose the following are hereby designated as scenic rivers:

1. The Flint Creek in Delaware County;
2. The Illinois River in Adair, Delaware and Cherokee Counties above its confluence with the Barren Fork Creek;
3. The Barren Fork Creek in Adair and Cherokee Counties from the present alignment of U.S. Highway 59 West to its confluence with the Illinois River;
4. The Upper Mountain Fork River above the 600-foot elevation level of Broken Bow Reservoir in McCurtain and LeFlore Counties;
5. Big Lee Creek in Sequoyah County, above the 420-foot MSL elevation; and
6. Little Lee Creek in Adair and Sequoyah Counties.

Added by Laws 1970, c. 68, § 2, emerg. eff. March 17, 1970. Amended by Laws 1974, c. 56, § 1, emerg. eff. April 13, 1974; Laws 1977, c. 6, § 1, emerg. eff. Feb. 25, 1977; Laws 1986, c. 33, § 1, emerg. eff. March 21, 1986; Laws 1988, c. 203, § 9, emerg. eff. June 10, 1988; Laws 1991, c. 7, § 2, eff. July 1, 1991; Laws 1997, c. 241, § 5, eff. July 1, 1997; Laws 2003, c. 305, § 2, emerg. eff. May 28, 2003; Laws 2016, c. 297, § 8, eff. July 1, 2016. Renumbered from § 1452 of this title by Laws 2016, c. 297, § 25, eff. July 1, 2016.

§82-896.6. Legislative intent - Construction, operation or maintenance of dams or related projects.

A. The term "scenic river" as used in the Scenic Rivers Act is defined as a stream or river designated pursuant to Section 896.5 of this title and the public use and access areas located within or adjacent to the stream or river.

B. It is the intent of the Legislature that a stream or river designated as a scenic river shall be preserved in its free-flowing condition and shall not be impounded by any large dam or structure except as specifically authorized by the Legislature.

C. No agency or official of state government shall authorize or concur in plans of local, state or federal agencies for the construction, operation, or maintenance of any dam or related project in or adjacent to any scenic river without legislative consent, except as needed by the municipalities located in the counties or the immediate vicinity of the scenic river for their own municipal or domestic water supply if such uses and structures will not significantly interfere with the preservation of the stream as a scenic free-flowing stream.

D. It is recognized by the Legislature that an effective program for preserving the scenic beauty of the free-flowing streams and rivers designated as a scenic river area necessarily involves the cooperation and support of the people in the operating areas of a designated scenic river, as well as the people using the scenic river, and the agencies of state government administering these areas.

E. The primary purpose of the Scenic Rivers Act is to encourage the preservation of the areas designated as a scenic river area in their natural scenic state.

Added by Laws 1970, c. 68, § 3, emerg. eff. March 17, 1970. Amended by Laws 1997, c. 241, § 6, eff. July 1, 1997; Laws 2016, c. 297, § 9, eff. July 1, 2016. Renumbered from § 1453 of this title by Laws 2016, c. 297, § 26, eff. July 1, 2016; Laws 2017, c. 41, § 1, eff. Jul. 1, 2017.

§82-896.7. Acquisition, development and maintenance of public access, easements and parks - Eminent domain prohibited

In order to assist in the public use and enjoyment of the scenic rivers, the Grand River Dam Authority, the Oklahoma Tourism and Recreation Department and the Department of Wildlife Conservation may acquire, develop and maintain public access points, easements or park areas in or near scenic rivers. Such acquisitions shall be by private treaty only, and the use of the power of eminent domain for these purposes is specifically prohibited.

Added by Laws 1970, c. 68, § 4, emerg. eff. March 17, 1970. Amended by Laws 1993, c. 145, § 336, eff. July 1, 1993; Laws 1997, c. 241, § 7, eff. July 1, 1997; Laws 2016, c. 297, § 10, eff. July 1, 2016. Renumbered from § 1454 of this title by Laws 2016, c. 297, § 27, eff. July 1, 2016.

§82-896.8. Prohibited containers - Littering - Penalties

A. The use of glass, Styrofoam or any plastic foam containers for any purpose shall be prohibited on any scenic river or on the Lower Mountain Fork River, south of the Broken Bow Lake Reregulation Dam to U.S. Highway 70. Any person found in violation of this section shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

B. Any person who deliberately places, throws, drops, dumps, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on or near a scenic river shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

Added by Laws 1970, c. 68, § 5, emerg. eff. March 17, 1970. Amended by Laws 1988, c. 115, § 6, eff. Nov. 1, 1988; Laws 1991, c. 182, § 66, eff. Sept. 1, 1991; Laws 1997, c. 241, § 8, eff. July 1, 1997; Laws 2009, c. 6, § 1, emerg. eff. April 3, 2009; Laws 2016, c. 297, § 11, eff. July 1, 2016. Renumbered from § 1455 of this title by Laws 2016, c. 297, § 28, eff. July 1, 2016.

§82-896.9. Property rights of private landowners

The property rights of private landowners adjacent to a scenic river are the same as in any other area of the state. The unauthorized use of private property is trespassing and is subject to the penalties provided elsewhere in the statutes for such an offense. Added by Laws 1970, c. 68, § 6, emerg. eff. March 17, 1970. Amended by Laws 1997, c. 241, § 9, eff. July 1, 1997; Laws 2016, c. 297, § 12, eff. July 1, 2016. Renumbered from § 1456 of this title by Laws 2016, c. 297, § 29, eff. July 1, 2016.

§82-896.10. Agencies authorized to assist in maintaining and improving water quality - Coordinated watershed restoration and protection strategy

A. The Department of Environmental Quality, the Corporation Commission, the Oklahoma Department of Agriculture, Food, and Forestry, the Oklahoma Water Resources Board, the Department of Wildlife Conservation and the Oklahoma Conservation Commission are hereby given the authority to assist the Grand River Dam Authority in maintaining and improving water quality and in preventing and eliminating the pollution of waters within scenic rivers.

B. 1. The Secretary of Energy and Environment shall coordinate with the appropriate state environmental agencies to create a coordinated watershed restoration and protection strategy for each impaired scenic river in this state.

2. The coordinated watershed restoration and protection strategy shall identify all permitted or registered water pollution sources and shall include but not be limited to:

- a. an overall pollutant-specific load reduction as identified in a developed total maximum daily load (TMDL), or as otherwise calculated in the absence of a TMDL, to bring each impaired scenic river back into compliance with water quality standards,
- b. pollutant-specific load reduction goals for each state environmental agency to accomplish through its water quality protection programs,

- c. detailed compliance schedules indicating how much of the load reduction goal will be accomplished each year by each state environmental agency,
- d. industry-specific descriptions of how load reduction goals for each state environmental agency will be accomplished,
- e. an outline of innovative, cooperative intrastate and interstate strategies that will be pursued in order to expedite pollutant reductions, in particular where scenic river watersheds cross state lines. Such strategies may include nutrient trading and conservation reserve enhancement program (CREP) initiatives, and
- f. a list of all permitted or registered water pollution sources subject to the jurisdiction of each state agency within each impaired scenic river watershed, including the following information :
 - (1) types of operations or organizations regulated,
 - (2) list of the registrations or permits issued,
 - (3) details on governmental assistance given, and
 - (4) details of enforcement actions undertaken.

C. 1. For those impaired scenic river watersheds where a TMDL for phosphorus has been developed, the Department of Environmental Quality shall initially allocate a wasteload for phosphorus for discharges from wastewater treatment facilities which enter the scenic river which is achievable by the best available waste control process.

2. The Secretary of Energy and the Environment shall evaluate methods to reduce the contribution of phosphorus to impaired scenic rivers from non-point sources identified by a TMDL.

D. 1. The Grand River Dam Authority shall require all commercially operated flotation device operations and campgrounds using scenic rivers for recreational activities to implement a program to control the amount of pollution entering a scenic river that is impaired by recreational activities.

2. The Grand River Dam Authority shall include in the coordinated watershed restoration and protection strategy an identification of the pollution from recreational activities and those actions taken and planned to reduce the amount of pollution.

E. If the Legislature or the Governor finds that any of the state environmental agencies have failed to appropriately protect water quality standards in an impaired scenic river watershed, the Governor and the Legislature shall take any and all necessary and appropriate action to help the agency to meet its responsibilities. Added by Laws 1970, c. 68, § 7, emerg. eff. March 17, 1970. Amended by Laws 1993, c. 145, § 335, eff. July 1, 1993; Laws 1997, c. 241, § 10, eff. July 1, 1997; Laws 2002, c. 148, § 1, emerg. eff. April 29,

2002; Laws 2016, c. 297, § 13, eff. July 1, 2016. Renumbered from § 1457 of this title by Laws 2016, c. 297, § 30, eff. July 1, 2016.

§82-896.11. Scenic rivers - Statement of purpose

The Legislature finds that the protection and development of the scenic rivers in the state and adjacent and contiguous lands and quality of outstanding resource waters included within each scenic river should be provided for by properly planned and executed rules promulgated by the Grand River Dam Authority. The rules promulgated by the Authority with respect to scenic rivers may address public services, land use, occupancy, structures, lot and plot sizes, density of population and other activities as required for the proper protection of the aesthetic, scenic, historic, archeologic and scientific features of the scenic rivers, or deemed necessary for the protection of the ecosystem and the environment from pollution, despoliation and destruction or waste of natural resources and all other factors adversely affecting the public health, safety and the general welfare so long as the rules comply with the exempt provisions of the Scenic Rivers Act pertaining to farming, ranching, forestry, silviculture and other agricultural uses.

Added by Laws 1977, c. 29, § 1, emerg. eff. May 3, 1977. Amended by Laws 1997, c. 241, § 12, eff. July 1, 1997; Laws 2016, c. 297, § 14, eff. July 1, 2016. Renumbered from § 1460 of this title by Laws 2016, c. 297, § 31, eff. July 1, 2016.

§82-896.12. Construction of act

A. Nothing in the Scenic Rivers Act shall be construed to unduly restrict or adversely affect the use of property within any scenic rivers basin for farming, ranching, forestry, silviculture and other agricultural uses so long as they are not inconsistent with the purposes of the Scenic Rivers Act.

B. Present farming, ranching, forestry, silviculture and other agricultural uses and practices, including existing building and replacement structures, are hereby exempt from the provisions of the Scenic Rivers Act.

C. The Scenic Rivers Act shall not be construed in any way to affect existing rights between a landowner and utility or pipeline companies.

Added by Laws 1977, c. 29, § 5, emerg. eff. May 3, 1977. Amended by Laws 1997, c. 241, § 19, eff. July 1, 1997; Laws 2003, c. 305, § 3, emerg. eff. May 28, 2003; Laws 2016, c. 297, § 15, eff. July 1, 2016. Renumbered from § 1464 of this title by Laws 2016, c. 297, § 32, eff. July 1, 2016.

§82-896.13. Powers of cities, incorporated towns and counties

A. All cities and incorporated towns and counties that contain all or part of a scenic river within the jurisdictional boundaries of

the city, town or county are hereby invested with full power to plan, zone and enact all ordinances and regulations that are necessary and proper to carry out the purposes of the Scenic Rivers Act.

B. The cities, incorporated towns and counties shall follow their respective general procedures in the conduct of legislative functions.

C. In exercising planning and zoning functions, said cities, incorporated towns and counties shall utilize the organization and procedures available to cities and incorporated towns under the general planning and zoning laws of the state. Provided that, when a county exercises the powers provided by the Scenic Rivers Act, the board of county commissioners of that county shall perform the obligations and exercise the powers in the same manner as a local legislative body or mayor of a city, incorporated town or municipality.

Added by Laws 1977, c. 29, § 6, emerg. eff. May 3, 1977. Amended by Laws 1997, c. 241, § 20, eff. July 1, 1997; Laws 2016, c. 297, § 16, eff. July 1, 2016. Renumbered from § 1465 of this title by Laws 2016, c. 297, § 33, eff. July 1, 2016.

§82-896.14. Authority to provide funds for the Scenic Rivers Act

Each county, city, incorporated town or other governmental entity which contains all or part of a scenic river within its jurisdictional boundaries is hereby authorized to grant or otherwise provide funds for the operation and administration of the Scenic Rivers Act.

Added by Laws 1977, c. 29, § 7, emerg. eff. May 3, 1977. Amended by Laws 1997, c. 241, § 21, eff. July 1, 1997; Laws 2016, c. 297, § 17, eff. July 1, 2016. Renumbered by § 1466 of this title by Laws 2016, c. 297, § 34, eff. July 1, 2016.

§82-896.15. Violations

A. Any person who willfully violates any rule or order issued pursuant to the Scenic Rivers Act, except such rules or orders as relate solely to procedural matters, upon conviction thereof, shall be guilty of a misdemeanor.

B. In addition to other administrative actions, the Grand River Dam Authority may issue a Notice of Violation to any licensed commercial flotation device operation that is alleged to have violated any rule of the Grand River Dam Authority. The Notice of Violation shall advise the licensed operation of the applicable rule and the facts of the violation and shall set a reasonable period of time for the licensed operation to comply with the rule. After the time to comply has expired, if the licensed operation is found to still be in violation of the same rule, the Authority may issue a proposed order assessing an administrative penalty in an amount of not less than One Hundred Dollars (\$100.00) or more than Five Hundred

Dollars (\$500.00). The licensed operation shall have twenty (20) days from receipt of the order to request an administrative hearing. If a hearing is not requested, the proposed order shall become final and the administrative penalty shall become due and payable. Added by Laws 1977, c. 29, § 8, emerg. eff. May 3, 1977. Amended by Laws 1997, c. 241, § 22, eff. July 1, 1997; Laws 2016, c. 297, § 18, eff. July 1, 2016. Renumbered from § 1467 of this title by Laws 2016, c. 297, § 35, eff. July 1, 2016.

§82-896.16. User fees - Licenses - Fines

A. 1. Until replaced or changed as provided for in subsection C of this section, the Grand River Dam Authority is authorized and directed to charge an annual use fee of Thirty-five Dollars (\$35.00) per commercially owned and operated flotation device on the Illinois River within Adair, Cherokee and Delaware Counties.

2. The operation of a commercial flotation device without displaying a proper license issued by the Authority shall result in a fine not to exceed One Hundred Dollars (\$100.00). The fine shall be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.

3. Commercial flotation devices shall not be operated on Flint Creek in Delaware County and those portions of Barren Creek in Cherokee County.

B. For the Flint Creek and Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County, the Authority is authorized and directed to charge until replaced or changed as provided for in subsection C of this section:

1. An annual use fee of Ten Dollars (\$10.00) per noncommercial, privately owned device; or

2. A use fee of One Dollar (\$1.00) per day for all noncommercial, privately owned flotation devices floating upon a designated scenic river. Landowners located immediately adjacent to a designated scenic river shall not be required to pay any fee for private use as authorized in this section or otherwise by law.

C. Under the provisions of Section 5 of this act granting the Authority the power to establish licenses and set fees, the Authority may promulgate rules for the collection and administration of the fees imposed pursuant to the provisions of this section or may promulgate rules establishing licenses and setting fees that change or replace the licenses and fees imposed pursuant to the provisions of this section. Upon final adoption of rules changing or replacing any or all of the licenses and fees imposed pursuant to the provisions of this section, the Authority shall cease to impose, collect or charge the license and fee that was changed or replaced by

rule. Rules promulgated by the Authority pursuant to this section shall be in accordance with the Administrative Procedures Act.

D. Until replaced or changed as provided for in subsection C of this section, the Grand River Dam Authority may charge a fee for use of camping sites located in public use and access areas controlled by the Authority in an amount that does not exceed the rate charged by the Oklahoma Tourism and Recreation Department for camping sites.

E. For the purposes of the Scenic Rivers Act, "commercial flotation device" means a canoe, boat, kayak, inner tube, raft or other similar device suitable for the transportation of a person or persons on waterways which is available for hire by the public for use on scenic rivers.

Added by Laws 1980, c. 354, § 19, emerg. eff. June 25, 1980. Amended by Laws 1983, c. 332, § 4, emerg. eff. June 29, 1983; Laws 1987, c. 208, § 105, operative July 1, 1987; Laws 1987, c. 236, § 100, emerg. eff. July 20, 1987; Laws 1989, c. 147, § 5, emerg. eff. May 1, 1989; Laws 1989, c. 249, § 37, emerg. eff. July 1, 1989; Laws 1990, c. 205, § 5, emerg. eff. May 10, 1990; Laws 1993, c. 61, § 1, emerg. eff. April 12, 1993; Laws 1997, c. 241, § 25, eff. July 1, 1997; Laws 2000, c. 318, § 2, emerg. eff. June 5, 2000; Laws 2001, c. 76, § 1, emerg. eff. April 11, 2001; Laws 2001, c. 355, § 20, emerg. eff. June 1, 2001; Laws 2003, c. 192, § 7, emerg. eff. May 7, 2003; Laws 2003, c. 364, § 1, eff. July 1, 2003; Laws 2008, c. 301, § 2, eff. Jan. 1, 2009; Laws 2010, c. 391, § 1; Laws 2016, c. 297, § 19, eff. July 1, 2016. Renumbered from § 1470 of this title by Laws 2016, c. 297, § 36, eff. July 1, 2016.

§82-926.1. Renumbered as § 1084.2 of this title by Laws 1993, c. 145, § 361, eff. July 1, 1993.

§82-926.2. Renumbered as § 2-6-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-926.3. Renumbered as § 2-6-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-926.4. Renumbered as § 2-6-501 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-926.5. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.6. Renumbered as § 1085.30 of this title by Laws 1993, c. 145, § 361, eff. July 1, 1993.

§82-926.7. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.8. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.9. Renumbered as § 2-3-501 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-926.10. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.11. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.12. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-926.13. Renumbered as § 2-6-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-931. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-932. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-932.1. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-932.2. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-932.3. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-933. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-934. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-934.1. Renumbered as § 365 of Title 17 by Laws 1991, c. 181, § 12, eff. July 1, 1991.

§82-934.2. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-934.3. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-935. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-936. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-936.1. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-937. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-937.1. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-937.2. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-937.4. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-937.5. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-938. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-940. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-941. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-942. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-943. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-944. Repealed by Laws 1992, c. 398, § 24, eff. Jan. 1, 1993.

§82-1020.1. Definitions.

As used in Section 1020.1 et seq. of this title:

1. "Groundwater" means fresh water and marginal water under the surface of the earth regardless of the geologic structure in which it is standing or moving outside the cut bank of any definite stream;

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

3. "Major groundwater basin" shall mean a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and from which groundwater wells yield at least fifty (50) gallons per minute on the average basinwide if from a bedrock aquifer and at least one hundred fifty (150) gallons per minute on the average basinwide if from an alluvium or alluvium and terrace aquifer, or as otherwise designated by the Board;

4. "Subbasin" means a subdivision of a major or minor groundwater basin overlain by contiguous land and having substantially the same geological and hydrological characteristics and yield capabilities;

5. "Board" means the Oklahoma Water Resources Board;

6. "Person" means any individual, firm, partnership, association, corporation, business trust, federal agency, state agency, the state or any political subdivision thereof, municipalities, and any other legal entities;

7. "Fresh water" means water which has less than five thousand (5,000) parts per million total dissolved solids. For the purpose of Section 1020.1 et seq. of this title all other water is salt water;

8. "Commercial drilling", "commercial plugging" and "commercial installation" mean drilling or plugging and installation as a business, trade or occupation for compensation;

9. "Minor groundwater basin" means a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and which is not a major groundwater basin; and

10. "Marginal water" means water which has at least five thousand (5,000) and less than ten thousand (10,000) parts per million total dissolved solids.

Added by Laws 1972, c. 248, § 1, eff. July 1, 1973. Amended by Laws 1990, c. 325, § 1, emerg. eff. May 30, 1990; Laws 1993, c. 164, § 8, emerg. eff. May 10, 1993; Laws 1995, c. 112, § 5, eff. Nov. 1, 1995; Laws 2018, c. 261, § 1, eff. Nov. 1, 2018.

§82-1020.2. Declaration of policy - Applicability.

A. It is hereby declared to be the public policy of this state, in the interest of the agricultural stability, domestic, municipal, industrial and other beneficial uses, general economy, health and welfare of the state and its citizens, to utilize the ground water resources of the state, and for that purpose to provide reasonable regulations for the allocation for reasonable use based on hydrologic surveys of fresh ground water basins or subbasins to determine a restriction on the production, based upon the acres overlying the ground water basin or subbasin.

B. The provisions of Section 1020.1 et seq. of this title shall not apply to the taking, using or disposal of salt water associated with the exploration, production or recovery of oil and gas. The provisions of this act shall not apply to the taking, using or disposal of water trapped in producing mines outside of a sensitive sole source groundwater basin or subbasin.

C. Except as provided for in subsection E of this section, the provisions of this act shall not apply to the taking, using or disposal of water trapped in producing mines:

1. That overlie a sensitive sole source groundwater basin or subbasin and have been permitted by the Oklahoma Department of Mines as of August 1, 2011;

2. That overlie a sensitive sole source groundwater basin or subbasin for which an initial application for a permit shall have been filed with the Oklahoma Department of Mines as of August 1, 2011; or

3. That overlie a sensitive sole source groundwater basin or subbasin and for which a permit revision is approved by the Oklahoma Department of Mines.

Provided that the use of mine pit water, pursuant to a site-specific water management and conservation plan prepared in consultation with the Oklahoma Water Resources Board, by mines that

are exempted from this act by the terms of this subsection and in furtherance of mine operations and associated manufacturing and commercial activities on the mine site, shall be considered as permitted beneficial uses for all purposes under the laws of the state.

D. 1. Except with respect to the mines exempted from the terms of this act under subsections B and C of this section, the Oklahoma Water Resources Board, in coordination with the Oklahoma Department of Mines, shall promulgate rules for the taking, using or disposal of water collecting in producing mine pits and emanating from a sensitive sole source groundwater basin or subbasin.

2. The rules promulgated by the Oklahoma Water Resources Board shall require, subject to a de minimis exemption to be promulgated therein, the development by the mine operator of provisions relating to the augmentation (a beneficial use) of stream flow or groundwater, and of site-specific water management and conservation plans, which plans shall establish threshold hydrologic monitoring, management and mitigation requirements that are based on relevant hydrologic surveys and investigations of the sensitive sole source groundwater basin or subbasin. Such plans submitted to the Oklahoma Water Resources Board shall be subject to the provisions of the Oklahoma Open Records Act.

3. The rules promulgated by the Oklahoma Water Resources Board shall contain provisions relating to augmentation of stream flow or groundwater, or both, to offset consumptive use of groundwater collecting in the producing mine pit that emanates from a sensitive sole source groundwater basin or subbasin in amounts greater than the equal proportionate share of the maximum annual yield of the groundwater basin or subbasin established by the Oklahoma Water Resources Board that may be allocated to the owner or operator of the producing mine based on groundwater rights owned or leased by the owner or operator.

E. 1. By no later than January 1, 2013, the operator of a mine that is exempted from this act by the provisions of subsection C of this section shall adopt and implement a plan to monitor and report to the Board the accumulation and disposition of pit water during the previous calendar year. The operator shall also file with the Board interim quarterly reports containing information about the accumulation and disposition of pit water during the previous quarter. The first interim quarterly report for calendar year 2013 shall be sent to the Board by June 30, 2013, and the annual report for the calendar year 2013 shall be sent to the Board by March 31, 2014. Thereafter, the annual report for each calendar year shall be sent to the Board by March 31st of the following year. The monitoring plan will provide for the measurement or reasonable estimation of groundwater and surface water volumes, separately stated, entering the pit, of the water diverted from the pit, of the disposition of the water from the pit, and of the consumptive use, as

defined in this section, of the mine pit water by the mine operator. The reports received by the Board will be subject to the provisions of the Oklahoma Open Records Act. If an operator of a mine that is exempted from this act by the provisions of subsection C of this section fails to timely submit an interim quarterly report or annual report, the exemption of subsection C shall no longer apply to the mine and the rules promulgated pursuant to subsection D of this section shall become applicable, provided that such rules shall contain provisions to allow the operator to show cause why the exemption contained in subsection C of this section should continue to apply.

2. If, at any time after March 31, 2015, the amount of groundwater from the pit (plus amounts of groundwater from permitted wells, if any) consumptively used in the preceding twelve months by the mine operator at a mine described in paragraph 1 of this subsection exceeds the annual amount that is equivalent to the equal proportionate share of the maximum annual yield of the groundwater basin or subbasin that could be allocated to the owner or operator of the producing mine based on groundwater rights owned or leased by the owner or operator, then the exemption of subsection C of this section shall no longer apply and the provisions of subsection D of this section shall become applicable to the mine unless the mine operator submits a site-specific water management and conservation plan demonstrating, to the satisfaction of the Board, that such consumptive use of groundwater in amounts greater than the equivalent equal proportionate share either is:

- a. offset by augmentation of stream water flow or augmentation of groundwater by recharge, or
- b. not likely to reduce the natural flow of springs or streams emanating from a sensitive sole source groundwater basin or subbasin, or
- c. satisfied by the owner or operator acquiring sufficient groundwater rights within ninety (90) days of the reported exceedance.

The plan submitted to the Board will be subject to the provisions of the Oklahoma Open Records Act. If the exemption of subsection C of this section no longer applies, the rules promulgated by the Oklahoma Water Resources Board pursuant to subsection D of this section shall provide a period of at least ninety (90) days to come into compliance.

3. If an operator of a mine that is exempt pursuant to subsection C of this section operates in compliance with a site-specific water management and conservation plan that complies with rules promulgated by the Board pursuant to subsection D of this section, the Board cannot otherwise require the operator of such mine to take an action or refrain from taking an action that would

effectively prohibit any mining operation or practice that is otherwise allowed by the Oklahoma Department of Mines.

F. For purposes of this section, "consumptive use" or "consumptively used" means diversion of water from a mine pit that is not returned to the groundwater basin or subbasin, or to a mine pit or holding basin, or to a definite stream, or to the land surface from which surface runoff flows into a mine pit. The term "consumptive use" includes the estimated moisture content driven off or carried away with the mined material transported off the mining site, plus the amount of evaporation from the mine pit that exceeds the amount of direct precipitation and surface runoff into the mine pit, plus any amounts for other proposed beneficial uses off the mining site.

G. Augmentation of stream flow or groundwater, pursuant to a site-specific water management and conservation plan prepared in consultation with the Oklahoma Water Resources Board, shall be considered a beneficial use and not waste, and shall not count against permitted surface water or groundwater usage, provided that taking, using or disposal of water from a producing mine for stream augmentation pursuant to a site-specific water management and conservation plan prepared in consultation with the Oklahoma Water Resources Board, may be claimed in annual water use reports as a beneficial use for purposes of the maintenance of the right to use surface water under any permit applicable to such mine. The mine pit shall be considered a diversion point authorized by the surface water use permit issued to the mine operator whenever there is consumptive use of surface water or the surface water is used for stream augmentation.

Added by Laws 1972, c. 248, § 2, eff. July 1, 1973. Amended by Laws 1978, c. 157, § 1; Laws 2011, c. 374, § 1, emerg. eff. May 26, 2011.

§82-1020.2A. Taking and use of water from aquifers - Permits

A. The storage and recovery of water from an aquifer, pursuant to a site-specific aquifer storage and recovery plan approved by the Oklahoma Water Resources Board, shall be considered a beneficial use and not waste. Except as provided in this section and Section 1020.15 of Title 82 of the Oklahoma Statutes, the provisions of this act shall not apply to the taking and use of water stored in an aquifer pursuant to such a plan.

B. The Oklahoma Water Resources Board shall promulgate and implement rules for the taking and use of water stored in an aquifer pursuant to a site-specific aquifer storage and recovery plan, including the issuance of permits for the taking and use of such water and for the approval of such site-specific aquifer storage and recovery plans. Rules related to the approval of site-specific aquifer storage and recovery plans shall mandate, in addition to requirements necessary to demonstrate that the requested amount of

stored water is available for recovery, the spacing of wells necessary to ensure that the storage and recovery of water permitted under this section shall not interfere with any domestic or permitted groundwater use in the basin.

C. A permit to take and use water stored in an aquifer pursuant to a site-specific aquifer storage and recovery plan shall only be granted if substantive evidence accompanying the application demonstrates:

1. The Oklahoma Water Resources Board has approved the site-specific aquifer storage and recovery plan;

2. The applicant has legal access to the water stored in the aquifer pursuant to the plan;

3. The applicant or its successor in interest stored or caused to be stored said water pursuant to and in compliance with any required authorization issued by the Oklahoma Department of Environmental Quality that is intended to protect water quality; and

4. The stored water is available for use in the applied for amount during the period covered by, and in the manner described in, the proposed permit.

D. Any permitted use of water stored in an aquifer under this section is in addition to any domestic use authorized under Section 1020.3 of Title 82 of the Oklahoma Statutes or any other use authorized pursuant to a permit issued under Section 1020.11 of Title 82 of the Oklahoma Statutes.

E. Any permit issued under this section shall specify the location of the permitted well or wells and other terms and conditions as specified by the Board including, but not limited to, the rate of withdrawal, the level of perforating and the level of sealing the well.

Added by Laws 2016, c. 145, § 1.

§82-1020.3. Domestic use - Spacing of wells and waste.

Any landowner has a right to take ground water from land owned by him for domestic use without a permit. Wells for domestic use shall not be subject to well spacing orders, but are subject to sanctions against waste.

Added by Laws 1972, c. 248, § 3, eff. July 1, 1973.

§82-1020.4. Hydrologic surveys and investigations.

A. Prior to making orders establishing the tentative maximum annual yield for major groundwater basins or subbasins therein, the Oklahoma Water Resources Board shall make hydrologic surveys and investigations.

B. Prior to making orders establishing the tentative maximum annual yield for minor groundwater basins or subbasins therein, the Board shall prepare reports using information from hydrologic surveys and investigations of groundwater basins or subbasins having

substantially the same geological and hydrological characteristics and data from wells in such basin or subbasins and other relevant information.

C. The Board is authorized to cooperate with state, federal and tribal agencies engaged in similar surveys and investigations and may accept and use the findings of such agencies. At least every twenty (20) years after issuance of the final order determining the maximum annual yield, the Board shall review and update if necessary the hydrologic surveys.

Added by Laws 1972, c. 248, § 4, eff. July 1, 1973. Amended by Laws 1993, c. 164, § 9, emerg. eff. May 10, 1993; Laws 2018, c. 203, § 1, eff. Nov. 1, 2018.

§82-1020.5. Determination of maximum annual yield.

A. After completing the hydrologic survey, the Board shall make a tentative determination of the maximum annual yield of groundwater to be produced from each ground water basin or subbasin therein.

Such determination must be based upon the following:

1. The total land area overlying the basin or subbasin;
2. The amount of water in storage in the basin or subbasin;
3. The rate of recharge to the basin or subbasin and total discharge from the basin or subbasin;
4. Transmissibility of the basin or subbasin; and
5. The possibility of pollution of the basin or subbasin from natural sources.

B. The maximum annual yield of each major ground water basin or subbasin shall be based upon a minimum basin or subbasin life of twenty (20) years from the effective date of the order establishing the final determination of the maximum annual yield.

C. For minor groundwater basins or subbasins therein, the tentative determination of the maximum annual yield shall be based upon present and reasonably foreseeable future use of groundwater from such basin or subbasin, recharge and total discharge, the geographical region in which the basin or subbasin is located and other relevant factors.

Laws 1972, c. 248, § 5, eff. July 1, 1973; Laws 1993, c. 164, § 10, emerg. eff. May 10, 1993.

§82-1020.6. Hearings on annual yield.

A. Once the Board has set a tentative maximum annual yield for the groundwater basin or subbasin, the Board shall call and hold hearings at centrally located places within the area of the major groundwater basin or subbasin or in the county for minor groundwater basins or subbasins. Prior to such hearings being held, the Board shall make copies of such hydrologic survey available for inspection and examination by all interested persons and, at such hearings, shall present evidence of the geological findings and determinations

upon which the tentative maximum annual yield has been based. Any interested party shall have the right to present evidence in support or opposition thereto. The hearings shall be conducted pursuant to Article II of the Administrative Procedures Act.

B. Notice of such hearings shall be published in a newspaper of general circulation in each county having lands that overlie the basin or subbasin. The notice shall be published at least once per week for two (2) consecutive weeks and the last publication shall be at least thirty (30) days prior to the date of the hearing. Notice and hearing on the tentative determination of the maximum annual yield for minor groundwater basins or subbasins may be consolidated.

C. After such hearings are completed, the Board shall then proceed to make its final determination as to the maximum annual yield of groundwater which shall be allocated by regular permit to each acre of land overlying such basin or subbasin by issuing a final order containing findings of fact and conclusions of law, which order shall be subject to judicial review pursuant to Article II of the Administrative Procedures Act. As prescribed in a final order setting forth the maximum annual yield, or any amendment thereto, the Board may prescribe delayed or gradual implementation of equal proportionate share allocations if current total allocated amount of groundwater from the aquifer is twenty-five percent (25%) or less of the maximum annual yield. Such delayed or gradual implementation of equal proportionate share allocations may be authorized only if such implementation would not cause interference or violation of limits applicable to use of waters from a sensitive sole source aquifer, or allow the use of groundwater in excess of twenty-five percent (25%) of the maximum annual yield. Such delayed or gradual implementation of equal proportionate share allocations shall not affect any regular permit and shall be effectuated by issuance of appropriate temporary permits, in accord with parameters specified by the Board in accord with this act.

D. The Board may, in subsequent basin or subbasin hearings, and after additional hydrologic surveys, increase the amount of water allocated but shall not decrease the amount of water allocated by regular permit issued prior to the completion of the additional hydrologic surveys.

Added by Laws 1972, c. 248, § 6, eff. July 1, 1973. Amended by Laws 1988, c. 203, § 7, emerg. eff. June 10, 1988; Laws 1993, c. 164, § 11, emerg. eff. May 10, 1993; Laws 2018, c. 203, § 2, eff. Nov. 1, 2018.

§82-1020.7. Application for permit to take and use groundwater.

Any person intending to use groundwater shall make application to the Board for an appropriate permit as provided in Section 1020.11 of this title before commencing any drilling for such purposes and before taking water from any completed well heretofore drilled. Such

application to take and use groundwater shall be on a form provided by the Board and pursuant to the rules and regulations established by the Board. The application heretofore filed with the Board shall be used in granting permits for existing wells and the Board shall publish the notice of the hearing thereon.

Laws 1972, c. 248, § 7, eff. July 1, 1973; Laws 1993, c. 164, § 12, emerg. eff. May 10, 1993.

§82-1020.8. Decree - Contents - Copies to be filed.

A. Except as otherwise provided by Section 1020.10 of this title for limited quantity groundwater permits, upon the filing of an application which complies with the provisions of Chapter 11 of this title, and the rules promulgated by the Oklahoma Water Resources Board pursuant thereto, the Board shall instruct the applicant to provide notice thereof, at the applicant's expense, and as required by the Board's rules. Such notice shall give all the essential facts as to the proposed taking, among them being the places of taking and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to provide notice are given, and a thirty-day protest period as well as the manner in which a protest to the application may be made. At the time the Board provides notice of application to the applicant, the Board shall publish on its website the applications and instructions for public notice, including the draft public notice prepared by the Board. The website publishing is in addition to, and not in lieu of, the requirement for applicants to publish notice in the newspaper. The time to protest shall run from the date of the first newspaper publication.

B. No hearing shall be had upon the application until proper notice shall have been given. Any interested party shall have the right to protest the application and present evidence and testimony in support of such protest. If the Board does not schedule a hearing on the application before instructing the applicant to provide notice, a hearing on the application shall be scheduled by the Board upon receipt of a protest which meets the requirements of the Board's rules and the Board shall notify the applicant and protestant of such hearing.

Added by Laws 1972, c. 248, § 8, eff. July 1, 1973. Amended by Laws 1993, c. 164, § 13, emerg. eff. May 10, 1993; Laws 1995, c. 112, § 6, eff. Nov. 1, 1995; Laws 1996, c. 329, § 3, emerg. eff. June 12, 1996; Laws 2019, c. 411, § 2, eff. Nov. 1, 2019.

§82-1020.9. Approval of application.

A. 1. Before the Oklahoma Water Resources Board takes final action on an application, the Board shall determine from the evidence

presented, from the hydrologic surveys or reports and from other relevant data available to the Board and applicant, whether:

- a. the lands owned or leased by the applicant overlies a fresh groundwater basin or subbasin,
- b. the use to which the applicant intends to put the water is a beneficial use,
- c. waste as specified by Section 1020.15 of this title will occur, and
- d. the proposed use is likely to degrade or interfere with springs or streams emanating in whole or in part from water originating from a sensitive sole source groundwater basin or subbasin as defined in Section 1 of this act.

2. The Board shall approve the application by issuing a regular permit, if the Board finds that:

- a. the lands owned or leased by the applicant overlies the fresh groundwater basin or subbasin,
- b. the use to which the applicant intends to put the water is a beneficial use,
- c. waste specified by Section 1020.15 of this title will not occur. When determining whether waste will occur pursuant to this subparagraph, if the activity for which the applicant intends to use the water is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the State Department of Agriculture, the Board shall be precluded from making a determination whether waste by pollution pursuant to paragraph 7 of subsection A of Section 1020.15 of this title will occur as a result of such activity. Each groundwater protection agency, as such term is defined by Section 1-1-201 of Title 27A of the Oklahoma Statutes, shall be responsible for developing and enforcing groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility, and
- d. the proposed use is not likely to degrade or interfere with springs or streams emanating in whole or in part from water originating from a sensitive sole source groundwater basin as defined in Section 1 of this act.

B. Except as otherwise provided in subsection C of this section, a regular permit shall allocate to the applicant the proportionate part of the maximum annual yield of the basin or subbasin. The proportionate part shall be that percentage of the total annual yield of the basin or subbasin, previously determined to be the maximum

annual yield as provided in Section 1020.5 of this title, which is equal to the percentage of the land overlying the fresh groundwater basin or subbasin which the applicant owns or leases and which is dedicated to the application.

C. If the lands dedicated to the application overlie two or more groundwater basins and both basins have had maximum annual yields determined, the amount to be authorized by the regular permit shall be calculated on the basin having the greatest maximum annual yield. If the lands dedicated to the application overlie two or more groundwater basins or subbasins and the maximum annual yield has been determined for at least one but not all the basins or subbasins, a temporary permit may be issued to the applicant if the applicant demonstrates by substantial competent evidence that the water to be withdrawn by the temporary permit will not be taken from a basin or subbasin for which the maximum annual yield has been determined. If the land overlies two or more groundwater basins or subbasins and the maximum annual yield has not been determined for any of the basins or subbasins, more than one temporary permit may be issued for the land if the applicant demonstrates by substantial competent evidence from which basin the water will be withdrawn for each of the permits.

D. The permit shall specify the location of the permitted well or wells and other terms and conditions as specified by the Board, including, but not limited to, the rate of withdrawal, the level of perforating and the level of sealing the well. A regular permit shall not be granted for less than the remaining life of the basin or subbasin as previously determined by the Board.

Added by Laws 1972, c. 248, § 9, eff. July 1, 1973. Amended by Laws 1993, c. 164, § 14, emerg. eff. May 10, 1993; Laws 2001, c. 330, § 1, emerg. eff. June 1, 2001; Laws 2003, c. 365, § 3.

§2-1020.9A. Sensitive sole source groundwater basins or subbasins - Moratorium on issuance of certain temporary permits.

A. The Legislature finds that a moratorium is necessary on the issuance of certain temporary permits on certain sensitive sole source groundwater basins or subbasins to protect the health, safety and welfare of the people of Oklahoma.

B. 1. A moratorium is hereby established on the issuance of any temporary permit that would lead to any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin or subbasin outside of any county that overlays in whole or in part said basin or subbasin. "Sensitive sole source groundwater basin" means a major groundwater basin or subbasin all or a portion of which has been designated as a "Sole Source Aquifer" by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act as of the effective date of this act, including any portion of any contiguous aquifer located within five (5) miles of the known

areal extent of the surface out-crop of the sensitive sole source groundwater basin.

2. Said moratorium shall be in effect until such time as the Oklahoma Water Resources Board conducts and completes a hydrological study and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin or subbasin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin.

3. The provisions of this act shall be applicable to groundwater permit applications for which no final adjudication has been made by the Oklahoma Water Resources Board before the effective date of this act.

4. Any revalidation of a temporary permit, in effect upon the effective date of this act, that allows for any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin outside of any county that overlays in whole or in part said basin shall be considered a new permit application and subject to the provisions of this act.

Added by Laws 2003, c. 365, § 1.

§82-1020.9B. Moratorium on municipalities and other political subdivisions - Prohibition of contract or agreement for use of groundwater from sensitive sole source groundwater basin.

A. A moratorium is hereby established on any municipality or other political subdivision of this state prohibiting any such entity from entering into a contract or other agreement which would lead to municipal or public water supply use of groundwater from a sensitive sole source groundwater basin as defined in Section 1 of this act. Said moratorium shall apply only to municipalities or political subdivisions which are located outside of any county that overlays in whole or in part said basin or subbasin.

B. Said moratorium shall be in effect until such time as the Oklahoma Water Resources Board conducts and completes a hydrological study and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin.

Added by Laws 2003, c. 365, § 2.

§82-1020.9C. Moratorium on actions related to operation of mines that may affect sensitive sole source groundwater basin or subbasins.

A. For the purposes of this section, a "subject mine" shall mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of the Oklahoma Statutes, that overlies a sensitive sole source groundwater basin or subbasin, exclusive of any mine that meets at least one of the following conditions:

1. As of November 1, 2019, was engaged in the permitted extraction of minerals from natural deposits; or
2. Satisfies the criteria of paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of the Oklahoma Statutes; or
3. Is not to be permitted to operate for a period of more than five (5) years, with no extensions or renewals; or
4. The operation of which will not result in more than five (5) acre-feet per year of groundwater emanating from a sensitive sole source groundwater basin or subbasin to infiltrate its pit, as that term is defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes.

B. Due to the inadequacy of existing technical resources, analytic tools and regulatory systems for purposes of the effective implementation of statutes relating to the operation of mines that may affect sensitive sole source groundwater basins or subbasins, the Legislature hereby declares and establishes a moratorium on the following actions:

1. The Oklahoma Water Resources Board shall not issue any permit or other administrative authorization for the appropriation, diversion, withdrawal or removal of water from or for the dewatering, in part or in full, of a pit, as defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes, of a subject mine; and
2. The Board shall not issue, allocate or recognize, pursuant to subsection D of Section 1020.2 of Title 82 of the Oklahoma Statutes, Section 785:30-15-5 of the Oklahoma Administrative Code or any other provision of law, any offset to the consumptive use of water of a subject mine where such offset is based on a claimed augmentation of stream flow or groundwater.

C. The moratorium shall be in effect until such time as the Board, working in coordination with the Department of Environmental Quality, the Department of Mines, and East Central University and in cooperation with federal and tribal governmental agencies with interests in a subject mine that overlies a sensitive sole source groundwater basin or subbasin:

1. Completes the Enhanced Monitoring and Evaluation of Hydrologic Trends for the Eastern Arbuckle-Simpson Aquifer, South-Central Oklahoma and, based thereon, develops modeling and other technical tools capable of accurately measuring and projecting, as a matter both of incremental and cumulative effect, whether a proposed withdrawal of groundwater from a sensitive sole source groundwater basin or subbasin would degrade or interfere with springs and streams emanating therefrom;
2. Promulgates final rules to integrate the use of such studies and tools to administrative implementation of:
 - a. waste, degradation and interference analyses required by subparagraphs c and d of paragraph 1 and

- subparagraphs c and d of paragraph 2 of subsection A of Section 1020.9 of Title 82 of the Oklahoma Statutes,
- b. uniform minimum standards and requirements for the development of, and annual reporting regarding compliance with, site-specific water management and conservation plans pursuant to Section 1020.2 of Title 82 of the Oklahoma Statutes, with particular regard to methodologies for calculating amounts claimed in consumptive use of water and any claimed augmentation of stream flow or groundwater, and
 - c. consultation, review and approval of such site-specific water management and conservation plans, with specific provisions for making such consultations, reviews and approvals subject to Article 2 of the Administrative Procedures Act; and

3. Promulgates final rules to provide for effective interagency consultation and coordination of activities among the Board, the Department of Mines and the Department of Environmental Quality on all administrative matters relating to the operation of mines at locations that overlie a sensitive sole source groundwater basin or subbasin.

D. The Board is hereby authorized and instructed to promulgate rules to implement the provisions of this section.

E. The Board is hereby authorized to cooperate with federal, tribal and any other agency in this state in performing its responsibilities under this section.

Added by Laws 2019, c. 349, § 3, eff. Nov. 1, 2019. Amended by Laws 2019, c. 503, § 1, eff. Nov. 1, 2019.

§82-1020.10. Temporary or special permits - Limited quantity groundwater permits.

A. The procedures provided for in this chapter for the granting of regular permits shall be applicable to the granting of temporary or special permits except that the determination of the maximum annual yield shall not be a condition precedent. Provided a provisional temporary permit for water may immediately be granted upon administrative approval by the Oklahoma Water Resources Board. This permit will not be effective for a period of more than ninety (90) days.

B. The Executive Director of the Board may administratively issue permits to use limited quantities of groundwater. Notice, procedures and the maximum groundwater quantity authorized for limited quantity groundwater permits shall be in compliance with rules promulgated by the Board. In no event shall the maximum quantity of water authorized in a limited quantity groundwater permit exceed the amount that would otherwise be allocated by this chapter.

Added by Laws 1972, c. 248, § 10, eff. July 1, 1973. Amended by Laws 1977, c. 23, § 1, emerg. eff. April 22, 1977; Laws 1993, c. 164, § 15, emerg. eff. May 10, 1993; Laws 1996, c. 329, § 4, emerg. eff. June 12, 1996.

§82-1020.11. Types of permits - Fees.

A. Regular Permit. A regular permit is an authorization to put groundwater to beneficial use for other than domestic purposes. The regular permit shall be granted only after completion of the hydrologic survey and determination of the maximum annual yield for the appropriate basin or subbasin. It can be revoked or canceled only as provided in Sections 1020.12 and 1020.15 of this title.

B. Temporary Permit.

1. A temporary permit is an authorization for the same purposes as a regular permit but granted by the Oklahoma Water Resources Board prior to completion of the hydrologic survey and the determination of the maximum annual yield of the basin or subbasin.

2. Except as otherwise provided by this subsection, unless requested by a majority of the surface owners of the land or by the applicant, the water allocated by a temporary permit shall not be less than two (2) acre-feet annually for each acre of land owned or leased by the applicant in the basin or subbasin. If the applicant presents clear and convincing evidence that allocations in excess of two (2) acre-feet annually for each acre of land overlying the basin or subbasin will not exhaust the water thereunder in less than twenty (20) years, then the Board may issue temporary permits in such basin or subbasin in such amounts in excess of said limitation as will assure a minimum twenty-year life for such basin or subbasin.

3. A temporary permit must be revalidated annually during its term. The permit shall lapse at expiration of its term or upon the issuance of a regular permit, whichever shall occur first. It is subject to revocation or cancellation as provided in Sections 1020.12 and 1020.15 of this title. For temporary permit revalidation purposes, water use report forms shall be mailed by the Board to each temporary permit holder. Timely return of the completed, signed, and dated water use report form to the Board shall automatically revalidate a temporary groundwater permit if the revalidation is not protested and if the water use report form does not show or reflect any permit-water use violations.

4. If the revalidation of a permit is protested, the Board shall immediately set a date for hearing and notify the applicant and each protestant of the time and place of the hearing. At the hearing, any interested person may appear and present evidence and argument in support of or in opposition to the protest and revalidation. At the hearing on the revalidation protest, matters previously presented or considered and adjudicated shall not be subject to reconsideration or readjudication. The protest issues which may be entertained shall be

limited to matters not previously determined, including but not limited to: a material or substantial change in conditions since issuance of the permit; evidence of the applicant's noncompliance with any of the terms, provisions, or conditions of the permit; or subsequent violations of the Oklahoma Groundwater Law, or Board rules and regulations.

5. Subject to compliance with all other and applicable provisions of this chapter and rules and regulations of the Board, all temporary permits "revalidated" by the Board prior to the effective date of this act are hereby validated.

C. Special Permit. A special permit is an authorization by the Board in lieu of or in addition to a regular or temporary permit. The special permit is granted to put groundwater to a beneficial use which shall require quantities of water in excess of that allocated under a regular or temporary permit. The water so authorized may be used only for the purpose designated in the permit. The permit shall be granted for a period not to exceed six (6) months and may be renewed three (3) times. Successive special permits shall not be granted for the same purpose. It is subject to revocation or cancellation upon failure to use the water for the purpose granted or as provided in Sections 1020.12 and 1020.15 of this title.

D. Except as provided in Section 1020.21 of this title, no permits shall be issued to an applicant who is not the surface owner of the land on which the well is to be located, or does not hold a valid lease from such owner permitting withdrawal of water from such basin or subbasin.

Laws 1972, c. 248, § 11, eff. July 1, 1973; Laws 1973, c. 47, § 1, emerg. eff. April 27, 1973; Laws 1978, c. 157, § 2; Laws 1985, c. 104, § 1, emerg. eff. May 28, 1985; Laws 1993, c. 164, § 16, emerg. eff. May 10, 1993.

§82-1020.11a. Repealed by Laws 2011, c. 215, § 3, eff. Nov. 1, 2011.

§82-1020.12. Report of water used.

A. Holders of permits shall be required to report to the Oklahoma Water Resources Board annually their use of water pursuant to their permits. Willful failure to report annual usage may result in cancellation of the permit by the Board upon proper notice and hearing as provided in the Administrative Procedures Act.

B. Holders of permits which use groundwater in connection with an animal feeding operation which houses swine and primarily uses a liquid waste management system where animals are primarily housed in a roof-covered structure shall be required to indicate such use in their annual water use report. Such holders shall also indicate whether or not the animal feeding operation is licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

C. The Board shall notify the State Department of Agriculture of the names and addresses of all permit holders who report usage of groundwater in connection with an animal feeding operation which houses swine and which primarily uses a liquid waste management system where animals are primarily housed in a roof-covered structure and who are not licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

Added by Laws 1972, c. 248, § 12, eff. July 1, 1973. Amended by Laws 1998, c. 404, § 20, eff. Aug. 1, 1998.

§82-1020.13. Surrender of permits.

The Board may accept the surrender of ground water permits by the holder thereof pursuant to rules and regulations adopted by the Board.

Added by Laws 1972, c. 248, § 13, eff. July 1, 1973.

§82-1020.14. Prior use of groundwater.

Nothing in this act shall be construed to deprive any person of any right to the use of ground water in such quantities and amounts as were used or were entitled to be used prior to the enactment hereof. Any person having the right to place ground water to beneficial use prior to the effective date of this act shall have the right to bring his use under the provisions of this act.

Determinations of prior rights to the use of groundwater made by the Board pursuant to Board rules and regulations are hereby validated. Laws 1972, c. 248, § 14, eff. July 1, 1973.

§82-1020.15. Waste prohibited - Enforcement.

A. The Oklahoma Water Resources Board shall not permit any groundwater user to commit waste by:

1. Drilling a well, taking, or using groundwater without a permit, except for domestic use;
2. Taking more groundwater than is authorized by the permit;
3. Taking or using groundwater in any manner so that the water is lost for beneficial use;
4. Transporting groundwater from a well to the place of use in such a manner that there is an excessive loss in transit;
5. Using groundwater in such an inefficient manner that excessive losses occur;
6. Allowing any groundwater to reach a pervious stratum and be lost into cavernous or otherwise pervious materials encountered in a well;
7. Permitting or causing the pollution of a fresh water strata or basin through any act which will permit fresh groundwater polluted by minerals or other waste to filter or otherwise intrude into such a basin or subbasin. The Board shall be precluded from determining whether waste by pollution will occur pursuant to the provisions of

this paragraph if the activity for which the applicant or water user intends to or has used the water as specified under Section 1020.9 of this title is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the Oklahoma Department of Agriculture, Food, and Forestry;

8. Drilling wells and producing groundwater therefrom except in accordance with the well spacing previously determined by the Board;

9. Using groundwater for air conditioning or cooling purposes without providing facilities to aerate and reuse such water; or

10. Failure to properly plug abandoned water wells in accordance with rules of the Board and file reports thereof.

B. Except as otherwise provided by paragraph 7 of subsection A of this section, any employee of the Board having evidence that an act of waste is being committed in his or her presence, or after investigation of a complaint filed by another individual, shall take steps to assure that the waste ceases. Such steps shall include but shall not be limited to pursuing voluntary compliance, obtaining the issuance of a cease and desist order by the Executive Director, instituting action in a court of competent jurisdiction to enjoin the waste, pursuing a suspension of any permit or other administrative remedies by the Board, and filing a complaint in the district court of the county wherein such violation has occurred, and it shall be the duty of the district attorney of said county to prosecute such complaint.

C. In cases of waste by pollution pursuant to paragraph 7 of subsection A of this section, any complaint or investigation, or any enforcement matter other than an individual proceeding involving the suspension of an Oklahoma Water Resources Board permit shall be referred to and subject to the jurisdiction of the Department of Environmental Quality or other appropriate state environmental agency or state agency with limited environmental responsibility.

Added by Laws 1972, c. 248, § 15, eff. July 1, 1973. Amended by Laws 1993, c. 145, § 322, eff. July 1, 1993; Laws 2001, c. 330, § 2, emerg. eff. June 1, 2001; Laws 2006, c. 184, § 1, emerg. eff. May 23, 2006; Laws 2019, c. 508, § 1, eff. Nov. 1, 2019.

§2-1020.16. Commercial drilling or plugging license - Inspections - Deposit of fees - Penalties.

A. All persons engaged in the commercial drilling or commercial plugging of groundwater wells, monitoring wells, observation wells, wells utilized for heat exchange purposes, including but not limited to heat pump wells and geothermal wells, and in the commercial drilling or plugging of geotechnical borings and all persons engaged in the commercial installation of water well pumps in this state shall make application for and become licensed with the Oklahoma Water Resources Board. Persons required to be licensed pursuant to

this section shall pay an annual fee as required by the Board. The fees shall be deposited and expended as provided in subsection D of this section.

B. The Board may prepare examinations and establish other requirements for applicants to obtain, maintain, and renew licenses and operator certifications. The examinations shall test the knowledge and skills of:

1. Water well drillers in the construction, alteration, and repair of wells and boreholes, including proper sealing and abandonment of wells and boreholes, and the rules promulgated by the Board regarding water well and borehole drilling and plugging; and

2. Pump installers in the planning, installation, operation, and repair of pumping equipment and water wells including sealing and abandonment, pumping efficiency, and the rules promulgated by the Board regarding pump installation.

C. The Board may inspect any water well, monitoring well, boring, water well pump, or abandoned well and borehole. Upon consent of the owner of the land on which the well or borehole is located or as allowed by district court order, authorized representatives of the Board may enter upon and shall be given access to the premises for the purpose of inspection. If the Board finds noncompliance with applicable laws or rules or that a health hazard exists, the Board may disapprove use of the well and shall provide notice to the owner of the land on which the well is located and to the well driller, if known, of the disapproval. If a well has been disapproved, it shall not be used until brought into compliance and any health hazard is eliminated. Any person aggrieved by the disapproval of a well may request a hearing before the Board.

D. 1. There is hereby created within the Oklahoma Water Resources Board the Well Drillers and Pump Installers Remedial Action Indemnity Fund. The Indemnity Fund shall be administered by the Board.

2. The Indemnity Fund shall be excluded from budget and expenditure limitations. Except as otherwise provided by subsection E of this section, the monies deposited in the Indemnity Fund shall at no time become part of the general budget of the Oklahoma Water Resources Board or any other state agency. Except as otherwise provided by subsection E of this section, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Board or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expenses. Monies in the Indemnity Fund shall only be expended for remedial actions necessary, without notice and hearing, to protect groundwater from pollution or potential pollution from wells, or boreholes under the jurisdiction of the Board that do not meet minimum standards for construction or that have been

abandoned or as may be recommended by the Well Drillers and Pump Installers Advisory Council.

3. The fees collected pursuant to subsection A of this section shall be first credited to the Well Drillers and Pump Installers Remedial Action Indemnity Fund. The Indemnity Fund shall be maintained at Fifty Thousand Dollars (\$50,000.00).

4. Expenditures from the Indemnity Fund required pursuant to the provisions of this section shall be made pursuant to the provisions of The Oklahoma Central Purchasing Act upon terms and conditions established by the Office of Management and Enterprise Services and shall not exceed Ten Thousand Dollars (\$10,000.00) for each well, borehole or pump for which action is taken.

5. Except in situations where the Board has assessed and declared a health or safety emergency and a claim by the owner of the well or borehole for costs of remedial action is not paid by private insurance or other relief, the Board shall seek reimbursement as recommended by the Well Drillers and Pump Installers Advisory Council for any remedial action taken or required by the Board. Any monies received as reimbursement shall be deposited in the Well Drillers and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection C of this section.

E. When the Well Drillers and Pump Installers Remedial Action Indemnity Fund reaches Fifty Thousand Dollars (\$50,000.00), the fees, monies received as reimbursement, and administrative penalties recovered under paragraph 1 of subsection G of this section shall be deposited in a separate account in the Water Resources Board Revolving Fund designated as the Well Drillers and Pump Installers Regulation Account, which shall be a continuing account not subject to fiscal year limitations. Monies in said account shall be used by the Board for inspections, licensing, enforcement and education, reimbursing per diem and travel costs for members of the Well Drillers and Pump Installers Advisory Council pursuant to the State Travel Reimbursement Act, and as otherwise determined to be necessary to implement the provisions of this section.

F. Before any person or firm licensed pursuant to this section shall commence the commercial drilling or plugging of any well or borehole or commence commercial installation of any pump, the person or firm shall file with the Board all data or information as the Board may by rule require to assure the protection of the groundwater in the well or borehole. After completion, the driller shall file a completion report showing all such data together with a log of the well and pumping test data if applicable.

G. 1. The Board may, after notice and hearing, impose on any person administrative penalties of up to Five Thousand Dollars (\$5,000.00) and may revoke, suspend or deny renewal of any license or operator certification for each violation of the rules of the Board regarding license or certification requirements, the requirement to

obtain a license or certification, or minimum construction or installation standards. The administrative penalties shall be deposited in the Well Drillers and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection E of this section.

2. In addition to imposing administrative penalties, the Board may issue orders prohibiting actions by holders of valid licenses and operator certifications and by persons who are required to become licensed under the provisions of this section that constitute violations of rules promulgated pursuant to this section and requiring actions to remedy violations or other noncompliance with minimum standards rules for the construction of wells and borings, the plugging of wells and borings, and the commercial installation of water well pumps.

H. If a respondent fails, refuses or neglects to comply with an order of the Board to pay an administrative penalty or to take certain action, the Board may present the matter to the Attorney General who is empowered to take action to collect the administrative penalty or to compel compliance with the order of the Board. One-half (1/2) of all penalties collected by the Attorney General shall be deposited in the Well Drillers and Pump Installers Regulation Account established pursuant to subsection E of this section and one-half (1/2) shall be deposited in the Attorney General's Revolving Fund created in Section 20 of Title 74 of the Oklahoma Statutes.

I. The Board is authorized to create a Well Drillers and Pump Installers Advisory Council. The Board shall establish rules stating the qualifications for membership and organization of the Council. Meetings of the Council shall be held at the call of the Executive Director of the Board. The Council shall have the following duties:

1. To recommend rules to the Board, provided such written recommendations have been concurred upon by a majority of the membership of the Council; and

2. To review and recommend approval or denial of use of monies in the Well Drillers and Pump Installers Remedial Action Indemnity Fund for:

- a. remedial actions to protect groundwater from pollution or potential pollution from wells, or boreholes under the jurisdiction of the Board which do not meet minimum standards for construction or that have been abandoned, and
- b. inspections, licensing, the pursuit of enforcement action with the proper authorities and education by the Board.

Added by Laws 1972, c. 248, § 16, eff. July 1, 1973. Amended by Laws 1982, c. 128, § 1, operative Oct. 1, 1982; Laws 1988, c. 203, § 8, emerg. eff. June 10, 1988; Laws 1990, c. 325, § 2, emerg. eff. May 30, 1990; Laws 1993, c. 164, § 17, emerg. eff. May 10, 1993; Laws

1999, c. 413, § 7, eff. Nov. 1, 1999; Laws 2000, c. 190, § 1, emerg. eff. May 8, 2000; Laws 2008, c. 331, § 1, eff. July 1, 2008; Laws 2012, c. 188, § 1, emerg. eff. May 7, 2012; Laws 2012, c. 304, § 1063.

§82-1020.17. Spacing rules.

The Board may promulgate rules under Article I of the Administrative Procedures Act which establish a proper spacing of wells which, in its judgment, is necessary to an orderly withdrawal of water in relation to the allocation, by regular permits and temporary permits, of water to the land overlying the basin or subbasin. The Board shall conduct at least one public hearing at a location within or in close proximity to each major basin or subbasin before adopting rules establishing well spacing for such basin or subbasin.

Added by Laws 1972, c. 248, § 17, eff. July 1, 1973. Amended by Laws 1995, c. 112, § 3, eff. Nov. 1, 1995; Laws 2018, c. 203, § 3, eff. Nov. 1, 2018.

§82-1020.18. Location exceptions.

When it is shown in an individual proceeding that to require the drilling of a well at the prescribed location should be inequitable or unreasonable and that criteria and conditions established by the Board in rules are met, the Board shall authorize a well location exception and permit the well to be drilled and completed at a location which varies from that previously established. Rules promulgated by the Board shall establish the criteria and conditions under which location exceptions may be authorized. Criteria and conditions for location exceptions may include, but are not limited to, compliance with terms to prevent unreasonable impact on other wells, which terms may include the rate and timing of withdrawal, the level of perforating and the level of sealing the well.

Added by Laws 1972, c. 248, § 18, eff. July 1, 1973. Amended by Laws 1995, c. 112, § 4, eff. Nov. 1, 1995; Laws 2018, c. 203, § 4, eff. Nov. 1, 2018.

§82-1020.19. Metering of wells.

Upon request of a majority of the landowners residing within a basin or subbasin, the Board is authorized to require that water wells be metered and that such meters as the Board shall approve be utilized by the applicant and placed under seal, subject to reading by the agents of the Board at any time. The Board may also require that the applicant report the reading of such meters at reasonable intervals.

Added by Laws 1972, c. 248, § 19, eff. July 1, 1973.

§82-1020.20. Unitizing and communitizing of land for water production purposes.

The owners of land and the Commissioners of the Land Office are authorized to unitize and communitize lands for the purpose of production of water therefrom; provided, the production therefrom does not exceed the maximum annual yield.

Added by Laws 1972, c. 248, § 20, eff. July 1, 1973.

§82-1020.21. Wells within municipalities.

A municipality has the authority to regulate or permit the drilling of domestic and industrial water wells within its corporate limits. A municipality may use the water allocated to the platted land within its corporate limits provided the municipality can make water available to the platted land, a permit therefor is obtained from the Board, and the wells are located not less than six hundred (600) feet within its limits, and such wells are drilled on the platted land.

Added by Laws 1972, c. 248, § 21, eff. July 1, 1973.

§82-1020.22. Violations.

A. Except as otherwise provided by subsection B of this section, any person who, after notice from the Board, violates or refuses or neglects to comply with any provision of Sections 1020.1 through 1020.21 of this title or of any rule or regulation promulgated by the Board pursuant thereto, or who commits waste as defined in Section 1020.15 of this title shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each offense. Any person who, after notice that he is in violation thereof continues to violate any provision of Sections 1020.1 through 1020.21 of this title, and fails to comply therewith within a reasonable length of time, is guilty of a separate offense for each day the violation continues.

B. Any person causing pollution of the groundwater or placing or causing to be placed waste in a location where they are likely to cause pollution of the groundwater shall be subject to the Oklahoma Environmental Quality Code.

Added by Laws 1972, c. 248, § 22, eff. July 1, 1973. Amended by Laws 1993, c. 145, § 323, eff. July 1, 1993.

§82-1020.23. Taking and using marginal water to augment water supply.

A. The ability to take and use marginal water has the potential to augment water supply in many areas of Oklahoma. Therefore, the taking and use of marginal water in accordance with the Oklahoma Groundwater Law and the rules of the Oklahoma Water Resources Board shall be considered a beneficial use and not waste. Except as

provided for in this section and Sections 1020.15 and 1020.16 of Title 82 of the Oklahoma Statutes, the provisions of this act shall not apply to the taking and use of marginal water.

B. The Oklahoma Water Resources Board shall promulgate and implement rules for the taking and use of marginal water, including the well construction standards, well spacing, and water use reporting. Rules related to well construction standards shall ensure that the taking and use of marginal water shall not impair any fresh water basins, and shall include, but not be limited to, the rate of withdrawal, the level of perforating and the level of sealing the well.

C. Any use of marginal water under this section is in addition to any domestic use authorized under Section 1020.3 of Title 82 of the Oklahoma Statutes or any other use authorized pursuant to a permit issued under Section 1020.11 of Title 82 of the Oklahoma Statutes.

Added by Laws 2019, c. 508, § 2, eff. Nov. 1, 2019.

NOTE: Editorially renumbered from § 1021.1 of this title to avoid a duplication in numbering.

§82-1021.1. Short title - Groundwater Irrigation District Act.

This act shall be known and may be cited as the "Groundwater Irrigation District Act".

Added by Laws 2019, c. 324, § 1, eff. Nov. 1, 2019.

§82-1021.2. Definitions.

As used in this act:

1. "Board" means the Oklahoma Water Resources Board;
2. "District" means a groundwater irrigation district;
3. "District board" means the board of a groundwater irrigation district; and
4. "Permit holder" means a person who possesses a permit to use groundwater as provided for in Section 1020.11 of Title 82 of the Oklahoma Statutes.

Added by Laws 2019, c. 324, § 2, eff. Nov. 1, 2019.

§82-1021.3. Petition to organize a groundwater irrigation district - Composition of districts.

A. If ten individual permit holders in a proposed groundwater irrigation district desire to provide for the betterment of and the assistance and procurement of conservation grant funding for groundwater irrigation of such irrigable lands, the holders may propose the organization of a groundwater irrigation district by petition pursuant to this act.

B. Groundwater irrigation districts shall be comprised of a whole county or whole counties adjacent to one or the other but shall only include permit holders who desire to participate in the

district. Any permit holder who does not desire to participate shall not be included upon a written document stating such to the district board.

Added by Laws 2019, c. 324, § 3, eff. Nov. 1, 2019.

§82-1021.4. Content of petition.

The petition shall be signed by the petitioners, filed with the county commissioners of a petitioning county and the county commissioners of a participating adjacent county within the proposed district, and shall contain the following information:

1. A specific description of the county or counties within the proposed district;
2. The names and addresses of all of the permit holders who have signed the petition within the proposed district as reflected by the permit records of the Oklahoma Water Resources Board;
3. The proposed plan of organization, operation and such additional data and information required by rules of the Board; and
4. A request that the district be organized.

Added by Laws 2019, c. 324, § 4, eff. Nov. 1, 2019.

§82-1021.5. Receipt of petition - Verification - Approval of petition.

A. After receipt of the petition, the county commissioners and the county commissioners of any participating adjacent county shall:

1. Verify the authenticity of each signatory whose address is located within the county;
2. Coordinate with the Oklahoma Water Resources Board and, if necessary, the adjacent counties to verify that ten individual permit holders within the proposed district have signed the petition; and
3. If, upon consideration, it shall be found that such petition is in conformity with the requirements of this act, and that such a district should be created, the board of county commissioners shall thereupon immediately declare the land described in the petition or any part thereof to be incorporated as a district under the name of " Groundwater Irrigation District" (inserting unique name of irrigation district) and thereupon the district shall be a body politic and corporate and an agency and legally constituted authority of the State of Oklahoma for the public purposes set forth in this act. The board of county commissioners shall thereupon enter upon its records full minutes of such hearing, together with its order creating the district under the corporate name for the purposes of this act. Such districts shall not be political corporations or subdivisions of the state within the meaning of any constitutional debt limitations, nor shall the districts have any power or authority to levy any taxes whatsoever or make any assessments on property, real or personal.

B. After the county commissioners and the county commissioners of any participating adjacent county have submitted a request for the formation of a groundwater irrigation district, each county board of commissioners shall assign members of the initial district board. A county board of commissioners shall select three members representing groundwater irrigation users within the county. If multiple counties reside within the district, each county shall have equal representation on the district board. Each of the three members of the initial district board shall be groundwater permit holders who irrigate in the county. District board members shall serve without compensation.

Added by Laws 2019, c. 324, § 5, eff. Nov. 1, 2019.

§82-1021.6. Bylaws - Minimum requirements.

At the time and place established by the county commissioners and the county commissioners of any participating adjacent county for the first meeting of the initial district board, the initial district board shall adopt bylaws. In addition to any other provisions normally and properly included in bylaws, the bylaws shall, at a minimum, include provisions regarding the following:

1. Establishing the district's name and principal place of business;

2. Requiring an annual meeting of the district board and providing that a notice of such annual meeting be given, not less than fifteen (15) days prior to the annual meeting, in newspapers that are published in counties within the district. If no newspaper is published in the county, the notice shall be posted in three public places in the county, one of which shall be the county courthouse; and

3. Requiring that the initial district board pursuant to the provisions of this section shall:

- a. establish the composition of the district board, qualifications of the members and a process to elect a board of directors within one (1) year of the approval of the district by the Oklahoma Water Resources Board,
- b. set the district board members' terms of office, and
- c. elect a district board member as director of the district.

Added by Laws 2019, c. 324, § 6, eff. Nov. 1, 2019.

§82-1021.7. Promulgation of rules.

The Oklahoma Water Resources Board may promulgate rules to enforce the provisions of this act.

Added by Laws 2019, c. 324, § 7, eff. Nov. 1, 2019.

§82-1084.1. Waters of state - Public policy.

Whereas the pollution of the waters of this state constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, it is hereby declared to be the public policy of this state to conserve and utilize the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; and to cooperate with other agencies of this state, agencies of other states and the federal government in carrying out these objectives.
Added by Laws 1993, c. 145, § 317, eff. July 1, 1993.

§82-1084.2. Definitions.

Wherever used in this title the following terms shall have the respective meanings hereinafter set forth or indicated, unless the context otherwise requires:

1. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the state, or such discharge of any liquid, gaseous or solid substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

2. "Wastes" means industrial waste and all other liquid, gaseous or solid substances which may pollute or tend to pollute any waters of the state.

3. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof.

4. "Person" means the state, any municipality, political subdivision, institution, public or private corporation, individual, partnership or other entity.

5. "Board" means the Oklahoma Water Resources Board.
Added by Laws 1972, c. 242, § 1. Amended by Laws 1993, c. 145, § 318, eff. July 1, 1993. Renumbered from § 926.1 of this title by Laws 1993, c. 145, § 361, eff. July 1, 1993.

§82-1085.1. Creation - Status - Membership and tenure - Meetings - Removal - Vacancies - Oath - Officers.

A. There is hereby created the Oklahoma Water Resources Board, hereinafter referred to as the Board, consisting of nine (9) members to be appointed by the Governor, by and with the advice and consent of the Senate. The Board shall constitute a body corporate and politic and an instrumentality, agency and department of the State of Oklahoma, and exercise by the Board of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma.

B. Beginning July 1, 2014, the membership of the Board shall transition from congressional district and at-large representation to regional representation as follows:

1. The Congressional District 1 position expiring in 2014 shall thereafter be represented by a person residing in Region 7 of the state which shall consist of Tulsa County;

2. The at-large member position expiring in 2014 shall thereafter be represented by a person residing in Region 4 of the state which shall consist of Carter, Cleveland, Garvin, Grady, Jefferson, Johnston, Love, Marshall, McClain, Murray, Pontotoc, Pottawatomie, Seminole and Stephens Counties;

3. The Congressional District 2 position expiring in 2015 shall thereafter be represented by a person residing in Region 8 of the state which shall consist of Adair, Cherokee, Craig, Delaware, Mayes, McIntosh, Muskogee, Nowata, Okmulgee, Ottawa, Rogers, Sequoyah and Wagoner Counties;

4. The at-large position expiring in 2016 shall thereafter be represented by a person residing in Region 9 of the state which shall consist of Atoka, Bryan, Coal, Choctaw, Haskell, Hughes, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties;

5. The Congressional District 4 position expiring in 2017 shall thereafter be represented by a person residing in Region 2 of the state which shall consist of Alfalfa, Blaine, Canadian, Custer, Dewey, Ellis, Garfield, Grant, Harper, Kingfisher, Major, Roger Mills, Woods and Woodward Counties;

6. The Congressional District 5 position expiring in 2018 shall thereafter be represented by a person residing in Region 5 of the state which shall consist of Oklahoma County;

7. The at-large position expiring in 2018 shall represent Region 3 of the state which shall consist of Beckham, Caddo, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa, Tillman and Washita Counties;

8. The Congressional District 3 position expiring in 2019 shall thereafter be represented by a person residing in Region 1 of the state which shall consist of Beaver, Cimarron and Texas Counties; and

9. The at-large member position expiring in 2020 shall thereafter be represented by a person residing Region 6 of the state which shall consist of Creek, Kay, Lincoln, Logan, Noble, Okfuskee, Osage, Pawnee, Payne and Washington Counties.

C. All members appointed after the effective date of this act shall be appointed for terms of seven (7) years.

D. If a member serving on the Board as of the effective date of this act resigns or is unable to complete the term of the member, the seat shall immediately transition to the applicable regional representation as provided for in subsection B of this section.

E. Each member shall be a qualified elector of this state. At all times the membership of the Board shall have represented on it at least one member well versed in each of the following major types of water use: recreational, industrial, irrigational, municipal, rural residential, agricultural, soil conservation work and oil and gas production. Not more than two members may be selected representing any one of the major types of water use. The Board shall meet at least nine times per calendar year at the discretion of the chair with not more than two consecutive calendar months between meetings. The members of the Board may be removed only for cause. Whenever a vacancy shall occur, the Governor shall appoint a qualified person to fill the unexpired term of the vacant office. Upon entering, each member of the Board shall take and subscribe to the constitutional and statutory oath of office and file the same with the Secretary of State.

F. The Board shall organize annually by electing a chair, vice-chair, and secretary from the membership of the Board, who shall perform such duties as shall be prescribed by the Board.

Added by Laws 1972, c. 253, § 1. Amended by Laws 1982, c. 306, § 1, emerg. eff. May 28, 1982; Laws 1992, c. 364, § 12, emerg. eff. June 4, 1992; Laws 2002, c. 375, § 24, eff. Nov. 5, 2002; Laws 2013, c. 406, § 1, eff. July 1, 2014; Laws 2016, c. 78, § 1, emerg. eff. April 18, 2016.

§82-1085.2. Authority of Oklahoma Water Resources Board.

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

1. Generally to do all such things as in its judgment may be necessary, proper or expedient in the accomplishment of its duties;
2. To make such contracts and execute such instruments as in the judgment of the Board are necessary or convenient to the exercise of any of the powers conferred upon it by law. Provided, however, no contract shall be made conveying the title or use of any 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;

6. To adopt and use an official seal;

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

8. To institute and maintain, or to intervene in, any actions or proceedings in or before any court, board, commission or officer of this or any other state or of the United States to stop or prevent any use, misuse, appropriation or taking of any of the waters of this state which is in whole or in part in violation of any law, or of any rules, orders, judgments or decrees of any court, board, commission or officer of this or any state or of the United States; and to institute and maintain or intervene in any other 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 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 state, and Congress and the President of the United States conformable to the State and Federal Constitutions;

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

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

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

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

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

16. To adopt, modify or repeal and promulgate standards of quality of the waters of the state and to classify such waters according to their best uses in the interest of the public under such conditions as the Board may prescribe for the prevention, control, and abatement of pollution. The standard of quality of waters of the state adopted by the Board pursuant to the provisions of Section 1085.30 of this title shall be utilized by all appropriate state environmental agencies in implementing their respective duties to abate and prevent pollution to the waters of the state;

17. To review disputes involving service areas or territories, rates for raw or treated water, and abrogation clauses in contracts

among municipalities and rural water districts or not-for-profit rural water corporations; to recommend mediation and refer parties in appropriate disputes to mediators and provide technical information to such mediators; and to recommend other means of resolving disputes; provided, that no party to such dispute may initiate action in any district court regarding the dispute until written notice of the dispute has been filed with the Board; provided further that the provisions of this paragraph shall not be construed to diminish any right of access to the court granted to a party by law;

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

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

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

Added by Laws 1972, c. 253, § 2. Amended by Laws 1980, c. 159, § 39, emerg. eff. April 2, 1980; Laws 1982, c. 306, § 2, emerg. eff. May 28, 1982; Laws 1993, c. 145, § 319, eff. July 1, 1993; Laws 1994, c. 162, § 1; Laws 1996, c. 329, § 5, emerg. eff. June 12, 1996; Laws 2001, c. 160, § 1, emerg. eff. May 1, 2001; Laws 2004, c. 95, § 1, eff. Jan. 1, 2005; Laws 2012, c. 304, § 1064.

§2-1085.2A. Temporary employees.

A. For the purposes of the Oklahoma Water Resources Board, seasonal employees employed by the Board who work less than nine hundred ninety-nine (999) hours in a twelve-month period shall be considered temporary employees and shall be unclassified. The Board may employ seasonal employees throughout the calendar year.

B. The Board, in its annual budget request, shall include a summary of the use of project labor, which shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

Added by Laws 2015, c. 391, § 3, emerg. eff. June 4, 2015.

§2-1085.3. State to be divided into water districts.

The Oklahoma Water Resources Board shall, from time to time as may be necessary for the economical and satisfactory apportionment of the water, divide the state in conformity with the drainage areas, into water districts to be designated by name and to comprise, as far as possible, one or more distinct stream systems in each district. The districts may be changed from time to time as may in its opinion be necessary for the economical and satisfactory apportionment of the water.

Added by Laws 1972, c. 253, § 3.

§82-1085.4. Fixing of fees - Schedule.

The Oklahoma Water Resources Board shall prepare and charge a schedule of reasonable fees for services rendered. The fee for the annual groundwater permit administration for the submittal of water use reports shall not exceed Twenty-five Dollars (\$25.00) per permit. The Board may assess a late fee not to exceed Twenty-five Dollars (\$25.00) for annual groundwater use reports filed after the due date.

Added by Laws 1972, c. 253, § 4. Amended by Laws 2011, c. 260, § 1.

§82-1085.5. Account book.

The Oklahoma Water Resources Board shall keep an account of all fees in a book provided for that purpose, showing the amount charged and the amount received, from whom and for what purpose, and the date thereof. The totals for each month shall, at the close thereof, be legibly and correctly entered in said book opposite the month during which the same have been collected or charged, showing the amount charged, the amount received and the amount remaining due and unpaid.

Added by Laws 1972, c. 253, § 5.

§82-1085.6. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§82-1085.7. Oklahoma Water Resources Board Fee Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Water Resources Board to be designated the "Oklahoma Water Resources Board Fee Revolving Fund". The fund shall be a continuing fund for direct and indirect costs of enforcement and administration of the water duties of the Oklahoma Water Resources Board. The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies collected by the Oklahoma Water Resources Board for water-related fees. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted for the purpose of duties imposed upon the Oklahoma Water Resources Board.

Added by Laws 1972, c. 253, § 7. Amended by Laws 1979, c. 47, § 108, emerg. eff. April 9, 1979; Laws 1993, c. 145, § 324, eff. July 1,

1993; Laws 2011, c. 311, § 1; Laws 2012, c. 304, § 1065; Laws 2018, c. 214, § 1, eff. July 1, 2018.

§82-1085.7A. Community Water Infrastructure Development Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Water Resources Board to be designated the "Community Water Infrastructure Development Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Water Resources Board from the apportionment of gross production tax revenues as prescribed by Section 1004 of Title 68 of the Oklahoma Statutes.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Water Resources Board for the purpose of establishing and maintaining critical water infrastructure in all areas of the state, including projects to implement the recommendations of the Oklahoma Comprehensive Water Plan.

D. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2006, 2nd Ex. Sess., c. 43, § 4, eff. July 1, 2006.
Amended by Laws 2009, c. 305, § 4, eff. July 1, 2009; Laws 2012, c. 304, § 1066; Laws 2016, c. 226, § 3.

§82-1085.7B. OWRB Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Water Resources Board to be designated the "OWRB Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies collected by the Oklahoma Water Resources Board which are not otherwise designated. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Water Resources Board for the purpose of duties imposed upon the Oklahoma Water Resources Board by law.

Added by Laws 2011, c. 311, § 2.

§82-1085.7C. Phase II Arbuckle-Simpson Hydrology Study Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Water Resources Board to be designated the "Phase II Arbuckle-Simpson Hydrology Study Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Water Resources Board from the appropriations,

apportionments, donations, federal grants and fee revenues designated for the purposes of completing in coordination with relevant state and federal agencies, specifically including the United States Geological Survey, data collection and development of an enhanced hydrologic framework and modeling of the eastern Arbuckle-Simpson Groundwater Basin necessary for purposes of implementing the requirements of subsection A of Section 1020.9 of Title 82 of the Oklahoma Statutes, or as otherwise appropriate for the Board's performance of its lawful function, which work is necessary for completion of Phase II of the Arbuckle-Simpson Hydrology Study.

C. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Water Resources Board for the purpose of implementing Phase II of the Arbuckle-Simpson Hydrology Study. The Board shall coordinate with East Central University and the United States Geological Survey for the purpose of defining the study scope and conducting the work necessary to complete data collection and the development of an enhanced hydrologic framework and modeling of the eastern Arbuckle-Simpson Groundwater Basin necessary for purposes of implementing the requirements of subsection A of Section 1020.9 of Title 82 of the Oklahoma Statutes, or as otherwise appropriate for the Board's performance of its lawful function. The Board may coordinate with other relevant state and federal agencies necessary for the purposes of this fund.

D. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2019, c. 255, § 1, eff. July 1, 2019.

§82-1085.8. Oklahoma Water Resources Board annual report.

The Oklahoma Water Resources Board shall make an annual report to the Governor, setting forth in detail the operation of its office, including a report of all funds received by it and the disbursements of same.

Added by Laws 1972, c. 253, § 8.

§82-1085.9. Penalties.

If any employee of the Oklahoma Water Resources Board shall fail to make his quarterly report to the Auditor of Oklahoma as provided herein, or shall wilfully make any false entry or statement therein, or shall fail to report all fees collected by the Oklahoma Water Resources Board or its clerks, or shall fail or refuse to pay into the State Treasury all monies received by the Oklahoma Water Resources Board or its clerks, as fees during each quarter, shall be guilty of a misdemeanor, and shall upon conviction be fined not less

than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00).

Added by Laws 1972, c. 253, § 9.

§82-1085.10. Procedures and appeals.

In the exercise of all powers and performance of all duties provided in this act, the Oklahoma Water Resources Board shall comply with the procedures provided in the Administrative Procedures Act. Appeals shall be taken as provided in said act. The Oklahoma Water Resources Board may designate a hearing examiner or examiners who shall have the power and authority to conduct such hearings in the name of the Oklahoma Water Resources Board at any time and place subject to the provisions of this section and any applicable rules, regulations or orders of the Oklahoma Water Resources Board.

Added by Laws 1972, c. 253, § 10.

§82-1085.11. Compilation, indexing and publishing of data.

The Oklahoma Water Resources Board shall compile, index and publish all available data concerning the water resources of this state in forms that will be accessible for use by any citizen of this state. Such information shall include rainfall reports and other precipitation data; records of public and private water storage facilities; data on quantity and rate of stream flow; locations of natural and artificial springs; data on water insoak and runoff; extent and depth of underground water reservoirs; reports from well-drilling logs; reports on quality of water found in various parts of Oklahoma; and an up-to-date compilation of all Oklahoma Statutes, rules and regulations pertaining to the conservation, storage, use and distribution of water resources.

Laws 1972, c. 253, § 11.

§82-1085.12. Executive Director - Qualifications - Powers and duties.

The Oklahoma Water Resources Board shall appoint an Executive Director, who shall have had at least six (6) years practical and administrative experience in water resource management, and fix his duties and compensation. The Oklahoma Water Resources Board is specifically authorized to delegate to such Executive Director such of its powers and duties as it may deem proper, including powers and duties involving the exercise of official discretion. The authority hereby granted to the Oklahoma Water Resources Board to delegate powers and duties to the Executive Director shall extend to any powers and duties given or transferred to the Oklahoma Water Resources Board under this act, or under any other law conferring powers or imposing duties upon the Oklahoma Water Resources Board, and shall also extend to any powers conferred or duties imposed upon the Oklahoma Water Resources Board by any future law, unless such

future laws shall expressly negate the authority to make such delegation. Any other part of this act, or any other law granting authority to the Oklahoma Water Resources Board to delegate any powers or duties, shall not be deemed to be a limitation upon the authority conferred by this section. The Executive Director shall exercise any such delegated powers and perform such delegated duties, in accordance with any rules, regulations or orders made by the Oklahoma Water Resources Board which are applicable thereto. Provided, however, the Oklahoma Water Resources Board shall not delegate to such director any power of determining policy, the execution of any contract or the final adjudication of any claims, applications or controversies, all of which powers and duties shall be exercised solely by the Oklahoma Water Resources Board. Added by Laws 1972, c. 253, § 12.

§82-1085.12a. Executive Director of the Oklahoma Water Resources Board; absence or vacancy.

For intrastate or interstate compacts or commissions on which the Executive Director of the Oklahoma Water Resources Board is a member or otherwise is required to perform specified services, the Executive Director, in the event of the Executive Director's temporary absence, may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Board may designate an interim or acting Commissioner and designee who is authorized to exercise such powers and duties until a permanent Executive Director is employed.

Added by Laws 1994, c. 32, § 2, emerg. eff. April 11, 1994.

§82-1085.13. Special counsel.

If the Attorney General shall seek redress on behalf of the state as provided for in the Administrative Procedures Act, the Oklahoma Water Resources Board is empowered to appoint a special counsel for such proceedings.

Added by Laws 1972, c. 253, § 13.

§82-1085.14. Continuing study of water laws - Recommendations and proposals.

In addition to its other powers, the Oklahoma Water Resources Board is authorized and directed, within the limits of funds available to it, to engage in a continuing study of the water laws of this state, and of changes therein required in order to carry out to the greatest practicable extent the policies, goals, objectives and recommendations contained in the "Oklahoma Comprehensive Water Plan" and to make recommendations and prepare proposed legislation for such purposes. Such recommendations and proposed legislation shall, as

they are completed, be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives.
Laws 1972, c. 253, § 14; Laws 1981, c. 113, § 1; Laws 1981, c. 272, § 40, eff. July 1, 1981.

§82-1085.15. Cooperation.

All state institutions, agencies, departments, boards and officers are hereby authorized and directed to cooperate with the Oklahoma Water Resources Board in all matters relating to its duties. Added by Laws 1972, c. 253, § 15.

§82-1085.16. Savings clause.

If any water distribution systems or districts or county water improvement districts have ever been formed, any easements or property are transferred to the Oklahoma Water Resources Board for release of easements. All districts heretofore formed pursuant to the provisions of Sections 281 through 447, inclusive, in Title 82 of the Oklahoma Statutes, shall have the right to continue to operate pursuant to said statutes. The property and easements of those districts heretofore formed pursuant to said laws, but which are inactive, are hereby transferred to the board of county commissioners of the county wherein such easements or property are located; and, the board of county commissioners of said county shall have the right to maintain or release said easements or dispose of said property as provided by law.

Added by Laws 1972, c. 253, § 16.

§82-1085.17. State policy - Purpose.

It is hereby declared to be the policy of the State of Oklahoma to encourage and promote the optimum development and utilization of all feasible reservoir sites or areas within this state which may be suitable and usable for the conservation storage of the waters of this state by the construction or enlargement of dams, reservoirs or other structures. It is the purpose of this act to provide or assist in providing for the acquisition, development and utilization of storage and control facilities of the waters of this state for the use and benefit of the public and for the conservation and distribution of water for useful purposes in or from reservoirs or other storage facilities constructed, or hereafter constructed, modified or enlarged, within the State of Oklahoma by the United States of America or the State of Oklahoma or any agency, department, subdivision or instrumentality thereof, for the following and specific reasons and benefits for the general welfare and the future economic growth of the state:

1. Multiple-purpose dam and reservoir sites are very limited in number and not replaceable.

2. Water management in Oklahoma requires the storage of water during periods of surplus supply for use during periods of short supply.

3. Most reservoir sites in Oklahoma will have a useful life of seventy-five to several hundred years. Therefore, it is imperative that the reservoir sites be developed to the full potential of the site and the net water yield of the drainage area after all present and future needs and beneficial uses of water are satisfied above said site.

4. The conservation of soil and water in Oklahoma requires the continuation of watershed protection and flood prevention programs on an accelerated priority basis with consideration given to future water needs of the area.

Added by Laws 1972, c. 253, § 17.

§82-1085.18. Commission created - Status - Membership - Expenses.

There is hereby created a body corporate and politic to be known as the Water Conservation Storage Commission which may sue and be sued and plead and be impleaded. The Commission, where necessary to promote the optimum development and utilization of reservoir sites, shall have the power to acquire by purchase, gift, devise or eminent domain land and interests in land except mineral interests. The Commission is hereby constituted an instrumentality of the State of Oklahoma, and exercise by the Commission of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma. The Commission shall be composed of the members of the Oklahoma Water Resources Board and the officers of said Oklahoma Water Resources Board shall be the officers of the Commission. The duties assigned to each member of the Commission by the provisions of this act shall be considered additional duties to those required by virtue of their membership on the Oklahoma Water Resources Board, and they shall not receive any additional compensation for the performance of the duties required by this act, except that they shall be entitled to their actual expenses incurred, and reimbursement for such expenses shall be paid out of the funds available for the operation of their department, on the same basis as now provided by law.

Added by Laws 1972, c. 253, § 18.

§82-1085.19. Meetings - Quorum - Record of proceedings.

The Commission shall meet on the call of the Commission Chairman upon five (5) days' written notice to each member from the secretary, except that a meeting may be held without notice whenever those not attending waive in writing or by telegram addressed to the secretary of the Commission their right to notice of such meeting. All meetings of the Commission shall be open to the communications media and public. Four (4) members of the Commission shall constitute a quorum

and the vote of four (4) members shall be necessary for any action taken by the Commission. No vacancy in the membership of the Commission shall impair the rights of a quorum to exercise and perform all of the rights and duties of the Commission. The secretary of the Commission shall cause to be recorded an accurate written record of the actions and proceedings of the Commission and shall keep such records open for public inspection for as long as the Commission or any obligations thereof exist.
Added by Laws 1972, c. 253, § 19.

§82-1085.20. Review of proposed projects or plans - Storage of surplus water.

It shall be the duty of the Commission to review any proposed project or plan whereby waters of this state are to be collected, stored or retained for any purpose by any dam, reservoir or other structure constructed or caused to be constructed by the United States of America or the State of Oklahoma or any agency, department, subdivision or instrumentality thereof. Whenever it is determined by the Commission after such examination, review and recommendation that there are surplus waters in excess of the present and future needs of water users of the contributing watershed available at the proposed dam and reservoir site for the full and optimum development of any dam, reservoir or other storage site or location requiring inclusion in such plan or project provisions for development of water supplies for domestic, municipal, agricultural, industrial and other purposes, then the Commission shall notify the responsible agency or department of the federal government and the agencies of the State of Oklahoma of its conclusions and request that the design and specifications of such project be constructed to include storage of such water for such uses.

Added by Laws 1972, c. 253, § 20.

§82-1085.21. Agreements with federal agencies - Cost of reimbursement.

Whenever any project or plan for the construction or enlargement of any dam, reservoir or other structure includes within its design and specifications provisions for the development of water supplies for domestic, municipal, agricultural, industrial and other purposes the Commission is hereby directed to negotiate with the municipalities or other local interests of this state and its agencies and the federal government or its responsible agency, department or instrumentality for the purpose of determining the cost of reimbursing the federal government for the allocated cost of including such municipal, agricultural and industrial water storage within such construction. Any available storage for such purposes which cannot reasonably be used within the present or estimated future firm demands of local users may be contracted for by the

Commission in order to assure the federal government that such added cost will be provided as authorized by federal law, and that necessary funds for any charges shall be paid by the Commission to the federal government pursuant to such contract and applicable federal law after examination and determination by the Oklahoma Water Resources Board that such charges are in harmony with existing federal law and policy at the time that the projects are built and the contracts between the Commission and the federal government are executed. In cases where all necessary costs to provide maximum conservation storage in a site cannot be contracted for between the federal government and the Commission because of limitations on the participation by the federal government, the Commission shall have the authority to provide funds covering those costs.

Added by Laws 1972, c. 253, § 21.

§82-1085.22. Sale, transfer or lease of storage facilities.

For the purpose of providing water for municipal, agricultural, industrial and other uses the Commission is required to sell, transfer or lease, in whole or in part, any acquired storage facilities including land or interests therein to any municipality, industry or other local interests, upon the request of the contracting party at the conclusion of the pay-out of the storage, except that any such party requesting title shall be responsible for the pro rata part of the maintenance and operation costs of such storage. In no event shall the Commission require any payment for such transfer in excess of the costs to the Commission of the construction and operation of the storage facility and the interest on obligations of the Commission. The Commission shall not permit the sale or resale of any water for use outside the State of Oklahoma. Where lands or interest therein are acquired by the Commission and not utilized for the purposes for which it was acquired, or which have been utilized but such utilization has ceased, then, after ten (10) years from the date of acquisition, or ten (10) years from the date utilization ceased, as the case may be, such land must be sold at public auction to the highest bidder; and mandamus by any interested party will be to require such sale.

Added by Laws 1972, c. 253, § 22.

§82-1085.23. Water Conservation Storage Fund - Investment certificates.

There is hereby created in the State Treasury a Water Conservation Storage Fund, which fund shall be used by the Commission for those purposes authorized by this act. To provide necessary funds the Commission is hereby authorized to issue investment certificates from time to time, as may be required, to provide an adequate amount of cash in such fund which may be necessary to meet the anticipated needs of the Commission. The Commission is

authorized to provide for the payment of such investment certificates and the rights of the holders thereof, as hereinafter provided. Said investment certificates may be issued in one or more series; may be sold in such manner and at par; may bear such date or dates; may mature at such time or times, not to exceed fifty (50) years from their date; may be in such denomination or denominations; may be in such form either coupon or registered; may carry such registration or conversion privileges; may be executed in such manner; may be payable in such medium of payments, at such place or places; may be subject to such term of redemption, with or without premium; and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the Commission. Such investment certificates shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the State of Oklahoma, or by any county, municipality or political subdivision therein. All investment certificates maturing after ten (10) years from their dates shall be subject to call and redemption, in inverse order of maturity and investment certificate numbers, at par and accrued interest, the detailed provisions for such call and redemption to be fixed by the Commission in the resolution or resolutions authorizing the issuance of said investment certificates.

The investment certificates issued hereunder shall not be an indebtedness of the State of Oklahoma or of the Commission herein, but shall be special obligations payable solely from the revenues to be derived from the sale of storage, and the Commission is authorized and directed to pledge all or any part of such revenues to the payment of principal and interest on the investment certificates and to create a reserve for such purposes.

Added by Laws 1972, c. 253, § 23.

§82-1085.24. Purchase of certificates by State Treasurer.

A. The State Treasurer of the State of Oklahoma is hereby authorized and required to purchase from the Water Conservation Storage Commission at private sale not to exceed at any one time One Million Five Hundred Thousand Dollars (\$1,500,000.00) in said investment certificates, or interim investment certificates, as an investment of the public monies in his possession. It shall be the responsibility of the State Treasurer to invest only that portion of such public monies as it deems to be more than sufficient to meet current expenditures payable from public monies. The State Treasurer is authorized and required to buy, and the Commission is authorized and required to sell to the State Treasurer at private sale, as provided in this section, so many of the investment certificates authorized by this act as may be safely purchased for investment of public monies by the State Treasurer without handicapping the State of Oklahoma in promptly meeting its obligations. In event of such sale or sales, the Commission shall determine and fix the rate of

interest and investment certificates so sold shall bear such rate of interest.

B. In the event any or all of the investment certificates are sold to the State Treasurer under the provisions of subsection A of this section and thereafter the uninvested cash on hand and in solvent banks should fall short of demand orders on the State Treasury, it shall be the duty of the State Treasurer to sell such part or all of the investment certificates as are necessary to be converted into cash to meet such demands. The State Treasurer may sell such part or all of the said investment certificates as the State Treasurer is so authorized to sell, at private sale, to the Teachers' Retirement Fund or any other state fund, department or agency which has available monies to purchase the same, and all such state funds, departments and agencies are hereby authorized and empowered to so purchase such investment certificates.

Added by Laws 1972, c. 253, § 24. Amended by Laws 1989, c. 343, § 40, operative July 1, 1989; Laws 2013, c. 254, § 36.

§82-1085.25. Examination of proceedings by Attorney General - Incontestability.

Within ten (10) days after the sale or sales of said investment certificates, the Attorney General of the State of Oklahoma shall examine all of the proceedings of the Commission and all resolutions passed and actions taken by it in connection with the authorization, issuance and sale of such investment certificates and shall, if he finds such investment certificate proceedings and sale to be constitutional and lawful, execute his certificate and file the same of record in the office of the Secretary of State of the State of Oklahoma, which said certificate shall read substantially as follows:

I have examined all proceedings had in connection with the issuance of the Water Conservation Storage Investment Certificates in the aggregate principal amount of \$ _____, dated _____, authorized and sold pursuant to _____, and find said proceedings and sale to be constitutional, lawful and regular in all particulars and that said investment certificates will be valid obligations of the Water Conservation Storage Commission. Unless suit thereon shall be brought in the Supreme Court of the State of Oklahoma within thirty (30) days from the date of this certificate, said investment certificates shall be incontestable for all purposes.

Date

Attorney General of the State
of Oklahoma

Upon the filing of such certificate, investment certificates issued pursuant to proceedings so examined by the Attorney General shall be incontestable for all purposes upon the expiration of thirty (30) days from the date of such certificate, unless suit be brought in the Supreme Court of Oklahoma prior to the expiration of said

period as provided herein. A facsimile of such Attorney General's certificate shall appear on each investment certificate so issued. The Supreme Court of Oklahoma is hereby vested with exclusive jurisdiction over any litigation involving the validity of any investment certificates issued under this act.
Added by Laws 1972, c. 253, § 25.

§82-1085.26. Execution of certificates and contracts - Audits.

A. The Chairman and secretary, acting in behalf of the Commission, shall execute all investment certificates issued by the Commission and all contracts awarded by the Commission after approval of the form thereof by the Commission and the Attorney General.

B. All invoices, bills and claims of whatever nature shall be subject to audit under provisions of the preaudit law and other laws relating to the disbursement of public funds.
Added by Laws 1972, c. 253, § 26.

§82-1085.27. Legal services.

All legal services required by the Commission shall be performed by the Attorney General and his staff, or by the attorney for the Commission.
Added by Laws 1972, c. 253, § 27.

§82-1085.28. Contracts with Secretary of Agriculture for repayment of water storage costs.

The Water Conservation Storage Commission of the State of Oklahoma is hereby authorized to contract with the Secretary of Agriculture, pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act as amended (16 U.S.C. Sections 1001 - 1009), for the repayment of the cost for the storage of water for anticipated future demands or needs included in any reservoir structure, provided that the Commission determines that such reservoir structure will be needed by the State of Oklahoma, or any political subdivision thereof, or any municipality or other public body to meet their future anticipated demands or needs for water.
Added by Laws 1972, c. 253, § 28.

§82-1085.29. Federal Clean Water Act Program - Official state agency.

The Oklahoma Water Resources Board is hereby designated as the state agency to administer, receive, and manage all programs and funds associated with Section 314 or other applicable sections of the Federal Clean Water Act or other subsequent state and federal clean lakes programs having the purposes of assessing, monitoring, studying and restoring Oklahoma lakes, provided such funds from Federal Clean Water Act sources are administered and disbursed by the Office of the Secretary of Environment. In conducting the clean lakes program, the

Board shall employ a cooperative agreement with the Conservation Commission with regard to lake watersheds. The Conservation Commission may cooperate with the Oklahoma Water Resources Board in providing land use inventory/assessment and stream monitoring portion of the clean lakes program. The Water Resources Board may enter into cooperative agreements with other federal, state and local agencies as necessary. Any Phase II Clean Lakes projects which require watershed implementation of nonpoint source pollution control practices shall be carried out by the Conservation Commission. Added by Laws 1993, c. 145, § 320, eff. July 1, 1993. Amended by Laws 1997, c. 217, § 6, eff. July 1, 1997.

§82-1085.30. Classification of water uses - Oklahoma Water Quality Standards.

A. 1. In order to effectuate a comprehensive program to assist in the prevention, control and abatement of pollution of the waters of this state, and in order to establish state standards which comply with the Federal Water Pollution Control Act as amended, the Oklahoma Water Resources Board is authorized to promulgate rules to be known as "Oklahoma Water Quality Standards" which establish classifications of uses of waters of the state, criteria to maintain and protect such classifications, and other standards or policies pertaining to the quality of such waters.

2. The Oklahoma Water Quality Standards shall, at a minimum, be designed to maintain and protect the quality of the waters of the state.

3. Wherever the Board finds it is practical and in the public interest to do so, the rules may be amended to upgrade and improve progressively the quality of waters of the state.

4. a. The Board may also amend Oklahoma Water Quality Standards to downgrade a designated use of any waters of this state which is not an existing use, may establish subcategories of a use or may provide for less stringent criteria or other provisions thereof only in those limited circumstances permissible under the Federal Water Pollution Control Act as amended or federal rules which implement the act.

b. The Board may amend the Oklahoma Water Quality Standards to downgrade a designated use, establish subcategories of a use or may provide for less stringent criteria or other provisions thereof only to the extent as will maintain or improve the existing uses and the water quality of the water affected; provided, however, the Board shall not modify the Oklahoma Water Quality Standards applicable to scenic river areas as such areas are described by Section 1452 of this title, to downgrade a designated use, establish

a subcategory of a use or provide for less stringent criteria or other provisions thereof.

B. 1. Prior to adopting such standards or any amendment thereof, the Board shall conduct public hearings thereon. Notice of such hearing shall be published in accordance with the Administrative Procedures Act and shall be mailed at least twenty (20) days before such public hearing to the chief executive of each municipality and county in the area affected and shall be mailed to all affected holders of permits obtained pursuant to the Oklahoma Environmental Code, and such other persons that have requested notice of hearings on such standard modifications.

2. If adoption or amendment of a classification to a lower or downgraded classification is proposed because treatment controls required of the current or a higher or upgraded classification would result in substantial and widespread social and economic impact, the Board shall, in addition to any hearing required by subsection B of this section, conduct a public meeting within a central location within the area to be affected. The Board shall cause notice of such additional public meeting to be published for at least two (2) consecutive weeks in a newspaper of general circulation published in the county or counties in the area affected.

C. 1. The Oklahoma Water Quality Standards, their accompanying use support assessment protocols, anti-degradation policy and implementation, and policies generally affecting Oklahoma Water Quality Standards application and implementation including but not limited to mixing zones, low flows and variances or any modification or change thereof shall be promulgated by the Board in compliance with the Administrative Procedures Act and shall be enforced by all state agencies within the scope of their jurisdiction. All use support assessment protocols promulgated by the Board shall be consistent with state and federal law and guidance specifically related to beneficial use support determinations as set forth in Section 305(b) of the Federal Water Pollution Control Act, where applicable.

2. In promulgating Oklahoma Water Quality Standards or making any modification or change thereof, the Board shall announce a reasonable time for persons discharging waste into the waters of the state to comply with such new or modified standards unless such discharges create an actual or potential hazard to public health.

3. Any discharge in accord with such standards of the Board and in compliance with rules, requirements and wasteload allocations established by the Department of Environmental Quality and with rules promulgated by other state environmental agencies shall not be deemed to be pollution.

4. Notwithstanding the implementation jurisdiction provided to the Board in paragraph 1 of subsection C of this section, the Department of Environmental Quality shall have jurisdiction to

develop and utilize policies and requirements, as provided in paragraph 22 of subsection B of Section 1-3-101 of Title 27A of the Oklahoma Statutes.

Added by Laws 1972, c. 242, § 6. Amended by Laws 1988, c. 203, § 6, emerg. eff. June 10, 1988; Laws 1993, c. 145, § 321, eff. July 1, 1993. Renumbered from § 926.6 of this title by Laws 1993, c. 145, § 361, eff. July 1, 1993. Amended by Laws 1994, c. 209, § 1, eff. Sept. 1, 1994; Laws 1999, c. 413, § 8, eff. Nov. 1, 1999; Laws 2018, c. 137, § 2, eff. Nov. 1, 2018.

§82-1085.30a. Water standards.

Oklahoma Water Quality Standards, promulgated by the Oklahoma Water Resources Board, shall designate:

1. Watersheds that are nutrient-limited; and
2. Groundwaters that are nutrient-vulnerable.

Added by Laws 1998, c. 404, § 3, eff. Aug. 1, 1998. Renumbered from § 9-203.1 of Title 2 by Laws 2005, c. 292, § 25, eff. July 1, 2005.

§82-1085.31. Public policy.

It is hereby declared to be the policy of the state to encourage and promote the optimum development and utilization of all feasible reservoir sites or areas within this state which may be suitable and usable for the conservation storage of the waters of this state by the construction or enlargement of dams, reservoirs or other structures and for the development of sewage treatment facilities. It is the purpose of this act to provide or assist in providing for the acquisition, development and utilization of storage and control facilities of the waters and sewage of this state for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities constructed, or hereafter constructed, modified or enlarged, within Oklahoma by the United States of America or Oklahoma or any agency, department, subdivision or instrumentality thereof, for the following and specific reasons and benefits for the general welfare and the future economic growth of the state:

1. Multiple-purpose dam and reservoir sites are very limited in number and not replaceable.
2. Water management in Oklahoma requires the storage of water during periods of surplus supply for use during periods of short supply.
3. Most reservoir sites in Oklahoma will have a useful life of seventy-five to several hundred years. Therefore, it is imperative that the reservoir sites be developed to the full potential of the site and the net water yield of the drainage area after all present and future needs and beneficial uses of water are satisfied above said site.

4. The conservation of soil and water in Oklahoma requires the continuation of watershed protection and flood prevention programs on an accelerated priority basis with consideration given to future water needs of the area of origin.

5. Sewage treatment and control in Oklahoma creates certain health problems in certain communities due to lack of adequate treatment facilities.

Laws 1979, c. 247, § 1; Laws 1980, c. 158, § 1, eff. July 1, 1980.

§82-1085.32. Definitions.

As used in Sections 1085.33 through 1085.39 of this title:

1. "Project" means:

- a. any engineering undertaking or work to conserve and develop surface or subsurface water resources or to control or develop sewage treatment facilities of the state for all useful and lawful purposes by the acquisition, improvement, extension or construction of dams, reservoirs and other water storage projects, including underground storage projects, filtration and water treatment plants,
- b. any system necessary to distribute water from storage to points of distribution, or to filtration and treatment plants,
- c. facilities for the distribution of water from storage or filtration and treatment plants to wholesale or retail purchasers, and
- d. any system necessary to improve or develop sewage treatment, collection or distribution capabilities.

2. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board for the purposes set forth in Sections 1085.31 through 1085.39 of this title.

3. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural water or sewer district, irrigation district, public trust, master conservancy district or other political subdivision or any combination thereof.

Amended by Laws 1982, c. 306, § 4, emerg. eff. May 28, 1982.

§82-1085.33. Water Resources Fund.

There is hereby created in the State Treasury a Water Resources Fund, which fund shall be used by the Board for those purposes stated in Sections 1085.31 through 1085.39 of this title. To provide necessary funds, the Board is hereby authorized to issue by public sale investment certificates from time to time, as may be required, to provide an adequate amount of cash in such fund which may be necessary to meet the anticipated needs for the funding of properly approved projects. The Board is authorized to provide for the

payment of such investment certificates and the rights of the holders thereof, as hereinafter provided. Said investment certificates shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper in general circulation in Oklahoma County, Oklahoma, prior to the date on which bids are received and opened, except, on issues with the approval of three-fourths (3/4) of the membership of the Board, competitive bidding may be waived. No investment certificates shall be sold for less than par value, except upon approval of three-fourths (3/4) of the membership of the Board. Provided, however, in no event shall any investment certificates be sold at a discount in excess of four percent (4%), which shall include any fees, discounts and any other remuneration received directly or indirectly by the purchaser. Said investment certificates may be issued in one or more series; may bear such date or dates; may mature at such time or times, not to exceed fifty (50) years from their date; may be in such denomination or denominations; may be in such form may carry such registration or conversion privileges; may be executed in such manner; may be payable in such medium of payments, at such place or places; may be subject to such term of redemption, with or without premium; and may bear such rate or rates of interest not to exceed fifteen percent (15%) as may be provided by resolution or resolutions to be adopted by the Board. Such investment certificates shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state, or by any county, municipality or political subdivision therein. The Board is hereby authorized to defease, call and redeem all or any portion of any investment certificates issued hereunder, the detailed provisions for such defeasance, call and redemption to be fixed by the Board in the resolution or resolutions authorizing such defeasance, call and redemption.

Obligations issued under the provisions of this section are hereby made securities in which all public officers and public bodies of the state, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may legally invest funds, including capital in their control or belonging to them. The obligations are hereby made securities which may legally be deposited with and received by any public body of the state for any purpose for which the deposit of obligations of the state is now or may hereafter be authorized by law, and are hereby declared to be securities classified under Section 516.3 of Title 62 of the Oklahoma Statutes, and are authorized to be evidenced by a joint-custody receipt.

The investment certificates issued pursuant to the provisions of this section shall not be an indebtedness of the state or general obligations of the Board, but shall be special obligations payable solely from the revenues to be derived from the project or such other

revenues as may be pledged by the applicant for such purposes, and the Board is authorized and directed to pledge all or any part of such revenues to the payment of principal and interest on the investment certificates and to create a reserve. Such pledge shall be valid and binding from the time the pledge is made. The revenues so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Board arising from the bond proceedings irrespective of whether these parties have notice thereof.

Amended by Laws 1982, c. 306, § 5, emerg. eff. May 28, 1982; Laws 1986, c. 272, § 6, operative July 1, 1986.

§82-1085.34. Unlawful acts.

It shall be unlawful to buy, sell, rent or lease from any officer, board member or employee from funds authorized by this act. Laws 1979, c. 247, § 4.

§82-1085.35. Investment certificates - Purchase - Sale.

The State Treasurer is hereby authorized, at his discretion, to purchase from the Board at private sale not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) in investment certificates or interim investment certificates for each project, provided that the rate of interest agreed upon by the Board and the State Treasurer shall not be less than seven percent (7%). Provided, the State Treasurer is hereby authorized, at his discretion, to sell any investment certificates so purchased with any of said sales not to be less than par, plus interest as accrued.

Laws 1979, c. 247, § 5; Laws 1980, c. 158, § 4, eff. July 1, 1980.

§82-1085.36. Loans to political subdivisions and other eligible entities - Rate of interest - Security - Payment.

Whenever any municipality, public trust, rural water or sewer district or any other eligible entity proposes to acquire or construct a project and/or refinance any indebtedness originally incurred to acquire or construct a project, the Board is hereby authorized to advance to the municipality, public trust, rural water district or other eligible entity or combination thereof sufficient funds for such purposes. Such loans by the Board shall be made pursuant to notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness to the Board by the municipality, public trust, rural water district or other eligible entity. The interest rate and loan term shall be determined by the Board, provided, however, that the interest rate for loans made to rural water or sewer districts, created and existing under the provisions of Section

1324.1 et seq. of this title, for the purposes of acquiring or constructing a project and/or refinancing any indebtedness originally incurred to acquire or construct a project, shall not exceed fourteen percent (14%) per annum. As security, the Board may take a mortgage on the entire project, and a pledge of the revenues derived from the operation thereof or such other revenues as may be pledged by the applicant for such purposes. The Board, in its discretion, may defer the principal or an installment on such loans but the total cumulating time such payment may be deferred shall not exceed five (5) years. After a loan or other financial assistance is obtained under Sections 1085.31 through 1085.65 of this title, and during the term of such loan or other financial assistance, no person, other than the eligible entity obtaining the financial assistance, shall be authorized to provide services of the type relied on for security of the loan or other financial assistance to customers of the portion of the system that is identified in the loan documents as collateral for the loan and either (1) in existence at the time of the loan or other financial assistance or (2) financed by the loan or other financial assistance.

Amended by Laws 1982, c. 306, § 6, emerg. eff. May 28, 1982; Laws 1986, c. 272, § 7, operative July 1, 1986; Laws 1987, c. 208, § 116, operative July 1, 1987; Laws 1987, c. 236, § 104, emerg. eff. July 20, 1987; Laws 1989, c. 379, § 2, operative July 1, 1989.

§82-1085.37. Certification of investment certificate proceedings and sale.

Within ten (10) days of receipt of the transcript of proceedings on said investment certificates, the Attorney General of Oklahoma shall examine and approve or disapprove all of the proceedings of the Board and all resolutions passed and actions taken by it in connection with the authorization, issuance and sale of such investment certificates and shall, if he finds such investment certificate proceedings and sale to be constitutional and lawful, execute his certificate and file the same of record in the office of the Secretary of State of Oklahoma, which said certificate shall read substantially as follows:

I have examined all proceedings had in connection with the issuance of the Water Resources Investment Certificates in the aggregate principal amount of \$ _____, dated _____, authorized and sold pursuant to _____, and find said proceedings and sale to be constitutional, lawful and regular in all particulars and that said investment certificates will be valid obligations of the Water Resources Board. Unless suit thereon shall be brought in the Supreme Court of Oklahoma within thirty (30) days from the date of this certificate, said investment certificates shall be incontestable for all purposes.

Date

Attorney General of Oklahoma

Upon the filing of such certificate, investment certificates issued pursuant to proceedings so examined by the Attorney General shall be incontestable for all purposes upon the expiration of thirty (30) days from the date of such certificate, unless suit be brought in the Supreme Court of Oklahoma prior to the expiration of said period. A facsimile of such Attorney General's certificate shall appear on each investment certificate so issued. Failure of the Attorney General to approve or otherwise act upon such proceedings as required herein shall, for all purposes, be deemed an approval of such proceedings and a waiver of the requirement for his certification. In the absence of an express certification, the thirty-day period for the filing of suit in the Supreme Court of Oklahoma shall commence upon the eleventh day following receipt of the transcript of proceedings in the office of the Attorney General. The Supreme Court of Oklahoma is hereby vested with exclusive jurisdiction over any litigation involving the validity of any investment certificates issued under the provisions of Section 1085.33 of this title.

Amended by Laws 1982, c. 306, § 7, emerg. eff. May 28, 1982.

§82-1085.38. Assumption of obligations of Water Conservation Storage Commission.

As of the effective date of this act, all existing obligations of the Oklahoma Water Conservation Storage Commission shall be assumed by the Oklahoma Water Resources Board.

Laws 1979, c. 247, § 8.

§82-1085.39. Grants - Grant account - Rules and regulations - Disposition of investment income - Legal counsel.

In furtherance of the purposes of Sections 1085.31 through 1085.49 of this title:

1. The Oklahoma Water Resources Board shall administer grants from any monies which may be available to the Water Resources Fund for furtherance of the purposes of Sections 1085.31 through 1085.49 of this title to eligible entities of the state with such conditions as shall in its discretion effectuate these purposes. For purposes of carrying out and implementing the provisions of this section, there is hereby created and established within the Water Resources Fund a grant account which shall contain such monies as may be available for purposes of carrying out the provisions of this section. No more than ten percent (10%) of such grants shall be used for planning purposes. All such eligible entities are hereby authorized to accept grants from the Board. No grant shall be made to any single eligible entity during any fiscal year in an amount exceeding twenty percent (20%) of the funds available for grants to eligible entities during that fiscal year nor shall such grant exceed

One Hundred Thousand Dollars (\$100,000.00). In the case of projects to which more than one eligible entity is a party, no such grant shall be made exceeding in amount twenty percent (20%) of funds available for such purposes per participating eligible entity nor shall such grant exceed One Hundred Thousand Dollars (\$100,000.00) per participating entity. In making such grants, the Board shall consider: The needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance; the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest; whether the political subdivision can reasonably finance the project without assistance from the state; and the relationship of the project to the overall statewide water and sewage treatment needs; and whether or not the applicant has taken all reasonable measures to limit waste and conserve water;

2. The Board shall prescribe such rules and regulations as may be necessary for determining the eligibility and priority of applicants for loans and grants and devise rules and regulations to insure fair and equitable distribution of said loans and grants; and promulgate and adopt such rules and regulations as may be necessary for purposes of expenditures and payments. Provided, no grant of funds shall be made unless such grant is necessary to assist public bodies in emergency situations. Provided also priorities for use of loan and grant money for a particular project shall be established by the state agency with primary responsibility. Provided further, that the Board shall not adopt any rule, regulation or condition requiring that a particular attorney or law firm be employed by any eligible entity in connection with such entity's grants or loans from the Board; and

3. The Board is hereby authorized to direct that up to fifty percent (50%) of the interest income from the investment of monies in the Statewide Water Development Revolving Fund and the Water Resources Fund Grant Account accruing from and after the date of this act be deposited in the Statewide Water Development Revolving Fund created under Section 1085.40 of this title.

The Board may adopt reasonable nondiscriminatory standards for selection of legal counsel.

Amended by Laws 1982, c. 306, § 8, emerg. eff. May 28, 1982; Laws 1987, c. 208, § 117, operative July 1, 1987; Laws 1987, c. 236, § 105, emerg. eff. July 20, 1987.

§2-1085.40. Statewide Water Development Revolving Fund - Creation - Status - Uses and purposes - Investment.

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

"Statewide Water Development Revolving Fund". The revolving fund shall be a continuing fund, not subject to fiscal year limitations.

B. All monies placed in the Statewide Water Development Revolving Fund, exclusive of such amounts of interest derived from investment deposits necessary to maintain the grant account at its maximum amount as provided in subsection C of this section, may be used by the Board for any and all of the following uses and purposes:

1. For the planning and, upon legislative authorization, acquisition of land, construction, operation and maintenance of multipurpose reservoirs and desalination facilities within the State of Oklahoma;

2. To provide for and pay the share, contribution or portion of the cost the state shall pay for any legislative-approved, federally funded water project in the state including, but not limited to, projects for bank stabilization, flood control, weather modification, hydroelectric power, water supply, irrigation, recreation and other beneficial uses; and

3. To fulfill state contractual obligations upon legislative authorization and pursuant to approved repayment agreements with the federal government and incidental to federally funded water supply storage projects.

The Board shall submit annually to the Legislature a list of those projects under consideration for funding under the provisions of this section.

C. The principal amount of all monies placed in the Statewide Water Development Revolving Fund and in the Water Resources Fund Grant Account as provided for in Section 1085.39 of this title shall be invested by the State Treasurer in the manner prescribed by Sections 89.1 et seq. of Title 62 of the Oklahoma Statutes. Interest income derived from the investment of monies placed in the Statewide Water Development Revolving Fund shall be credited to and placed in the grant account established by Section 1085.39 of Title 82 of the Oklahoma Statutes, provided, the total of all monies held in the grant account shall not exceed Five Million Dollars (\$5,000,000.00). Whenever the aggregate total of all monies placed in the grant account equals Five Million Dollars (\$5,000,000.00), then the principal amount in the grant account shall be kept and maintained at that amount and all additional interest income not required to maintain the balance of the grant account at Five Million Dollars (\$5,000,000.00) shall be retained in the Statewide Water Development Revolving Fund. The additional interest income not needed to maintain the grant account as herein provided may be utilized by the Board for the purposes and uses enumerated in subsection B of this section.

Added by Laws 1982, c. 306, § 9, emerg. eff. May 28, 1982. Amended by Laws 1985, c. 346, § 4, emerg. eff. July 30, 1985.

§82-1085.41. Investment certificates - Security and collateral.

In addition to the purposes outlined in Section 9 of this act, all monies placed in the Statewide Water Development Revolving Fund may be used by the Board for security and collateral for investment certificates issued by the Board pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes. Furthermore, the Board is hereby directed to manage and administer the Statewide Water Development Revolving Fund so as to maintain a revolving fund balance adequate to sufficiently back any and all outstanding investment certificates. Added by Laws 1982, c. 306, § 10, emerg. eff. May 28, 1982. Added by Laws 1982, c. 306, § 10, emerg. eff. May 28, 1982.

§82-1085.42. Judicial review - Jurisdiction - Notice and hearing.

The Board is authorized in its discretion to file an application with the Supreme Court of Oklahoma for approval by the Court of any investment certificates to be issued under the provisions of Section 1085.33 of Title 82 of the Oklahoma Statutes, or to file a petition for a judgment determining the validity of any proposed contract or action arising from the exercise of any of the powers, rights, privileges and functions conferred upon the Board, eligible public agencies or public trusts under the provisions of Sections 1085.33 through 1085.39 of the Oklahoma Statutes and Sections 9 and 10 of this act; and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application or petition. Notice of the hearing on each application and petition shall be given by a notice published in a newspaper of general circulation in the state that on a day named the Board will ask the Court to hear its application and approve the investment certificates, or hear its petition and enter a declaratory judgment. Such notice shall inform property owners, taxpayers, ratepayers, citizens and all persons having or claiming any right, title or interest in such matter or properties or funds to be affected by the issuance of such investment certificates, or proposed contract or action, or affected in any way thereby, that they may file protests against the issuance of the investment certificates, the validity of the contracts or action, or the declaratory judgment, and be present at the hearings and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court is satisfied that the investment certificates described in the application have been properly authorized in accordance with Sections 1085.33 through 1085.37 of Title 82 of the Oklahoma Statutes and that, when issued, they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the investment certificates, and shall, upon application of the Board, also issue an order permanently enjoining all persons described in

the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such investment certificates, or of the rates, fees or charges authorized to be charged for the payment thereof, or the pledge of revenues, monies, securities, contract rights or other personal property to secure such payment, and shall fix the time within which a petition for rehearing may be filed. If the Court is satisfied that a proposed contract or action described in a petition filed pursuant to this section is in accordance with the provisions of Sections 1085.33 through 1085.39 of Title 82 of the Oklahoma Statutes and Sections 9 and 10 of this act, the Court shall enter a judgment approving and declaring such contract or action to be valid, and shall, upon application of the Board, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such contract or action, and shall fix the time within which the petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the investment certificates, shall be conclusive as to the Board, its officers and agents, and thereafter the obligations so approved and the revenues, monies, securities, contract rights or other personal property pledged to their payments shall be incontestable in any court in the State of Oklahoma, and any declaratory judgment on any contract or action of the Board, any eligible public agency or any public trust entered pursuant to this section shall have the force and effect of a final judgment or decree.

Added by Laws 1982, c. 306, § 11, emerg. eff. May 28, 1982.

§82-1085.43. Application of subsection 1085.33 to 1085.42.

In no event shall the provisions of Sections 1085.33 through 1085.39 of Title 82 of the Oklahoma Statutes and Sections 9, 10 and 11 of this act supercede or interfere with the statutory responsibilities or jurisdiction of any other state agency, board or commission.

Added by Laws 1982, c. 306, § 12, emerg. eff. May 28, 1982.

§82-1085.44. Monies appropriated to Statewide Water Development Revolving Fund - Use as security and collateral.

In addition to the purposes outlined in Section 1085.40 of Title 82 of the Oklahoma Statutes, all monies appropriated by the Legislature to the Statewide Water Development Revolving Fund may be used by the Board for security and collateral for investment certificates issued by the Board pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes. Furthermore, the Board is hereby directed to manage and administer the Statewide Water Development Revolving Fund so as to maintain a revolving fund balance adequate to sufficiently back any and all outstanding investment certificates.

Any state liability arising from the implementation of this section shall be limited to those monies in the Statewide Water Development Revolving Fund which have been reserved as backing for the outstanding investment certificates.

Added by Laws 1984, c. 277, § 1, emerg. eff. May 30, 1984.

§82-1085.45. Compliance with Central Purchasing act.

In the administration of the program of financial assistance authorized under the provisions of Section 1085.32 et seq. of Title 82 of the Oklahoma Statutes, the Board shall comply with all applicable provisions of the Oklahoma Central Purchasing Act, including but not limited to those provisions requiring competitive bidding on Board purchases and acquisitions.

Added by Laws 1984, c. 277, § 2, emerg. eff. May 30, 1984.

§82-1085.47. Investment certificates - Issuance - Consideration of needs of certain entities.

In the issuance of investment certificates, it shall be the duty and responsibility of the Board to consider the relative needs of all eligible entities in the state and to ensure that sufficient monies are made available from each issuance to satisfy such proportionate share of the overall needs as are attributable to small cities, towns and rural water districts.

Added by Laws 1984, c. 277, § 4, emerg. eff. May 30, 1984.

§82-1085.48. Contingent effectiveness of Section 1085.44.

Section 1 of this act shall become effective contingent upon the approval by the people of a constitutional amendment authorizing the use of state monies for furnishing financial assistance to municipalities, political subdivisions and such other public entities of the state as may be designated by law as being eligible for assistance for water resource and sewage treatment purposes.

Added by Laws 1984, c. 277, § 5, emerg. eff. May 30, 1984.

§82-1085.49. Investment certificates - Acquisition by brokers or dealers.

Except as provided in the rules and regulations of the Municipal Securities Rulemaking Board no broker, dealer, or investment certificates dealer that has a financial advisory relationship with respect to a new issue of investment certificates shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of such issue, or arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or investment certificates dealer.

Added by Laws 1986, c. 272, § 9, operative July 1, 1986.

§82-1085.50. Additional powers and duties of the Oklahoma Water Resources Board.

A. In addition to other powers and duties provided by law, and in accordance with subsection E of Section 39A of Article X of the Oklahoma Constitution, the Oklahoma Water Resources Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Water Infrastructure Credit Enhancement Reserve Fund and any accounts or subaccounts within the fund, pursuant to the authority of the Oklahoma Water Resources Board as provided for in Section 39A of Article X of the Oklahoma Constitution, and shall manage the fund so as to make available the amounts necessary to secure the payment of principal, interest, and premiums, if any, on bonds and other financial obligations which the Water Infrastructure Credit Enhancement Reserve Fund secures;

2. Establish separate accounts and subaccounts within the Water Infrastructure Credit Enhancement Reserve Fund. All accounts shall be segregated and used for specified purposes or held as security for designated obligations;

3. Issue general obligation bonds to provide necessary funds for the Water Infrastructure Credit Enhancement Reserve Fund pursuant to the provisions of subsection B of this section; and

4. Transfer, when necessary, monies from the Water Infrastructure Credit Enhancement Reserve Fund to the Statewide Water Development Revolving Fund created in Section 1085.40 of Title 82 of the Oklahoma Statutes or Water Resources Fund created in Section 1085.33 of Title 82 of the Oklahoma Statutes to be used for the payment of principal, interest, and premiums, if any, on bonds and other financial obligations which the Water Infrastructure Credit Enhancement Reserve Fund secures. The use of monies so transferred and the interest income from such monies shall be restricted to the purposes specified in Section 39A of Article X of the Oklahoma Constitution. The Board shall establish any accounts and subaccounts within the Statewide Water Development Revolving Fund and Water Resources Fund necessary to implement the provisions of this paragraph.

B. The Board may issue general obligation bonds to provide necessary funds for the Water Infrastructure Credit Enhancement Reserve Fund. The issuance of general obligation bonds shall be accomplished in the same manner as investment certificates issued under the provisions of Sections 1085.33 and 1085.37 of Title 82 of the Oklahoma Statutes. The qualifications and characteristics of general obligation bonds issued pursuant to this section shall be the same in all respects as investment certificates issued pursuant to the provisions of Section 1085.33 of Title 82 of the Oklahoma Statutes, except that the general obligation bonds issued pursuant to

this section shall be general obligation bonds backed by the full faith and credit of the State of Oklahoma. The Board shall not issue such general obligation bonds unless:

1. The Board has determined that:

- a. all legally available funds identified in subsection B of Section 39A of Article X of the Oklahoma Constitution have been used,
- b. there are insufficient monies in the Water Infrastructure Credit Enhancement Reserve Fund to cover imminent debt service requirements of the bonds or other financial obligations which the Water Infrastructure Credit Enhancement Reserve Fund secures, and
- c. the issuance of the general obligation bonds is necessary to address a default on the bonds or other financial obligations which the Water Infrastructure Credit Enhancement Reserve Fund secures and is beneficial for the long-term stability of the fund;

2. The issuance of the general obligation bonds has been approved by resolution of a majority of the members of the Oklahoma Water Resources Board;

3. The issuance of the general obligation bonds has been reviewed and approved by the Bond Commissioner of the State of Oklahoma as required in Section 13 et seq. of Title 62 of the Oklahoma Statutes; and

4. The issuance of the general obligation bonds has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

Added by Laws 2013, c. 361, § 1, eff. Nov. 1, 2013.

§82-1085.51. Legislative intent.

In addition to the financial assistance program established under Sections 1085.31 through 1085.49 of this title pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Clean Water State Revolving Fund Program to implement Title VI of the federal Water Quality Act of 1987.

Added by Laws 1988, c. 202, § 1, operative July 1, 1988. Amended by Laws 2002, c. 322, § 1, emerg. eff. May 30, 2002.

§82-1085.52. Definitions.

For the purposes of the Clean Water State Revolving Fund Program:

1. "Water quality project" means:

- a. any engineering undertaking or work to control or develop sewage treatment facilities of the state for all useful and lawful purposes,
- b. any system necessary to improve or develop sewage treatment, collection or distribution capabilities,

- c. urban storm water activities that are administered under the Oklahoma Brownfields Voluntary Redevelopment Act for eligible entities that have obtained a draft or final permit pursuant to the National Pollution Discharge Elimination Act or the Oklahoma Pollution Discharge Elimination Act, or
- d. capital works, capital improvements, capital equipment, environmental cleanups, land acquisition, or implementation of management practices for the purpose of protecting or improving surface or underground water quality through watershed management or reduction of nonpoint source pollution as authorized by the federal Water Quality Act of 1987 and Section 1085.65 of this title,
- e. any implementation of estuary conservation and management programs as authorized by the federal Water Quality Act of 1987,
- f. any other water quality project as may be authorized by the federal Water Quality Act of 1987;

2. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board pursuant to the provisions of this act;

3. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural sewer district, public trust, master conservancy district, any other political subdivision or any combination thereof;

4. "Board" means the Oklahoma Water Resources Board;

5. "Clean Water State Revolving Fund Loan Account" means the Clean Water State Revolving Fund Loan Account created pursuant to Section 1085.53 of this title;

6. "Clean Water State Revolving Fund Loan Administrative Fund" means the Clean Water State Revolving Fund Loan Administrative Fund created pursuant to Section 1085.64 of this title;

7. "Conservation Commission" means the Oklahoma Conservation Commission;

8. "Department" means the Department of Environmental Quality; and

9. "Federal Water Quality Act of 1987" means the federal Water Quality Act of 1987 as exists on July 1, 1988, as may be amended, and any successor statute.

Added by Laws 1988, c. 202, § 2, operative July 1, 1988. Amended by Laws 1993, c. 145, § 325, eff. July 1, 1993; Laws 1999, c. 381, § 2, emerg. eff. June 8, 1999; Laws 2002, c. 322, § 2, emerg. eff. May 30, 2002.

§82-1085.53. Creation of account - Composition - Purpose - Investment.

A. Within the Water Resources Fund created pursuant to Section 1085.33 of this title, there is hereby created the "Clean Water State Revolving Fund Loan Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies received pursuant and subject to the restrictions of the federal Water Quality Act of 1987 which are eligible for use in state revolving loan funds established to meet the requirements of that act;

2. Monies appropriated to the account;

3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;

4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Water Quality Act of 1987;

6. Proceeds from the sale of investment certificates issued to provide water quality project loans pursuant to the provisions of the Clean Water State Revolving Fund Program except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The Clean Water State Revolving Fund Loan Account shall remain available in perpetuity for providing financial assistance in accordance with the federal Water Quality Act of 1987.

C. The monies in the Clean Water State Revolving Fund Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of the Clean Water State Revolving Fund Program or for such other purposes authorized by the federal Water Quality Act of 1987.

D. The monies placed in the Clean Water State Revolving Fund Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Water Quality Act of 1987. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Board.

E. Notwithstanding the provisions of Section 1085.39 of this title, the Board shall not use funds in the Clean Water State

Revolving Fund Loan Account established in the Water Resources Fund to make grants.

Added by Laws 1988, c. 202, § 3, operative July 1, 1988. Amended by Laws 2002, c. 322, § 3, emerg. eff. May 30, 2002.

§82-1085.54. Uses of funds.

A. All funds available in the Clean Water State Revolving Fund Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals, and requirements of the Oklahoma Environmental Quality Code, Oklahoma's Water Quality Standards, and Federal Clean Water Act, including urban storm water activities and wastewater treatment plant projects.

B. The Oklahoma Water Resources Board shall use the Clean Water State Revolving Fund Loan Account only as provided by the federal Water Quality Act of 1987 for the following purposes:

1. To make a loan to an eligible entity if:
 - a. the loan application, project and planning documents have been approved by the Board pursuant to Section 1085.58 of this title or the Oklahoma Conservation Commission pursuant to Section 1085.65 of this title,
 - b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Water Quality Act of 1987,
 - c. principal and interest payments will begin not later than one year after completion of any water quality project and all loans will be fully amortized consistent with the federal Water Quality Act of 1987,
 - d. the Clean Water State Revolving Fund Loan Account will be credited with all payments of principal of and interest on all loans,
 - e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,
 - f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
 - g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the water quality project, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates if the eligible entity obligations were incurred in construction which began after March 7, 1985;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Clean Water State Revolving Fund Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;

6. To earn interest on accounts established under the Clean Water State Revolving Fund Loan Account;

7. To administer the Clean Water State Revolving Fund Loan Account pursuant to the provisions of this act. All funds to be utilized for administrative costs from the Clean Water State Revolving Fund Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Clean Water State Revolving Fund Loan Account pursuant to the Clean Water State Revolving Fund Program and which has been specifically approved or otherwise authorized by the Environmental Protection Agency pursuant to the federal Water Quality Act of 1987.

C. An eligible entity may use the loan fund money on nonpoint source pollution reduction if, based upon the needs of the eligible entity, the reduction of nonpoint source pollution would enhance the water quality project. The funds received by the eligible entity may be used for the implementation of the nonpoint source management program pursuant to Section 1085.65 of this title.

Added by Laws 1988, c. 202, § 4, operative July 1, 1988. Amended by Laws 1993, c. 145, § 326, eff. July 1, 1993; Laws 1999, c. 381, § 3, emerg. eff. June 8, 1999; Laws 2002, c. 322, § 4, emerg. eff. May 30, 2002.

§82-1085.55. Powers and duties of Board - Cost-effective analyses.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. Prepare and maintain the priority list for all water quality projects. In developing the priority list, the Board shall rely on input from the Department of Environmental Quality and the Conservation Commission;

2. Review and assess the planning and preliminary financial documents for and cost effectiveness of water quality projects on the priority list;

3. Determine water quality project feasibility and the entities' eligibility to receive funding from the Clean Water State Revolving Fund Loan Account;

4. Perform the environmental review and make the appropriate environmental determinations in accordance with the environmental review process approved by the Environmental Protection Agency;

5. Provide oversight and technical assistance during the planning, design, and construction phase of the water quality project for which the entity is applying for such loan; and

6. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant which is to be placed in the Clean Water State Revolving Fund Loan Account.

B. In determining the cost effectiveness of any water quality project, the Board shall require the preparation of a cost effective analysis of feasible alternatives capable of meeting state and federal water quality and public health requirements. The alternative selected shall be the most economical means of meeting applicable state and federal effluent and water quality or public health requirements over the useful life of the water quality project while recognizing environmental and other nonmonetary considerations determined to be relevant by the Board.

Added by Laws 1988, c. 202, § 5, operative July 1, 1988. Amended by Laws 1993, c. 145, § 327, eff. July 1, 1993; Laws 2002, c. 322, § 5, emerg. eff. May 30, 2002.

§82-1085.56. Rules - Minimum requirements.

The Oklahoma Water Resources Board shall promulgate such rules as may be necessary for determining the eligibility and priority of entities for water quality projects in order to receive loans made pursuant to the federal Water Quality Act of 1987 and from the Clean Water State Revolving Fund Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of this act;

2. Be in conformance with applicable provisions of Oklahoma's Water Quality Standards, the Oklahoma Environmental Quality Code, and the federal Water Quality Act of 1987;

3. Require that to be approved, an applicant needs or will need the water quality project loan to comply with rules promulgated by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code, or the Conservation Commission, whichever has jurisdiction; and

4. Require the water quality project to:

a. be designed to halt or prevent the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards,

- b. meet the Board's established environmental review criteria as provided for by the federal Water Quality Act of 1987,
- c. comply with minimum standards of the Federal Water Pollution Control Act, Chapter 26, Title 33, United States Code, or any similar or successor statute, and
- d. meet any other consideration deemed necessary by the Board.

Added by Laws 1988, c. 202, § 6, operative July 1, 1988. Amended by Laws 1993, c. 145, § 328, eff. July 1, 1993; Laws 2002, c. 322, § 6, emerg. eff. May 30, 2002.

§82-1085.57. Management of funds - Investment certificates.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Water Resources Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions of Sections 1085.31 through 1085.39 of this title;

2. Manage, maintain, expend and otherwise administer monies in the Clean Water State Revolving Fund Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Water Resources Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Clean Water State Revolving Fund Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Clean Water State Revolving Fund Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Clean Water State Revolving Fund Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the federal Water Quality Act of 1987. The Board shall establish such accounts and subaccounts within the Statewide Water Development Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Clean Water State Revolving Fund Loan Account; provided that said issuance shall be governed by the

provisions of Sections 1085.33 and 1085.37 of this title. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act. Added by Laws 1988, c. 202, § 7, operative July 1, 1988. Amended by Laws 1993, c. 145, § 329, eff. July 1, 1993; Laws 2002, c. 322, § 7, emerg. eff. May 30, 2002.

§2-1085.58. Evaluation of wastewater projects - Financial review - Recommendation of Board - Approval or rejection of loan application - Disbursement of funds - Payment of loans.

A. The Board shall provide financial review guidelines for use in preliminary evaluations of water quality projects. The evaluation shall include such information as required by the Board, including but not limited to the:

1. Cost of the water quality projects;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the

applicant.

B. Upon a determination of the Board that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Board shall make an initial financial review.

C. The Board shall prepare its initial financial review of the entity based upon:

1. The documents submitted by the entity and any additional information requested by the Board necessary to make a financial review of such entity; and

2. The proposed loan amount and interest rate for which the entity qualifies.

D. The initial financial review may either recommend approval or rejection of the proposed loan.

E. If the Board recommends rejection, the written recommendations shall include reasons for said rejection. The Board shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Board and may resubmit the necessary financial documents to the Board.

F. If the Board recommends approval, the Board shall notify the entity of such acceptance.

G. If the loan application is for a watershed management or nonpoint source pollution control project, the application shall include a written concurrence by the Oklahoma Conservation Commission, or the Department of Environmental Quality, whichever agency has jurisdiction, that the proposed water quality project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;
2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;
3. Is designed to prevent, reduce, or halt the pollution of the waters of the state;
4. Is cost-effective; and
5. Will be awarded on a cost-share basis, as required.

H. Upon review of the application and applicable documents, the Board shall either approve or reject the loan application. The Board may request additional information from the applicant or the Department of Environmental Quality or Oklahoma Conservation Commission, as applicable, in order to complete the financial review of the application for the loan. The Board shall notify the applicant of any rejection of an application.

I. Upon the closing of the loan, the Board shall authorize disbursement of funds from the account pursuant to the provisions of this act, the loan documents and rules of the Board that provide for the release of the loan proceeds.

J. Payment on loans shall be made to the Board as provided in the loan documents.

Added by Laws 1988, c. 202, § 8, operative July 1, 1988. Amended by Laws 1993, c. 145, § 330, eff. July 1, 1993; Laws 2002, c. 322, § 8, emerg. eff. May 30, 2002.

§82-1085.59. Investment certificates - Review and approval of issuance.

An investment certificate shall not be issued under Sections 1085.31 through 1085.39 of this title or pursuant to the provisions of the Clean Water State Revolving Fund Program unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

Added by Laws 1988, c. 202, § 9, operative July 1, 1988. Amended by Laws 2002, c. 322, § 9, emerg. eff. May 30, 2002.

§82-1085.60. Annual audit.

The Office of the State Auditor and Inspector shall perform an annual audit of any expenditures from the Clean Water State Revolving Fund Loan Account.

Added by Laws 1988, c. 202, § 10, operative July 1, 1988. Amended by Laws 2001, c. 120, § 1, emerg. eff. April 23, 2001; Laws 2002, c. 322, § 10, emerg. eff. May 30, 2002.

§82-1085.61. Default - Collection actions by Attorney General.

In the event of a default in payment of the principal or interest on loans made from the Clean Water State Revolving Fund Loan Account pursuant to this act, the Attorney General is empowered and it shall be the duty of the Attorney General to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

Added by Laws 1988, c. 202, § 11, operative July 1, 1988. Amended by Laws 2002, c. 322, § 11, emerg. eff. May 30, 2002.

§82-1085.62. Establishment of criteria for determination of interest rates on loans - Annual report.

In order to comply with the requirements of federal and state laws, the Board shall complete the following:

1. Establish criteria for determining the interest rates on loans to be made from the Clean Water State Revolving Fund Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Rural Development Administration guidelines for financial assistance.

- a. In determining interest rates on loans made from the fund, in addition to other information, due consideration shall be given to:
 - (1) providing for the maintenance of the account in perpetuity,
 - (2) statewide needs for the assistance available pursuant to the provisions of this act,
 - (3) five-year demand projections of the Board for assistance available pursuant to the provisions of this act,
 - (4) prevailing market interest rates, and
 - (5) debt service requirements of investment certificates issued by the Board to provide funds for the Clean Water State Revolving Fund Loan Account.
- b. In developing criteria for the determination of interest rates available to individual entities, in addition to other information, due consideration shall be given to:
 - (1) financial resources of the entity,
 - (2) the ability of the entity to repay the loan,
 - (3) those entities that discharge into those streams and rivers designated as scenic river areas

pursuant to the provisions of Section 1452 of this title or outstanding resource waters under Oklahoma's Water Quality Standards, and

(4) prevailing market interest rates; and

2. Submission of an annual report by the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the Clean Water State Revolving Fund Loan Account and implementation of the provisions of Sections 1085.51 through 1085.65 of this title. The report shall contain information to show the actual use and the recipients of loans made from the Clean Water State Revolving Fund Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for water quality projects which may be eligible for financial assistance under Sections 1085.51 through 1085.65 of this title.

Added by Laws 1988, c. 202, § 12, operative July 1, 1988. Amended by Laws 1993, c. 145, § 331, eff. July 1, 1993; Laws 2002, c. 322, § 12, emerg. eff. May 30, 2002.

§82-1085.63. Intended use plan - Annual report.

A. The Board shall prepare an annual intended use plan and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by Section 606(c) of the federal Water Quality Act of 1987 and may contain such other information as the Board may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Board shall prepare an annual report and shall submit such report to the United States Environmental Protection Agency. The annual report shall contain all information required by Section 606(d) of the federal Water Quality Act of 1987 and may contain such other information as required by the Capitalization Grant Agreement. Added by Laws 1988, c. 202, § 13, operative July 1, 1988. Amended by Laws 1993, c. 145, § 332, eff. July 1, 1993.

§82-1085.64. Revolving fund.

A. In order to administer the Clean Water State Revolving Fund Loan Account, there is hereby created in the State Treasury a "Clean Water State Revolving Fund Loan Administrative Fund". The Clean Water State Revolving Fund Loan Administrative Fund shall be set apart from all other Board accounts and funds and shall be a permanent and perpetual fund not subject to fiscal year limitations. The Clean Water State Revolving Fund Loan Administrative Fund shall consist of monies deposited into the fund from the following sources:

1. Loan processing and application processing and loan administrative fees heretofore collected by the Oklahoma Water Resources Board on loans made from the Clean Water State Revolving Fund Loan Account and designated by the Board for transfer and deposit into the Clean Water State Revolving Fund Loan Administrative Fund;

2. Application processing and loan administrative fees collected by the Board after the effective date of this section on loans made from the Clean Water State Revolving Fund Loan Account; and

3. Any other funds, whether public or private, that have been designated by the source thereof for deposit in the Clean Water State Revolving Fund Loan Administrative Fund.

B. Monies in, or investment income derived from, the Clean Water State Revolving Fund Loan Administrative Fund shall be restricted and used solely for the purpose of administering the Clean Water State Revolving Fund Loan Account or as otherwise authorized by the federal Water Quality Act of 1987 or guidance or regulation promulgated thereunder. Monies in the Clean Water State Revolving Fund Loan Administrative Fund, or investment income derived therefrom shall be used by the Board in carrying out its responsibilities as provided in Sections 1085.51 through 1085.65 of this title and shall be subject to annual designation by the State Legislature.

C. The monies placed in the Clean Water State Revolving Fund Loan Administrative Fund may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Water Quality Act of 1987 or regulations promulgated thereunder. The Board may transfer to the Clean Water State Revolving Fund Loan Administrative Fund income derived from investment of the Fund. Monies invested by the State Treasurer shall be available to meet administrative funding needs.

D. The Board is authorized to transfer monies from the Clean Water State Revolving Fund Loan Administrative Fund into the Clean Water State Revolving Fund Loan Account to be utilized for purposes consistent with the federal Water Quality Act of 1987.

E. The Board shall cause to be completed an annual audit of any expenditure from the Clean Water State Revolving Fund Loan Administrative Fund.

Added by Laws 1988, c. 202, § 14, operative July 1, 1988. Amended by Laws 1993, c. 145, § 333, eff. July 1, 1993; Laws 1999, c. 31, § 1, eff. Nov. 1, 1999; Laws 2002, c. 322, § 13, emerg. eff. May 30, 2002.

§82-1085.65. Loan applications for nonpoint source management programs.

A. The Oklahoma Conservation Commission shall promulgate rules to receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act.

B. The rules shall require that to be eligible for financial assistance, the proposed project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;

2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;

3. Is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards;

4. Is cost-effective; and

5. Shall be awarded upon a cost-share basis.

C. The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all applications and programs which may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.

D. Upon determination that the proposed project meets the minimum criteria, the Commission shall forward the application, plans and specifications and other documents to the Oklahoma Water Resources Board, with a recommendation that a loan be made for the project.

Added by Laws 1988, c. 202, § 15, operative July 1, 1988. Amended by Laws 1993, c. 145, § 334, eff. July 1, 1993; Laws 2002, c. 322, § 14, emerg. eff. May 30, 2002.

§82-1085.71. Purpose.

In addition to the financial assistance programs established under Sections 1085.31 through 1085.49 and Sections 1085.51 through 1085.65 of this title pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Drinking Water Treatment Revolving Loan Account to implement the federal Safe Drinking Water Act.

Added by Laws 1994, c. 191, § 1, eff. July 1, 1994.

§82-1085.72. Definitions.

For the purposes of this act:

1. "Drinking water treatment project" means:

- a. any engineering undertaking or work to control or develop drinking water treatment facilities of eligible entities for all useful and lawful purposes,
- b. any system necessary to improve or develop drinking water supply, treatment or distribution capabilities, or
- c. any implementation of water source protection programs as authorized by the federal Safe Drinking Water Act and this act;

2. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board pursuant to the provisions of this act;

3. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural water district, public trust, master conservancy district, any other political subdivision or any combination thereof;

4. "Board" means the Oklahoma Water Resources Board;

5. "Department" means the Department of Environmental Quality; and

6. "Safe Drinking Water Act" means the federal Safe Drinking Water Act as exists on the effective date of this act, as may be amended, or any successor statute.

Added by Laws 1994, c. 191, § 2, eff. July 1, 1994.

§82-1085.73. Creation - Monies and other sums - Investments.

A. Within the Water Resources Fund created pursuant to Section 1085.33 of this title, there is hereby created the "Drinking Water Treatment Revolving Loan Account". For purposes of implementing the federal Safe Drinking Water Act, said account shall be the drinking water treatment state revolving loan fund required to be established by the federal Safe Drinking Water Act. The Drinking Water Treatment Revolving Loan Account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. Monies received pursuant and subject to the restrictions of the federal Safe Drinking Water Act which are eligible for use in state revolving loan funds established to meet the requirements of that act;

2. Monies appropriated to the account;

3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;

4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Safe Drinking Water Act;

6. Proceeds from the sale of investment certificates issued to provide water treatment loans pursuant to the provisions of this act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The principal amounts of the federal capitalization grants, less program set-asides, and state matching funds in the Drinking Water Treatment Revolving Loan Account shall be maintained for providing financial assistance in accordance with the federal Safe Drinking Water Act.

C. The monies in the Drinking Water Treatment Revolving Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of this act or for such other purposes authorized by the federal Safe Drinking Water Act.

D. The monies placed in the Drinking Water Treatment Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Safe Drinking Water Act. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Department.

E. Notwithstanding the provisions of Section 1085.39 of this title, the Board shall not use funds in the Drinking Water Treatment Revolving Loan Account established in the Water Resources Fund to make grants.

Added by Laws 1994, c. 191, § 3, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 1, emerg. eff. May 15, 1997.

§82-1085.74. Authorized uses of funds in account.

A. All funds available in the Drinking Water Treatment Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals and requirements of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act.

B. The Board shall use the Drinking Water Treatment Revolving Loan Account only as provided by the federal Safe Drinking Water Act for the following purposes:

1. To make a loan to an eligible entity if:

a. the loan application, project and planning documents have been approved by the Department or Board,

- b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Safe Drinking Water Act,
- c. principal and interest payments will begin not later than one (1) year after completion of any drinking water treatment project and all loans will be fully amortized consistent with the federal Safe Drinking Water Act,
- d. the Drinking Water Treatment Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
- e. the applicant demonstrates to the satisfaction of the Board the legal, managerial and financial capability to assure sufficient revenues to pay debt service,
- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates where the debt obligation was incurred after July 1, 1993;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Drinking Water Treatment Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To earn interest on accounts established under the Drinking Water Treatment Revolving Loan Account; and

6. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Drinking Water Treatment Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.

Added by Laws 1994, c. 191, § 4, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 2, emerg. eff. May 15, 1997.

§82-1085.75. Powers and duties of Department.

A. In addition to other powers and duties provided by law, the Department of Environmental Quality shall have the power and duty to:

1. Prepare and maintain the priority list for treatment works;
2. Review and assess the planning documents for and cost effectiveness of drinking water treatment projects on the priority list;
3. Determine drinking water treatment project feasibility and the entities' eligibility to receive funding from the Drinking Water Treatment Revolving Loan Account;
4. Determine which projects should be referred to the Board for loans from the Drinking Water Treatment Revolving Loan Account;
5. Perform any required environmental review and make any required environmental determinations in accordance with any necessary environmental review process approved by the Environmental Protection Agency;
6. Provide oversight and technical assistance during the planning, design, and construction phase of the drinking water treatment project for which the entity is applying for such loan;
7. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant and enter into the capitalization grant agreement, and be the recipient of the capitalization grant; and
8. Assess the technical capability of an applicant to ensure compliance with the federal Safe Drinking Water Act over the long term.

B. In determining the cost effectiveness of any drinking water treatment project, the Department shall require the preparation of a cost effective analysis of feasible drinking water treatment or conveyance alternatives capable of meeting state and federal drinking water standards and public health requirements while recognizing environmental and other nonmonetary considerations determined to be relevant by the Department.

Added by Laws 1994, c. 191, § 5, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 3, emerg. eff. May 15, 1997.

§82-1085.76. Eligibility and priority of entities for drinking water treatment projects - Rules.

The Environmental Quality Board shall prescribe such rules as may be necessary for determining the eligibility and priority of entities for drinking water treatment projects in order to receive loans made pursuant to the federal Safe Drinking Water Act and from the Drinking Water Treatment Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of this act;
2. Be in conformance with applicable provisions of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act;
3. Require that to be approved, an applicant needs or will need the drinking water treatment project loan to comply with rules

adopted by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and

4. Require the drinking water treatment project to:
 - a. comply with minimum standards and requirements of the federal Safe Drinking Water Act or any similar or successor statute,
 - b. meet the Department's rules for drinking water and established environmental review criteria as provided for by applicable federal law, and
 - c. meet any other consideration deemed necessary by the Department.

Added by Laws 1994, c. 191, § 6, eff. July 1, 1994.

§82-1085.77. Powers and duties of Board.

A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Water Resources Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions of Sections 1085.31 through 1085.39 of this title;

2. Manage, maintain, expend and otherwise administer monies in the Drinking Water Treatment Revolving Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Water Resources Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Drinking Water Treatment Revolving Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Drinking Water Treatment Revolving Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the federal Safe Drinking Water Act. The Board shall establish such accounts and subaccounts within the Statewide Water Development Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan

Account; provided that said issuance shall be governed by the provisions of Section 1085.33 and Section 1085.37 of this title. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act. Added by Laws 1994, c. 191, § 7, eff. July 1, 1994.

§82-1085.78. Repealed by Laws 1997, c. 186, § 8, emerg. eff. May 15, 1997.

§82-1085.79. Application of Oklahoma Bond Oversight and Reform Act.

An investment certificate shall not be issued under Sections 1085.31 through 1085.39 of Title 82 of the Oklahoma Statutes or pursuant to the provisions of this act unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

Added by Laws 1994, c. 191, § 9, eff. July 1, 1994.

§82-1085.80. Annual audit.

The Department, with the cooperation of the Board, shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Revolving Loan Account.

Added by Laws 1994, c. 191, § 10, eff. July 1, 1994.

§82-1085.81. Default in payments.

In the event of a default in payment of the principal or interest on loans made from the Drinking Water Treatment Revolving Loan Account pursuant to this act, the Attorney General is empowered and it shall be his or her duty to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by appropriate means, including performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

Added by Laws 1994, c. 191, § 11, eff. July 1, 1994.

§82-1085.82. Joint operating agreement between Department and Board.

In order to comply with the requirements of federal and state laws, the Department of Environmental Quality and the Oklahoma Water Resources Board shall enter into a written joint operating agreement

to carry out with efficiency their respective duties under this act. At a minimum, the agreement shall provide for the following:

1. Joint procedures consistent with this act to establish criteria for determining the interest rates on loans to be made from the Drinking Water Treatment Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Rural Development Administration guidelines for financial assistance; and

2. Submission of an annual joint report by the Department and the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the Drinking Water Treatment Revolving Loan Account and implementation of the provisions of this act. The report shall contain information to show the actual use and the recipients of loans made from the Drinking Water Treatment Revolving Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for drinking water treatment projects which may be eligible for financial assistance pursuant to this act.

Added by Laws 1994, c. 191, § 12, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 4, emerg. eff. May 15, 1997.

§82-1085.83. Annual intended use plan and biennial report.

A. The Department of Environmental Quality shall prepare an annual intended use plan with the cooperation of the Board and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as the Department may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Department shall prepare a biennial report with the cooperation of the Board and shall submit such report to the United States Environmental Protection Agency. The biennial report shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as required by the Capitalization Grant Agreement.

Added by Laws 1994, c. 191, § 13, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 5, emerg. eff. May 15, 1997.

§82-1085.84. Repealed by Laws 1997, c. 186, § 8, emerg. eff. May 15, 1997.

§82-1085.84A. Drinking Water Treatment Loan Administrative Fund.

A. In order to administer the Drinking Water Treatment Revolving Loan Account, there is hereby created in the State Treasury a "Drinking Water Treatment Loan Administrative Fund". The Drinking Water Treatment Loan Administrative Fund shall be set apart from all other Board accounts and funds and shall be a permanent and perpetual fund not subject to fiscal year limitations. The Drinking Water Treatment Loan Administrative Fund shall consist of monies deposited into the fund from the following sources:

1. Application processing and loan administrative fees collected by the Board on Drinking Water Treatment Revolving Loan Account loans; and

2. Any other funds, whether public or private, that have been designated by the source thereof for deposit in the Drinking Water Treatment Loan Administrative Fund.

B. Monies in, or investment income derived from, the Drinking Water Treatment Loan Administrative Fund shall be restricted and used solely for the purpose of administering the Drinking Water Treatment Revolving Loan Account or as otherwise authorized by the federal Safe Drinking Water Act or guidance or regulations promulgated thereunder. Monies in the Drinking Water Treatment Loan Administrative Fund, or investment income derived therefrom, shall be used by the Board and Department in carrying out their responsibilities as provided in the written annual joint operating agreement identified in Section 1085.82 of Title 82 of the Oklahoma Statutes and shall be subject to annual designation by the State Legislature.

C. The monies placed in the Drinking Water Treatment Loan Administrative Fund may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Oklahoma Water Resources Board may transfer to the Drinking Water Treatment Loan Administrative Fund income derived from investment of the fund. Monies invested by the State Treasurer shall be available to meet administrative funding needs.

D. The Board is authorized to transfer monies from the Drinking Water Treatment Loan Administrative Fund into the Drinking Water Treatment Revolving Loan Account to be utilized for purposes consistent with the federal Safe Drinking Water Act.

E. The Board shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Loan Administrative Fund.

Added by Laws 1997, c. 186, § 6, emerg. eff. May 15, 1997.

§82-1085.91. Legislative intent.

In addition to the financial assistance program established under Sections 1085.31 through 1085.49, 1085.51 through 1085.65, and 1085.71 through 1085.84A of Title 82 of the Oklahoma Statutes pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Flood Hazard Mitigation Financial Assistance Program. Financing projects to mitigate flooding is hereby declared to be a public purpose. Added by Laws 1999, c. 57, § 13, eff. July 1, 1999.

§82-1085.92. Definitions.

As used in the Flood Hazard Mitigation Financial Assistance Program:

1. "Flood hazard mitigation projects" means those projects designed to correct, alleviate or eliminate a condition or situation which poses a repetitive threat to life, property, or public safety from the effects of a flood disaster;
2. "Eligible entity" means any city, town, county, or the State of Oklahoma, and any rural water or sewer district, irrigation district, public trust, master conservancy district, or other political subdivision or any combination thereof;
3. "Board" means the Oklahoma Water Resources Board; and
4. "Department" means the Oklahoma Department of Civil Emergency Management.

Added by Laws 1999, c. 57, § 14, eff. July 1, 1999.

§82-1085.93. Flood Hazard Mitigation Account - Source, use and investment of monies.

A. In addition to other lawful purposes, monies placed in the Statewide Water Development Revolving Fund, exclusive of such amounts of interest derived from investment deposits necessary to maintain the grant account at its maximum amount as provided in Section 1085.40 of this title, may be used by the Board for flood hazard mitigation projects pursuant to the Flood Hazard Mitigation Financial Assistance Program.

B. Within the Water Resources Fund created pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes, there is hereby created the "Flood Hazard Mitigation Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies appropriated to the account;
2. Interest income from deposits made to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation;
3. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures; and
4. Any other sums designated for deposit to the account from any source, public or private.

C. The monies in the account shall be used by the Oklahoma Department of Civil Emergency Management and the Oklahoma Water Resources Board after receipt of recommendations from the State Hazard Mitigation Team, to implement flood hazard mitigation projects, including but not limited to providing grants or loans to eligible entities to:

1. Acquire land or a conservation easement from a willing seller or grantor in order to mitigate flood hazards; or

2. Implement voluntary, incentive-based flood hazard mitigation measures in order to facilitate compliance with state or national regulations.

D. Monies in, or investment income derived from, the Flood Hazard Mitigation Account which is used to match any grant funds provided by the Federal Emergency Management Agency shall be restricted and used consistent with Federal Emergency Management Agency procedures or guidance or regulations promulgated thereunder for flood hazard mitigation projects.

E. Monies in the Flood Hazard Mitigation Account, or investment income derived therefrom, shall be used by the Oklahoma Water Resources Board and the Oklahoma Department of Civil Emergency Management in carrying out their responsibilities as provided in a written annual joint operating agreement which shall include, among other matters, a budget for administering the Oklahoma Flood Hazard Mitigation Program.

F. The monies placed in the Flood Hazard Mitigation Account may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Board may transfer to the Flood Hazard Mitigation Account income derived from investment of the fund. Monies invested by the State Treasurer shall be available to implement flood hazard mitigation projects.

G. The Board shall cause to be completed an annual audit of any expenditures from the Flood Hazard Mitigation Account, and such audit cost shall be included in the budget for administering the Oklahoma Flood Hazard Mitigation Program.

Added by Laws 1999, c. 57, § 15, eff. July 1, 1999.

§82-1085.94. Powers and duties of Water Resources Board.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. After receipt from the Department of Civil Emergency Management, process applications for grant funds or loans from the

Flood Hazard Mitigation Account and enter into grant or loan agreements for use of such funds;

2. Promulgate rules as deemed necessary by the Board to administer the Flood Hazard Mitigation Financial Assistance Program;

3. Utilize the priority listing of applicants compiled by the Oklahoma Department of Civil Emergency Management after recommendations from the State Hazard Mitigation Team in considering grant applications;

4. a. Issue investment certificates, in accordance with the provisions of Sections 1085.33 and 1085.37 of Title 82 of the Oklahoma Statutes and the Oklahoma Bond Oversight and Reform Act, to provide necessary funds first to meet the demand for loan funding from the Flood Hazard Mitigation Financial Assistance Program; provided, any investment certificate proceeds not needed for such demand may be used by the Board, as needed, for funding other financial assistance programs authorized in Title 82 of the Oklahoma Statutes, and
- b. Enter into loan agreements with and make loans from the proceeds of investment certificates to eligible entities for flood hazard mitigation projects upon terms not inconsistent with the provisions of Section 1085.36 of Title 82 of the Oklahoma Statutes; and

5. Enter into agreements with the Oklahoma Department of Civil Emergency Management or other state or federal agencies as deemed necessary by the Board to monitor and measure flood events.

B. In addition to other powers and duties provided by law, the Oklahoma Department of Civil Emergency Management shall consider the recommendations, if any, of the State Hazard Mitigation Team prior to:

- a. promulgation of rules providing for and establishing a priority listing of grant and loan applicants for flood hazard mitigation projects subject to the Oklahoma Civil Defense and Emergency Resources Management Act, and
- b. determining eligibility of those entities authorized to receive funding from the Flood Hazard Mitigation Account.

Added by Laws 1999, c. 57, § 16, eff. July 1, 1999. Amended by Laws 1999, c. 413, § 9, eff. Nov. 1, 1999.

§82-1085.95. Use of loans and grants in conjunction with other financial assistance - Subagreements with owners of private property.

A. Loans and grants under the Flood Hazard Mitigation Financial Assistance Program may be used in conjunction with other financial assistance available from the Oklahoma Water Resources Board.

B. If a flood hazard mitigation project includes activities to be conducted on privately owned real property, the loan or grant agreement between the Board and the eligible entity that receives the grant shall contain a provision about any necessary subagreements with the owners of the property.

Added by Laws 1999, c. 57, § 17, eff. July 1, 1999.

§82-1085.96. Use of monies for security and collateral for investment certificates.

Monies appropriated to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation, in addition to such purpose, may be used by the Oklahoma Water Resources Board for security and collateral for investment certificates issued by the Board pursuant to Section 16 of this act.

Added by Laws 1999, c. 57, § 18, eff. July 1, 1999.

§82-1086.1. Policy of state as to use of surplus and excess water - State water plan.

A. All of the people have a primary interest in the orderly and coordinated control, protection, management, conservation, development and utilization of the water resources of the state. The people residing within areas where waters originate benefit from the optimum development and utilization of water within the area of origin. The people in water deficient areas benefit by being able to use excess and surplus waters. The policy of the State of Oklahoma is to encourage the use of surplus and excess water to the extent that the use thereof is not required by people residing within the area where such water originates. In order to maximize the alternatives available for the use and benefit of the public and water-user entities and for the use and benefit of the public and for the general welfare and future economic growth of the state, it is therefore the purpose of this act to provide means for the expeditious and coordinated preparation of a comprehensive state water plan and decennial updates thereof for submission to the Legislature providing for the management, protection, conservation, structural and nonstructural development and utilization of water resources of this state, in accordance with the following principles:

1. Multiple-purpose dams and reservoir sites, both existing and planned or under construction as of the effective date of this act or amendment thereof, within the area where excess or surplus water originates and elsewhere, should be utilized to the maximum;

2. Water should be stored during periods of surplus supply for use during periods of short supply; such storage should be in the area of usage. In such cases where storage in the area of origin may be permitted, the purchasing entities shall pay to the county of origin, in lieu of ad valorem taxes and as part of the total cost of the purchase of the water, an amount computed by averaging the tax on

land similar to the land taken off the tax rolls as a result of the construction of such storage facilities within the county of origin;

3. Water use within Oklahoma should be developed to the maximum extent feasible for the benefit of Oklahoma so that out-of-state downstream users will not acquire vested rights therein to the detriment of the citizens of this state;

4. Only excess or surplus water should be utilized outside of the areas of origin and citizens within the areas of origin have a prior right to water originating therein to the extent that it may be required for beneficial use therein;

5. All citizens, municipalities and other water-user entities in need of water for beneficial use shall be entitled to appropriate water and vest rights therein in accordance with priorities as provided by law, and shall be entitled to cause same to be made available to the water user in the most practicable and feasible manner; and

6. Statutory power of the Oklahoma Water Resources Board in the granting of water rights to those citizens, municipalities and other water-user entities who utilize such water for beneficial use shall be preserved.

B. The exercise of the powers granted by this act are in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. The primary purpose governing all exercise of powers hereunder shall be to maximize and not to minimize the alternatives available to all citizens, municipalities and other water-user entities in acquiring water for beneficial use.

Laws 1974, c. 25, § 1, emerg. eff. April 10, 1974; Laws 1992, c. 48, § 1, eff. July 1, 1992.

§82-1086.2. Powers of Oklahoma Water Resources Board.

For the purpose of effectuating the provisions of this act and the policy established in Section 1086.1 of this title, the Oklahoma Water Resources Board is hereby authorized, empowered and directed:

1. To prepare a comprehensive state water plan and decennial updates thereof for submission to the Legislature and, in connection therewith, to conduct surveys and cooperate with other state and federal agencies. Such comprehensive state water plan and the parts and portions thereof shall be submitted in final and completed form not later than September 1, 1975, and, in addition to the foregoing requirements, shall include a definition of "excess and surplus water of this state" and a recommended procedure for determining "excess and surplus water of this state," which definition and procedure are to be developed to insure that the area of origin will never be made water deficient.

The Water Resources Board shall permit representatives of the United States Army Corps of Engineers, the Bureau of Reclamation, the

Soil Conservation Service and other appropriate federal agencies, as well as representatives of state agencies involved in tourism, parks, fish and wildlife, recreation, soil conservation, public health, agriculture, public utilities and industrial development to participate to the extent of their authority and capacity in the development of the comprehensive state water plan. The Water Resources Board shall prepare such plan and updates in printed form. Upon completion thereof, the plan shall be submitted to the Oklahoma Legislature not later than September 1, 1975. The Board is not authorized to implement the plan or any part or update thereof except by express authorization and consent of the Legislature. The first decennial update shall be prepared and submitted to the Legislature no later than September 1, 1995. Thereafter, updates shall be prepared and likewise submitted no later than September 1 of the fifth year following the taking of the Federal Decennial Census.

Work on the first update shall begin with the passage and approval of this act. After completion of the first update, work on subsequent updates shall remain continuous and ongoing throughout the ten-year periods between submission of the updates.

2. To adopt such rules and regulations as may be necessary to effectuate the purposes of this act.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

4. To receive and accept from the State of Oklahoma or the United States of America or any agency or instrumentality thereof grants of funds and to receive and accept aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made.

5. To expend income and funds of the Board in the exercise of any or all of the powers granted to the Board under the provisions of this act.

6. To cooperate with all state institutions, agencies, departments, boards and officers in all matters relating to its duties; and all state institutions, agencies, departments, boards and officers are hereby authorized and directed to cooperate with the Board.

Laws 1974, c. 25, § 2, emerg. eff. April 10, 1974; Laws 1992, c. 48, § 2, eff. July 1, 1992.

§82-1086.3. Transaction of certain business for profit by members prohibited.

A. It shall be unlawful for any member, officer or employee of the Water Resources Board to transact with the Board, either directly or indirectly, any business for profit of such member, officer or

employee; and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.

B. The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift or consideration to such member, officer or employee.

C. Violation of this provision shall constitute a felony and shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.

Added by Laws 1974, c. 25, § 3, emerg. eff. April 10, 1974. Amended by Laws 1997, c. 133, § 595, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 431, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 595 from July 1, 1998, to July 1, 1999.

§82-1086.4. Open meetings.

All meetings of the Water Resources Board shall be open public meetings and all records shall be public records, except when considering personnel.

Added by Laws 1974, c. 25, § 4, emerg. eff. April 10, 1974.

§82-1086.5. Existing rights unimpaired.

Sections 1086.1 through 1086.6 of this title shall not be construed or applied to deprive or impair the existing rights of citizens, municipalities or other water-user entities with respect to stream water appropriations now or hereafter granted by the Water Resources Board, or applications for same, or storage rights exercised in connection therewith, nor priorities established thereby as provided by law, nor impair or adversely affect in any manner any applications for stream water appropriation now or hereafter pending. Laws 1974, c. 25, § 5, emerg. eff. April 10, 1974; Laws 1992, c. 48, § 3, eff. July 1, 1992.

§82-1086.6. Grand River Dam Authority - Exemption.

The dams, water and land under the jurisdiction and ownership of the Grand River Dam Authority are hereby specifically exempt from the provision of this act.

Added by Laws 1974, c. 25, § 6, emerg. eff. April 10, 1974.

§82-1087.1. Short title.

This act may be cited as the "Oklahoma Weather Modification Act." Laws 1972, c. 228, § 1, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1401 by Laws 1982, c. 67, § 5.

§82-1087.2. Definitions.

As used in this act, unless the context requires otherwise:

1. "Board" means the Oklahoma Water Resources Board;
2. "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one specified geographical area over one continuing time interval not exceeding one (1) year, or, if the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one specified geographical area over one continuing time interval not exceeding one (1) year;
3. "Research and development" means theoretical analysis, exploration and experimentation and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models, devices, equipment, materials and processes; and
4. "Weather modification" or "weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere. Laws 1972, c. 228, § 2, emerg. eff. April 7, 1972; Laws 1973, c. 180, § 14, emerg. eff. May 16, 1973. Renumbered from Title 2, § 1402 by Laws 1982, c. 67, § 5.

§2-1087.3. Powers of Board.

In the performance of the functions authorized herein, the Board may, in addition to any other acts authorized by law:

1. Establish advisory committees to advise with and make recommendations to the Board concerning legislation, policies, administration, research and other matters;
2. Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the Board may deem necessary or desirable to minimize danger to health or property, and make such regulations as are necessary in the performance of its powers and duties;
3. Make such studies and investigations, obtain such information, and hold such hearings as the Board may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this act or any regulations or orders issued thereunder;
4. Appoint and fix the compensation of such personnel, including specialists and consultants, as are necessary to perform its duties and functions hereunder;

5. Acquire, in the manner provided by law, such materials, equipment and facilities as are necessary to perform its duties and functions hereunder;

6. Cooperate with public or private agencies in the performance of the Board's functions or duties and in furtherance of the purposes of this act;

7. Represent the state in any and all matters pertaining to plans, procedures or negotiations for interstate compacts or cooperative agreements relating to weather modification and control;

8. Enter into cooperative agreements with the United States Government or any of its agencies, other states, or with the various counties and cities of this state or with any private or public agencies for conducting weather modification or cloud seeding operations;

9. Act for and represent the state and the counties, cities and private or public agencies in contracting with private concerns for the performance of weather modifications or cloud seeding operations; and

10. Assist and cooperate in the formation of weather modification districts within this state.

Laws 1972, c. 228, § 3, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1403 by Laws 1982, c. 67, § 5.

§82-1087.4. Continued conduct of research and development activities.

The Board shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the Board may conduct, and make arrangements including contracts and agreements for the conduct of, research and development activities relating to:

1. The theory and development of methods of weather modification and control, including processes, materials and devices related thereto;

2. Utilization of weather modification and control for agricultural, industrial, commercial, municipal and other purposes; and

3. The protection of life and property during research and operational activities.

Laws 1972, c. 228, § 4, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1404 by Laws 1982, c. 67, § 5.

§82-1087.5. Hearings.

In the case of hearings held pursuant to this act, the Board shall conduct such hearings in accordance with the provisions of the Administrative Procedures Act.

Laws 1972, c. 228, § 5, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1405 by Laws 1982, c. 67, § 5.

§82-1087.6. Grants, appropriations, gifts, donations and bequests - Weather Modification Revolving Fund.

A. The Board may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations or bequests, or from any other source, and may expend such funds, unless their use is restricted and subject to any limitations otherwise provided by law, for the administration of this act for operations and research and for the encouragement of research and development by a state or public or private agency, either by direct grant, by contract or other cooperative means.

B. All monies received by the Board and derived from all license and permit fees authorized and contemplated under the provisions of this act or derived from all additional sources referred to in subsection A of this section shall be deposited with the State Treasurer and credited, apportioned and appropriated to a separate and distinct fund to be known as the Oklahoma Weather Modification Revolving Fund to be used to enforce, administer and implement the weather modification powers, duties and responsibilities of the Board. The Oklahoma Weather Modification Revolving Fund herein created shall be a continuing fund not subject to fiscal year limitations. No monies shall be paid out of the Oklahoma Weather Modification Revolving Fund until the claim therefor has been itemized and verified by the Board and the Director of the Office of Management and Enterprise Services as provided by law. When so approved, the State Treasurer shall draw his warrant therefor upon the State Treasurer and the same shall be paid out of the Oklahoma Weather Modification Revolving Fund hereby created.

Added by Laws 1972, c. 228, § 6, emerg. eff. April 7, 1972. Amended by Laws 1982, c. 67, § 1. Renumbered from § 1406 of Title 2 by Laws 1982, c. 67, § 5. Amended by Laws 2012, c. 304, § 1067.

§82-1087.7. Necessity for licenses and permits.

Except as provided in Section 8 of this Act, no person, corporation or institution shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the Board authorizing such activities. Laws 1972, c. 228, § 7, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1407 by Laws 1982, c. 67, § 5.

§82-1087.8. Exemptions.

The Board, to the extent it deems practical, shall provide by regulation for exempting from the license and permit requirements of this act:

1. Research and development and experiments by state and federal agencies and institutions of higher learning;
2. Laboratory research and experiments;
3. Activities normally engaged in for purposes other than those of inducing, increasing, decreasing or preventing precipitation; and
4. Religious ceremonies, rites or acts and American Indian or other cultural ceremonies which do not utilize chemical or mechanical means to alter weather phenomena and which are not performed for profit.

Laws 1972, c. 228, § 8, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1408 by Laws 1982, c. 67, § 5.

§82-1087.9. Issuance of licenses.

A. Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate, to the satisfaction of the Board, competence in the field of meteorology and financial responsibility reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements shall be met by the individual or individuals who are to be in control and in charge of the operation for the applicant.

B. The Board shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this act. Each license shall be issued for a period to expire at the end of the state fiscal year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, such license shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the Board of One Hundred Dollars (\$100.00) for the license or renewal thereof.

Laws 1972, c. 228, § 9, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1409 by Laws 1982, c. 67, § 5.

§82-1087.10. Issuance of permits.

The Board shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this act only:

1. If the applicant is licensed pursuant to this act;
2. If a sufficient notice of intention is published and proof of publication is filed as required by Section 13 of this act;
3. If the fee for a permit is paid as required by Section 15 of this act; and

4. If the applicant has given bond for the faithful performance of any weather modification contract which the applicant has entered into for the weather modification operation for which application was made for the permit. The surety on any bond to guarantee the faithful performance and execution of any work shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice to an extension of time to the contractor in which to perform the contract for a period of not more than thirty (30) days. Laws 1972, c. 228, § 10, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1410 by Laws 1982, c. 67, § 5.

§82-1087.11. Separate permits - Notice of intention.

A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the Board and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation substantially within the time and area limits set forth in the notice of intention, unless modified by the Board, and his activities shall also conform to any conditions imposed by the Board upon the issuance of the permit or to the terms of the permit as modified after issuance. Laws 1972, c. 228, § 11, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1411 by Laws 1982, c. 67, § 5.

§82-1087.12. Contents of notice of intention.

The notice of intention shall set forth at least all of the following:

1. The name and address of the licensee;
 2. The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
 3. The area in which and the approximate time during which the operation will be conducted;
 4. The area which is intended to be affected by the operation;
- and
5. The materials and methods to be used in conducting the operation.

Added by Laws 1972, c. 228, § 12, emerg. eff. April 7, 1972.
Renumbered from Title 2, § 1412 by Laws 1982, c. 67, § 5.

§82-1087.13. Publication of notice of intention.

A. The applicant shall cause the notice of intention, or that portion thereof including the items specified in Section 12 of this act, to be published at least once a week for two (2) consecutive weeks in a newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located

in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county.

B. Proof of publication together with publisher's affidavit, shall be filed by the licensee with the Board within fifteen (15) days from the date of the last publication of the notice.

C. Provided, that upon declaration of emergency drought conditions within any county or counties of this state by proclamation by the Governor or by concurrent resolution by the Legislature, the provisions of this act requiring notice by publication of intent to perform any weather modification operation may be suspended.

Laws 1972, c. 228, § 13, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1413 by Laws 1982, c. 67 § 5.

§82-1087.14. Proof of financial responsibility.

Proof of financial responsibility shall be furnished by an applicant by his showing, to the satisfaction of the director, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit.

Laws 1972, c. 228, § 14, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1414 by Laws 1982, c. 67 § 5.

§82-1087.15. Permit fees.

The fee to be paid by each applicant for a permit shall not exceed Twenty-five Dollars (\$25.00).

Laws 1972, c. 228, § 15, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1415 by Laws 1982, c. 67, § 5.

§82-1087.16. Records and reports.

A. Each licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the Board, and shall report the same to the Board at the time and in the manner required by the Board.

B. The Board shall require written reports regarding methods and results, but not inconsistent with the provisions of this act, covering each operation for which a permit is issued. The Board

shall also require written reports from such organizations as are exempt under Section 8 from the license and permit requirements of this act.

C. All information on an operation shall be submitted to the Board before any information on such operation may be released to the public.

D. The reports and records in the custody of the Board shall be open for public examination as public documents.
Laws 1972, c. 228, § 16, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1416 by Laws 1982, c. 67, § 5.

§82-1087.17. Monitoring by United States Government.

When a permit is issued under the Oklahoma Weather Modification Act for weather modification research by the United States Government or its agent, any other operation for which a permit is issued and which is located in full or in part within the area of the permitted research operation shall submit to monitoring by the agency conducting such operation when such operation is being conducted.
Laws 1973, c. 180, § 15, emerg. eff. May 16, 1973. Renumbered from Title 2, § 1416.1 by Laws 1982, c. 67, § 5.

§82-1087.18. Revocation or suspension of licenses or permits - Modification of permits.

A. Under the provisions of the Administrative Procedures Act, the Board may suspend, revoke or refuse to renew any license or permit issued by it if the applicant no longer qualifies for such license or permit under the provisions of this act or if the applicant has violated any provisions of this act.

B. The Board may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the Board that it is necessary for the protection of the health or the property of any person to make the modification proposed.
Laws 1972, c. 228, § 17, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1417 by Laws 1982, c. 67, § 5.

§82-1087.19. Certain liabilities not imposed or rights affected.

Nothing in this act shall be construed to impose or accept any liability or responsibility on the part of the state or any state officials or employees for any weather modification and control activities of any private person or group, or to affect in any way any contractual, tortious or other legal rights, duties or liabilities between any private persons or groups.
Laws 1972, c. 228, § 18, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1418 by Laws 1982, c. 67, § 5.

§82-1087.20. Penalties.

Any person violating any of the provisions of this act or any lawful regulation or order issued pursuant thereto shall be guilty of a misdemeanor and a continuing violation punishable as a separate offense for each day during which it occurs, and upon conviction shall be imprisoned in the county jail for not more than ten (10) days or by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by both, for each such separate offense.

Laws 1972, c. 228, § 19, emerg. eff. April 7, 1972. Renumbered from Title 2, § 1419 by Laws 1982, c. 67, § 5.

§82-1087.21. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.22. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.23. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.24. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.25. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.26. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.27. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.28. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.29. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.30. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.31. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.32. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1087.33. Repealed by Laws 2015, c. 119, § 1, eff. Nov. 1, 2015.

§82-1088.1. Renumbered as § 1088.13 of this title by Laws 2012, c. 274, § 5, eff. Nov. 1, 2012.

§82-1088.11. Water for 2060 Act.

This act shall be known and may be cited as the "Water for 2060 Act".

Added by Laws 2012, c. 274, § 1, eff. Nov. 1, 2012.

§82-1088.12. Public policy.

The Legislature hereby declares that, in order to protect Oklahoma citizens from increased water supply shortages and groundwater depletions by the year 2060 in most of the eighty-two watershed planning basins in the state as described in the 2012 Update of the Oklahoma Comprehensive Water Plan, the public policy of this state is to establish and work toward a goal of consuming no more fresh water in the year 2060 than is consumed statewide in the year 2012, while continuing to grow the population and economy of the state and to achieve this goal through utilizing existing water supplies more efficiently and expanding the use of alternatives such as wastewater, brackish water, and other nonpotable supplies. Provided, however, that nothing in the Water for 2060 Act shall be construed as amending the provisions of law pertaining to rights or permits to use water.
Added by Laws 2012, c. 274, § 2, eff. Nov. 1, 2012.

§82-1088.13. Oklahoma Water Conservation Grant Program - Pilot programs - Goals and objectives - Purpose - Awards.

A. There is hereby created the "Oklahoma Water Conservation Grant Program".

B. The Oklahoma Water Resources Board shall solicit proposals for and make grants for the establishment of pilot programs which will implement water conservation projects or plans in communities in the state.

C. The goals and objectives of the grant program are to:

1. Increase the awareness of the public through education programs or public information campaigns regarding the value of our water resources and how water can be used more efficiently;
2. Provide assistance to communities or entities initiating water conservation plans, programs, and activities and to research and document the potential for improving water use efficiency through demonstration projects and other activities; and
3. Assist in the development of policies which will encourage the implementation of water conservation measures.

D. For purposes of this section, communities may include entire cities or towns, combined cities or towns, parts of cities or towns, or schools, groups or entities located within a community, or one or more rural water districts or portions of water districts.

E. Contingent upon the availability of funding, the Board may award grants each year in an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) for each grant. The total amount of grants awarded each year shall not exceed Fifty Thousand Dollars (\$50,000.00).

F. The pilot projects shall be innovative programs that will serve as models for other communities in the state. Pilot projects may include, but are not limited to, community conservation demonstration projects, water use accounting programs, retrofit

projects, school education projects, Xeriscape demonstration gardens, projects which promote efficiency, recycling and reuse of water, and information campaigns on capturing and using harvested rainwater and graywater.

G. The Board shall determine pilot project criteria and establish a process for the consideration of proposals. The proposals for pilot projects shall be considered on a statewide competitive basis. The Board shall promulgate rules for the operation of the projects.

Added by Laws 2008, c. 331, § 2, eff. July 1, 2008. Amended by Laws 2012, c. 274, § 3, eff. Nov. 1, 2012. Renumbered from § 1088.1 of this title by Laws 2012, c. 274, § 5, eff. Nov. 1, 2012.

§82-1088.14. Water for 2060 Advisory Council.

A. There is hereby created an advisory council to be known as the "Water for 2060 Advisory Council".

B. The Advisory Council shall consist of fifteen (15) members as follows:

1. The Executive Director of the Oklahoma Water Resources Board;
2. Four members appointed by the Governor who shall be well versed in municipal, rural residential, and agriculture water uses, as well as water-efficiency practices and technologies;

3. Five members, with one member being from each of the congressional districts, appointed by the Speaker of the Oklahoma House of Representatives, who shall be well versed in recreation, industrial, oil and gas, and irrigation water uses, as well as water and wastewater reuse practices and technologies; and

4. Five members, with one member being from each of the congressional districts, appointed by the President Pro Tempore of the Oklahoma State Senate, who shall be well versed in soil conservation, small business, and environmental water interests, as well as marginal quality and brackish water use practices and technologies.

C. Appointed members shall serve at the pleasure of their respective appointing authority.

D. The Executive Director of the Oklahoma Water Resources Board shall serve as chair of the Advisory Council, with other officers selected by the Advisory Council as it deems necessary. Meetings of the Advisory Council shall be held at the call of the chair. A majority of the members of the Advisory Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Council. A vacancy on the Advisory Council shall be filled by the original appointing authority. Staff support for the Advisory Council shall be provided by the staff of the Oklahoma Water Resources Board. Other state agencies shall provide support and information as requested by the Advisory Council.

E. The Advisory Council shall have the following duties and responsibilities:

1. Recommend incentives to encourage improved irrigation and farming techniques, more efficient infrastructure, use of water recycling/reuse systems, promotion of "smart" irrigation techniques, control of invasive species, artificial recharge of aquifers, and increased use of marginal quality and brackish waters;

2. Make recommendations regarding the expansion of education programs that modify and improve consumer water-use habits; and

3. Enhance existing, or develop new, financial assistance programs that encourage Oklahoma water systems to implement leak detection and repair programs that result in reduced loss and waste of water, as well as encourage consolidation and regionalization of smaller systems in order to utilize limited resources most efficiently.

F. The Advisory Council shall submit a final report of its findings and recommendations to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate no later than three (3) years following the effective date of this act.

G. Activities of the Advisory Council shall terminate no later than December 31, 2015.

Added by Laws 2012, c. 274, § 4, eff. Nov. 1, 2012.

§82-1101. Definitions.

As used in Sections 2 to 14, inclusive, of this act:

(a) "Port authority" means a port authority created pursuant to authority of Section 2 of this act.

(b) "Submerged lands" means the lands presently underlying the navigable streams of the State of Oklahoma and the lands underlying the waters of lakes, harbors, and navigation channels which have already been or which shall be created by the impoundment of the waters and the creation of commercial navigation facilities in the said navigable streams.

(c) "Uplands" means lands contiguous to or fronting upon any submerged lands in this state.

(d) "Publication" means publication once a week on the same day of the week for three (3) consecutive weeks in a newspaper of general circulation in the county or counties wherein such publication is required to be made. Publication shall be complete on the date of the last publication.

(e) "Created," as related to port authorities, shall mean the activation of said authorities by ordinance or resolution as provided herein.

Laws 1959, p. 391, § 1; Laws 1963, c. 305, § 1.

§82-1102. Creation of authority - Joint authorities - Status - Dissolution - Limitation on obligations.

(a) There is hereby established in each incorporated city and town and in each county of the state a public body corporate and politic which shall be an agency of the State of Oklahoma and shall be known as the "port authority" of the city or town or of the county. Port authorities created in this act may be combined to form joint port authorities by cooperative agreement executed by the governing bodies of any city or county or cities or counties. Such joint authorities formed by such cooperative agreement shall have all the powers and jurisdiction enumerated in this act. The authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or town by appropriate ordinance, or the county by appropriate resolution, declares that there is need for an authority to function in the city, town, or county. No member of said authority shall serve as such who owns land, other than a residence, or represents in a fiduciary capacity or as agent any person who owns land located in an area within five (5) miles of lands surveyed or examined for port locations. Any member of said authority who has any interest which will conflict with the interests of the authority shall be subject to removal. Any member of the authority owning lands or having lands under his control as agent or in a fiduciary capacity in an area surveyed or examined for port location shall be deemed to have a conflict of interest and subjected to removal, except this limitation or membership and conflict of interest shall not apply where the site of a port has been presently engineered and designated by a port authority already organized under this act. A port authority created hereunder shall be a body corporate and politic which may sue and be sued, plead and be impleaded, and shall have the powers and jurisdiction enumerated in Sections 1 to 14, inclusive, of this act. The exercise by such port authority of the powers conferred upon it shall be deemed to be essential governmental functions of the State of Oklahoma, but no port authority shall be immune from liability by reason thereof.

(b) Any municipal corporation or county creating or participating in the creation of a port authority in accordance with this act may expend funds not otherwise appropriated to defray the expense of surveys and examinations incidental to the purposes of the port authority so created and may appropriate to the authority any available funds not otherwise appropriated for expenditure by the authority for any purpose authorized by this act.

(c) Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the subdivision or subdivisions creating it, and in such event the properties of the port authority shall be transferred to the subdivision creating it, or, if created by more than one subdivision, to the subdivisions creating it in such manner as may be agreed upon between such subdivisions. Obligations of the authority shall not be

obligations of the State of Oklahoma, nor of any city, town, or county which creates said authority, unless said obligations are specifically accepted by a majority vote of the ad valorem taxpaying registered voters of such city, town, or county voting on the issue. Notice of such election shall be published at least once a week for two successive weeks in a newspaper of general circulation in the county, the first publication thereof to be at least ten (10) days prior to said election. The notice of said election shall set forth clearly and concisely the issue on which the vote is being taken. Added by Laws 1959, p. 391, § 2, emerg. eff. July 15, 1959. Amended by Laws 1963, c. 305, § 2.

§82-1103. Board of directors - Appointment and tenure - Qualifications - Vacancies - Removal - Officers - Compensation.

(a) A port authority created in accordance with this act shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it deems necessary and be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it deems necessary and be appointed by the county commissioners of such county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among such political subdivisions in such proportions as such political subdivisions may agree and appointed in the same manner as this section provides for their appointment when such political subdivision creates its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors composing the board shall be determined by agreement between such political subdivisions. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

(b) Each director shall have been a qualified elector in the political subdivision from which he is appointed for a period of at least three (3) years next preceding his appointment.

(c) The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director shall be eligible for reappointment, and no director shall be removed except for cause, and if removed shall have the right of appeal to the district court of the county from which he was appointed.

(d) The directors shall elect one of their membership as chairman and another as vice-chairman, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A

majority of the board of directors shall constitute a quorum, the affirmative vote of which shall be necessary for any action taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

(e) Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for his service as director and reimbursement for his reasonable expenses in the performance of his duties.

Laws 1959, p. 391, § 3, emerg. eff. July 15, 1959.

§82-1104. Employees.

A port authority created in accordance with Section 2 shall employ and fix the qualifications, duties, and compensation of such employees and professional help as it may require to conduct the business of the port and may appoint an advisory board which shall serve without compensation. Any employee may be suspended or dismissed, and the services of professional help may be terminated at any time by the port authority.

Added by Laws 1959, p. 392, § 4, emerg. eff. July 15, 1959.

§82-1105. Area of jurisdiction.

The area of jurisdiction of a port authority created in accordance with Section 2 of this act shall include all of the territory of the political subdivision or subdivisions creating it, together with any other property outside of said subdivision or subdivisions conveyed to it, or over which it exercises control pursuant to Section 6(a) of this act, or pursuant to the right of eminent domain set forth in Section 6(e) of this act, provided that in no case shall the same area be included in more than one port authority, but the jurisdiction of the port authority first attaching shall be exclusive unless the first attaching shall cede or convey to another.

Laws 1959, p. 392, § 5, emerg. eff. July 15, 1959.

§82-1105.1. Regulation of vehicles within area of jurisdiction - Rules - Enforcement.

A. The board of directors of a port authority shall have the authority to establish rules for the regulation of the use of vehicles within the real property under its direct control of the port authority. The rules shall be consistent with the laws of this state governing the operation of vehicles on public streets and highways. Penalties for violation of these rules shall be no greater than the penalties for the same or similar violations of state law. The rules may include, but need not be limited to, the following:

1. The operation of vehicles within the jurisdiction of the port authority including, but not limited to, speed, stopping, and parking; and

2. The type, size, and weight of vehicles which may be operated within the jurisdiction of the port authority.

B. The rules of the board of directors promulgated pursuant to this subsection including any amendments shall be filed with the county clerk and court clerk of each county in which the port authority is located at least thirty (30) days prior to becoming effective. Copies of the regulations shall be furnished to any person desiring to travel within the jurisdiction of the port authority upon request without charge.

C. The port authority shall post appropriate permanent signs at every entrance to the jurisdiction of the port authority indicating that the use of vehicles within the jurisdiction is subject to the rules of the port authority. The port authority shall also post appropriate permanent traffic control signs or devices including, but not limited to, stop signs and speed limit signs. Such signs shall be the same as or similar to signs used by the Oklahoma Department of Transportation for the same or similar purposes.

D. Rules adopted by the port authority pursuant to this section shall be enforced by the Oklahoma Highway Patrol.

E. The district court of the county in which the headquarters of the port authority is located shall have jurisdiction to hear and determine violations of the rules of the port authority in the same manner as the same or similar violations of state law. Appeals from decisions of the district court in cases involving violations of the rules of the port authority promulgated pursuant to this section shall be to the Court of Criminal Appeals in the same manner as the same or similar violations of state law.

F. Nothing in this section shall be construed to alter or prevent any concurrent or overlapping jurisdiction by other law enforcement agencies or courts.

Added by Laws 1995, c. 157, § 1, emerg. eff. May 2, 1995.

§82-1106. Port authority - Powers.

A port authority established pursuant to Section 1101 et seq. of this title shall have full power and authority to:

1. Purchase, construct, reconstruct, sell, lease, operate, and otherwise contract concerning docks, wharves, warehouses, piers, and other port, terminal, industrial, or transportation facilities within its jurisdiction consistent with the purposes of the port authority, and to make charges for the use thereof;

2. Borrow money from either public or private financial institutions, sources or any agency of the State of Oklahoma or of the United States of America, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage,

pledge, or otherwise encumber the assets of the authority as security therefor;

3. Apply for, receive, and participate in any grants from the State of Oklahoma or from the United States of America;

4. Straighten, deepen, improve, construct, reconstruct, or extend any canal, channel, river, stream, basin, or other watercourse or way which may be necessary or proper in the development of the facilities of the port;

5. Acquire, own, hold, sell, lease, operate, or otherwise contract concerning real or personal property for the authorized purposes of the port authority;

6. Acquire, own, maintain, sell, or lease land within its jurisdiction as it may deem desirable for the development, planning, construction, operation, or leasing of land or completed industrial facilities for industrial use which is hereby declared to be for a public purpose;

7. Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits prescribed by the United States Foreign Trade Zones Board and to establish, operate, and maintain such foreign trade zones;

8. Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for the construction or the efficient operation of any facility of the port authority and included in its official plan, pursuant to the procedure provided by law for railroad companies, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes, except that nothing contained in Sections 1101 to 1114, inclusive, of this title shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of the public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the port authority; provided that:

- a. if any restoration or duplication proposed to be made hereunder shall involve a relocation of property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation,

- b. if any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in paragraph 3 of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier, and
- c. provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority;

9. Maintain such funds as it deems necessary;

10. Direct its agents or employees, when properly identified in writing, and after at least five (5) days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

11. Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority;

12. Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port;

13. Repay grants or loans made prior to the effective date of this act where the funds have been expended for a proper purpose of the authority as originally authorized; and

14. Enter into cooperative agreements with one or more other port authorities to exercise any of the powers or to perform any of the duties conferred by this section. Cooperative agreements authorized by this paragraph need not comply with the provisions of the Interlocal Cooperation Act.

Added by Laws 1959, p. 392, § 6, emerg. eff. July 15, 1959. Amended by Laws 1963, c. 305, § 3; Laws 1971, c. 335, § 1, emerg. eff. June 17, 1971; Laws 1997, c. 394, § 3, eff. Sept. 1, 1997; Laws 2011, c. 263, § 1.

§82-1107. Plan for future development, construction and improvement.

The board of directors of a port authority shall prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority. Upon the completion of such plan the board of

directors shall cause notice by publication as provided in Section 1 of this act to be given in each county in which there is a political subdivision participating in the creation of the port authority, and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for the service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection thereof at their office by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan, which shall be not less than thirty (30) nor more than sixty (60) days after the last publication of said notice and after service of notice upon the owners of such uplands. Any interested person may file written objections to such plan, provided such objections are filed with the secretary of the board of directors at his office not less than five (5) days prior to the date fixed for said hearing. After said hearing the board of directors may adopt such plan with any modifications or amendments thereto as the official plan of the port authority.

Laws 1959, p. 393, § 7, emerg. eff. July 15, 1959.

§82-1108. Modification, amendment or extension of plan.

The board of directors shall, from time to time after the adoption of said official plan, have the power to modify, amend or extend the same, provided that upon the making of any such modification, amendment or extension thereof, the board of directors shall cause notice to be given and shall conduct a hearing, all as provided in Section 7 of this act, and shall not adopt any modification, amendment, or extension until the notice has been given and hearing held as herein provided.

Laws 1959, p. 393, § 8, emerg. eff. July 15, 1959.

§82-1109. Conclusiveness and validity of plan.

The plan and any modification, amendment or extension thereof, when adopted by the board of directors after notice and hearing, shall be final and conclusive and its validity shall be conclusively presumed.

Added by Laws 1959, p. 394, § 9, emerg. eff. July 15, 1959.

§82-1110. Participation of private enterprise.

The port authority shall foster and encourage the participation of private enterprise in the development of the port facilities to the fullest extent it deems practicable in the interest of limiting the necessity of construction and operation of such facilities by the port authority. For this purpose the port authority may upon a written request by any person, partnership, or corporation, filed with the secretary of the board of directors within thirty (30) days following the journalization of the order of the adoption of an

official plan as provided in Sections 1107 and 1108 of this title, submit a proposal to provide, operate, and maintain any facility included in such plan, by publication of and invitation for bids therefor based upon specifications prepared by the board of directors.

The board of directors may accept the bid of the person, partnership, or corporation it deems best qualified by financial responsibility and business experience to construct and operate such facility or facilities in accordance with its official plan. Added by Laws 1959, p. 394, § 10, emerg. eff. July 15, 1959. Amended by Laws 1971, c. 335, § 2, emerg. eff. June 17, 1971.

§82-1111. Prohibitions.

Nothing contained in Sections 1 to 14, inclusive, of this act shall:

(a) Impair the provisions of law or ordinance directing the payment of revenues derived from public property into sinking funds or dedicating such revenues to specific purposes;

(b) Enlarge, alter, diminish, or affect in any way, any lease or conveyance made, or action taken prior to the creation of a port authority by any municipal corporation, or by any county;

(c) Impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States.

Laws 1959, p. 394, § 11, emerg. eff. July 15, 1959.

§82-1112. Bids.

A. Public construction contracts as such term is defined by the Public Competitive Bidding Act of 1974 and executed by a port authority created pursuant to Section 1102 of this title shall be subject to the Public Competitive Bidding Act of 1974.

B. 1. Except as otherwise provided by subsection C of this section, no sale of any real property or personal property having a fair market value exceeding the public construction contract amount specified by the Public Competitive Bidding Act of 1974 shall be made by the port authority unless notice calling for bids for the contract has been given by publication as provided by Section 1101 of this title.

2. No sale of real property or personal property shall be made except to the highest responsible bidder.

3. In the case of any sale of land by the port authority requiring competitive bids, specifications for the bids for the sale shall be in such form and detail as is determined by the port authority. Provided, however, if the port authority finds that an immediate emergency exists, which findings shall be entered in the minutes of the port authority, by reason of which an expenditure in an amount exceeding the public construction contract amount specified

by the Public Competitive Bidding Act of 1974 is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then such contracts may be executed without public notice or competitive bids.

C. Competitive bids shall not be required for the sale of real property or personal property by a port authority if:

1. The real property or personal property is to be sold for industrial development purposes;

2. The real property or personal property was acquired by the port authority for industrial development purposes; and

3. The contract for the sale of the real property or personal property has been approved by the board of directors of such port authority.

D. Every public construction contract or contract for the sale of real property or personal property shall be executed in writing. If the public construction contract involves work or construction, the contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by the chairman of the port authority and by the contractor, and shall be executed in triplicate.

Added by Laws 1959, p. 394, § 12, emerg. eff. July 15, 1959. Amended by Laws 1968, c. 239, § 1; Laws 1989, c. 123, § 1, eff. Nov. 1, 1989; Laws 1992, c. 193, § 1, emerg. eff. May 11, 1992; Laws 1994, c. 123, § 1, emerg. eff. May 2, 1994; Laws 2000, c. 192, § 1, eff. July 1, 2000; Laws 2003, c. 305, § 4, emerg. eff. May 28, 2003.

§82-1113. Budget - Disposition of rents and charges.

(a) The board of directors of a port authority created in accordance with Section 2 of this Act shall annually prepare a budget for the port authority.

(b) Rents and charges received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the port authority in proportion to the taxable value of all property within the port authority which shall be listed on the general tax lists for the respective subdivisions. Added by Laws 1959, p. 394, § 13, emerg. eff. July 15, 1959.

§82-1114. Bond of secretary - Deposit of funds - Disbursements.

Before receiving any monies, the secretary of a port authority created in accordance with Section 1102 of this title shall furnish bond in such amount as shall be determined by the port authority, with sureties satisfactory to it, and all funds coming into the hands of said secretary shall be deposited by the secretary to the account

of the port authority in one or more such depositories as shall be qualified to receive deposits of state or county funds, which deposits shall be secured in the same manner as county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules adopted by the port authority. Such rules, adopted in accordance with the provisions of the Administrative Procedures Act, shall require substantially the same financial accounting procedures as required by the State Treasurer for state funds under control of the Office of State Treasurer. Laws 1959, p. 394, § 14, emerg. eff. July 15, 1959; Laws 2011, c. 263, § 2.

§82-1121. Authorization for port authority to borrow money and issue bonds.

For the purpose of paying all or any part of the cost of acquiring land or interests therein, and the cost of constructing, acquiring, equipping, and furnishing buildings, structures, plants, docks, wharves, warehouses, piers and other port, terminal and transportation facilities, or any part thereof; including additions, improvements, relocations, renovations, extensions and modifications thereof, (all of which as are included in single project are hereafter referred to in this act as "facility or facilities"), a port authority created pursuant to 82 O.S.1961, Section 1102, is authorized to borrow money upon credit of the income and revenues to be derived from the operation of such facilities, together with any other available income and revenues from other revenue-producing facilities of such port authority, and to issue negotiable bonds of such port authority in such amount as the board of directors of the port authority shall deem necessary for the purpose; and to provide for payment of such bonds and rights of holders thereof as herein provided.

Laws 1963, c. 314, § 1, emerg. eff. June 19, 1963.

§82-1122. Terms, maturities, form, etc. of bonds.

Bonds authorized by this act may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their date, may be in such denominations and in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate of interest, not exceeding five percent (5%) per annum, as may be provided by official resolution of the board of directors of such port authority.

Such bonds may be sold in such manner and at such price or prices, not less than par plus accrued interest to date of delivery, as provided in Section 13 of this act, but interest cost to maturity

for bonds issued hereunder shall not exceed five percent (5%) per annum, computed on the basis of average maturities according to standard tables of bond values.

Laws 1963, c. 314, § 2, emerg. eff. June 19, 1963.

§82-1123. Bonds issued pursuant to loan or purchase agreement with United States Government.

In the event any issue or series of bonds is issued under authority of this act pursuant to a loan agreement or bond purchase agreement with any agency of the United States Government, then and in that event, notwithstanding any other provision of law, the board of directors of the port authority may in any resolution authorizing bonds hereunder provide for the initial issuance of one or more bonds (in this section called "bond") aggregating the amount of the entire issue; and may make such provision for installment payments of the principal amount of any such bond as it may consider desirable; and may provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bond. The board of directors of the port authority may further make provision in any such resolution for the manner and circumstances under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal or principal and interest. Laws 1963, c. 314, § 3, emerg. eff. June 19, 1963.

§82-1124. Exemption from taxation - One bond issue for more than one project or facility - Payment from combined revenues.

Bonds issued hereunder shall not be subject to taxation by the State of Oklahoma, or by any county, municipality or political subdivision thereof. The board of directors of a port authority may in its discretion authorize one issue of bonds hereunder for the acquisition, construction, relocation, improvement, extension, addition, furnishing or equipping of more than one building, structure, project or facility, as herein defined, and may make said bonds payable from the combined revenues of all such buildings and facilities so constructed, acquired, improved, extended, furnished or equipped, in whole or in part, with the proceeds of such bonds; together with revenues from the operation of any existing revenue-producing buildings or facilities. If more than one series of bonds shall be issued hereunder, payable from the revenues of such buildings and facilities, priority of lien thereof as to such revenues shall be as prescribed by proceedings authorizing the issuance of such respective bond issues. It shall be within the discretion of the board of directors of such port authority at the

time the first series of bonds is authorized, to provide that subsequent series of bonds payable from the same revenues, in whole or in part, shall not be issued; or that subsequent series of bonds shall be subordinate as to lien; or that subsequent series of bonds shall enjoy parity of lien upon such conditions and restrictions as are specified therein.

Laws 1963, c. 314, § 4, emerg. eff. June 19, 1963.

§82-1125. Refunding bonds.

The board of directors of a port authority may issue bonds hereunder for the purpose of refunding any bonds or other obligations of the port authority theretofore issued pursuant to this act; or it may authorize a single issue of bonds hereunder for the purpose in part of refunding such previous obligations and in part for the making of additions, improvements and extensions to such buildings and facilities, or the construction and acquisition of additional buildings and facilities, and furnishing and equipping thereof.

Where bonds are issued under this paragraph solely for refunding purposes, such bonds either may be sold as provided in Section 13 of this act or may be exchanged for outstanding obligations. If sold, the proceeds either may be applied to payment of obligations refunded or may be deposited in escrow for the retirement thereof. All refunding bonds issued under this section shall in all respects be authorized, issued and secured in the manner provided for other bonds issued under this act and shall have all attributes of such bonds. The board of directors may provide that any such refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was provided for obligations refunded thereby.

Laws 1963, c. 314, § 5, emerg. eff. June 19, 1963.

§82-1126. Bonds as special obligation of port authority concerned.

No provision of this act shall be construed to authorize the pledge or use of any appropriated funds of the State of Oklahoma, or any ad valorem tax revenues or any other tax revenues, for the payment or security of any bonds issued pursuant to this act. No bonds issued under provisions of this act shall ever become a debt or obligation of the State of Oklahoma, nor shall the faith and credit of the State of Oklahoma be pledged in whole or in part, directly or indirectly, for the payment of such bonds, or interest thereon. Bonds issued under this act shall not be an indebtedness of any county or counties, or any municipal corporation or municipal corporations, which shall have created or joined in the formation of the port authority issuing the same. All bonds issued pursuant to this act shall be special obligations of the port authority concerned, payable solely from the revenues of the buildings and facilities referred to therein. Such bonds shall contain on the face thereof a statement to the effect that neither the state, nor any

county or municipal corporation concerned shall be obligated to pay the same, or the interest thereon, except from revenues of such facilities; and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged or may hereafter be pledged to the payment of principal of or interest on such bonds.

Laws 1963, c. 314, § 6, emerg. eff. June 19, 1963.

§2-1127. Powers of board of directors in connection with payment of principal and interest.

The board of directors of a port authority issuing bonds pursuant to the provisions of this act is authorized to pledge for the payment of principal of or interest on such bonds, all or any part of the revenues to be derived from the managements and operation of the buildings and facilities for the construction, acquisition or improvement of which the bonds are issued; together with any other available income and revenues from revenue producing facilities of such port authority. In order to secure prompt payment of the principal and interest, and the proper application of revenues pledged thereto, the board of directors of such port authority is authorized by appropriate resolution:

(a) To covenant as to the use and disposition of the proceeds of the sale of such bonds;

(b) To covenant as to the operation of facilities and buildings and the collection and disposition of the revenues derived from such operation;

(c) To covenant as to the rights, liabilities, powers and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;

(d) To covenant and agree to carry such insurance on the buildings and facilities, and the use and occupancy thereof as may be considered desirable and, in its discretion, to provide that the cost of such insurance shall be considered a part of the expense of operating the buildings and facilities;

(e) To vest in a trustee or trustees the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder and to hold, apply and dispose of the same, and the right to enforce any covenant made to secure the bonds; and to execute and deliver a trust agreement or agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and may limit the liabilities thereof and prescribe the terms and conditions upon which such trustee or trustees or the holder or holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all such covenants and resort to such remedies as may be appropriate:

(f) To fix rents, charges and fees to be imposed in connection with and for the use of the buildings, services and facilities of such port authority, which rents, charges and fees shall be considered to be income and revenues derived from the operation of the buildings and facilities, and are hereby expressly required to be fully sufficient to assure the prompt payment of principal and interest on the bonds as each becomes due, and to make and enforce such rules and regulations with reference to the use of the buildings and facilities, as it may deem desirable for the accomplishment of the purposes of this act;

(g) To covenant to maintain a maximum percentage of use and occupancy of the buildings and facilities for revenue producing purposes;

(h) To covenant against the issuance of any other obligations payable from the revenues to be derived from the buildings and facilities; and to covenant as to priority of resort to such revenues between obligations of such port authority;

(i) All such agreements and covenants entered into by the board of directors of such port authority shall be binding upon the board and the authority, its agents and employees, and upon its successors in interest; and all such agreements and covenants shall be enforceable by appropriate action or suit at law or in equity, which may be brought by any holder or holders of bonds issued hereunder or in their behalf.

Laws 1963, c. 314, § 7, emerg. eff. June 19, 1963.

§82-1128. Agreements or contracts with United States.

The board of directors of a port authority may enter into any agreement or contract with the United States of America or any agency or instrumentality thereof which it may consider advisable or necessary in order to obtain a grant of funds, a contract for purchase of its bonds, or any other aid or assistance in connection with the construction, addition, furnishing and equipping of any building or facility as herein defined.

Laws 1963, c. 314, § 8, emerg. eff. June 19, 1963.

§82-1129. Segregation and use of proceeds from bond sales - Construction contracts.

The proceeds to be derived from the sale of bonds herein authorized shall be segregated and used solely for the purpose for which the bonds are authorized. The board of directors of a port authority is authorized to make any contracts and execute all instruments which in its discretion may be deemed necessary or advisable to provide for the construction, furnishing and equipping of any building or facility as herein defined.

Laws 1963, c. 314, § 9, emerg. eff. June 19, 1963.

§82-1130. Approval of bonds by Attorney General - Incontestability.

All bonds issued hereunder shall contain the certificate required by Article 10, Section 29 of the Constitution of Oklahoma. Such bonds shall be submitted to the Attorney General of Oklahoma for examination, and when such bonds have been examined and certified as legal obligations of the issuing Authority by the Attorney General in accordance with such requirements as he may make, the same shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction thereof within thirty (30) days from the date of such approval.

Laws 1963, c. 314, § 10, emerg. eff. June 19, 1963.

§82-1131. Lawful securities for investments.

Bonds issued under the provisions of this act are hereby made securities in which all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business; all insurance companies and insurance agencies and others carrying on an insurance business, may lawfully invest funds, including capital funds, under their control or belonging to them, providing such bonds shall not be used by any depository as security for any county or state funds.

Laws 1963, c. 314, § 11, emerg. eff. June 19, 1963.

§82-1132. Interim notes and conditions of issue.

Whenever the board of directors of a port authority shall have adopted a resolution authorizing the issuance of any series of bonds hereunder and said bonds have been sold but prior to the time as of which the bonds can be delivered, the board of directors of a port authority finds it necessary to borrow money for the purpose for which the bonds were authorized, such board of directors may, by appropriate resolution, authorize the borrowing of money in anticipation of the issuance of the bonds, and the issuance of the note or notes of the board of directors to evidence such borrowing. The amount so borrowed shall not exceed the principal amount of the bonds and shall not bear interest at a rate exceeding the average interest rate of the bonds. Such note or notes shall be signed in the manner prescribed by the board of directors and shall be made payable at such time or times as the board of directors may prescribe, not later than one (1) year from their respective dates and may be renewed from time to time by the issuance of new notes hereunder. The proceeds of any loan made under this section shall be devoted exclusively to the purpose for which the bonds shall have been authorized and the note or notes and the interest thereon shall be paid with the proceeds of the bonds simultaneously with the delivery of the bonds. If for any reason the bonds shall not be issued, the holder or holders of the notes shall be entitled to all rights which would have been enjoyed by the holders of the bonds had

they been issued; and the notes shall be paid from the revenues provided for the payment of the bonds, and shall be entitled to the benefit of all covenants, agreements and rights appearing in the resolution authorizing the bonds for the benefit of the bonds. Laws 1963, c. 314, § 12, emerg. eff. June 19, 1963.

§82-1133. Public bids for bonds sold.

All bonds sold hereunder shall be awarded to the best bidder, based upon an open competitive public offering. Notice of sale of such bonds shall be advertised at least fourteen (14) days in advance of the time of receiving bids and said notice shall appear at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the port authority is located. No bonds shall be sold for less than par value.

Added by Laws 1963, c. 314, § 13, emerg. eff. June 19, 1963. Amended by Laws 2000, c. 192, § 2, eff. July 1, 2000.

§82-1134. Trustees - Oath of office - Fidelity bond.

Any trustee, as provided herein, first shall take the oath of office required of an elected public officer and shall be under a good and sufficient fidelity bond, to be approved by the Attorney General, in a surety company authorized to transact surety business in the State of Oklahoma. The cost of said bond shall be paid from funds of the revenue bonds. The oaths of office shall be administered by any person authorized to administer oaths in the State of Oklahoma.

Added by Laws 1963, c. 314, § 14, emerg. eff. June 19, 1963.

§82-1135. Meetings and records of authority open to public.

After the effective date of this act, meetings of an organized port authority shall be open to the public to the same extent as is required by law of other public boards and commissions. All records of said authority shall be public records and shall be kept in a place, the location of which shall be listed in the office of the county clerk of each county wherein any revenue board authorized by them hereunder shall be recorded.

Laws 1963, c. 314, § 15, emerg. eff. June 19, 1963.

§82-1136. Limitation on liability of trustee or beneficiary.

No trustee or beneficiary shall be charged with any liability whatsoever by reason of any act or omission committed or suffered in the performance of such trust or in the operation of the trust property, except for willful or grossly negligent breach of trust; provided, however, any act, liability for any omission, or obligation of a trustee or trustees, in the execution of such trust, or in the operation of the trust property, shall extend to the whole of the

trust estate or so much thereof as may be necessary to discharge such liability or obligation and not otherwise.

Laws 1963, c. 314, § 16, emerg. eff. June 19, 1963.

§82-1141. McClellan-Kerr Arkansas River Navigation System Infrastructure Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Transportation to be designated the "McClellan-Kerr Arkansas River Navigation System Infrastructure Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, for the purpose of pooling all monies received by the Oklahoma Department of Transportation from appropriations, dedicated revenues, federal funds, private contributions or other sources authorized by law dedicated to the McClellan-Kerr Arkansas River Navigation System (MKARNS). All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Transportation upon a recommendation by the Waterways Advisory Board of the Oklahoma Department of Transportation and upon consultation with all Native American tribes with an ownership interest in the Arkansas riverbed for the purpose of repairing or constructing assets which are part of the MKARNS located in the State of Oklahoma which are essential to the safe and efficient operation of such system and may also be used to match federal grants and awards associated with channel improvements of the MKARNS, whether due to natural disasters, emergency conditions, operations and maintenance needs or construction projects. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2019, c. 367, § 1, eff. July 1, 2019.

§82-1142. Tri-State Commission on the McClellan-Kerr Arkansas River Navigation System (MKARNS) - Creation - Duties.

A. There is hereby created the Tri-State Commission on the McClellan-Kerr Arkansas River Navigation System (MKARNS). It is anticipated that the State of Arkansas and the State of Kansas will enact legislation in order to complete the formation of the Commission.

B. The Oklahoma membership of the Tri-State Commission shall be as follows:

1. One member appointed by the Governor who shall be a member of the Water Advisory Board of the Department of Transportation;

2. Three members of the House of Representatives whose legislative districts encompass some part of the territory in which the MKARNS is located to be formally selected by the Speaker of the

House of Representatives; provided, whenever possible, no more than two members shall be appointed from the same political party;

3. Three members of the Senate whose legislative districts encompass some part of the territory in which the MKARNS is located to be formally selected by the President Pro Tempore of the Senate; provided, whenever possible, no more than two members shall be appointed from the same political party;

4. One member from each of the three Native American tribes that has ownership interest in the Arkansas riverbed;

5. One member appointed by the Speaker of the House of Representatives who shall represent a statewide business organization;

6. One member appointed by the President Pro Tempore of the Senate who shall represent a statewide agricultural organization; and

7. One member appointed by the Governor who shall represent a public port along the MKARNS.

C. The Tri-State Commission shall have the following duties:

1. To identify the resources available at the federal and state levels for the proper maintenance of the physical assets which allow the MKARNS to fulfill its duties and responsibilities;

2. To identify methods for the repair, replacement or maintenance of the infrastructure assets which are essential to the operation of the MKARNS;

3. To prioritize the funding, whether from the federal government, state government, tribal governments, private resources or other financial resources, in order to adequately maintain the MKARNS;

4. To take such actions as may be necessary to promote the MKARNS and its continued role in the economies of the states of Oklahoma, Arkansas and Kansas;

5. To take such actions as are conducive to the continued use and enhanced use of the MKARNS by for-profit business enterprises in order to reduce transportation costs, improve profit margins, increase efficiency and related economic benefits;

6. To take such actions as are conducive to the continued vital role of the MKARNS with respect to flood control in the three affected states;

7. To take such actions as are conducive to the promotion of the MKARNS for purposes of tourism and cultural preservation; and

8. To take such other actions as may be necessary which in the judgment of the Tri-State Commission would be beneficial for the three affected states and for the MKARNS.

Added by Laws 2019, c. 366, § 1, emerg. eff. May 14, 2019.

§82-1266. Definitions.

In this act unless the context otherwise requires:

1. "District" means a regional water district organized pursuant to the provisions of this act. A district is a body corporate and an instrumentality of each of the public agencies which establish it by interlocal agreement;

2. "Board" means a board of directors of a regional water district organized under this act;

3. "Persons" includes any natural person, firm, association, corporation, business or public trust, partnership, federal agency, state agency, state or political subdivision thereof, municipality or any body politic;

4. "Acquire" means and includes construct, acquire by purchase, lease, devise, gift or other mode of acquisition of any interest in a project or facilities;

5. "Obligation" includes bonds, notes, debentures, interim certificates or receipts, contracts and all other evidences of indebtedness issued by a regional water district formed under this act, including bond anticipation notes and refunding bonds;

6. "Reservoir" means any impoundment of water through the construction of a dam by or under the direction and supervision of a constructing agency;

7. "Constructing agency" means any state, local or federal agency directing and supervising the construction of a reservoir and shall include the U.S. Corps of Engineers, Department of the Army, the U.S. Bureau of Reclamation, Department of the Interior, the U.S. Department of Agriculture and any other state, local or federal agency;

8. "State Board" means the Oklahoma Water Resources Board;

9. "Public agency" shall be as defined in the Interlocal Cooperation Act, Section 1003 of Title 74 of the Oklahoma Statutes, except public agencies of other states shall not be entitled to membership in the district;

10. "Water facilities" means and includes all facilities from the initial source to the place for utilization of water by a public agency or person as provided in this act, including, but not limited to, all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply, treatment, distribution, transportation, or storage of water, and any integral part thereof, including but not limited to water supply systems, water distribution systems, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof;

11. "Sewage" means the water-carried wastes created in and carried or to be carried away from residences, residential

establishments, industrial or commercial establishments or any other private or public building or institution together with such surface or groundwater or household and industrial wastes as may be present. Sewage does not include hazardous waste as defined by Section 1-2002 of Title 63 of the Oklahoma Statutes; and

12. "Sewage facilities" means and includes any plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the collection, transportation, treatment, purification, storage, processing, release, or disposal of sewage, including wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources, or any integral part thereof, including but not limited to treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof.

Laws 1972, c. 249, § 1; Laws 1985, c. 353, § 1, emerg. eff. July 30, 1985; Laws 1992, c. 403, § 48, eff. Sept. 1, 1992.

§82-1267. Purpose of district - Activities.

Public regional water districts may be organized under this act for the purpose of engaging in the following activities:

1. Acquiring water rights or acquiring and developing water facilities or any interest therein, from any and all available sources, and storing water in reservoirs or other storage facilities;

2. Purifying, treating and processing water;

3. Furnishing water to public agencies and persons desiring the same;

4. Transporting and delivering water to public agencies and persons who are furnished water by the district;

5. Disposing of, processing, treating or transporting sewage or wastewater or acquiring and developing sewage facilities or any interest therein; and

6. Engaging in such activities and projects deemed necessary by the district to carry out the purposes of this act, including acquisition, planning, purchase, construction, lease, operation, maintenance, improvement, repair and extension of water facilities or sewage facilities, or the provision of administrative and support services to public agencies which are signatories to the interlocal agreement creating the district.

Amended by Laws 1985, c. 353, § 2, emerg. eff. July 30, 1985.

§82-1268. Interlocal agreements.

A. Two or more counties, by interlocal agreement made pursuant to the provisions of the Interlocal Cooperation Act and in accordance with the provisions of Sections 1266 through 1288 of this title, may

establish a regional water district to carry out activities and projects authorized by this act. The agreement under which the district is formed shall provide for the establishment of a board of directors to govern the affairs of the district. Each public agency which is a member of the district shall have one member on said board appointed by the board of county commissioners of the county where the public agency has its principal office. Each member appointed shall be a member of the governing body of the participating public agency. Said agreement shall further provide for staggered terms for board members not to exceed three (3) years.

B. In addition to the requirements of subsection (c) of Section 1004 of Title 74 of the Oklahoma Statutes, an interlocal agreement establishing a regional water district shall also contain the following:

1. An accurate description of the territory which it is proposed shall be embraced within the district, and a map of such territory shall be attached to the agreement as an exhibit thereto;

2. A brief and concise statement describing the purpose of the district and its proposed activities or projects, in general terms;

3. A brief and concise statement showing the necessity for forming and operating the proposed district, describing the benefits to be received therefrom by the persons and public agencies in the territory proposed to be embraced in the district;

4. The proposed name for the district;

5. The proposed location of the principal office of the district;

6. Such other and additional information as may be appropriate and useful in the agreement;

7. A statement by the State Board with the results of its review as to the following:

- a. the availability and dependability of water rights and the quantity of water available to undertake the activities and to provide the benefits described in paragraph 3 of subsection B of this section; and
- b. the absence of conflict of the proposed district and its activities with the comprehensive water plan of the state;

8. A statement by the Department of Environmental Quality with the results of its review as to the quality of water, in accordance with safe drinking water standards, which is proposed to be used by the district to undertake the activities and to provide the benefits described in paragraph 3 of subsection B of this section;

9. The terms and conditions of eligibility for initial membership in the district, for new members seeking to join the district, and for withdrawal by a signatory public agency from the district; and

10. A statement providing that water rights cannot be acquired by eminent domain.

C. The interlocal agreement after being executed by appropriate resolution of the governing bodies of the member public agencies, and the materials required by subsection B of this section, shall be submitted to the Attorney General as required by the Interlocal Cooperation Act. Approval of the agreement shall also constitute certification by the State of Oklahoma of the district as a regional water district.

Added by Laws 1972, c. 249, § 3. Amended by Laws 1985, c. 353, § 3, emerg. eff. July 30, 1985; Laws 1993, c. 145, § 356, eff. July 1, 1993.

§82-1272. Powers of district.

Each district shall have power to:

1. Sue and be sued, complain and defend, in its corporate name;
2. Adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
3. Acquire water rights, construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, improve, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights and transportation and distribution lines, facilities, equipment or systems necessary to transport, distribute, sell, furnish, treat, store and dispose of water or sewage. All plans for facilities must be submitted to and approved by the Oklahoma Water Resources Board and the State Department of Health. The disposal of any water outside the State of Oklahoma shall not be permitted without the consent of the Legislature;
4. Borrow money and otherwise contract indebtedness, issue or execute its obligations therefore, including, without limitation, bond anticipation notes and refunding bonds and secure the payment thereof by mortgage, pledge or deed of trust of all or any of its property, assets, franchises, rights, privileges, licenses, rights-of-way, easements, revenues or income, only upon the affirmative vote of at least three-fourths (3/4) of all the members of the board as constituted;
5. Have and exercise the right of eminent domain for the purpose of acquiring right-of-way and other properties necessary in the construction or operation of its property and business and in the manner now provided by the condemnation laws of this state for acquiring private property for public use. No district shall have the right to exercise the power of eminent domain for the purpose of acquiring water rights or mineral interests;
6. Accept gifts, loans, or grants of money, services, franchises, rights, privileges, licenses, rights-of-way, easements or other property, real or personal, or provisions for nonpayment as may

be authorized or available to the district pursuant to federal, state or local regulations, or programs;

7. Make any and all contracts necessary or convenient for the exercise of the powers of the district on such terms and for such period of time as its Board of Directors shall determine;

8. Fix, regulate and collect rates, fees, rents or other charges for water and any other facilities, supplies, equipment or services furnished by the district. The rates shall be just, reasonable and nondiscriminatory. The value of water rights held by the district shall not be considered in the determination of rates;

9. Conduct its affairs within this state subject to the provisions of this act;

10. Conduct its business so that appropriated rights to water held by the district shall not be alienated or encumbered apart from the alienation or encumbrance of the facilities of the district;

11. Invest funds in the same manner as generally authorized for counties and municipalities and for the purpose of defraying interest expenses related to facility construction debt service;

12. Prepay principal payments when permitted without penalty and as appropriate to reduction of interest or expenses;

13. Conduct planning in accordance with the concepts and principles of any applicable, adopted state plans for current and future water and sewage needs, investigate the desirability of and necessity for additional sources and supplies of water, and make studies, surveys and estimates as may be necessary to determine the feasibility and cost of any water or sewage facilities;

14. Individually or jointly with other persons or public agencies acquire, own, hire, use, operate, lease as lessor or lessee, and dispose of personal property and real property and any interest therein, including projects existing, proposed or under construction, and make improvements thereon;

15. Determine the locations and character of, and all other matters in connection with, any and all projects or activities it is authorized to acquire, hold, establish, effectuate, operate or control;

16. Enter into contracts with persons or public agencies for the sale, purchase or provision of all or any part of the water facilities or sewage facilities, or any services or products derived therefrom, in accordance with this act; and contract with any person or public agency for the planning, development, construction, operation, sale or lease as lessor or lessee of any water facility or sewage facility or any part thereof;

17. Procure insurance against any losses in connection with its property, operations or assets in such amounts and from such sources as it deems desirable, or self-insure against such losses;

18. Enter onto any private or public lands after notice to and permission of the owner thereof for the purpose of making surveys, inspections or other activities related to its powers under this act;

19. Adopt regulations as it deems necessary, not inconsistent with state law or the powers of any existing public agency to adopt or enforce regulations, to protect its water supplies and facilities and sewage facilities;

20. Do and perform all acts and things, and to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purpose for which the district is organized, and exercise all other powers not inconsistent with the Articles of Association forming the district pursuant to the Interlocal Cooperation Act, the Constitution of the State of Oklahoma or the United States Constitution which may be reasonably necessary or appropriate or incidental to the exercise of any of the powers enumerated in this act.

The district may perform any act authorized by this act through, or by means of, its officers, agents or employees or by contract with any person, including, without limitation, the employment of engineers, architects, attorneys, appraisers, financial advisers and such other consultants and employees as may be required in the judgment of the board of directors, and fix and pay their compensation from funds available to the district therefore. Nothing in this section shall authorize a district to take or disturb properties or facilities belonging to any public utility, public agency, individual citizen, business entity or common carrier, which properties or facilities are required for the proper and convenient operation of such public utility, public agency or common carrier, unless provision is made for the restoration, relocation or duplication of such properties or facilities elsewhere at the sole cost of the district.

Amended by Laws 1985, c. 353, § 4, emerg. eff. July 30, 1985.

§82-1273. Right of aggrieved persons to petition district court.

Any person aggrieved by the service furnished or rates charged by said water district shall have the right to petition said grievance from the decision or action of said water district, to the district court wherein said water district was formed, and upon said petition being filed, the district court shall hear the petition de novo, and is empowered to make such orders as may be necessary and proper.

Added by Laws 1972, c. 249, § 8.

§82-1274. Exemption from taxes and assessments.

Districts formed hereunder shall be exempt from all excise taxes of whatsoever kind or nature, and further, shall be exempt from payment of assessments in any general or special taxing district levied upon the property of the district, whether real, personal or

mixed. Any and all obligations, securities and evidences of indebtedness issued by a district formed pursuant to this act shall be exempt from all inheritance or death taxes, and the income interest and capital gains thereon shall not be subject to the income tax laws of this state. Persons owning or holding the obligations, securities and evidences of indebtedness or their heirs, devisees, successors or assigns shall not be required to pay to the State of Oklahoma income tax upon the profits and capital gains upon the obligations, securities and evidences of indebtedness.

Added by Laws 1972, c. 249, § 9. Amended by Laws 1985, c. 353, § 5, eff. July 30, 1985.

§82-1275. Rates and charges - Disposition of revenues.

A. Districts formed pursuant to this act shall be operated without profit, but the rates, revenues, fees, rents or other charges for water or sewage services or facilities, supplies, equipment or other services furnished by the water district shall be sufficient at all times:

1. To pay all operating and maintenance expenses necessary or desirable for the prudent conduct of its affairs and the principal of and interest on the obligations issued or assumed by the district in the performance of the purposes for which it was organized; and

2. For the creation of adequate reserves.

B. The revenues of the district shall be devoted, first, to the payment of operating and maintenance expenses and the principal and interest on outstanding current obligations, and, thereafter, to such reserves for additional improvements, new construction, depreciation and contingencies as the board of directors may from time to time prescribe.

C. Revenues not required for the purposes set forth in subsection B of this section shall be returned from time to time to the customers or public agency members of the district on a pro rata basis, according to the amount of business done with each customer or public agency member during the period for which such return is made, either in cash, in abatement of current charges for water, or otherwise as the board determines; such return may be made by way of a general rate reduction to customers or public agency members if the board so elects.

Added by Laws 1972, c. 249, § 10. Amended by Laws 1985, c. 353, § 6, eff. July 30, 1985.

§82-1276. Annexation of additional territory.

Additional territory may be annexed to and embraced by a district established and operating under this act by the addition of new public agencies as members of the interlocal agreement, and appropriate amendment and, without further review by any agency or

office, filing as required by Section 1005 of Title 74 of the Oklahoma Statutes.

Added by Laws 1972, c. 249, § 11. Amended by Laws 1985, c. 353, § 7, eff. July 30, 1985.

§82-1277. Annual written report.

Within sixty (60) days after the close of each calendar year any water district organized and in operation under this act shall make a written report to the Oklahoma Water Resources Board at its office and shall include the following:

1. The total volume of water contracted for from the reservoir or reservoirs located within the district. Measurement may be made either in gallons or acre-feet, whichever is most convenient to the district.

2. A complete report of the finances, assets and liabilities of the district.

3. Any other information that the Board may require from time to time which will be helpful to it in assisting said district in the development of industry to utilize the water available for beneficial use.

Added by Laws 1972, c. 249, § 12.

§82-1278. Dissolution of district.

A regional water district may be dissolved by the district court for the county in which fifty percent (50%) or more of the real property of the district is located upon application for that purpose filed by a majority of the members of the board of directors of such district. The application or petition shall be in writing and shall set forth either that the purpose or purposes for which the district was created have not been achieved and that there is little likelihood that such purpose or purposes will be achieved within the next three (3) years, or that no plan for achieving the purpose or purposes has been prepared and that there is little likelihood that such a plan will be prepared within the next three (3) years, or both, and request a hearing on such application or petition be set. The application must be signed by a majority of members of the board of directors. Said application or petition shall be filed with the clerk of the district court.

If the judge of the district court is satisfied that the application or petition conforms to the provisions of this section, he shall order the clerk of said court to give notice by publication of the pendency of the application or petition, setting the time and place of the hearing thereon. Said notice shall be given in each county affected by the district. The time of hearing shall not be less than sixty (60) days from the date of the first publication. Any person affected by the proposed dissolution of said district who desires to object to the dissolution of said district shall, before

the date set for the application to be heard, file his objections and state the reasons why such district should not be dissolved.

Upon said hearing, if the court finds from the evidence presented that the application has been signed by a majority of the members of the board of directors and that the purpose or purposes for which the district was created has not been achieved and that there is little likelihood that such purpose or purposes will be achieved within the next three (3) years, or that no plan for achieving the purpose or purposes has been prepared and that there is little likelihood that such a plan will be prepared within the next three (3) years, or both, the court shall enter an order directing said district to be dissolved and its lands or other property released.

Upon such order, the directors shall immediately notify all persons having claims against the district of such action and shall adjust, settle, and pay all claims, and dispose of all property of the district.

After all the property of the district has been disposed of and all of its obligations have been paid, the directors of the district shall file an affidavit with the clerk of the district court. The affidavit shall state that the district has disposed of its property, has paid all of its obligations and shall describe the lands or property to be released from the district. The court shall then declare said district dissolved and its lands and property released.

The board of directors of the district shall then file a certificate of dissolution in the office of the county clerk of each county in which the district is located. The certificate shall state that the district has disposed of its property, has paid all of its obligations, has been dissolved and shall describe the lands or other property released from the district.

Added by Laws 1972, c. 249, § 13. Amended by Laws 1985, c. 353, § 16, eff. July 30, 1985.

§82-1279. Inactive districts.

If a district is inactive, the judge of the district court for the county in which fifty percent (50%) or more of the real property of the district is located may designate a board of directors who shall act with the same authority in dissolving the district as if they had been appointed members of the district pursuant to Section 1268 of this title.

Added by Laws 1972, c. 249, § 14. Amended by Laws 1985, c. 353, § 17, eff. July 30, 1985.

§82-1280. District property.

The district shall hold title to its property in its corporate name for the uses and purposes of the district. The formation of a district shall not transfer water rights to the district. Any district which contracts with the State of Oklahoma or the United

States may convey district property, with or without consideration, if such property is needed by the State of Oklahoma or the United States in connection with the construction, operation or maintenance of a project similar in purpose to that for which the district was organized.

Added by Laws 1972, c. 249, § 15.

§82-1281. Conflict of interest.

Except for contracts of employment, directors and employees shall not have a financial interest, directly or indirectly, in any contract entered into by the district. Directors and employees shall not receive any bonus, gratuity or bribe. They shall not spend funds of the district, directly or indirectly, for political purposes or political educational purposes, shall not engage in political campaigns in the name of the district, and shall not permit any property of the district to be used for any such purpose. Any violation of this section shall be a felony and shall work a forfeiture of office or employment and shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the State Penitentiary not exceeding five (5) years, or both.

Added by Laws 1972, c. 249, § 16. Amended by Laws 1985, c. 353, § 8, emerg. eff. July 30, 1985; Laws 1997, c. 133, § 596, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 432, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 596 from July 1, 1998, to July 1, 1999.

§82-1282. Joining and withdrawing from district - Consent to provide certain services - Purchase of certain facilities.

A. Once a district has been organized under this act, any one or more public agencies not joining in the original organization agreement may subsequently join the district by becoming a signatory to the interlocal agreement. A public agency, by act of its governing body, may withdraw from a district after it is organized; however, such withdrawal shall not impair the rights of the district or other person in any contract, pledge of revenues or other financial obligation to which the public agency is a party. Such withdrawal may only be permitted by the board if rights of the district, other public agency members and holders of any obligations, contractual or otherwise, can be adequately protected by the authority or any settlement agreed upon with the withdrawing public agency.

B. A district may not provide water, sewage or any other services to an existing public agency or to persons within the geographic boundaries of an existing public agency which provides water or sewage services without the consent of the public agency, which consent shall be given by action of its governing body. In case of annexation of district territory by a municipality which is

not a member of the district, the municipality may purchase at the appraised value the district's water and sewage facilities except those facilities necessary for the operation of the remainder of the district.

Added by Laws 1985, c. 353, § 9, emerg. eff. July 30, 1985.

§82-1283. Contracts and agreement for purchase of district services or products.

A. In order to accomplish the purposes of this act, any public agency, subject to any applicable restrictions of Article X, Sections 17, 26 and 27 of the Constitution of the State of Oklahoma, may enter into and carry out contracts and agreements for the purchase from the district of water, sewage and any other services or products of the district.

B. Each such contract and agreement for the provision of water, sewer or any other services to an existing public agency shall be for such period and shall contain such other terms, conditions and provisions, not inconsistent with the provisions of this act, as the board of directors shall approve.

C. Each such contract and agreement may be pledged by the district to secure its obligations and may provide that if one or more public agencies defaults in the payment of its obligations under such contract and agreement, the remaining public agencies having such contracts and agreements shall be required to pay for and shall be entitled proportionately to use or otherwise dispose of the products and services which were to be purchased by the defaulting public agency.

D. Each such contract and agreement shall be a limited obligation of a public agency payable from and may be secured by a pledge of and lien and charge upon, all or any part of the revenue derived or to be derived from the ownership and operation of its own water or sewage facility or system and, if so provided in such contract or agreement, shall be an expense of operation and maintenance thereof and shall not constitute an indebtedness of the public agency for the purpose of any statutory limitation.

E. Nothing in this act shall be construed to preclude a public agency from appropriating and using revenues received in any year to make payments due or to comply with covenants to be performed during that year under any contract or agreement entered into as contemplated in this act.

F. Any such contract or agreement may include provisions for the sale of services of a particular project or activity or for the sale of services generally without regard to a specific project or activity, or for the supply of a specific quantity of water or other specific services, or a percentage thereof, or for the supply of water or other services based upon the requirements of the purchaser

and on such other items and conditions as the board of directors and the contracting or agreeing party deem appropriate.

G. In the event of any failure or refusal on the part of the public agency to perform punctually any covenant or obligation contained in any such contract, the district may enforce performance by any legal or equitable process, including specific performance. Added by Laws 1985, c. 353, § 10, emerg. eff. July 30, 1985.

§2-1284. Issuance and sale of bond obligations.

A. The district may from time to time issue its obligations in such principal amounts as the district shall deem necessary to provide sufficient funds to carry out any of its corporate purposes and powers and to pay for any costs or expenses of the district incident to and necessary or convenient to carry out its corporate purposes and powers.

B. Every issue of obligations of the district shall be payable out of the revenues or funds of the district, subject to any agreements with the holders of particular obligations pledging any particular revenues or funds. The district may issue such types of obligations as it may determine, including obligations as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to the products and services thereof, or from one or more revenue producing contracts made by the district with any person, or public agency, or its revenues generally. Any such obligations may be additionally secured by a pledge or assignment of any revenue producing contracts made by the district with any person or of any grant, subsidy or contribution from any person or a pledge of any income or revenues, funds or monies of the district from any source whatsoever.

C. All obligations of the district shall have all the qualities of negotiable instruments under the laws of the state.

D. Obligations of the district shall be authorized by a resolution of the board of directors adopted by at least three-fourths (3/4) of the members of the Board as constituted. Obligations shall bear interest at a rate not exceeding a rate of fourteen percent (14%) and may be executed or issued under such contract or under a trust indenture, bond resolution, or other security or contractual agreement, in one or more series, and shall bear such date or dates, mature at such time or times which may be fixed or may change at such time or times and in accordance with a specified formula or method of determination, be in such form, either coupon or registered, carry such conversion, registration, and exchange privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or without the state, be subject to such terms of redemption with or without premium, and contain or be subject to such other terms as the

bond resolution, trust indenture or other security or contractual agreement may provide, and shall not be restricted by the provisions of any other law limiting the amounts, maturities or other terms of obligations of eligible public agencies or private persons. Any bond obligations shall be sold at par, in such manner as the board of directors shall determine, at public sale. The board of directors may also authorize bonds to be issued and sold from time to time and delegate to such officer or agent of the district as the board of directors shall select the power to determine the time and manner of sale and the maturities of such bonds, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination, and such other terms and conditions, as may be deemed appropriate by the officer or agent of the district designated by the board of directors. However, the amounts and maturities of such bonds shall be within the limits prescribed by the board of directors in its resolution delegating such officer or agent the power to authorize the sale and issuance of such bonds.

E. Pending preparation of definitive obligations, the district may issue temporary obligations which shall be exchanged for the definitive obligations.

F. Obligations of the district may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state and without any other proceeding or the happening of any other condition or occurrence except as specifically required by this act.

G. 1. At least five (5) business days prior to delivery of and payment for any bond obligations, there shall be filed with the Attorney General of the State of Oklahoma and the Secretary of State a preliminary copy of the official statement, prospectus or other offering document pertaining to the issuance; within fifteen (15) business days after the sale or sales of said bond obligations, there shall be filed with the Attorney General of the State of Oklahoma, the Secretary of State and the Oklahoma Securities Commission a copy, in final form, of the official statement, prospectus or other offering document. If no official statement, prospectus or other offering document is used in connection with the sale of such bond obligations, in lieu thereof, there shall be filed a copy of the draft and final proceedings of the district authorizing the sale and issuance of such bond obligations. Within fifteen (15) business days after the sale or sales of said bonds, the district shall file with the Attorney General a copy of all transcripts of proceedings of the district and all resolutions passed and actions taken by it in connection with the authorization, issuance and sale of the bond obligations. The bond resolution, trust indenture or other security or contractual agreement under which any bonds are issued shall constitute a contract with the holders of the bond obligations and

may contain such provisions as the board of directors and holders of obligations agree to.

2. a. Within ten (10) business days after receipt of transcripts of all proceedings of the district and all resolutions passed and actions taken by it in connection with the authorization, issuance and sale of bond obligations, the Attorney General of the State of Oklahoma shall examine and approve or disapprove all of such proceedings and, if he finds such bond proceedings and sale to be constitutional and lawful, shall execute a certificate and file such certificate of record in the office of the Secretary of State. Such certificate shall be in substantially the following form:
I have examined all proceedings had in connection with the issuance of the _____ Regional Water District bonds in the aggregate principal amount of \$_____, dated _____, authorized and sold pursuant to _____, and find said proceedings and sale to be constitutional, lawful and regular in all particulars and that said bonds will be valid obligations of the _____ Regional Water District. Unless suit thereon shall be brought in the Supreme Court of Oklahoma within thirty (30) days from the date of this certificate, said bonds shall be incontestable for all purposes.

Date Attorney General of Oklahoma

b. Upon the filing of such certificate, bonds issued pursuant to proceedings so examined by the Attorney General shall be incontestable for all purposes upon the expiration of thirty (30) days from the date of such certificate, unless suit be brought in the Supreme Court of Oklahoma prior to the expiration of said period. A facsimile of such Attorney General's certificate shall appear on each bond so issued. Failure of the Attorney General to approve or otherwise act as required herein shall, for all purposes, be deemed an approval of such proceedings and a waiver of the requirement for his certification. In the absence of an express certification, the thirty-day period for the filing of suit in the Supreme Court of Oklahoma shall commence upon the eleventh day following receipt of the transcript of proceedings of the district in the office of the Attorney General. The Supreme Court of Oklahoma is hereby vested with exclusive jurisdiction over any litigation involving the validity of any bonds issued under the provisions of this act.

H. Except as provided for in subsection G of this section, any pledge of revenues, securities, contract rights or other personal property made by the district pursuant to this act shall be valid and binding from the date the pledge is made. The revenues, securities, contract rights or other personal property so pledged and then held or thereafter received by the district or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district without regard to whether such parties have notice thereof. The bond resolution, trust indenture, security agreement or other instrument by which a pledge is created need not be filed or recorded in any manner.

I. The principal of, premium, if any, and interest upon any bond obligations issued by the district shall be payable solely from the revenues or funds pledged or available for their payment as authorized in this act. The bond obligation shall contain a statement that it constitutes an obligation of the district, that the principal thereof, premium, if any, and interest thereon are payable solely from revenues or funds of the district and that neither the state nor any political subdivision thereof, nor any public agency which has contracted with the district, is obligated to pay the principal of, premium, if any, or interest on the bond obligations and that neither the faith and credit nor the taxing power of the state or any such political subdivision thereof or of any such public agency is pledged to the payment of the principal of, premium, if any, or the interest on the bond obligations.

Added by Laws 1985, c. 353, § 11, emerg. eff. July 30, 1985.

§82-1285. County sales tax revenues - Application to facilities.

A. Any county of this state, the territorial limits of which are totally within the boundaries of a regional water district organized under the provisions of this act, and which is qualified to levy a county sales tax pursuant to the provisions of Sections 1370, 1371 and 1372 of Title 68 of the Oklahoma Statutes, may, by a majority vote of its board of county commissioners, deem water facilities and sewer facilities, as defined in this act, to be capital improvements.

B. Any county of this state qualified under subsection A of this section which follows the proscriptions mandated in Sections 1370, 1371 and 1372 of Title 68 of the Oklahoma Statutes, may use a portion not to exceed forty percent (40%) of the proceeds of said county sales tax to contract with the regional water district for the specific purpose of financing such planning and capital costs, or reimbursing such planning and capital costs as are properly associated with the construction, erection, purchase or acquisition of plants, buildings, works, property rights, transportation and distribution lines, facilities or equipment of systems necessary to

transport, distribute, sell, furnish, treat, store and dispose of water or sewage by the district.

C. Any sales tax levied pursuant to Sections 1370, 1371 and 1372 of Title 68 of the Oklahoma Statutes and approved by a majority of the registered voters of the county voting thereon shall be, and is herein declared to be a county tax; however, nothing in this act shall prohibit the board of county commissioners of any county qualified under the provisions of subsections A and B of this section from specifying, in advance of an election called to approve the imposition of said tax, that the intended use and purpose of a portion of the proceeds of such levy are to be contractually obligated to the district.

Added by Laws 1985, c. 353, § 12, emerg. eff. July 30, 1985.

§82-1286. Annual audit, report and meeting.

A. The board shall cause to be prepared by an independent certified accountant an annual certified audit of the funds, assets, books and records of the district. The audit shall be completed and filed after the close of each fiscal year of the district. A copy of the audit shall be filed with the State Auditor and Inspector, the district and with each of the public agency members of the district within nine (9) months after the close of the district's fiscal year. The audit shall be conducted in conformance with applicable generally accepted auditing standards.

B. The board shall also cause to be prepared an annual report on the activities of the district to be filed, at the same time as the district's audit is filed, with each of the public agency members of the district. A copy of the annual report shall also be filed with the State Board and the State Department of Health.

C. The board shall call an annual meeting for representatives of each of the member public agencies for the purpose of reviewing the audit and annual report prepared in accordance with this section. At least twenty (20) days' notice shall be given to the clerk or secretary of each member public agency prior to the date of the meeting.

Added by Laws 1985, c. 353, § 13, emerg. eff. July 30, 1985.

§82-1287. Applicable statutory provisions.

A. The following statutory provisions shall be applicable to the operations and governance of a district organized under this act:

1. The Oklahoma Open Meeting Act;
2. Section 24 of Title 51 of the Oklahoma Statutes pertaining to public records; and
3. The Public Competitive Bidding Act of 1974.

B. The district shall also comply with any applicable review or reporting requirements of a state or federal regulatory agency as to water or sewage activities, facilities or plans.

Added by Laws 1985, c. 353, § 14, emerg. eff. July 30, 1985.

§82-1288. Exemption from Corporation Commission jurisdiction.

A district organized under this act shall be exempt in any and all respects from the jurisdiction or control of the Oklahoma Corporation Commission.

Added by Laws 1985, c. 353, § 15, emerg. eff. July 30, 1985.

§82-1324.1. Short title.

This act may be cited as the "Rural Water, Sewer, Gas and Solid Waste Management Districts Act."

Added by Laws 1972, c. 254, § 1. Amended by Laws 1975, c. 170, § 1, emerg. eff. May 21, 1975.

§82-1324.2. Definitions.

As used in this act unless the context clearly requires otherwise:

1. "District" means a public nonprofit water district, a nonprofit sewer district, a public nonprofit natural gas distribution district or a nonprofit solid waste management district or a district for the operation of all or a combination of waterworks, sewage facilities, natural gas distribution facilities and solid waste management systems, created pursuant to this act;

2. "Board" means the governing body of a district;

3. The terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any proposed rural water district, rural sewer district, rural natural gas distribution district or rural solid waste management district is located;

4. "Corporation" means a not-for-profit corporation organized:

a. pursuant to the provisions of the Oklahoma General Corporation Act for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly to its shareholders or members as such and having no capital stock, and

b. for the purpose of developing and providing rural water supplies to serve rural residents.

5. "Rural resident" means any natural person, firm, partnership, association, corporation, business trust, federal agency, state agency, state or political subdivision thereof, municipality of ten thousand (10,000) persons or less, or any other legal entity, owning or having an interest in lands within the rural area located within the boundaries of the district;

6. "Rural area" means any area lying outside the corporate limits of any municipal corporation and includes any areas of open

country, unincorporated communities, and, with the consent of the governing body thereof by ordinance duly adopted, may include the area within the corporate limits of any municipality having a population of less than ten thousand (10,000) persons according to the last decennial census, when said municipality is one of the petitioners for creation of a district or for the annexation of additional territory as provided by Section 1324.13 of this title; provided, further, that when a water, sewer, natural gas or solid waste management district is totally within the municipal city limits of a city with ten thousand (10,000) population or less, the board of directors of the sewer, natural gas, water or solid waste management district shall be the governing body of the town. Provided, further, that when a city or town with a population of ten thousand (10,000) or less receives the majority of its water from a rural water, natural gas, sewer or solid waste management district, any resident of said city or town shall be eligible to serve on the board of directors. Provided, further, that areas lying within the corporate limits of any municipality having a population of more than ten thousand (10,000) persons according to the last decennial census may be included in a water, sewer, natural gas or solid waste management district with the consent of the governing body by ordinance duly adopted when such water, sewer, natural gas or solid waste services are not and cannot be provided in a reasonable time by other sources;

7. "Benefit unit" means a legal right to one service connection to the district's facilities and to participate in the affairs of the district;

8. "Participating member" means any rural resident who has subscribed to one or more benefit units;

9. "Sewage facilities" means the necessary facilities of collection, transportation, storage, treatment or processing and disposal or release of sewage;

10. "Solid waste management system" means the entire process of collection, transportation, storage, processing and disposal of solid wastes;

11. "Water works" means the necessary facilities from the initial source to the place for consumer utilization, and includes supply, storage, treatment, transportation and distribution;

12. "Solid waste" means all putrescible and nonputrescible refuse in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes and hazardous wastes including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes; and

13. "Gas distribution facilities" means the necessary facilities from the initial source to the place for consumer utilization and includes supply, transportation and distribution.

Added by Laws 1972, c. 254, § 2. Amended by Laws 1975, c. 170, § 2, emerg. eff. May 21, 1975; Laws 1981, c. 117, § 1, emerg. eff. April 28, 1981; Laws 1994, c. 175, § 1, eff. Sept. 1, 1994.

§82-1324.3. Purpose of districts - Organization.

Public nonprofit rural water districts, public nonprofit rural sewer districts, public nonprofit natural gas distribution districts and public nonprofit rural solid waste management districts may be organized under this act for the purpose of developing and providing an adequate rural water supply, gas distribution facilities, sewage disposal facilities and solid waste management system to serve and meet the needs of rural residents within the territory of the district. The board of county commissioners of each county in this state shall have the power and it shall be their duty, upon a proper petition being presented, to incorporate and order the creation of rural water, sewer, gas and solid waste management districts in the manner hereinafter provided.

Added by Laws 1972, c. 254, § 3. Amended by Laws 1975, c. 170, § 3, emerg. eff. May 21, 1975.

§82-1324.4. Petition for incorporation of petition - Contents.

Any two or more owners of lands may file with the county clerk a petition addressed to the board of county commissioners praying for the incorporation of a district under the provisions of this act. The petition shall give a legal description of the lands owned by the petitioners and other lands which the petitioners propose to be incorporated into the proposed district and shall state:

1. That the rural residents within such territory are without an adequate water supply, sewage facilities, gas distribution facilities or solid waste management system to meet their needs;

2. That the construction, installation, improvement, maintenance and operation of all or any combination of water works, sewage facilities, gas distribution facilities and solid waste management systems are necessary to provide an adequate water supply, sewage facilities, gas distribution facilities or solid waste management system to serve rural residents of the district;

3. That such improvements or works will be conducive to and will promote the public health, convenience and welfare; and

4. That there is sufficient water available for purchase or available for appropriation by the Oklahoma Water Resources Board to serve the needs of the district. Attached to said petition shall be an accurate map or plat of the proposed territory to be embraced within the district showing the location of said territory by reference to sections or portions thereof and the township and range wherein the same are located.

Added by Laws 1972, c. 254, § 4. Amended by Laws 1975, c. 170, § 4, emerg. eff. May 21, 1975.

§82-1324.5. Notice of filing and pendency of petition - Public hearing - Notice of hearing.

Whenever a petition as provided in the preceding section is filed with the county clerk, he shall thereupon give notice to the county commissioners of the filing and pendency of said petition, whereupon, if the petition proposes the creation of a water district, the county commissioners shall immediately determine from the Oklahoma Water Resources Board whether or not there is water available to adequately serve the proposed district, and the county commissioners shall forthwith enter their order setting a public hearing upon said petition for a day certain and directing the county clerk to give notice of said hearing by legal publication for two (2) consecutive weeks in a newspaper published in each county containing lands embraced within the boundaries of the proposed district. Said newspapers must have a general circulation in the county of publication. Provided, however, if there is a county in which there is no newspaper of general circulation published, notice of such hearing shall be given by posting in five public places within said county, one of which shall be the county courthouse. Such notice shall contain: a brief and concise statement describing the purpose of such hearing; a description of the territory to be embraced within said district; a notice to all persons residing or owning property and incorporated municipalities within the proposed district that they may appear upon the date and at the time and place of said hearing to show cause, if any there be, why said petition should not be granted; and a notice to all rural residents of the proposed district that, if said district shall be ordered created, an organizational meeting to elect a board of directors and officers and to adopt bylaws will be held immediately following the entry of the order creating said district. In addition, the county clerk shall, at least ten (10) days before the date fixed for said hearing, give or send by registered or certified mail notice thereof to each of the petitioners.

Added by Laws 1972, c. 254, § 5. Amended by Laws 1975, c. 170, § 5, emerg. eff. May 21, 1975.

§82-1324.6. Duties of board of commissioners at hearing - Declaration of incorporation.

At the time and place set for the hearing and consideration of the petition, it shall be the duty of the board of county commissioners to determine:

1. Whether proper notice of the hearing has been given as required by Section 1324.5 of this title;
2. Whether the rural residents of the area described in the petition are without an adequate water supply, sewage facilities, gas

distribution facilities or solid waste management system to meet their needs;

3. Whether the construction, installation, improvement, maintenance and operation of all or a combination of water works, sewage facilities and solid waste management systems are necessary to provide an adequate water supply, sewage facilities, gas distribution facilities or solid waste management system to serve rural residents of the district;

4. Whether such improvements or works will be conducive to and will tend to promote the public health, convenience and welfare;

5. The area which should be included in the district; and

6. Whether there is sufficient water available for purchase or available for appropriation by the Oklahoma Water Resources Board. If, upon such consideration, it shall be found that such petition is in conformity with the requirements of this act, and that such a district should be created the board of county commissioners shall thereupon immediately declare the land described in the petition or any part thereof to be incorporated as a district under the name of "Rural Water and/or Sewer and/or Gas and/or Solid Waste Management District No. _____, _____ County, Oklahoma" (inserting number in order of incorporation and name of county) and thereupon the district shall be a body politic and corporate and an agency and legally constituted authority of the State of Oklahoma for the public purposes set forth in this act. The board of county commissioners shall thereupon enter upon its records full minutes of such hearing, together with its order creating the rural district under said corporate name for the purposes of this act. Such districts shall not be political corporations or subdivisions of the state within the meaning of any constitutional debt limitations, nor shall said districts have any power or authority to levy any taxes whatsoever or make any assessments on property, real or personal.

Added by Laws 1972, c. 254, § 6. Amended by Laws 1975, c. 170, § 6, emerg. eff. May 21, 1975.

§82-1324.7. Board of directors - Bylaws.

Immediately following the incorporation of the district by the board of county commissioners, there shall be a special meeting of the owners of land within any such district to select from their number a board of directors and to adopt bylaws for governing and administering the affairs of the district. The number of members of said board, not to exceed nine, shall be determined by a majority vote of those owners of land present. Any original director who shall fail to subscribe to one or more benefit units and pay the established unit fee for each unit to which he subscribes within thirty (30) days after entry in the minutes of the board of a declaration of availability of such benefit units for subscription shall forfeit his office. Those owners of land present at such

special meeting may adopt and amend any of such proposed bylaws and may propose or adopt additional or other bylaws. Such bylaws may be amended at any annual or special meeting of the participating members of the district.

Added by Laws 1972, c. 254, § 7.

§82-1324.8. Filing of water purchase contracts.

When a water purchase contract has been executed, the board of directors shall either file a copy of the water purchase contract with the Oklahoma Water Resources Board or file an application for appropriation of water with the board.

Added by Laws 1972, c. 254, § 8.

§82-1324.9. Board as governing body - Meetings - Vacancies - Rules - Records - Power to charge water fee.

A. The board shall be the governing body of the district and shall meet annually on a date prescribed by the bylaws and at such other times as may be determined by the board or upon call by the chair or any two members of the board. Vacancies on the board shall be filled for the unexpired term, and until such appointee's successor is elected and has qualified, by appointment by the remaining members of the board. The board shall adopt such rules in conformity with the provisions of this act and the bylaws of the district as are deemed necessary for the conduct of the business of the district. It shall be the duty of the secretary to cause an entry to be made upon its records showing all of its minutes, decisions and orders made pursuant to the provisions of this act.

B. The district shall have the power to charge an amount, as determined by the board and approved by the members of the district, not to exceed ten cents (\$0.10) per one thousand (1,000) gallons of water sold, to be included in the water rates for the district and paid by the retail water consumers of the district. The charge shall be approved by a majority vote of the participating members of the district who are present at a regular or special meeting, for which public notice has been given and the issue is on the agenda and presented for a vote. The public notice of the meeting and election shall state the amount of the proposed fee, the intended purpose of the fee, and the entity or entities which will receive the monies. If approved, the board shall distribute the monies received from the charge to any entity or entities, except for any entity that has statutory or regulatory authority over any aspect of the district, selected by the board for purposes that will assist or aid the board in the performance of its duties for the district and which will benefit the area within the district or the members of the district.

Added by Laws 1972, c. 254, § 9. Amended by Laws 2007, c. 13, § 1, emerg. eff. April 17, 2007.

§82-1324.10. Powers of district.

A. Every district incorporated hereunder shall have perpetual existence, subject to dissolution as provided by the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, and shall have power to:

1. Sue and be sued, complain and defend, in its corporate name;
2. Adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
3. Acquire by purchase, lease, gift, or in any other manner, and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein; and to acquire and own water rights or rights to natural gas under the laws of this state, and to construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights and transportation and distribution lines, facilities, equipment or systems necessary to transport, distribute, sell, furnish and dispose of water or gas, and either subsequent to, or in connection with, the installation of water distribution, sewage facilities, gas distribution facilities or solid waste management system, to construct, operate and maintain sewage disposal facilities or solid waste management system to serve the users of the district. Provided, all projects of the district shall be self-liquidating, and the costs of construction shall be payable solely from the income, revenues, and properties of the district, and all property, assets and revenues of the district shall constitute a special fund for the accomplishment of the purposes and objectives of the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;
4. Borrow money and otherwise contract indebtedness for the purposes set forth in this act, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and, in connection with such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to issue its notes or obligations therefor, and to secure the payment thereof by mortgage, pledge or deed of trust on all or any property, assets, franchises, rights, privileges, licenses, rights-of-way, easements, revenues, or income of the said district;
5. Make bylaws for the management and regulation of its affairs;
6. Appoint officers, agents and employees, to prescribe their duties and to fix their compensation; and to employ such common and skilled labor and professional and other services as may be necessary to the proper performance of such work or improvement as is proposed to be done within any such district, and the maintenance thereof;

7. Sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district;

8. In connection with the acquisition, construction, improvement, operation or maintenance of its transportation, and distribution lines, system, equipment, facilities or apparatus, use any street, road, alley or highway which is owned or held by the state, or any political subdivision. The location of sewer, gas or water lines or other facilities connected with the water, sewer, gas or solid waste management district in such streets, roads, alleys or highways, must be concurred in by the governing or appropriate bodies of the cities, counties or state, which have jurisdiction over said property. The district plans for locating lines shall comply with the written specifications for location of lines and facilities as set forth by the governing body of the county for property within their jurisdiction. If the governing body of the county does not have written specifications for location of lines and facilities for property within their jurisdiction, they shall concur with the district plans or provide the district with an alternative plan. The governing body of any such city, county or state agency may require that if a district attaches a gas line to any bridge, underpass or overpass, that such district furnish liability insurance in an amount to be determined by the governing body, covering damage which may be occasioned to such bridge, underpass or overpass, as a result of fire or explosion originating from said gas line. Provided that the relocation or rearrangement of any public utility's or common carrier's facilities of service required to be made to permit or accommodate installation or maintenance of a district's facilities on, across or under any such publicly owned or held real property or interest therein shall be performed at the sole cost of the district;

9. Make any and all contracts necessary or convenient for the exercise of the powers of the district;

10. Fix, regulate and collect rates, fees, rents or other charges for water, gas and any other facilities, supplies, equipment or services furnished by the district. Said rates shall be just, reasonable and nondiscriminatory;

11. Do and perform all acts and things, and to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purposes for which the district is created;

12. Buy from or sell water or gas to any municipality, or to another district created under this act, or to any other legal entity engaged in the distribution and storage of water or gas, provided quantities of water sold do not exceed any vested right of appropriation granted by the Oklahoma Water Resources Board;

13. Enter into contracts with the United States of America, or any agency thereof, or the state, or any political subdivision or agency thereof, for the construction, operation and maintenance of

structures needed to provide water storage to meet present and future anticipated needs and demands of the district;

14. Enter into contracts jointly with any other district, municipality, city or town, the state, the United States of America, or any governmental agency, for the purpose of purchasing water, constructing, acquiring, operating water facilities or purchasing or leasing reservoir space;

15. Enter into contracts for fire protection and to construct, enlarge, extend or otherwise improve community facilities providing essential services to rural residents, including, but not limited to, fire protection, ambulance service, community centers and outdoor recreational facilities; and

16. Have and exercise the right of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes, provided, that the use of said eminent domain provisions, shall be restricted to the purpose of developing and providing rural gas distribution, water works and sewage disposal facilities. Provided, however, no personal or real property, easement or right-of-way of any utility may be acquired by eminent domain.

B. No district organized hereunder shall sell or export water or gas pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act outside of the state without consent of the Legislature.

C. Appropriative rights to water held by the district shall not be alienated or encumbered apart from the alienation or encumbrance of the facilities of the district.

D. The board of directors shall, on or before July 1 of each year, file with the county clerk of each county in which any part of said district is located, an annual report for the preceding calendar year. Such report shall list all monies collected and all monies disbursed during said calendar year. Said report shall also specify any and all indebtedness outstanding at the end of the calendar year. Added by Laws 1972, c. 254, § 10. Amended by Laws 1975, c. 170, § 7, emerg. eff. May 21, 1975; Laws 1980, c. 38, § 1, emerg. eff. March 26, 1980; Laws 1986, c. 53, § 2, eff. Nov. 1, 1986; Laws 1987, c. 124, § 2; Laws 1991, c. 59, § 1, emerg. eff. April 10, 1991; Laws 1997, c. 172, § 1, emerg. eff. May 7, 1997; Laws 2001, c. 221, § 1, emerg. eff. May 21, 2001.

§82-1324.11. Revenues.

A. Rural water, sewer, gas and solid waste management districts formed pursuant to this act shall be operated without profit, but the rates, fees, rents or other charges for water, gas and other facilities, supplies, equipment or services furnished by the district shall be sufficient at all times:

1. To pay all operating and maintenance expenses necessary or desirable for the prudent conduct of its affairs and the principal of and interest on the obligations issued or assumed by the district in the performance of the purposes for which it was organized; and

2. For the creation of adequate reserves for the retirement of indebtedness, maintenance and other purposes necessary and expedient to meeting all obligations of the district.

B. The revenues of the district shall be devoted, first, to the payment of operating and maintenance expenses and the principal and interest on outstanding obligations, and, thereafter, to such reserves for improvements, retirement of indebtedness, new construction, depreciation and contingencies as the board of directors may from time to time prescribe.

C. Rates shall be reviewed and adjusted as deemed necessary by the board of directors to ensure that revenues will be adequate for, but not exceed, the amounts required for the purposes provided for in subsection B of this section.

Amended by Laws 1982, c. 28, § 1, operative July 1, 1982.

§82-1324.12. Benefit units.

Plans, specifications, proposed operating budget, schedules of unit fees and benefit units, rules and regulations, estimates of cost for any proposed improvement authorized by this act shall be filed with the secretary of the district. The total benefits of any such improvement shall be divided into a suitable number of benefit units. Upon determining a schedule of benefit units and unit fees, the board of directors shall cause a declaration of availability of such units for subscription to be entered in its minutes and except for residents of cities and towns as provided in paragraph 5 of Section 1324.2 of this title any individual who fails to become a participating member within thirty (30) days thereafter shall not be eligible to hold office as a director, nor shall any individual, firm, partnership, association, or corporation which fails to become a participating member within ninety (90) days after such declaration be qualified to participate at any meeting or vote at any election held thereafter unless such individual, firm, partnership, association, or corporation shall thereafter become a participating member. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners or tenants of land located within the district who are not participating members may subscribe to such units as the Board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members.

Added by Laws 1972, c. 254, § 12. Amended by Laws 1981, c. 117, § 2, emerg. eff. April 28, 1981; Laws 1994, c. 175, § 2, eff. Sept. 1, 1994.

§82-1324.13. Annexation of additional territory - Petition.

Lands outside the boundaries of any district which can economically be served by the facilities of the district may be annexed to such district. Any two or more owners of such lands shall file a petition for annexation with the county clerk addressed to the board of county commissioners, which shall give the legal descriptions of the lands owned by the petitioners and other lands which the petitioners propose to be annexed to such district, and shall state:

1. The name of the district to which annexation is desired;
 2. That such lands are without an adequate water supply, sewage facilities, gas distribution system or solid waste management system;
 3. That annexation to said district will be conducive to and will promote the public health, convenience and welfare of rural residents in the district; and
 4. That adequate water is available to the district or has been appropriated to the district by the Oklahoma Water Resources Board.
- Added by Laws 1972, c. 254, § 13. Amended by Laws 1975, c. 170, § 9, emerg. eff. May 21, 1975.

§82-1324.14. Notice of filing of annexation petition.

Notice shall be given, as provided in Section 5, of the filing of a petition for annexation fixing the time and place of hearing. Added by Laws 1972, c. 254, § 14.

§82-1324.15. Hearing on annexation petition.

At the time and place set for the hearing and consideration of the petition, the board of county commissioners shall ascertain whether proper notice has been given and whether the statements contained in the petition are true. If true, and if a majority of the members of the Board of the district to which annexation is desired do not object to such statement, the board of county commissioners shall enter into its minutes such findings and shall set forth in said minutes a description of the new boundaries of such district. Thereafter, owners of land located within the annexed territory shall be entitled to subscribe to such benefit units upon such terms and conditions as the board in its discretion may provide. Any owner of land located within any territory annexed to a district who shall subscribe to one or more benefit units and comply with terms and conditions provided by the board, shall be entitled to the same rights as participating members. Added by Laws 1972, c. 254, § 15.

§82-1324.16. Term of office - Annual meeting - Elections - Training workshops - Nepotism.

A. Except as otherwise provided by law:

1. The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members of either the first, second or third year following the year of the incorporation of the district. Members shall serve until their successors are elected and have qualified. As nearly as possible, the terms of an equal number of directors on any such board shall expire on each of the dates;

2. The bylaws of the district shall specify the length of the term of office of its directors, which term shall not exceed six (6) years. At the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office until a successor is elected and has qualified. A director may be elected to succeeding terms without limitation; and

3. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be given to each of its participating members. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which the member has subscribed.

B. 1. A requirement for qualification to serve as a board member for a rural water district or a nonprofit rural water corporation shall be a written pledge that upon election such board member shall attend a minimum of six (6) hours of workshop training to be offered periodically on a regional basis within twelve (12) months following election of such board member, and to be organized by the Oklahoma Water Resources Board in cooperation with the Oklahoma Rural Water Association with the purpose of study and instruction in areas of district financing, law, and the ethics, duties and responsibilities of district board members. Beginning July 1, 2001, all new and existing board members shall be required to obtain continuing education by attending a minimum of six (6) hours of workshop training every three (3) years.

2. The district or corporation shall reimburse all reasonable expenses incurred by any board member for attending such training workshop.

3. To avoid members having to interfere with their jobs or employment, such training sessions may be divided into three-hour segments, and insofar as possible be scheduled for evening sessions. Technology center school facilities, college facilities or other

public facilities may be utilized in all parts of the state for convenience of the members. Such workshops must be offered within seventy-five (75) miles of the members' residences.

C. Should any pledging board member fail to attend the workshop training as required in subsection B of this section, he or she shall be deemed ineligible to serve as a board member commencing at the next regularly scheduled meeting of the board following the twelve-month period. The remaining board members shall select from the membership, as provided by the district or corporation bylaws, another qualified member to fill the vacancy and that person shall pledge to attend the workshop training provided for in this section. The appointed member shall only serve until the next regularly scheduled election of board members and an election shall be held to fill the unexpired term of the vacated position.

D. Upon the election of a board member, the provisions of Sections 481 through 487 of Title 21 of the Oklahoma Statutes relating to nepotism shall not prohibit any employee already in the service of the district from continuing in such service or from promotion therein. Provided, however, the board member related to the employee shall be excused from the board meeting during any discussion of or action taken on any matter that could affect the employment or compensation for employment of such employee.

Added by Laws 1972, c. 254, § 16. Amended by Laws 1985, c. 16, § 1; Laws 1994, c. 175, § 3, eff. Sept. 1, 1994; Laws 1997, c. 172, § 2, emerg. eff. May 7, 1997; Laws 1997, c. 404, § 6, emerg. eff. June 10, 1997; Laws 2001, c. 160, § 2, emerg. eff. May 1, 2001; Laws 2001, c. 414, § 12, eff. July 1, 2001; Laws 2004, c. 221, § 1, eff. Nov. 1, 2004.

NOTE: Laws 1997, c. 62, § 1 repealed by Laws 1997, c. 404, § 9, emerg. eff. June 10, 1997. Laws 2001, c. 33, § 180 repealed by Laws 2001, c. 414, § 14, eff. July 1, 2001.

§82-1324.17. Officers.

The board of directors shall annually elect a chairman, vice-chairman, secretary and treasurer for a term of one (1) year and until a successor is elected and has qualified.

Added by Laws 1972, c. 254, § 17.

§82-1324.18. Duty of chairman - Compensation for services - District audits, reviews or compilations.

A. It shall be the duty of the chairman of the board of directors to keep in repair such works as are constructed by the district and to operate such works, all as directed by said board. The chairman and all persons who may perform any service or labor as provided herein shall be paid such just and reasonable compensation as may be allowed by the board of directors and said board shall annually prepare an estimated budget for the coming year, adjust

rates, if necessary to produce sufficient revenue required by such budget.

B. 1. The board of directors of each district with a gross operating revenue of Fifty Thousand Dollars (\$50,000.00) or more during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial audit in accordance with generally accepted auditing standards as of the end of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year.

2. The board of directors of each district with a gross operating revenue of less than Fifty Thousand Dollars (\$50,000.00) during a fiscal year shall cause to be prepared an annual review or compilation in compliance with standards promulgated by the American Institute of Certified Public Accountants. Copies of the review or compilation shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year for which the review or compilation is done.

C. Each annual review, compilation or audit prepared pursuant to this section shall be reported at the district's annual meeting. Nothing in this section shall in any way alter or eliminate the auditing requirements of any state or federal lending institution. Added by Laws 1972, c. 254, § 18. Amended by Laws 1994, c. 339, § 3, emerg. eff. June 8, 1994.

§82-1324.19. Dissolution of district prior to acquisition of assets.

A. The provisions of this section shall apply to dissolution of districts prior to acquisition of assets.

B. Whenever a petition signed by three-fourths (3/4) of the landowners in any district organized under provisions of this act or a petition signed by all of the directors of such district is presented to the board of county commissioners and it shall appear from said petition that said district owns no property of any kind exclusive of records, maps, plans and files; that all of its debts and obligations have been fully paid; that the district is not functioning, and will probably continue to be inoperative because the board of directors is unable to obtain the necessary financing or for any other reason, the board of county commissioners shall, after such finding, issue a certificate stating the allegations in said petition as true and declaring said district dissolved, and shall make full minutes of such hearing in its journal and deliver said certificate to the secretary of said district. The secretary of said district shall, within thirty (30) days thereafter, deliver all records, maps, plans and files to the county clerk, and thereupon said district shall be dissolved.

Laws 1972, c. 254, § 19; Laws 1993, c. 220, § 1, emerg. eff. May 24, 1993.

§82-1324.20. Dissolution of district - Disposition of facilities and property.

Whenever a district owning facilities and property desires to dispose of such facilities and property and become dissolved, the board of directors may adopt a resolution setting forth the proposed plan and, upon such plan being approved by three-fourths (3/4) of the participating members in a meeting called for that purpose, such resolution and plan may be submitted to the board of county commissioners. If approved by the commissioners, the commissioners shall thereupon authorize the board of directors to carry through said plan to dissolve and shall further authorize the board of directors to wind up the affairs of the district, pay all debts and expenses and to dispose of any property owned by the district and for the apportionment of the proceeds thereof together with any other monies belonging to the district to an adjoining rural water district or to any other political subdivision of the state. No money, property or the proceeds thereof shall be distributed to any private interests. Thereupon the district shall be dissolved as herein provided.

Laws 1972, c. 254, § 20; Laws 1977, c. 43, § 1; Laws 1993, c. 220, § 2, emerg. eff. May 24, 1993.

§82-1324.21. Release of lands from district - Petition - Notice.

In the event that landowners within a district desire to withdraw from such district, fifty-one percent (51%) of the affected landowners or the board of directors by resolution may petition the county commissioners to release those lands from the district. The petition shall describe by section or fraction thereof and by township and range the lands affected. After a finding that the granting of the petition is to the best interests of the affected landowners and the district, the board of county commissioners shall issue a certificate stating that the lands involved are released and separated from the district. Full minutes of the hearing shall be entered in the journal of the board of county commissioners and the certificate shall be delivered to the secretary of the district who shall, within thirty (30) days, cause the records of the district to be amended to exclude the lands affected. Notice shall be given, as provided in Section 1324.5 of this title, of the filing of a petition for release of lands as provided herein, fixing the time and place of hearing, and a copy of said notice shall be sent by certified mail to the chairman of the board of directors of the district in which the said lands are located.

Added by Laws 1972, c. 254, § 21. Amended by Laws 1974, c. 59, § 1, emerg. eff. April 13, 1974.

§82-1324.22. Exemption from taxes and assessments.

Districts formed hereunder shall be exempt from all excise taxes of whatsoever kind or nature, and further, shall be exempt from payment of assessments in any general or special taxing district levied upon the property of said district, whether real, personal or mixed; such exemption shall include, but not be limited to, franchise taxes or assessments or fees levied by a county or municipality for inspections of the facilities of the district which were not requested by the district. Any and all securities and evidences of indebtedness issued by a district created pursuant to this act and the income interest and capital gains thereon shall not be subject to the income tax laws of this state and persons owning or holding said securities and evidences of indebtedness or their heirs, devisees, successors, or assigns shall not be required to pay to the State of Oklahoma income tax upon the profits and capital gains upon said securities and evidences of indebtedness.
Added by Laws 1972, c. 254, § 22. Amended by Laws 1998, c. 283, § 4, emerg. eff. May 27, 1998.

§82-1324.23. Exemption from jurisdiction and control of Corporation Commission.

Rural water, sewer, gas and solid waste management districts, and corporations shall be exempt in any and all respects from the jurisdiction and control of the Corporation Commission of this state; provided, however, rural gas distribution systems shall be subject to the jurisdiction for only the pipeline safety program administered by the Oklahoma Corporation Commission.
Added by Laws 1972, c. 254, § 23. Amended by Laws 1975, c. 170, § 10, emerg. eff. May 21, 1975; Laws 1994, c. 175, § 4, eff. Sept. 1, 1994; Laws 1994, c. 315, § 22, eff. July 1, 1994.

§82-1324.24. Validating provisions.

The creation of all districts and all acts and proceedings taken in the creation thereof and all acts and things done by said districts, pursuant to the provisions of this act are hereby validated; and from and after the effective date of this act all such previously created districts shall be deemed to have been created, and all acts and things done by such previously created districts, henceforth shall be deemed to have been pursuant to and subject to the provisions of this act.
Added by Laws 1972, c. 254, § 24.

§82-1324.25. Annexation of additional territory - Petition.

Two or more districts organized under this act may be consolidated into a single district by complying with the procedures prescribed in this section.
The proposal for consolidation shall be prepared in written form and shall set forth in detail the reasons for consolidation and the

advantages which would accrue to each district from the proposal. The written proposal shall be considered and acted upon by the board of directors from each district affected at a duly called meeting. If the board of directors of each district approves the proposal by resolution, the proposal shall then be submitted to a vote of the membership of each district at a regular or special membership meeting. If the consolidation proposal is not approved by the membership of each district affected such districts may not be consolidated.

If the proposal is approved by the membership of each district, the boards of directors shall then submit it to the creditors of each district for approval or disapproval. In the event the creditors do not approve the consolidation proposal, the districts shall not be consolidated.

Upon approval of the proposal by the membership of each district and by all creditors, the board of directors of the districts desiring to be consolidated shall join in filing a petition, addressed to the board of county commissioners having jurisdiction as provided by this section, for a hearing to consolidate such districts into a single district. Said petition shall set forth the necessity for such consolidation of two or more districts, and that the consolidation of said districts shall be conducive to the public health, convenience, safety or welfare, and to the economical execution of the purposes for which the districts were organized. The consolidation proposal as approved by the membership and the boards of directors of each district and the approval of each of the creditors shall be attached to the petition as exhibits.

If the districts seeking consolidation are situated in one county, the petition shall be filed with the county clerk of said county, and the board of county commissioners of said county shall have jurisdiction to hear and determine the petition.

In the event the districts were organized in different counties the petition shall be filed with the county clerk of the county in which the greatest portion of the territory of the proposed consolidated district is located, and the board to determine the question of consolidation shall consist of the board of county commissioners from each of the counties, and a majority of the combined boards shall be necessary to render a decision.

Upon receipt of said petition, the county clerk shall thereupon give notice to the board or boards of county commissioners of the filing and pendency of said petition, whereupon the county commissioners of the county wherein the petition is filed shall enter its order setting hearing, and giving notice of the hearing, all in accordance with the provisions of this act for the creation of districts in the first instance. In addition to the notice as prescribed by the act for the creation of districts, the county clerk shall at least ten (10) days before the date fixed for said hearing

give or send by registered mail or certified mail notice thereof to each creditor of each of the districts to be consolidated, addressed to the creditor's last-known address.

After the hearing, should the board find that the averments of the petition are true and that said districts, or any of them, should be consolidated, the board shall enter its order directing the consolidation of the districts. The order shall set forth the corporate name of the consolidated district under the name of "Consolidated Rural Water and/or Sewer District and/or Gas District and/or Solid Waste Management District No. _____, _____ County (ies), Oklahoma." The order shall further provide that the consolidated district shall assume and become legally liable for all of the obligations of the districts consolidated into the single district.

Following the entry of said order, an organizational meeting of the combined membership of each of the districts shall be held for the purpose of electing directors and officers, and adopting bylaws. This organizational meeting shall be held in accordance with the provisions pertaining to the creation and organization of districts. From any order of the board, an appeal may be taken in the manner as provided for appeals from decision of the board of county commissioners.

All legal proceedings already instituted by or against any district involved in a consolidation proceeding may be revived and continued by or against the consolidated district by an order of the court substituting the name of such consolidated district.

Added by Laws 1975, c. 254, § 25. Amended by Laws 1975, c. 170, § 11, emerg. eff. May 21, 1975.

§82-1324.26. Enlargement of purposes and powers - Procedure.

Any district created for one of the authorized purposes of this act may enlarge its purposes and powers by following the procedure set forth herein:

The board of directors of the district shall adopt a resolution to enlarge the purposes and powers of the district and the resolution shall specifically state such additional purposes and powers. The district shall file a petition for enlargement of the purposes and powers of the district with the county clerk and a certified copy of the resolution for enlargement shall be attached to the petition. The county clerk shall thereupon give notice to the board of county commissioners of the filing of said petition and the board of county commissioners shall forthwith enter its order setting a public hearing upon said petition for a day certain and directing the county clerk to give notice of said hearing by legal publication in the manner described by Section 1324.5 of this title. Such notice shall contain a brief and concise statement describing the purpose of the hearing and the time and place set for the hearing and consideration

of the petition. It shall be the duty of the board of county commissioners to determine:

1. whether proper notice of the hearing has been given; and
2. whether the enlargement of the purposes and powers of the district is necessary to provide an adequate water supply, sewer facilities, gas distribution facilities or solid waste management system to serve rural residents of the district.

If, upon such consideration, it shall be found that the purposes and powers of the district should be enlarged, the board of county commissioners shall enter upon its records, full minutes of such hearing, together with its order enlarging the purposes and powers of the district. Such order shall also change the name of the district to disclose the purposes of the district, and the name of the district shall be indicated in the manner set forth in Section 1324.6 of this title.

Added by Laws 1972, c. 254, § 26. Amended by Laws 1975, c. 170, § 12, emerg. eff. May 21, 1975.

§82-1324.30. Definitions.

As used in Sections 1 through 6 of this act:

1. "Corporation" means a not-for-profit corporation organized:
 - a. pursuant to the provisions of the Oklahoma General Corporation Act for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such and having no capital stock, and
 - b. for the purpose of developing and providing rural water supplies to serve rural residents; and
2. "District" means a public nonprofit water district created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act.

Added by Laws 1989, c. 103, § 1, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.1 by Laws 1989, c. 369, § 153, operative July 1, 1989.

§82-1324.31. Organization of district.

Pursuant to the provisions of this act, any corporation which was formed prior to December 1, 1988, may organize and constitute a district subject to the provisions of the Rural Water, Sewer, Gas and Solid Waste Management Districts Act.

Added by Laws 1989, c. 103, § 2, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.2 by Laws 1989, c. 369, § 153, operative July 1, 1989.

§82-1324.32. Written proposals - Approval or disapproval - Petition for establishment of district - Hearing - Orders.

A. Prior to the organization of a district, the corporation shall have prepared a proposal in written form. The proposal shall include but not be limited to:

1. the reasons for organizing and constituting a district;
2. the advantages and disadvantages which would accrue from implementation of the proposal;
3. a brief and concise description of the territory to be embraced within the proposed district;
4. a statement that the territory described in paragraph 3 of this subsection does not include any territory that is presently within the boundaries of any other district or public water supply system;
5. a statement that the proposed district is embracing only those lands within the proposed boundaries described in paragraph 3 of this subsection which can reasonably and economically be served in the foreseeable future;
6. a statement that the organization of a district shall result in a voluntary dissolution of the corporation and upon passage of the proposal shall constitute the consent of the board of directors and the membership of the corporation to dissolve the corporation;
7. a statement that upon the affirmative order of the board of county commissioners to organize the district, the current board of directors and officers for the corporation shall serve as the board of directors and officers of the district until the next designated meeting of the district; and
8. a statement that upon the affirmative order of the board of county commissioners to organize the district, the bylaws of the corporation shall, as appropriate, constitute the bylaws of the district.

B. The written proposal shall be considered and acted upon by the board of directors of such corporation at a duly called meeting. If the board of directors approves the proposal by resolution by a majority vote, the proposal shall then be submitted to a vote of the membership of the corporation at a regular or special membership meeting. A member of the corporation may cast his vote in person or by proxy. Prior to the meeting a copy of the approved resolution and a stamped return envelope shall be mailed to the membership of the corporation. The appointment of a proxy shall be in writing filed with the secretary of the corporation at or before the meeting. In all other matters the appointment and authority of a proxy shall be governed by the provisions of Section 1057 of Title 18 of the Oklahoma Statutes.

If the proposal is not approved by a majority vote of the membership of the corporation, the proposal shall not be implemented.

C. Upon approval of the proposal by the membership of the corporation and by all secured creditors, the board of directors shall file a petition, addressed to the board of county commissioners

having jurisdiction as provided by subsection D of this section, for the establishment of the district. The proposal as approved by the membership and the board of directors and a list of the names and addresses of each of the secured creditors of the corporation shall be attached to the petition as exhibits.

D. 1. If the corporation is situated in one county, the petition shall be filed with the county clerk of said county, and the board of county commissioners of said county shall have jurisdiction to hear and determine the petition.

2. If the corporation is situated in more than one (1) county, the petition shall be filed with the county clerk of the county in which the greatest membership of the corporation is located and the board of county commissioners of such county shall have jurisdiction to hear and determine the petition.

E. Upon receipt of said petition, the county clerk shall thereupon give notice to the board of county commissioners of the filing and pendency of said petition, whereupon the county commissioners of the county wherein the petition is filed shall enter its order setting hearing and giving notice of the hearing, ten (10) days prior to the hearing. The board of county commissioners shall cause notice of such hearing to be published for at least one (1) day in a newspaper of general circulation published in the county or counties embraced within the proposed district. In addition to the notice as prescribed by this subsection, the county clerk shall at least ten (10) days before the date fixed for said hearing give or send by certified mail, return receipt requested, notice thereof to:

1. each secured creditor of the corporation, addressed to the secured creditor's last-known address as specified by the exhibit attached to the petition;

2. any other rural water district and other public water supplier in the county or counties in which the corporation has membership or serves; and

3. any city or municipality adjacent or contiguous to the proposed territory of the proposed district.

F. After the hearing, if the board finds that the averments of the petition are true and that the corporation should be organized and constitute a district pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, the board shall enter its order directing the organization of such district and shall declare the land described in the petition or any part thereof to be incorporated as a district under the name of "Rural Water and/or Sewer and/or Gas and/or Solid Waste Management District No. _____, _____ County, Oklahoma" (inserting number in order of incorporation and name of county). Thereupon the district shall be a legally constituted district pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act. The board of county commissioners shall enter upon its records full minutes of such hearing, together with

its order creating the rural district under the corporate name specified by this subsection.

Added by Laws 1989, c. 103, § 3, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.3 by Laws 1989, c. 369, § 153, operative July 1, 1989.

§82-1324.33. Dissolution of corporation - Transfer of assets, property, obligations and benefits.

A. Upon the affirmative order of the board of county commissioners to organize the district, the corporation shall be deemed dissolved. The board of directors of the corporation shall file notice of such dissolution with the Secretary of State.

B. All debts, liabilities and obligations of the corporation shall be paid and discharged or transferred pursuant to subsection E of this section.

C. Upon filing with the Secretary of State of notice of dissolution, the corporation shall cease to carry on its business except insofar as may be necessary for the winding up thereof.

D. Upon receipt of notice of dissolution and compliance with the provisions of this section, the Secretary of State shall issue a certificate of dissolution for the corporation.

E. 1. Except as otherwise provided by subsection B of this section, any employee benefits, assets, easements, and titles to any real property or personal property held by the corporation shall be construed to be the benefits, assets, easements, property and obligation of the district.

2. A single notice of the transfer shall be filed for such assets, easements or titles of record with the Secretary of State and in the office of the county clerk where such records are located.

3. Unless otherwise discharged by law, all legal proceedings instituted by or against the corporation prior to the organization of a district pursuant to the provisions of this act shall upon petition be renewed and continued by or against the district by an order of the court constituting the name of such district.

Added by Laws 1989, c. 103, § 4, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.4 by Laws 1989, c. 369, § 153, operative July 1, 1989.

§82-1324.34. Order constituting rural water districts.

Upon the affirmative order of the board of county commissioners to organize a district, the district shall be deemed to constitute a rural water district and shall comply with the provisions of the Rural Water, Sewer, Gas and Solid Waste Management Districts Act. Added by Laws 1989, c. 103, § 5, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.5 by Laws 1989, c. 369, § 153, operative July 1, 1989.

§82-1324.35. Continuation of certain services.

In the event a corporation provides service within the boundaries of an incorporated city or town on the date of organization as a rural water district, the district may continue to serve in that area as permitted by law.

Added by Laws 1989, c. 103, § 6, emerg. eff. April 25, 1989. Renumbered from Title 18, § 863.6 by Laws 1989 c. 369, § 153, operative July 1, 1989.

§82-1324.41. Definitions.

As used in this act:

1. "Acquiring party" means a person and all affiliates thereof by whom or on whose behalf an acquisition of control referred to in Section 6 of this act is to be effected;

2. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified, including any corporation created at the direction of the person specified, for purposes of corporate reorganization;

3. "Assets" in the case of a district or corporation means the physical plant, equipment, accounts receivable, accounts payable and all other assets of such district or corporation;

4. "Board" means the Oklahoma Water Resources Board;

5. "Control", including the terms "controlling" or "controlled by", and "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership, by contract, purchase of assets, or otherwise, unless such power is the result of an official position with, or corporate office held in, such person. Control shall be presumed to exist if any person, directly or indirectly, owns or controls the assets of such district or corporation. This presumption may be rebutted by showing that control does not exist in fact. The Board may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

6. "Corporation" means a not-for-profit corporation organized:

- a. pursuant to the provisions of the Oklahoma General Corporation Act, Section 1001 et seq. of Title 18 of the Oklahoma Statutes, for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such and having no capital stock, and
- b. for the purpose of developing and providing rural water supplies to serve rural residents;

7. "District" means a public nonprofit water district created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes; and

8. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function. Added by Laws 1994, c. 339, § 5, emerg. eff. June 8, 1994.

§82-1324.42. Prohibition of acquisition of district assets or merger if action leads to control of district unless approved by Board.

No person shall make an offer for, or enter into any agreement to exchange, seek to acquire, or acquire, the assets of a district or corporation if, after the consummation of such action, such person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such district or corporation, and no person shall merge with or otherwise acquire control of a district or corporation, unless, at the time any such offer, request or invitation is made or prior to the acquisition of assets, such person has sent to the Oklahoma Water Resources Board a statement containing the information required by Section 7 of this act and such offer, request, invitation, or acquisition has been approved by the Board in the manner prescribed by Section 8 of this act.

Added by Laws 1994, c. 339, § 6, emerg. eff. June 8, 1994.

§82-1324.43. Statement and information provided by acquiring party - Type of acquiring party - Amendment of statement.

A. The statement to be filed with the Oklahoma Water Resources Board as required by Section 6 of this act shall be made under oath or affirmation and shall contain the following information:

1. The name and address of each acquiring party and all affiliates thereof:

- a. if such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or
- b. if such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, an informative description of the business intended to be done by such acquiring party and its subsidiaries, and a list of all individuals who are or who have been

selected to become directors or officers of such acquiring party or who perform or will perform functions appropriate or similar to such position. Such list shall include for each such individual the information required by subparagraph a of this paragraph;

2. The source, nature and amount of the consideration used or to be used in effecting the acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests;

3. Audited financial information in a form acceptable to the Board as to the financial condition of an acquiring party for the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar information as of a date not earlier than one hundred thirty-five (135) days prior to the filing of the statement;

4. Any plans or proposals which an acquiring party may have to liquidate such district or corporation, to sell its assets or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefor shall be explained in detail. If any changes in the management of the district or corporation are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the district or corporation;

5. Copies of all offers for, exchange offers for, and agreements to acquire or exchange, any assets and, if distributed, additional soliciting material relating thereto;

6. Documentation from any and all mortgagors which hold a mortgage on any plant or equipment of such district or corporation setting forth such mortgagors' approval of such proposed acquisition of control; and

7. Such additional information as the Board may by rule prescribe as necessary or appropriate for the protection of ratepayers of the district or corporation or in the public interest.

B. If a person required to file the statement referred to in Section 6 of this act is a partnership, limited partnership, syndicate or other group, the Board may require that the information

called for in paragraphs 1 through 7 of subsection A of this section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the statement referred to in Section 6 of this act is a corporation, the Board may require that the information called for by paragraphs 1 through 7 of subsection A of this section be given, with respect to such corporation, to each officer and director of such corporation.

C. If any material change occurs in the facts set forth in the statement filed with the Board and sent to such district or corporation pursuant to this act, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Board and sent by the person filing the statement to the district or corporation within two (2) business days after such person learns of such change. Added by Laws 1994, c. 339, § 7, emerg. eff. June 8, 1994.

§82-1324.44. Board approval of acquisition - Conditions for disapproval - Public hearing.

A. The Oklahoma Water Resources Board shall approve any acquisition of control referred to in Section 6 of this act unless, after a public hearing thereon, it finds that one or more of the following conditions will exist if such acquisition of control is consummated, in which event it shall disapprove such acquisition of control and the same shall not be consummated:

1. The acquisition of control would adversely affect the contractual obligations of the district or corporation or its ability or commitment to render the same level of service to its customers that the district or corporation is currently rendering;

2. The financial condition of any acquiring party is such as might jeopardize the financial stability of the district or corporation or otherwise prejudice the interest of the district or corporation customer;

3. The plans or proposals which an acquiring party has to liquidate the district or corporation, sell its assets, or a substantial part thereof, or consolidate or merge it with any person, or to make any other material change in its investment policy, business or corporate structure or management, would be detrimental to the customers of the district or corporation and not in the public interest; or

4. The competence, experience and integrity of the persons who would control the operation of the district or corporation are such that it would not be in the interest of its customers and the public to permit the acquisition of control.

B. The public hearing referred to in subsection A of this section shall be commenced within thirty (30) days after the statement required by Section 6 of this act is filed. The place, date and time for such public hearing shall be set by the Board and notice thereof shall be given by the Board to the person filing the statement and to the district or corporation at least twenty (20) days prior to the date of the public hearing. Notice of the public hearing shall be given by the person filing the statement to such other persons and in such manner as may be directed by the Board at least fifteen (15) days prior to such public hearing. The district or corporation shall give notice to its customers as provided in Section 9 of this act. The public hearing referred to in subsection A of this section shall be concluded within thirty (30) days after the commencement of such hearing. The Board shall make a determination of the factors specified in subsection A of this section within thirty (30) days after the conclusion of such hearing, and any acquisition of control within the purview of this section shall be deemed approved unless the Board has, within sixty (60) days after the conclusion of such hearing, entered its order disapproving the acquisition of control.

Added by Laws 1994, c. 339, § 8, emerg. eff. June 8, 1994.

§82-1324.45. Notice of public hearing - Payment of expenses - Security.

Notice, in a form to be specified by the Oklahoma Water Resources Board, of the public hearing to be held pursuant to Section 8 of this act shall be mailed, or shall be given in such other manner as may be determined by the Board, by the district or corporation to its customers within ten (10) business days after it has received notice of the hearing from the Board. The expenses of preparation and mailing and giving of such notice shall be borne by the person filing the statement required by Section 6 of this act. As security for the payment of such expenses, the Board may require such person to file with the Board an acceptable bond or other deposit in an amount to be determined by the Board.

Added by Laws 1994, c. 339, § 9, emerg. eff. June 8, 1994.

§82-1324.46. Domestic water public utility as acquiring party - Approval procedures - Inapplicability of certain provisions.

If the acquiring party is a domestic water public utility, and the district or corporation, control of which is sought to be acquired in a transaction described in Section 6 of this act which would require the filing of a statement pursuant to Section 6 of this act, is subject to the jurisdiction of the Oklahoma Water Resources Board, an application for approval containing such information as the Board may prescribe by rule promulgated pursuant to this act shall be filed with and heard by the Board after such notice as the Board may

prescribe, and the transaction shall be approved or disapproved based upon the factors enumerated in paragraphs 1 through 4 of subsection A of Section 8 of this act, subject to judicial review as provided in Section 13 of this act, but the other provisions of this act shall not apply to such transaction. This act shall not apply to consolidations of districts or corporations governed by Section 1324.25 of Title 82 of the Oklahoma Statutes.

Added by Laws 1994, c. 339, § 10, emerg. eff. June 8, 1994.

§82-1324.47. Jurisdiction.

The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files or is required to file a statement with the Oklahoma Water Resources Board as required by Section 6 of this act, and over all actions involving such person arising out of violations of this act. Copies of all such lawful process shall be served on the Board and transmitted by certified or registered mail, with return receipt requested, by the Board to such person at his last-known address.

Added by Laws 1994, c. 339, § 11, emerg. eff. June 8, 1994.

§82-1324.48. Power of Board - Expenses of analysis or investigation - Payment.

The Oklahoma Water Resources Board shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders and rules as it may find necessary or appropriate to carry out the provisions of this act. The expense of conducting an analysis or investigation by the Board of the information required to be filed under Section 7 of this act shall be paid by the acquiring party within fifteen (15) days of the public hearing required by Section 8 of this act. Expenses of conducting the analysis or investigation may include, but not be limited to, the cost of acquiring expert witnesses, consultants and analytical services.

Added by Laws 1994, c. 339, § 12, emerg. eff. June 8, 1994.

§82-1324.49. Authority to enjoin violations and enforce compliance.

Whenever it shall appear to the Oklahoma Water Resources Board, the Attorney General or a district or corporation which reasonably believes itself to be the object of an offer or attempt to obtain control as described in Section 6 of this act, that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this act, or of any rule, or order thereunder, the Board, the Attorney General or the district or corporation may bring an action in the district court in and for Oklahoma County, State of Oklahoma, to enjoin such acts or practices and to enforce compliance with this act or any rule, order or temporary or permanent injunction shall be granted without bond.

The Board, the Attorney General and the district or corporation shall transmit such evidence as may be available concerning such acts or practices or concerning apparent violations of this act to the district attorney for Oklahoma County, who, in his or her discretion, may institute appropriate criminal proceedings.

Added by Laws 1994, c. 339, § 13, emerg. eff. June 8, 1994.

§82-1324.50. Willful and knowing violations - Penalties.

A. Any person who willfully and knowingly does or causes to be done any act, matter or thing prohibited or declared to be unlawful by this act, or who willfully and knowingly omits or fails to do any act, matter or thing required by this act to be done, or willfully and knowingly causes such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00). In addition, such violation shall be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars (\$500.00) for each day during which such offense occurs.

B. Any person who willfully and knowingly violated any rule, restriction, condition or order made or imposed by the Board under authority of this act shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars (\$500.00) for each day during which such offense occurs.

Added by Laws 1994, c. 339, § 14, emerg. eff. June 8, 1994.

§82-1401. Approval of compact - Text.

The following Interstate Compact is hereby approved and ratified.

ARKANSAS RIVER BASIN COMPACT KANSAS-OKLAHOMA, 1970

The State of Kansas and the State of Oklahoma, acting through their duly-authorized Compact representatives, Robert L. Smith and Warden L. Noe, for the State of Kansas, and Geo. R. Benz and Frank Raab, for the State of Oklahoma, after negotiations participated in by Trigg Twichell, appointed by the President as the representative of the United States of America, and in accordance with the consent to such negotiations granted by an Act of Congress of the United States of America, approved August 11, 1955 (Public Law 340, 84th Congress, 1st Session), have agreed as follows respecting the waters of the Arkansas River and its tributaries:

ARTICLE I

The major purposes of this Compact are:

A. To promote interstate comity between the States of Kansas and Oklahoma;

B. To divide and apportion equitably between the States of Kansas and Oklahoma the waters of the Arkansas River Basin and to promote the orderly development thereof;

C. To provide an agency for administering the water apportionment agreed to herein;

D. To encourage the maintenance of an active pollution-abatement program in each of the two states and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas River Basin.

ARTICLE II

As used in this Compact:

A. The term "state" shall mean either state signatory hereto and shall be construed to include any person or persons, entity or agency of either state who, by reason of official responsibility or by designation of the Governor of that state, is acting as an official representative of that state;

B. The term "Kansas-Oklahoma Arkansas River Commission" or the term "Commission" means the agency created by this Compact for the administration thereof;

C. The term "Arkansas River" means that portion of the Arkansas River from a point immediately below the confluence of the Arkansas and Little Arkansas Rivers in the vicinity of Wichita, Kansas, to a point immediately below the confluence of the Arkansas River with the Grand-Neosho River near Muskogee, Oklahoma;

D. The term "Arkansas River Basin" means all of the drainage basin of the Arkansas River as delimited above, including all tributaries which empty into it between the upstream and downstream limits;

E. The term "waters of the Arkansas River and its tributaries" means the waters originating in the Arkansas River Basin;

F. The term "conservation storage capacity" means that portion of the active storage capacity of reservoirs, including multipurpose reservoirs, with a conservation storage capacity in excess of one hundred 100 acre-feet, available for the storage of water for subsequent use, but it excludes any portion of the storage capacity allocated to flood and sediment control and inactive storage capacity allocated to other uses;

G. The term "new conservation storage capacity" means conservation storage capacity for which construction is initiated after July 1, 1963, and storage capacity not presently allocated for conservation storage which is converted to conservation storage capacity after July 1, 1963, in excess of the quantities of declared conservation storage capacity as set forth in the storage table attached to and made a part of the minutes of the Twenty-fourth meeting of the Compact Committee dated September 1, 1964, and as filed and identified to this Compact in the offices of the Secretaries of State of the respective states:

H. The term "pollution" means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, gaseous, or solid substances into any waters which creates or is likely to result in a nuisance, or which renders or is likely to render the waters into which it is

discharged harmful, detrimental or injurious to public health, safety, or welfare or which is harmful, detrimental or injurious to beneficial uses of the water.

ARTICLE III

The physical and other conditions peculiar to the Arkansas River Basin constitute the basis for this Compact, and neither of the states hereby, nor the Congress of the United States by its consent hereto, concedes that this Compact establishes any general principle with respect to any other interstate stream.

ARTICLE IV

A. For the purpose of apportionment of water between the two states, the Arkansas River Basin is hereby divided into major topographic subbasins as follows:

- (1) the Grand-Neosho River Subbasin;
- (2) the Verdigris River Subbasin;
- (3) the Salt Fork River Subbasin;
- (4) the Cimarron River Subbasin; and
- (5) the mainstem Arkansas River Subbasin which shall consist of the Arkansas River Basin, excepting the Grand-Neosho River, Verdigris River, Salt Fork River, and Cimarron River subbasins.

B. The two states recognize that portions of other states not signatory to this Compact lie within the drainage area of the Arkansas River Basin as herein defined. The water apportionments provided for in this Compact are not intended to affect nor do they affect the rights of such other states in and to the use of the waters of the basin.

ARTICLE V

The State of Kansas shall have free and unrestricted use of the waters of the Arkansas River Basin within Kansas subject to the provisions of this Compact and to the limitations set forth below:

A. New conservation storage capacity in the Grand-Neosho River Subbasin within the State of Kansas shall not exceed six hundred fifty thousand (650,000) acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma excepting storage on Spavinaw Creek;

B. New conservation storage capacity in the Verdigris River subbasin within the State of Kansas shall not exceed three hundred thousand (300,000) acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma, excepting navigation capacity allocated in Oologah Reservoir;

C. New conservation storage capacity in the mainstem Arkansas River Subbasin within the State of Kansas shall not exceed six hundred thousand (600,000) acre-feet plus and additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

D. New conservation storage capacity in the Salt Fork River Subbasin within the State of Kansas shall not exceed three hundred

thousand (300,000) acre-feet plus an additional capacity equal to the new conservation storage in said drainage basin in Oklahoma;

E. New conservation storage capacity in the Cimarron River Subbasin within the State of Kansas shall not exceed five thousand (5,000) acre-feet, provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the Commission.

ARTICLE VI

The State of Oklahoma shall have free and unrestricted use of the waters of the Arkansas River Basin within Oklahoma subject to the provisions of this Compact and to the limitations set forth below:

New conservation storage capacity in the Cimarron River Subbasin within the State of Oklahoma shall not exceed five thousand (5,000) acre-feet provided that new conservation storage capacity in excess of that amount may be constructed if specific project plans have first been submitted to and have received the approval of the Commission.

ARTICLE VII

A. The Commission shall determine the conditions under which one state may construct and operate for its needs new conservation storage capacity in the other state. The construction or utilization of new conservation storage capacity by one state in the other State shall entitle the state whose storage potential is reduced by such construction to construct an equal amount of new conservation storage in a subbasin agreeable to the Commission.

B. New conservation storage capacity constructed by the United States or any of its agencies, instrumentalities or wards, or by a state, political subdivision thereof, or any person or persons shall be charged against the state in which the use is made.

C. Each state has the unrestricted right to replace within the same subbasin any conservation storage capacity made unusable by any cause.

D. In the event reallocation of storage capacity in the Arkansas River Basin in Oklahoma should result in the reduction of that state's new conservation storage capacity, such reallocation shall not reduce the total new conservation storage capacities available to Kansas under Article V; provided that a subsequent reinstatement of such storage capacity shall not be charged as an increase in Oklahoma's new conservation storage capacity.

ARTICLE VIII

A. In the event of importation of water to a major subbasin of the Arkansas River Basin from another river basin, or from another major subbasin within the same state, the state making the importation shall have exclusive use of such imported waters.

B. In the event of exproation of water from a major subbasin for use in another major subbasin or for use outside the Arkansas River

Basin within the same state, the limitations of Articles V and VI on new conservation capacity shall apply against the subbasin from which the exportation is made in the amount of the storage capacity actually used for that purpose within the exporting subbasin, or in the event of direct diversion of water without storage on the basis of five (5) acre-feet of conservation storage capacity for each acre-foot of water on the average so diverted annually.

C. Any reservoir storage capacity which is required for the control and utilization of imported waters shall not be accounted as new conservation storage.

D. Should a transbasin diversion of water of the Arkansas River Basin be made in one state for the use and benefit of the other state or both states, the Commission shall determine a proper accounting of new conservation storage capacities in each state in accordance with the above principles and with the project uses to be made in that state.

ARTICLE IX

The States of Kansas and Oklahoma mutually agree to:

A. The principle of individual state effort to abate man-made pollution within each state's respective borders, and the continuing support of both states in an active pollution-abatement program;

B. The cooperation of the appropriate state agencies in Kansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas River Basin whenever such matters are called to their attention by the Commission;

C. Enter into joint programs for the identification and control of sources of natural pollution within the Arkansas River Basin which the Commission finds are of interstate significance;

D. The principle that neither state may require the other to provide water for the purpose of water-quality control as a substitute for adequate waste treatment;

E. Utilize the provisions of the Federal Water Pollution Control Act in the resolution of any pollution problems which cannot be resolved within the provisions of this Compact.

ARTICLE X

A. There is hereby created an interstate administrative agency to be known as the "Kansas-Oklahoma Arkansas River Commission". The Commission shall be composed of three Commissioners representing each of the States of Kansas and Oklahoma who shall be appointed by the Governors of the respective states and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate a Commissioner and an alternate representing the United States. The Federal Commissioner, if one be designated, shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission.

B. One Kansas Commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two Commissioners shall reside in the Arkansas River basin in Kansas and shall be appointed to four-year staggered terms.

C. One Oklahoma Commissioner shall be the state official who now or hereafter shall be responsible for administering water law in the state; the other two Commissioners shall reside in the Arkansas River Basin in Oklahoma and shall be appointed to four-year staggered terms.

D. A majority of the Commissioners of each state and the Commissioner or his alternate representing the United States, if so designated, must be present to constitute a quorum. In taking any Commission action, each signatory state shall have a single vote representing the majority opinion of the Commissioners of that state.

E. The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact shall be borne equally by the two states and shall be paid by the Commission out of the "Kansas-Oklahoma Arkansas River Commission Fund". Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Such funds shall not be subject to the audit and accounting procedures of the states; however, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audit shall be included in and become a part of the annual report of the Commission.

ARTICLE XI

A. The Commission shall have the power to:

(1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under the Compact;

(2) Enter into contracts with appropriate state or federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Establish and maintain an office for the conduct of its affairs;

(4) Adopt rules and regulations governing its operations;

(5) Cooperate with federal agencies in developing principles, consistent with the provisions of this Compact and with federal policy, for the storage and release of water from all-federal capacities of federal reservoirs, both existing and future within the Arkansas River Basin, for the purpose of assuring their operation in the best interests of the states and the United States; (6) Permit either state, with the consent of the proper operating agency, to

impound water, for such periods of time deemed necessary or desirable by the Commission, in available reservoir storage capacity which is not designated as conservation or new conservation storage capacity for subsequent release and use for any purpose approved by the Commission;

(7) Hold hearings and take testimony and receive evidence at such times and places as it deems necessary;

(8) Secure from the head of any department or agency of the federal or state government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

(9) Print or otherwise reproduce and distribute all of its proceedings and reports.

B. The Commission shall:

(1) Cause to be established, maintained and operated such stream, reservoir, or other gaging stations as may be necessary for the proper administration of the Compact;

(2) Collect, analyze and report on data as to stream flows, water quality, conservation storage, and such other information as is necessary for the proper administration of the Compact;

(3) Perform all other functions required of it by the Compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

(4) Prepare and submit an annual report to the Governor of each signatory state and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(5) Prepare and submit to the Governor of each of the States of Kansas and Oklahoma an annual budget covering the anticipated expenses of the Commission for the following fiscal year;

(6) Make available to the Governor or any state agency of either state or to any authorized representative of the United States, upon request, any information within its possession.

ARTICLE XII

A. Recognizing the present limited uses of the available water supplies of the Arkansas River Basin in the two states and the uncertainties of their ultimate water needs, the States of Kansas and Oklahoma deem it imprudent and inadvisable to attempt at this time to make final allocations of the new conservation storage capacity which may ultimately be required in either state, and, by the limitations on storage capacity imposed herein, have not attempted to do so. Accordingly, after the expiration of 25 years following the effective date of this Compact, the Commission may review any provisions of the Compact for the purpose of amending or supplementing the same, and shall meet for the consideration of such review on the request of the

Commissioners of either state; provided, that the provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the states acting through their Commissioners and until such changes are ratified by the legislatures of the respective States and consented to by the Congress in the same manner as this Compact is required to be ratified to become effective.

B. This Compact may be terminated at any time by the appropriate action of the legislatures of both signatory states.

C. In the event of amendment or termination of the Compact, all rights established under the Compact shall continue unimpaired.

ARTICLE XIII

Nothing in this Compact shall be deemed:

A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority, in, over and to the waters of the Arkansas River Basin;

B. To interfere with or impair the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of waters within that state not inconsistent with its obligations under this Compact.

ARTICLE XIV

If any part or application of this Compact should be declared invalid by a court of competent jurisdiction, all other provisions and applications of this Compact shall remain in full force and effect.

ARTICLE XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislatures of each state and consented to by the Congress of the United States, and when the Congressional Act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any litigation in the United States Supreme Court, if the United States is an indispensable party, and if the litigation arises out of this Compact or its application, and if a signatory State is a party thereto. Notice of ratification by the legislature of each state shall be given by the Governor of that state to the Governor of the other state and to the President of the United States and the President is hereby requested to give notice to the Governor of each state of consent by the Congress of the United States.

In Witness Whereof, the authorized representatives have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the Archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each state.

DONE at the City of Wichita, State of Kansas, this 31st day of March, A.D., 1965.

Approved:

/s/ TRIGG TWICHELL

Trigg Twichell
Representative of the
United States of America

Attest:

/s/ I. D. YOST

I. D. Yost, Secretary

Approved June 2, 1965.

For Kansas:

/s/ ROBERT L. SMITH

Robert L. Smith,
Committee Member

/s/ WARDEN L. NOE

Warden L. Noe,
Committee Member

For Oklahoma:

/s/ GEO. R. BENZ

Geo. R. Benz,
Committee Member

/s/ FRANK RAAB

Frank Raab,
Committee Member

Laws 1965, c. 167, § 1.

§82-1421. Approval of compact - Text.

The following Interstate Compact is hereby approved and ratified subject to the conditions stated in Section 2 of this act.

ARKANSAS RIVER BASIN COMPACT

ARKANSAS-OKLAHOMA, 1970

The State of Arkansas and the State of Oklahoma, acting through their duly authorized Compact representatives, S. Keith Jackson of Arkansas, and Glade R. Kirkpatrick of Oklahoma, after negotiations participated in by Trigg Twichell, appointed by the President as the representative of the United States of America, pursuant to and in accordance with the consent to such negotiations granted by an Act of Congress of the United States of America (Public Law 97, 84th Congress, 1st session), approved June 28, 1955, have agreed as follows respecting the waters of the Arkansas River and its tributaries:

ARTICLE I

The major purposes of this Compact are:

A. To promote interstate comity between the States of Arkansas and Oklahoma;

B. To provide for an equitable apportionment of the waters of the Arkansas River between the States of Arkansas and Oklahoma and to promote the orderly development thereof;

C. To provide an agency for administering the water apportionment agreed to herein;

D. To encourage the maintenance of an active pollution abatement program in each of the two states and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas River Basin; and

E. To facilitate the cooperation of the water administration agencies of the States of Arkansas and Oklahoma in the total development and management of the water resources of the Arkansas River Basin.

ARTICLE II

As used in the Compact:

A. The term "state" means either state signatory hereto and shall be construed to include any person or persons, entity or agency of either state who, by reason of official responsibility or by designation of the Governor of that state, is acting as an official representative of that state.

B. The term "Arkansas-Oklahoma Arkansas River Compact Commission," or the term "Commission" means the agency created by this Compact for the administration thereof.

C. The term "Arkansas River Basin" means all of the drainage basin of the Arkansas River and its tributaries from a point immediately below the confluence of the Grand-Neosho River with the Arkansas River near Muskogee, Oklahoma, to a point immediately below the confluence of Lee Creek with the Arkansas River near Van Buren, Arkansas, together with the drainage basin of Spavinaw Creek in Arkansas, but excluding that portion of the drainage basin of the Canadian River below Eufaula Dam.

D. The term "Spavinaw Creek Subbasin" means the drainage area of Spavinaw Creek in the State of Arkansas.

E. The term "Illinois River Subbasin" means the drainage area of Illinois River in the State of Arkansas.

F. The term "Lee Creek Subbasin" means the drainage area of Lee Creek in the State of Arkansas and the State of Oklahoma.

G. The term "Poteau River Subbasin" means the drainage area of Poteau River in the State of Arkansas.

H. The term "Arkansas River Subbasin" means all areas of the Arkansas River Basin except the four sub-basins described above.

I. The term "water-year" means a twelve-month period beginning on October 1, and ending September 30.

J. The term "annual yield" means the computed annual gross runoff from any specified subbasin which would have passed any certain point on a stream and would have originated within any specified area under natural conditions, without any man-made depletion or accretion during the water year.

K. The term "pollution" means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, gaseous, or solid substances into any waters which creates, or is likely to result in a nuisance,

or which renders or is likely to render the waters into which it is discharged harmful, detrimental or injurious to public health, safety, or welfare, or which is harmful, detrimental or injurious to beneficial uses of the water.

ARTICLE III

A. The physical and other conditions peculiar to the Arkansas River Basin constitute the basis of this Compact, and neither of the states hereby, nor the Congress of the United States by its consent hereto, concedes that this Compact established any general principle with respect to any other interstate stream.

B. By this Compact, neither state signatory hereto is relinquishing any interest or right it may have with respect to any waters flowing between them which do not originate in the Arkansas River Basin as defined by this Compact.

ARTICLE IV

The States of Arkansas and Oklahoma hereby agree upon the following apportionment of the waters of the Arkansas River Basin:

A. The State of Arkansas shall have the right to develop and use the waters of the Spavinaw Creek Subbasin subject to the limitation that the annual yield shall not be depleted by more than fifty percent (50%).

B. The State of Arkansas shall have the right to develop and use the waters of the Illinois River Subbasin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

C. The State of Arkansas shall have the right to develop and use all waters originating within the Lee Creek Subbasin in the State or Arkansas, or the equivalent thereof.

D. The State of Oklahoma shall have the right to develop and use all waters originating within the Lee Creek Subbasin in the State of Oklahoma, or the equivalent thereof.

E. The State of Arkansas shall have the right to develop and use the waters of the Poteau River Subbasin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

F. The State of Oklahoma shall have the right to develop and use the waters of the Arkansas River Subbasin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

ARTICLE V

A. On or before December 31 of each year, following the effective date of this Compact, the Commission shall determine the stateline yields of the Arkansas River Basin for the previous water year.

B. Any depletion of annual yield in excess of that allowed by the provisions of this Compact shall, subject to the control of the Commission, be delivered to the downstream State, and said delivery

shall consist of not less than sixty percent (60%) of the current runoff of the basin.

C. Methods for determining the annual yield of each of the sub-basins shall be those developed and approved by the Commission.

ARTICLE VI

A. Each state may construct, own and operate for its needs water storage reservoirs in the other state.

B. Depletion in annual yield of any subbasin of the Arkansas River Basin caused by the operation of any water storage reservoir either heretofore or hereafter constructed by the United States or any of its agencies, instrumentalities or wards, or by a state, political subdivision thereof, or any person or persons shall be charged against the state in which the yield therefrom is utilized.

C. Each state shall have the free and unrestricted right to utilize the natural channel of any stream within the Arkansas River Basin for conveyance through the other state of waters released from any water storage reservoir for an intended downstream point of diversion or use without loss of ownership of such waters; provided, however, that a reduction shall be made in the amount of water which can be withdrawn at point of removal, equal to the transmission losses.

ARTICLE VII

The States of Arkansas and Oklahoma mutually agree to:

A. The principle of individual state effort to abate man-made pollution within each state's respective borders, and the continuing support of both states in an active pollution abatement program;

B. The cooperation of the appropriate state agencies in the States of Arkansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas River Basin;

C. Enter into joint programs for the identification and control of sources of pollution of the waters of the Arkansas River and its tributaries which are of interstate significance;

D. The principle that neither state may require the other to provide water for the purpose of water quality control as a substitute for adequate waste treatment;

E. Utilize the provisions of all federal and state water pollution laws and to recognize such water quality standards as may be now or hereafter established under the Federal Water Pollution Control Act in the resolution of any pollution problems affecting the waters of the Arkansas River Basin.

ARTICLE VIII

A. There is hereby created an interstate administrative agency to be known as the "Arkansas-Oklahoma Arkansas River Compact Commission." The Commission shall be composed of three Commissioners representing the State of Arkansas and three Commissioners representing the State of Oklahoma, selected as provided below; and, if designated by the President or an authorized federal agency, one

Commissioner representing the United States. The President, or the federal agency authorized to make such appointments, is hereby requested to designate a Commissioner and an alternate representing the United States. The Federal Commissioner, if one be designated, shall be the Chairman and presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission.

B. One Arkansas Commissioner shall be the Director of the Arkansas Soil and Water Conservation Commission, or such other agency as may be hereafter responsible for administering water law in the state. The other two Commissioners shall reside in the Arkansas River drainage area in the State of Arkansas and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

C. One Oklahoma Commissioner shall be the Director of the Oklahoma Water Resources Board, or such other agency as may be hereafter responsible for administering water law in the state. The other two Commissioners shall reside within the Arkansas River drainage area in the State of Oklahoma and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms, with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

D. A majority of the Commissioners of each state and the Commissioner or his alternate representing the United States, if they are so designated, must be present to constitute a quorum. In taking any Commission action, each signatory state shall have a single vote representing the majority opinion of the Commissioners of that state.

E. In the case of a tie vote on any of the Commission's determinations, order, or other actions, a majority of the Commissioners of either state may, upon written request to the Chairman, submit the question to arbitration. Arbitration shall not be compulsory, but on the event of arbitration, there shall be three arbitrators:

(1) One named by resolution duly adopted by the Arkansas Soil and Water Conservation Commission, or such other state agency as may be hereafter responsible for administering water law in the State of Arkansas; and

(2) One named by resolution duly adopted by the Oklahoma Water Resources Board, or such other state agency as may be hereafter responsible for administering water law in the State of Oklahoma; and

(3) The third chosen by the two arbitrators who are selected as provided above.

If the arbitrators fail to select a third within sixty (60) days following their selection, then he shall be chosen by the Chairman of the Commission.

F. The salaries and personal expenses of each Commissioner shall be paid by the Government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact shall be borne equally by the two states and shall be paid by the Commission out of the "Arkansas-Oklahoma Arkansas River Compact Fund," initiated and maintained as provided in Article IX(B) (5) below. The states hereby mutually agree to appropriate sums sufficient to cover its share of the expenses incurred in the administration of this Compact, to be paid into said fund. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Such funds shall not be subject to the audit and accounting procedures of the states; however, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audit shall be included in and become a part of the annual report of the Commission, provided by Article IX(B) (6) below. The Commission shall not pledge the credit of either state and shall not incur any obligations prior to the availability of funds adequate to meet the same.

ARTICLE IX

A. The Commission shall have the power to:

(1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate state or federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records and for the preparation of reports;

(3) Establish and maintain an office for the conduct of its affairs;

(4) Adopt and procure a seal for its official use;

(5) Adopt rules and regulations governing its operations. The procedures employed for the administration of this Compact shall not be subject to any Administrative Procedures act of either state, but shall be subject to the provisions hereof and to the rules and regulations of the Commission; provided, however, all rules and regulations of the Commission shall be filed with the Secretary of State of the signatory States.

(6) Cooperate with federal and state agencies and political subdivisions of the signatory states in developing principles, consistent with the provisions of this Compact and with federal and state policy, for the storage and release of water from reservoirs, both existing and future within the Arkansas River Basin, for the

purpose of assuring their operation in the best interests of the states and the United States;

(7) Hold hearings and compel the attendance of witnesses for the purpose of taking testimony and receiving other appropriate and proper evidence and issuing such appropriate orders as it deems necessary for the proper administration of this Compact, which orders shall be enforceable upon the request by the Commission or any other interested party in any court of competent jurisdiction within the county wherein the subject matter to which the order relates is in existence, subject to the right of review through the appellate courts of the State of situs. Any hearing held for the promulgation and issuance of orders shall be in the county and state of the subject matter of said hearing;

(8) Make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of either state, or the United States, as may have any interest in or jurisdiction over the subject matter. Findings of fact made by the Commission shall be admissible in evidence and shall constitute prima facie evidence of such fact in any court or before any agency of competent jurisdiction. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to instituting or maintaining any action or proceeding of any kind by a signatory state in any court, or before any tribunal, agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions;

(9) Secure from the head of any department or agency of the federal or state government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

(10) Print or otherwise reproduce and distribute all of its proceedings and reports; and

(11) Accept, for the purposes of this Compact, any and all private donations and gifts and Federal grants of money.

B. The Commission shall:

(1) Cause to be established, maintained and operated such stream, reservoir or other gaging stations as may be necessary for the proper administration of this Compact;

(2) Collect, analyze and report on data as to stream flows, water quality, annual yields and such other information as is necessary for the proper administration of this Compact;

(3) Continue research for developing methods of determining total basin yields;

(4) Perform all other functions required of it by the Compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

(5) Establish and maintain the "Arkansas-Oklahoma Arkansas River Compact Fund," consisting of any and all funds received by the Commission under the authority of this Compact and deposited in one or more banks qualifying for the deposit of public funds of the signatory States;

(6) Prepare and submit an annual report to the Governor of each signatory state and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(7) Prepare and submit to the Governor of each of the States of Arkansas and Oklahoma an annual budget covering the anticipated expenses of the Commission for the following fiscal year; and

(8) Make available to the Governor of any state agency of either state or to any authorized representative of the United States, upon request, any information within its possession.

ARTICLE X

A. The provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the states acting through their Commissioners and until such changes are ratified by the legislatures of the respective states and consented to by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

B. This Compact may be terminated at any time by the appropriate action of the legislature of both signatory states.

C. In the event of amendment or termination of the Compact, all rights established under the Compact shall continue unimpaired.

ARTICLE XI

Nothing in this Compact shall be deemed:

A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority in, over and to the waters of the Arkansas River Basin;

B. To interfere with or impair the right or power of either signatory State to regulate within its boundaries of appropriation, use and control of waters within that state not inconsistent with its obligations under this Compact.

ARTICLE XII

If any part or application of this Compact should be declared invalid by a court of competent jurisdiction, all other provisions and application of this Compact shall remain in full force and effect.

ARTICLE XIII

A. This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each state and consented to by the Congress of the United States, and when the Congressional Act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any

litigation in the United States Supreme Court, if the United States is an indispensable party, and if the litigation arises out of this Compact or its application, and if a signatory state is a party thereto.

B. The States of Arkansas and Oklahoma mutually agree and consent to be sued in the United States District Court under the provisions of Public Law 87-830 as enacted October 15, 1962, or as may be thereafter amended.

C. Notice of ratification by the legislature of each state shall be given by the Governor of that state to the Governor of the other state, and to the President of the United States, and the President is hereby requested to give notice to the Governor of each state of consent by the Congress of the United States.

ARKANSAS RIVER BASIN COMPACT
ARKANSAS-OKLAHOMA, 1970
MEMORANDUM OF CORRECTION

The State of Arkansas and Oklahoma, further acting through their duly authorized compact representatives, S. Keith Jackson of Arkansas, and Glade R. Kirkpatrick of Oklahoma, hereby execute this memorandum of correction to the Arkansas River Basin Compact Arkansas-Oklahoma, 1970, executed at the City of Little Rock, State of Arkansas, on the 16th day of March, 1970, as follows:

1. By striking the word "below" as it appears in the last line of Article II (C) and inserting in lieu thereof the word "above."
2. By striking the word "of" as it appears in the first line of Article IX, (B) (8) and inserting in lieu thereof the word "or."

IN WITNESS WHEREOF, the authorized representatives have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited with the Administrator of General Services of the United States, and affixed to the original Arkansas River Basin Compact Arkansas-Oklahoma, 1970, there on file, and one of which shall be forwarded to the Governor of each state and likewise affixed to said Compact there on file.

Added by Laws 1971, c. 99, § 1.

§82-1422. Amendment - Ratification.

This ratification is subject to the State of Oklahoma and the State of Arkansas, acting through their duly authorized compact representatives, amending said "Arkansas River Basin Compact" in the particulars as set forth hereinafter, and further, the ratification of said amendment of said compact by the Legislature of the State of Arkansas. Said amendment being expressed as follows:

The following language shall be added to Article VI, Section A of said compact, to wit: "Provided however that nothing contained in this compact or its ratification by Arkansas or Oklahoma shall be

interpreted as granting either state or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own state."

Laws 1971, c. 99, § 2.

§82-1431. Approval and ratification - Text of compact.

The following Interstate Compact is hereby approved and ratified.

RED RIVER COMPACT

ARKANSAS-LOUISIANA-OKLAHOMA-TEXAS, 1978

PREAMBLE

The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or Legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said states to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

Further, the consent of Congress has been given for two or more states to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (P.L. 92-500, 33 U.S.C. Sections 1251 et seq.).

The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this Compact be adopted by the respective Legislatures and approved by Congress as hereinafter set forth:

ARTICLE I

PURPOSES

Section 1.01 The principal purposes of this Compact are:

- (a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;
- (b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;
- (c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;
- (d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of

navigation and regulation of flows in the Red River Basin;
and

(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

ARTICLE II

GENERAL PROVISIONS

Section 2.01 Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

Section 2.02 The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

Section 2.03 Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

Section 2.04 The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

Section 2.05 Each Signatory State shall have the right to:

- (a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;
- (b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;
- (c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and
- (d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

Section 2.06 Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

Section 2.07 Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

Section 2.08 Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water

consumed in each state by livestock or for domestic purposes; provided, however, the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

Section 2.09 In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

Section 2.10 Nothing in this Compact shall be deemed to:

(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;

(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provisions of this Compact dealing with the apportionment of water or the rights thereto; or

(c) Waive any state's immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

Section 2.11 Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

Section 2.12 For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivisions:

(a) Reach I - the Red River and tributaries from the New Mexico-Texas state boundary to Denison Dam;

(b) Reach II - the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;

(c) Reach III - the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary;

(d) Reach IV - the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

(e) Reach V - that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

Section 2.13 If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

Section 2.14 Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

ARTICLE III
DEFINITIONS

Section 3.01 In this Compact:

- (a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as "Arkansas", "Louisiana", "Oklahoma", and "Texas", respectively, or individually as "State" or "Signatory State", collectively as "States" or "Signatory States."
- (b) The term "Red River" means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.
- (c) The term "Red River Basin" means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.
- (d) The term "water of the Red River Basin" means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.
- (e) The term "tributary" means any stream which contributes to the flow of the Red River.
- (f) The term "interstate tributary" means a tributary of the Red River, the drainage area of which includes portions of two (2) or more Signatory States.
- (g) The term "intrastate tributary" means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.
- (h) The term "Commission" means the agency created by Article IX of this Compact for the administration thereof.
- (i) The term "pollution" means the alteration of the physical, chemical, or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; provided, that for the purposes of this Compact, "pollution" shall not mean or include "natural deterioration."

(j) The term "natural deterioration" means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.

(k) The term "designated water" means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.

(l) The term "undesignated water" means all water released from storage other than "designated water."

(m) The term "conservation storage capacity" means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.

(n) The term "runoff" means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

ARTICLE IV

APPORTIONMENT OF WATER - REACH I

OKLAHOMA - TEXAS

Subdivision of Reach I and apportionment of water therein. Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

Section 4.01 Subbasin 1- Interstate streams - Texas.

(a) This includes the Texas portion of Buck Creek, Sand (Lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

(b) The annual flow within this subbasin is hereby apportioned sixty percent (60%) to Texas and forty percent (40%) to Oklahoma.

Section 4.02 Subbasin 2 - Intrastate and interstate streams - Oklahoma.

(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude one hundred degrees west, beginning from Denison Dam and upstream to and including Buck Creek.

(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.

Section 4.03 Subbasin 3 - Intrastate streams - Texas.

(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.

(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

Section 4.04 Subbasin 4 - Main stem of the Red River and Lake Texoma.

(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude one hundred degrees west.

(b) The storage of Lake Texoma and flow from the main stem of the Red River into Lake Texoma is apportioned as follows:

(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

(2) Additional quantities in a ratio of fifty percent (50%) to Oklahoma and fifty percent (50%) to Texas.

Section 4.05 Special Provisions.

(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the main stem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

ARTICLE V

APPORTIONMENT OF WATER - REACH II

ARKANSAS, OKLAHOMA, TEXAS AND LOUISIANA

Subdivision of Reach II and allocation of water therein. Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

Section 5.01 Subbasin 1 - Intrastate streams - Oklahoma.

(a) This subbasin includes those streams and their tributaries above existing, authorized or proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Denison Dam and above the Oklahoma-Arkansas state boundary. These streams and their

tributaries with existing, authorized or proposed last downstream major damsites are as follows:

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Location</u>	
			<u>Latitude</u>	<u>Longitude</u>
Island-Bayou	Albany	85,200	33°51.5'N	96°11.4'W
Blue River	Durant	147,000	33°55.5'N	96°04.2'W
Boggy River	Boswell	1,243,800	34°01.6'N	95°45.0'W
Kiamichi River	Hugo	240,700	34°01.0'N	95°22.6'W

(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

Section 5.02 Subbasin 2 - Intrastate streams - Texas.

(a) This subbasin includes those streams and their tributaries above existing authorized or proposed last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Location</u>	
			<u>Latitude</u>	<u>Longitude</u>
Shawnee Creek	Randall Lake	5,400	33°48.1'N	96°34.8'W
Brushy Creek	Valley Lake	15,000	33°38.7'N	96°21.5'W
	New Bonham			
Bois d'Arc Creek	Reservoir	130,600	33°42.9'N	95°58.2'W
Coffee Mill Creek	Coffee Mill Lake	8,000	33°44.1'N	95°58.0'W
Sandy Creek	Lake Crockett	3,900	33°44.5'N	95°55.5'W
Sanders Creek	Pat Mayse	124,500	33°51.2'N	95°32.9'W
Pine Creek	Lake Crook	11,011	33°43.7'N	95°34.0'W
Big Pine Creek	Big Pine Lake	138,600	33°52.0'N	95°11.7'W
Pecan Bayou	Pecan Bayou	625,000	33°41.1'N	94°58.7'W
Mud Creek	Liberty Hill	97,700	33°33.0'N	94°29.3'W
	KVW Ranch			
Mud Creek	Lakes(3)	3,440	33°34.8'N	94°27.3'W

(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

Section 5.03 Subbasin 3 - Interstate Streams - Oklahoma and Arkansas.

(a) This subbasin includes Little River and its tributaries above Millwood Dam.

(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation that Oklahoma shall allow a quantity of water equal to forty percent (40%) of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Location

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Latitude</u>	<u>Longitude</u>
Little River	Pine Creek	70,500	34°06.8'N	95°04.9'W
Glover Creek	Lukfata	258,600	34°08.5'N	94°55.4'W
Mountain Fork River	Broken Bow	470,100	34°08.9'N	94°41.2'W

(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

Section 5.04 Subbasin 4 - Interstate streams - Texas and Arkansas.

(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Latitude</u>	<u>Longitude</u>
McKinney Bayou Trib.	Bringle Lake Barkman	3,052	33°30.6'N	94°06.2'W
Barkman Creek	Reservoir	15,900	33°29.7'N	94°10.3'W
Sulphur River	Texarkana	386,900	33°18.3'N	94°09.6'W

(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

Section 5.05 Subbasin 5 - Main stem of the Red River and tributaries.

(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state boundary, excluding all tributaries included in the other four subbasins of Reach II.

(b) Water within this subbasin is allocated as follows:

(1) The Signatory States shall have equal rights to the use of runoff originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than twenty-five percent (25%) of the water in excess of 3,000 cubic feet per second.

(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to forty percent (40%) of the total weekly runoff originating in subbasin 5 and forty percent (40%) of undesignated water flowing into subbasin 5;

provided, however, that this requirement shall not be interpreted to require any state to release stored water.

(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing into subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

(c) Whenever the flow at Index, Arkansas, is less than 526 cfs, the States of Oklahoma and Texas shall each allow a quantity of water equal to forty percent (40%) of the total weekly runoff originating in subbasin 5 within their respective states to flow into the Red River; provided however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of subsections 5.05 (b) (2) and (3) have not caused a limitation of diversions in subbasin 5.

(d) No state guarantees to maintain a minimum low flow to a downstream state.

Section 5.06 Special Provisions.

(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre-feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

ARTICLE VI

APPORTIONMENT OF WATER - REACH III

ARKANSAS, LOUISIANA, AND TEXAS

Subdivision of Reach III and allocation of water therein. Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

Section 6.01 Subbasin 1 - Interstate streams - Arkansas and Texas.

(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Texas is apportioned sixty percent (60%) of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty percent (40%) of the runoff of this subbasin.

Section 6.02 Subbasin 2 - Interstate streams - Arkansas and Louisiana.

(a) This subbasin includes the Arkansas portion of those streams flowing from subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Arkansas is apportioned sixty percent (60%) of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty percent (40%) of the runoff of this subbasin.

Section 6.03 Subbasin 3 - Interstate streams - Texas and Louisiana.

(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

(1) Texas shall have the unrestricted right to all water above Marshall, Lake O' the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir. (2) Texas and Louisiana shall each have the unrestricted right to use fifty percent (50%) of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the

provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

(3) Texas and Louisiana shall each have the unrestricted right to fifty percent (50%) of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any man-made depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty percent (60%) to Texas and forty percent (40%) to Louisiana.

(d) Texas and Louisiana will not construct improvements on the Cross Lake Watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

Section 6.04 Subbasin 4 - Intrastate streams - Louisiana.

(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE VII

APPORTIONMENT OF WATER - REACH IV ARKANSAS AND LOUISIANA

Subdivision of Reach IV and allocation of water therein. Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

Section 7.01 Subbasin 1 - Intrastate streams - Arkansas.

(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana.

Those major last downstream damsites are as follows:

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Latitude</u>	<u>Longitude</u>
Ouachita River	Lake Catherine	19,000	34°26.6'N	93°01.6'W
Caddo River	DeGray Lake	1,377,000	34°13.2'N	93°06.6'W
Little Missouri				

River	Lake Greeson	600,000	34°08.9'N	93°42.9'W
Alum Fork,				
Saline River	Lake Winona	63,264	32°47.8'N	92°51.0'W

(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

Section 7.02 Subbasin 2 - Interstate Streams - Arkansas and Louisiana.

(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01 (a) above.

(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitation that Arkansas shall allow a quantity of water equal to forty percent (40%) of the weekly runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty percent (40%) of the total weekly runoff originating above the state boundary to flow into Louisiana. Use of water in this subbasin is subject to low flow provisions of subparagraph 7.03 (b).

Section 7.03 Special Provisions.

(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana state boundary to the following amounts:

- (1) Ouachita - 780 cfs
- (2) Bayou Bartholomew - 80 cfs
- (3) Boeuf River - 40 cfs
- (4) Bayou Macon - 40 cfs

the State of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV in such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

ARTICLE VIII

APPORTIONMENT OF WATER - REACH V

Section 8.01 Reach V of the Red River consists of the main stem Red River and all of its tributaries lying wholly within the State of

Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE IX

ADMINISTRATION OF THE COMPACT

Section 9.01 There is hereby created an interstate administrative agency to be known as the "Red River Compact Commission", hereinafter called the "Commission". The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

Section 9.02 The Commission shall meet and organize within sixty (60) days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

Section 9.03 Each of the two Commissioners from each state shall have one vote; provided, however, that if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a state, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

Section 9.04 (a) The salaries and personal expenses of each state's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.
(b) The Commission's expenses for any additional stream flow gauging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gauging stations are located.
(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the "Red River Compact Commission Fund". Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the state; however, all receipts and disbursements of the fund by the Commission shall be

audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

ARTICLE X

POWERS AND DUTIES OF THE COMMISSION

Section 10.01 The Commission shall have the power to:

- (a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;
- (b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;
- (c) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State;
- (d) Acquire, use and dispose of such real and personal property as it may consider necessary;
- (e) Enter into contracts with appropriate state or Federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;
- (f) Secure from the head of any department or agency of the Federal or state government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same.
- (g) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to the

instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(h) Print or otherwise reproduce and distribute its proceedings and reports.

Section 10.02 The Commission shall:

(a) Cause to be established, maintained, and operated such stream, reservoir and other gauging stations as are necessary for the proper administration of the Compact;

(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(d) Prepare and submit to the Governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;

(e) Prepare and submit an annual report to the Governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(f) Make available to the Governor or to any official agency of a Signatory State or to any authorized representative of the United States, upon request, any information within its possession;

(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

(h) Make available to a Signatory State or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

ARTICLE XI

POLLUTION

Section 11.01 The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water

for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

Section 11.02 Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally-occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

Section 11.03 The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

Section 11.04 The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

Section 11.05 Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

Section 11.06 Upon receipt of a complaint from the Governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the Governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

Section 11.07 In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

Section 11.08 Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River

Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any person of any rights of action relating to pollution which such person would have if this Compact had not been made.

ARTICLE XII

TERMINATION AND AMENDMENT OF COMPACT

Section 12.01 This Compact may be terminated at any time by appropriate action of the Legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

Section 12.02 This Compact may be amended at any time by appropriate action of the Legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

ARTICLE XIII

RATIFICATION AND EFFECTIVE DATE OF COMPACT

Section 13.01 Notice of ratification of this Compact by the Legislature of each Signatory State shall be given by the Governor thereof to the Governors of each of the other Signatory States and to the President of the United States. The President is hereby requested to give notice to the Governors of each of the Signatory States of the consent to this Compact by the Congress of the United States.

Section 13.02 This Compact shall become effective, binding and obligatory when, and only when:

(a) It has been duly ratified by each of the Signatory States; and

(b) It has been consented to by an Act of the Congress of the United States, which Act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

i. which involves the construction or application of this Compact;

ii. in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and

iii. which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character

or legal status of, any of the other proper parties plaintiff or defendant in such case of controversy:
The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

Section 13.03 The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

Added by Laws 1979, c. 136, § 1, eff. May 3, 1979.

§82-1432. Commissioners - Number - Appointment - Staffing and services - Expenses - Absence or vacancy in position of Executive Director.

Pursuant to Article IX of the Red River Compact there shall be two Commissioners from Oklahoma to serve on the Red River Compact Commission. One Commissioner shall be the Executive Director of the Oklahoma Water Resources Board, or such other agency as may be hereafter responsible for administering water law in the state. The other Commissioner shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Oklahoma Water Resources Board shall provide such staffing and services as may be required by the Commission. The Board may provide in its budget for any such administrative expenses.

In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Board may designate an interim or acting Commissioner and designee who is authorized to exercise such powers and duties until a permanent Executive Director is employed.

Laws 1979, c. 136, § 2, emerg. eff. May 3, 1979; Laws 1994, c. 32, § 1, emerg. eff. April 11, 1994.

§82-1451. Renumbered as § 896.4 of this title by Laws 2016, c. 297, § 24, eff. July 1, 2016.

§82-1452. Renumbered as § 896.5 of this title by Laws 2016, c. 297, § 25, eff. July 1, 2016.

§82-1453. Renumbered as § 896.6 of this title by Laws 2016, c. 297, § 26, eff. July 1, 2016.

§82-1454. Renumbered as § 896.7 of this title by Laws 2016, c. 297, § 27, eff. July 1, 2016.

§82-1455. Renumbered as § 896.8 of this title by Laws 2016, c. 297, § 28, eff. July 1, 2016.

§82-1456. Renumbered as § 896.9 of this title by Laws 2016, c. 297, § 29, eff. July 1, 2016.

§82-1457. Renumbered as § 896.10 of this title by Laws 2016, c. 297, § 30, eff. July 1, 2016.

§82-1458. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1460. Renumbered as § 896.11 of this title by Laws 2016, c. 297, § 31, eff. July 1, 2016.

§82-1461. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1462. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1462A. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1462B. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1462C. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1463. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1464. Renumbered as § 896.12 of this title by Laws 2016, c. 297, § 32, eff. July 1, 2016.

§82-1465. Renumbered as § 896.13 of this title by Laws 2016, c. 297, § 33, eff. July 1, 2016.

§82-1466. Renumbered as § 896.14 of this title by Laws 2016, c. 297, § 34, eff. July 1, 2016.

§82-1467. Renumbered as § 896.15 of this title by Laws 2016, c. 297, § 35, eff. July 1, 2016.

§82-1468. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1469. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1470. Renumbered as § 896.16 of this title by Laws 2016, c. 297, § 36, eff. July 1, 2016.

§82-1471. Repealed by Laws 2016, c. 297, § 37, eff. July 1, 2016.

§82-1501-101. Renumbered as § 3-1-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-102. Renumbered as § 3-1-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-103. Renumbered as § 3-1-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-201. Renumbered as § 3-2-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-202. Renumbered as § 3-2-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-203. Renumbered as § 3-2-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-204. Renumbered as § 3-2-105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-205. Renumbered as § 3-2-106 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-205.1. Definitions - State Geographic Information Council.

A. As used in this section and in Sections 1501-205.2 and 1501-205.3 of this title:

1. "Geographic information" means any data or databases in which location or spatial distribution is an essential element, including, but not limited to, land, air, water, and mineral resources, the distribution of plant, animal, and human populations, real property interests, zoning and other land development regulations, and political, jurisdictional, ownership, and other artificial divisions of geography;

2. "Geographic Information System" or "GIS" means computer systems that allow the analysis of data or databases containing geographic information; and

3. "Statewide data" means geographic information whose spatial extent is defined by the geographic boundary of the state of Oklahoma.

B. There is hereby created a State Geographic Information Council composed of nineteen (19) members as follows:

1. Director of the Oklahoma Conservation Commission or designee;
2. Director of the Department of Environmental Quality or designee;
3. Chair of the Corporation Commission or designee;
4. Director of the Oklahoma Department of Commerce or designee;
5. Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry or designee;
6. Director of the Oklahoma Water Resources Board or designee;
7. Director of the Department of Transportation or designee;
8. State Geographer or designee;
9. Director of the Oklahoma Geological Survey or designee;
10. Director of the Center for Spatial Analysis of the University of Oklahoma or designee;
11. Dean of the Division of Agricultural Sciences and Natural Resources of Oklahoma State University or designee;
12. Director of the Ad Valorem Division of the Oklahoma Tax Commission or designee;
13. A member appointed by the Director of the Conservation Commission from a list of names submitted to the Director from the Oklahoma regional universities;
14. Director of Information Services of the Office of Management and Enterprise Services or designee;
15. Director of Wildlife Conservation or designee;
16. Director of Homeland Security or designee; and
17. Three members to be appointed by the Governor pursuant to subsection C of this section.

C. The Governor shall appoint three members to the Council to serve initial terms as specified by this subsection. Thereafter, the terms of all appointed members shall be four (4) years.

Gubernatorial members shall not be appointed more than three successive terms. Incumbent members may continue to serve on the Council until a new appointment is made. Upon recommendation by the Council, the following members shall be appointed by the Governor:

1. A representative of the Oklahoma Association of Regional Councils, appointed for an initial four-year term;
2. A representative of county assessors, appointed for an initial three-year term; and
3. A representative of city government, appointed for an initial two-year term.

D. The chair of the Council shall be the Director of the Oklahoma Conservation Commission or designee. Meetings shall be called by the chair.

E. 1. A majority of the membership of the Council constitutes a quorum for the conduct of business.

2. The Council shall meet at least twice each year, and the chair may call a meeting of the Council as often as necessary to transact business.

F. A member of the Council shall not:

1. Be an officer, employee, or paid consultant of a business entity that has, or an officer, employee, or paid consultant of a trade association for business entities that have, a substantial interest in the geographic information industry and are doing business with state agencies or other governmental units of the state;

2. Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry and is doing business with state agencies or other governmental units of the state;

3. Be an officer, employee, or paid consultant of a business entity that is connected with any contract or bid for furnishing to any governmental body of the state with Geographic Information Systems, the computers on which they are automated, or a service related to Geographic Information Systems;

4. Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have a substantial interest in the geographic information industry; or

5. Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift or otherwise.

G. The duties of the Council shall include overseeing the Office of Geographic Information concerning the following:

1. Development, adoption, and recommendation of standards and procedures that may be applied to geographic information and Geographic Information Systems to promote consistency of data elements;

2. Development of a strategy for the implementation and funding of a statewide Geographic Information System;

3. Development, delivery, and periodic revision of a statewide geographic information plan and annually reporting to the Governor and the Legislature. Such a plan shall include, but not be limited to, provisions for training and education; and

4. Promotion of collaboration and sharing of data and data development as well as other aspects of Geographic Information Systems.

H. Neither the Council nor its members shall have the power to form or award contracts or to employ staff. Members appointed by the Governor shall serve without compensation.

Added by Laws 1994, c. 386, § 1, emerg. eff. June 11, 1994. Amended by Laws 1995, c. 150, § 1, emerg. eff. May 2, 1995; Laws 2001, c. 35,

§ 1, emerg. eff. April 9, 2001; Laws 2004, c. 365, § 1, eff. Nov. 1, 2004; Laws 2012, c. 304, § 1071.

§82-1501-205.2. Geographic Information Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund to be designated as the "Geographic Information Revolving Fund", which shall be under the control and supervision of the Oklahoma Conservation Commission, and subject to the recommendations of the State Geographic Information Council.

B. The fund shall be a continuing fund not subject to fiscal year limitations, and shall consist of all monies specifically appropriated to the fund by the Legislature within the Oklahoma Conservation Commission appropriation. The fund may obtain additional monies through donation by any private entity, obtained by grants or designated by any federal, state or local government agency, as recommended by the State Geographic Information Council and approved by the Executive Director of the Oklahoma Conservation Commission, with specific intention for the purposes of carrying out the duties of the Office of Geographic Information including, but not limited to, the development and maintenance of base map Geographic Information System (GIS) data layers.

C. Monies accruing to the fund may be expended by the Conservation Commission for expenses associated with the Office of Geographic Information.

D. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1995, c. 150, § 2, emerg. eff. May 2, 1995. Amended by Laws 2004, c. 365, § 2, eff. Nov. 1, 2004; Laws 2012, c. 304, § 1072.

§82-1501-205.3. Office of Geographic Information - Manager - Funding - Duties - Cooperation of House of Representatives and Senate.

A. There is hereby established an Office of Geographic Information in the Oklahoma Conservation Commission.

B. The Executive Director of the Oklahoma Conservation Commission shall appoint, after consultation with the Council, a person of suitable training, experience, and knowledge to manage the Office with the title of State Geographic Information Coordinator who shall serve at the pleasure of the Executive Director.

C. The Office may solicit, receive and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The Office may also solicit and accept money by grant, gift, bequest, or other conveyance recommended by the Geographic Information Council and approved by the Executive Director of the Oklahoma Conservation Commission. Additionally, the Office may receive a specific

legislative appropriation within the appropriation for the Oklahoma Conservation Commission. Any funds received by the Office shall be deposited into the Geographic Information Revolving Fund pursuant to Section 1501-205.2 of Title 82 of the Oklahoma Statutes.

D. The Office shall:

1. Provide staff support and technical assistance to the Council established pursuant to Section 1501-205.1 of Title 82 of the Oklahoma Statutes;

2. Establish a central statewide geographic information clearinghouse to maintain data inventories, information on current and planned Geographic Information System applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

3. Coordinate any grant programs for local governments to establish and maintain Geographic Information Systems as such programs may be established by the Legislature;

4. Coordinate multiagency Geographic Information System projects, including working with state and local agencies in the development and maintenance of statewide data and Geographic Information Systems;

5. Provide access to both consulting and technical assistance, and education and training on the application and use of geographic information technologies to state and local agencies;

6. Develop, maintain, update, and interpret Geographic Information System standards under the direction of the Council and working with state and local agencies;

7. Provide Geographic Information System services, as requested, to agencies wishing to augment their Geographic Information System capabilities;

8. Evaluate, participate in pilot studies, and make recommendations on Geographic Information System hardware and software in cooperation with other agencies;

9. Prepare proposed legislation and funding proposals for the Legislature that will further coordinate and expedite the implementation of Geographic Information Systems as recommended by the Geographic Information Council and approved by the Executive Director of the Conservation Commission;

10. Address data sensitivity issues so that information is made available to the public but protects confidentiality of the information; and

11. Provide an annual report to the Governor and Legislature on the status and needs of the geographic information infrastructure of the State of Oklahoma.

E. The Oklahoma House of Representatives and Oklahoma Senate may cooperate with the Office of Geographic Information but shall be exempt from all requirements of this section.

Added by Laws 2004, c. 365, § 3, eff. Nov. 1, 2004.

§82-1501-206. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-207. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-208. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-301. Renumbered as § 3-2-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-302. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-303. Renumbered as § 3-3-401 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-304. Renumbered as § 3-3-402 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-401. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-402. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-403. Renumbered as § 3-3-301 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-404. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-405. Renumbered as § 3-3-302 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-406. Renumbered as § 3-3-303 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-407. Renumbered as § 3-3-304 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-408. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-409. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-410. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-411. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-412. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-413. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-414. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-415. Renumbered as § 3-3-201 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-416. Renumbered as § 3-3-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-417. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-418. Renumbered as § 3-3-110 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-419. Renumbered as § 3-3-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-420. Renumbered as § 3-3-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-421. Renumbered as § 3-3-202 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-450. Renumbered as § 3-2-107 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-501. Renumbered as § 3-3-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-502. Renumbered as § 3-3-105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-503. Renumbered as § 3-3-107 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-504. Renumbered as § 3-3-106 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-505. Renumbered as § 3-3-112 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-506. Renumbered as § 3-3-111 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-507. Renumbered as § 3-3-404 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-508. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-509. Renumbered as § 3-3-403 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-601. Renumbered as § 3-3-108 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-602. Renumbered as § 3-3-113 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-603. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-604. Renumbered as § 3-3-109 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1501-605. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1501-701. Renumbered as § 3-3-405 of Title 27A by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§82-1501-702. Repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§82-1501-703. Renumbered as § 3-3-406 of Title 27A by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§82-1501-704. Renumbered as § 3-3-407 of Title 27A by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§82-1501-705. Renumbered as § 3-3-408 of Title 27A by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§82-1501-706. Renumbered as § 3-3-409 of Title 27A by Laws 1993, c. 324, § 56, eff. July 1, 1993.

§82-1501-801. Liberal interpretation.

The provisions of this act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes and objects hereof.

Added by Laws 1971, c. 346, § 15-801, operative July 1, 1971.

§82-1501-802. Act not to limit authority of other agencies.

Nothing contained in this act shall be interpreted to reduce conflict with or limit any power or authority granted in any act of the Legislature of this state to the Oklahoma Water Resources Board or any other agency of the government of this state or to any county, municipality, special purpose district or other local governmental subdivision of this state, or to any research or educational institution supported wholly or in part with public funds and operating in this state.

Added by Laws 1971, c. 346, § 15-802, operative July 1, 1971.

§82-1501-803. Effect of headings.

Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any article or section hereof.

Added by Laws 1971, c. 346, § 15-803, operative July 1, 1971.

§82-1501-901. Salary increases.

A. Effective July 1, 1997, the annual salary of employees of the Conservation Districts, payable monthly, shall be Four Hundred Fifty Dollars (\$450.00) greater than the annual salary, payable monthly, paid during the 1997 fiscal year.

B. Effective July 1, 1998, the annual salary of employees of the Conservation Districts, payable monthly, shall be Four Hundred Fifty Dollars (\$450.00) greater than the annual salary, payable monthly, paid during the 1998 fiscal year.

Added by Laws 1997, c. 384, § 14, eff. July 1, 1997.

§82-1601. Short title.

Chapter 23 of this title shall be known and may be cited as the Oklahoma Floodplain Management Act.

Added by Laws 1980, c. 179, § 1, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 1, eff. Nov. 1, 2002.

§82-1602. Purpose of act.

A. The State of Oklahoma recognizes the personal hardships and economic distress caused by flood disasters; in particular, the loss of life from floods, the physical and emotional impact of flooding on individuals and communities, public and private property damage and disruption, the increased cost for disaster relief and the need for preservation and restoration of the natural resources and functions of floodplains. Oklahoma also recognizes that it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing these problems, Congress enacted the National Flood Insurance Act of 1968, which, among other things, requires the development of a unified national program for floodplain management which sets out a framework for national goals towards which agencies at all levels of government and in the private sector can work each within its own mission and role.

B. The purpose of the Oklahoma Floodplain Management Act pursuant to the most current version of a unified program for floodplain management is to:

1. Protect the natural and beneficial functions of the floodplain, to reduce damage and disruption to property from floods, to reduce costs of disaster relief and to reduce injury and loss of life from floods;

2. Assist state agencies, local governments and the private sector in developing local floodplain management programs and in obtaining training and funding therefor; and

3. Procure flood insurance for those citizens that desire to participate in this federal program.

Added by Laws 1980, c. 179, § 2, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 2, eff. Nov. 1, 2002.

§82-1603. Definitions.

As used in the Oklahoma Floodplain Management Act:

1. "Area of jurisdiction" means:

- a. all of the areas within an incorporated town or city, except locations of all property owned or operated by the state for a municipality,
- b. all of the unincorporated areas except locations of all property owned or operated by the state of the county, for a county, or
- c. all property owned or operated by the state within the state, for the Board;

2. "Board" means the Oklahoma Water Resources Board;

3. " Dwelling unit " means a place of residence and may be a single or multiple-dwelling building;
4. " Flood " or " flooding " means general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers or any other inland waters;
5. " Floodplain " means the land adjacent to a body of water which has been or may be covered by flooding, including, but not limited to, the one-hundred-year flood;
6. " Floodplain administrator " means a person accredited by the Board and designated by a floodplain board, to administer and implement laws and regulations relating to the management of floodplains;
7. " Floodplain board " means:
 - a. an administrative and planning board established by a board of county commissioners or governing body of a municipality and composed of membership as specified in Section 1605 of this title, for floodplain management of a county or a municipality,
 - b. the Oklahoma Water Resources Board,
 - c. the planning commission of a municipality or a county if so designated by the governing body of the municipality or county, or
 - d. the board of county commissioners or governing body of a municipality if a separate floodplain board composed of membership as specified in Section 1605 of this title is not established or if an established floodplain board is dissolved by its respective board of county commissioners or governing body of a municipality after the effective date of this act;
8. " Floodplain regulations " mean the codes, ordinances and other regulations relating to the use of land and construction within the channel and floodplain areas including, but not limited to, zoning ordinances, platting regulations, building codes, housing codes, setback requirements and open area regulations;
9. " Floodway " means the channel of a stream, watercourse or body of water and those portions of floodplains which are reasonably required to carry and discharge the floodwater or floodflow of any river or stream;
10. " One-hundred-year flood " means a flood which has a one percent (1%) chance of occurring each year, based upon the criteria established by the Oklahoma Water Resources Board;
11. " BFE " means base flood elevation which is the elevation in feet from mean sea level at which water level during a flood has a one-percent chance of being equaled or exceeded in any given year; and

12. "Program" means the overall national flood insurance program authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4128) as amended.

Added by Laws 1980, c. 179, § 3, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 3, eff. Nov. 1, 2002; Laws 2004, c. 95, § 2, eff. Jan. 1, 2005; Laws 2011, c. 214, § 2.

§82-1604. County and municipal floodplain boards - Floodplain management.

A. 1. The boards of county commissioners and municipal governing bodies are authorized to establish floodplain boards, composed of membership as specified in Section 1605 of this title, for their respective area of jurisdiction.

2. If a board of county commissioners or municipal governing body dissolves its respective floodplain board that had been established prior to the effective date of this act, the floodplain management regulations adopted by such floodplain board shall continue in effect to be administered by the board of county commissioners or municipal governing body that assumes the role of the local floodplain board.

3. To participate in the program, floodplain boards shall adopt, administer and enforce floodplain management rules and regulations, for the purpose of:

- a. delineation of floodplains and floodways,
- b. preservation of the capacity of the floodplain to carry and discharge regional floods,
- c. minimization of flood hazards,
- d. establishment and charging of reasonable fees, not to exceed Five Hundred Dollars (\$500.00), for services provided by the Board, county commissioners and municipalities in the administration of their responsibilities pursuant to the Oklahoma Floodplain Management Act,
- e. regulation of the use of land in the floodplain,
- f. protection of the natural and beneficial functions of the floodplain, reducing damage to property from floods, reducing injury and loss of life from floods, and allowing communities to be eligible for flood insurance, and
- g. hiring and employment of an accredited floodplain administrator.

B. The floodplain management regulations shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

C. The floodplain management regulations adopted by each floodplain board shall be approved by the county or the municipality, as the case may be, by appropriate resolution or ordinance.

D. The Oklahoma Water Resources Board shall promulgate rules for the purposes specified in paragraph 3 of subsection A of this section.

E. Nothing contained within this section shall serve either to require any county or municipality to participate in the National Flood Insurance Program or to require any nonparticipating community to enforce regulations related to floodplain management.

Added by Laws 1980, c. 179, § 4, emerg. eff. May 13, 1980. Amended by Laws 2001, c. 37, § 1, emerg. eff. April 9, 2001; Laws 2002, c. 46, § 4, eff. Nov. 1, 2002; Laws 2004, c. 95, § 3, eff. Jan. 1, 2005; Laws 2011, c. 214, § 3.

§82-1605. County, municipal and state floodplain board - Composition - Term - Compensation.

A. 1. A county floodplain board shall be composed of five (5) members to be appointed by the board of county commissioners.

2. All the members of the board shall be residents of the county and shall own or operate real property within the unincorporated area of the county.

3. Two members shall be appointed for terms of two (2) years, two members shall be appointed for terms of four (4) years and one member shall be appointed for a term of six (6) years. Thereafter, all appointments shall be made for terms of six (6) years.

4. All members shall serve without compensation. Members may be removed by the board of county commissioners for cause after a public hearing for that purpose.

5. Vacancies shall be filled by additional appointments for the unexpired term only.

B. 1. A municipal floodplain board shall be composed of five (5) members to be appointed by the municipal governing body. All the members of the board shall be residents of the municipality.

2. Membership of floodplain boards in existence prior to the effective date of this act shall remain as currently constituted. Membership for boards created subsequent to the effective date of this act shall consist of two members appointed for terms of two (2) years, two members appointed for terms of four (4) years and one member appointed for a term of six (6) years. Thereafter, all appointments shall be made for terms of six (6) years.

3. All members shall serve without compensation.

4. Members may be removed by the municipal governing body for cause after a public hearing for that purpose.

5. Vacancies shall be filled by additional appointments for the unexpired term only.

C. A state floodplain board shall be composed of the members of the Oklahoma Water Resources Board. All members shall serve without additional compensation.

Added by Laws 1980, c. 179, § 5, emerg. eff. May 13, 1980. Amended by Laws 1989, c. 196, § 3, emerg. eff. May 8, 1989; Laws 2002, c. 46, § 5, eff. Nov. 1, 2002.

§82-1606. Establishment and delineation of floodplains and one-hundred-year flood elevations for Oklahoma.

The Oklahoma Water Resources Board shall coordinate with floodplain boards in the use of flood insurance rate maps and flood hazard boundary maps for the establishment and delineation of the floodplains and the one-hundred-year flood elevations for Oklahoma. The Board may also continue to assign a staff member to be the State Floodplain Coordinator that assists other state agencies, boards of county commissioners, governing bodies of municipalities, floodplain boards and floodplain administrators in coordinating with the Federal Emergency Management Agency in matters relating to the program.

Added by Laws 1980, c. 179, § 6, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 6, Nov. 1, 2002; Laws 2011, c. 214, § 4.

§82-1607. Floodplain definitions and one-hundred-year flood elevations to be submitted.

The floodplain boards shall delineate and submit to the Oklahoma Water Resources Board all floodplain definitions and one-hundred-year flood elevations within their respective area of jurisdiction, using methods consistent with the criteria and rules developed by the Board.

Added by Laws 1980, c. 179, § 7, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 7, eff. Nov. 1, 2002.

§82-1608. Floodplain management regulations - Requirements - Contents.

A. All floodplain boards that participate in the program shall adopt floodplain management regulations, which shall conform with the requirements necessary to establish eligibility and to maintain participation in the program. The regulations shall include, but not be limited to, the following:

1. Incorporation by reference, specifying the date and panel number or numbers if appropriate, to the most recent flood insurance rate maps or flood hazard boundary maps prepared by the Federal Emergency Management Agency or more specific information to delineate floodplains within the respective areas of jurisdiction;

2. Requirements for the issuance of development permits for any platting of land in floodplains, construction of dwelling units and commercial or industrial structures in floodplains, and all other construction and development in the floodplains, which may divert, retard or obstruct floodwater and threaten public health, safety or welfare; provided, that the regulations shall also include a description of the process to apply for and obtain a development

permit to be issued by the floodplain board or accredited floodplain administrator;

3. Minimum flood protection elevations and flood damage prevention requirements for the issuance of development permits and use of structures and facilities which are located in a floodplain or are vulnerable to flood damage. Regulations adopted under this section are to be in accordance with any applicable state and local laws, regulations and ordinances;

4. Requirements to coordinate floodplain management regulations and to require advance notice to adjoining counties, municipalities or their respective floodplain boards before considering issuance of development permits; and

5. A provision that the floodplain management regulations shall not apply to the use of the usual farm buildings for agricultural purposes, the planting of agricultural crops or the construction of farm ponds.

B. Counties and municipalities that choose to participate in the program shall utilize a floodplain administrator that is accredited by the Oklahoma Water Resources Board as required pursuant to Section 1620 of this title.

Added by Laws 1980, c. 179, § 8, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 8, eff. Nov. 1, 2002; Laws 2011, c. 214, § 5.

§82-1609. Cooperative agreements for delineation of floodplains and adoption of regulations.

The floodplain boards may enter into cooperative agreements pursuant to the "Interlocal Cooperation Act" for the delineation of floodplains and adoption of regulations to manage development within the floodplains.

Added by Laws 1980, c. 179, § 9, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 9, eff. Nov. 1, 2002; Laws 2011, c. 214, § 6.

§82-1610. Promulgation of floodplain management rules - Procedure.

A. Floodplain management rules enacted pursuant to the Oklahoma Floodplain Management Act shall only be promulgated by the Oklahoma Water Resources Board in accordance with the Administrative Procedures Act.

B. Floodplain management regulations adopted pursuant to the Oklahoma Floodplain Management Act and any amendments to the regulations shall go into effect thirty (30) days after adoption unless the regulation or amendment specifies a later date; provided, that no floodplain management regulation or amendment thereto shall be in force unless published in a newspaper of general circulation regularly published nearest the area of jurisdiction within fifteen (15) days after adoption.

C. At least thirty (30) days prior to the date of adoption of a regulation or amendment thereto, written notice shall be furnished to

the Oklahoma Water Resources Board, accompanied by a copy of each proposed regulation or amendment.

D. A certified copy of any regulation or amendment thereto adopted by a floodplain board pursuant to the Oklahoma Floodplain Management Act shall be filed with the Oklahoma Water Resources Board within fifteen (15) days after adoption.

Added by Laws 1980, c. 179, § 10, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 10, eff. Nov. 1, 2002; Laws 2011, c. 214, § 7.

§82-1611. Redefining floodplain upon completion of flood control protective work.

Within one hundred eighty (180) days after the completion of construction of any flood control protective works, the floodplain board in the respective area of jurisdiction shall redefine the floodplain as altered by the works by amending the floodplain regulations pursuant to the procedures set forth in Section 1610 of this title.

Added by Laws 1980, c. 179, § 11, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 11, eff. Nov. 1, 2002; Laws 2011, c. 214, § 8.

§82-1612. Construction or development in floodplain area prohibited - Exceptions.

A. After a floodplain board has adopted and submitted floodplain management regulations incorporating the most recent flood insurance rate maps or flood hazard boundary maps prepared by the Federal Emergency Management Agency or containing more specific information to delineate floodplains within the respective areas of jurisdiction to the Oklahoma Water Resources Board, all platting of land, all construction of dwelling units or commercial or industrial structures, and all future development within the delineated floodplain area is prohibited unless:

1. Floodplain regulations have been adopted pursuant to the Oklahoma Floodplain Management Act for the delineated floodplain areas and are in full force and effect;

2. Prior to the platting, construction, and other development, a development permit is granted by the floodplain board or accredited floodplain administrator if a floodplain administrator is authorized to issue development permits by the floodplain management regulations; or

3. A development permit is granted by the Board, if development or construction is proposed on lands owned, held in trust or operated by the state. Notice of the proposed construction or development must be provided by the permit applicant to the respective floodplain board of the county or municipality in which the development or construction is proposed thirty (30) days before the decision of the Board to approve a development permit for the construction or development.

B. Development permits authorized by subsection A of this section may be issued when the applicable floodplain board, or accredited floodplain administrator or Board, as the case may be, determines that construction or development in the floodplain in question complies with the applicable floodplain regulations or rules and is not a danger to persons or property.
Added by Laws 1980, c. 179, § 12, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 12, eff. Nov. 1, 2002; Laws 2011, c. 214, § 9.

§82-1613. Existing prior use may continue - Conditions.

Any use that exists prior to May 13, 1980, which does not meet the minimum standards specified and authorized by the Oklahoma Floodplain Management Act may continue. However, unless brought into compliance with the minimum standards set forth in regulations adopted pursuant to the Oklahoma Floodplain Management Act such uses may not be substantially altered, enlarged or added to.
Added by Laws 1980, c. 179, § 13, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 13, eff. Nov. 1, 2002.

§82-1614. Business needs to be considered in promulgating floodplain rules and preparing floodplain regulations.

The Oklahoma Water Resources Board in promulgating rules pursuant to the Oklahoma Floodplain Management Act and floodplain boards in preparing floodplain management regulations shall give due consideration to the needs of an industry, including agriculture, whose business requires that it be located within a floodplain.
Added by Laws 1980, c. 179, § 14, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 14, eff. Nov. 1, 2002; Laws 2011, c. 214, § 10.

§82-1615. Variances.

A. A floodplain board may grant variances from requirements of floodplain management regulations that are more stringent than the minimum requirements of the Oklahoma Floodplain Management Act upon presentation of adequate proof that compliance with the local floodplain management regulations adopted pursuant to the Oklahoma Floodplain Management Act will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.

B. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five Dollars (\$25.00).

C. A floodplain board shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted. The floodplain board shall conduct a hearing for each requested variance. At least thirty (30) days prior to the hearing, a notice of the time and place of the hearing shall be published at the petitioner's expense in a newspaper of general circulation regularly published nearest the area of jurisdiction. In no case shall variances be effective for a period longer than twenty (20) years. A copy of any variance issued shall be sent to the Oklahoma Water Resources Board within fifteen (15) days after issuance.

Added by Laws 1980, c. 179, § 15, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 15, eff. Nov. 1, 2002; Laws 2011, c. 214, § 11.

§82-1616. Appeals.

A. Appeals of any final decision of the Oklahoma Water Resources Board relating to a development permit shall be in accordance with the Administrative Procedures Act.

B. Appeals of the decision of a county or municipal floodplain board, or floodplain administrator, shall be taken to the board of adjustment for the area of jurisdiction involved in the appeal or to the governing body of the county or municipality where no board of adjustment exists.

C. Appeals may be taken by any person aggrieved or by a public officer, department, board or bureau affected by any decision of the floodplain board, or a floodplain administrator, in administering the floodplain management regulations.

D. The appeal shall be taken within a period of not more than ten (10) days, by filing written notice with the appellant body and the floodplain board, stating the grounds thereof.

E. An appeal shall stay all proceedings in furtherance of the action appealed from unless the floodplain board, or the floodplain administrator, from which the appeal is taken shall certify to the appellant body that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property.

F. The appellant body shall have the following powers and duties:

1. To hear and decide appeals where it is alleged that there is error of law in any order, requirement, decision or determination made in the enforcement of the floodplain management regulations; and
2. Reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the floodplain board or administrator from which the appeal is taken.

G. In acting upon any appeal, the appellant body shall apply the principles, standards and objectives set forth and contained in all applicable regulations and plans adopted.
Added by Laws 1980, c. 179, § 16, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 16, eff. Nov. 1, 2002; Laws 2011, c. 214, § 12.

§82-1617. New or improved structures, fills, excavations or other uses prohibited without written authorization - Violations.

A. No new development or substantial improvement to a structure, or new fill, excavation or other floodplain use shall be allowed without securing a development permit from the floodplain board in which the area of jurisdiction includes the proposed development, substantial improvement, fill, excavation or other floodplain use.

B. Any person convicted of violating the applicable floodplain management regulations or rules shall be guilty of a misdemeanor.
Added by Laws 1980, c. 179, § 17, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 17, eff. Nov. 1, 2002; Laws 2011, c. 214, § 13.

§82-1618. Application of act - Accreditation of administrators.

The provisions of the Oklahoma Floodplain Management Act shall not apply to those counties, municipalities or other agencies which are in compliance with federal floodplain regulations as of the date of this act and were participating in the program prior to May 13, 1980. Beginning November 1, 2005, persons designated to administer the floodplain requirements of the counties, municipalities or other agencies exempt from the Oklahoma Floodplain Management Act pursuant to this section shall be accredited by the Oklahoma Water Resources Board in the same manner as the Board accredits floodplain administrators.

Added by Laws 1980, c. 179, § 18, emerg. eff. May 13, 1980. Amended by Laws 2002, c. 46, § 18, eff. Nov. 1, 2002; Laws 2005, c. 219, § 1, emerg. eff. May 24, 2005.

§82-1620. Floodplain administrators.

A. Each floodplain board shall designate a person to serve as the floodplain administrator to administer and implement floodplain regulations.

B. Each floodplain administrator shall be accredited by the Oklahoma Water Resources Board.

Added by Laws 2004, c. 95, § 4, eff. Jan. 1, 2005. Amended by Laws 2011, c. 214, § 14.

§82-1620.1. Accreditation standards for floodplain administrators.

A. In determining accreditation standards for floodplain administrators, the Oklahoma Water Resources Board may consider the

knowledge, experiences, skills, and training of an applicant in floodplain management and in minimization and prevention of flood hazards and losses. The accreditation standards may include:

1. Passage of an examination;
2. Completion of approved training; or
3. Certification by a nationally recognized floodplain management organization.

B. Continued training may be required for continued accreditation of a floodplain administrator.

Added by Laws 2004, c. 95, § 5, eff. Jan. 1, 2005.

§82-1621. Renumbered as § 3-2-108 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§82-1622. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§82-1630. Assessment on property within district - Exemptions.

Any county in which a drainage district was organized and is continuing operations pursuant to statutes enacted prior to the effective date of this section shall be authorized to impose an assessment upon real or personal property located within the boundary of the district as such district was organized upon the effective date of this section for the same purpose, based upon the assessed value of the property as determined by the current assessment roll of the county assessor in the county where the property is located. Properties that are exempt from ad valorem taxation are exempt from the assessment referred to within this section.

Added by Laws 2008, c. 346, § 3, emerg. eff. June 2, 2008.

§82-1700. Repealed by Laws 1999, c. 59, § 6, eff. July 1, 1999.

§82-1701. Repealed by Laws 1993, c. 49, § 3, eff. July 1, 1993.

§82-1801.1. Short title.

This act shall be known and may be cited as the "Oklahoma Weather Modification Act".

Added by Laws 1999, c. 400, § 1, emerg. eff. June 10, 1999.

§82-1801.2. Weather Modification Division - Director - Powers.

There is hereby created in the Oklahoma Water Resources Board a division to administer the provisions of the Oklahoma Weather Modification Act. The Oklahoma Weather Modification Advisory Board, created pursuant to this act, shall be authorized to employ a Director of the Weather Modification Division. In addition to the Director, the Oklahoma Weather Modification Advisory Board is authorized to employ one full-time-equivalent employee to implement the provisions of this act. Funding for such positions shall be

provided by the proceeds of the account created pursuant to subsection F of Section 4 of this act. The Director of the Weather Modification Division shall be authorized to contract with individuals or entities experienced with cloud-seeding operations in order to increase beneficial rainfall when needed and appropriate cloud formations are available, and to suppress hail in order to prevent property and crop damages. The Oklahoma Weather Modification Advisory Board may acquire equipment to accomplish the objectives of this act.

Added by Laws 1999, c. 400, § 2, emerg. eff. June 10, 1999.

§82-1801.3. Repealed by Laws 2007, c. 93, § 18, eff. Nov. 1, 2007.

§82-1801.4. Funding - Voluntary Participation Account.

A. Funding to administer the provisions of the Oklahoma Weather Modification Act shall be provided by an appropriation of up to One Million Dollars (\$1,000,000.00) made pursuant to law. In addition, voluntary participation by insurance companies and other interested persons, firms or corporations to reach a goal of Two Million Dollars (\$2,000,000.00) for a total of Three Million Dollars (\$3,000,000.00) for the first year of the program. Goals for successive years will be Three Million Dollars (\$3,000,000.00) from the insurance companies and other interested parties. Voluntary assessments for insurance companies pursuant to this section shall be based on the amount of insurance premiums written in this state on property insurance, as defined in Section 704 of Title 36 of the Oklahoma Statutes, and casualty insurance as defined in Section 707 of Title 36 of the Oklahoma Statutes, excluding accident and health insurance, workers' compensation insurance, burglary and theft insurance, leakage and fire extinguishing equipment insurance, credit insurance, malpractice insurance, and entertainments insurance.

B. Funding assessments to the insurance companies related to the provisions of this section shall be administered by the State Insurance Department. The Insurance Department shall be authorized to employ one additional full-time employee to perform these duties, funding for which shall be provided by proceeds derived from the provisions of this act. The State Insurance Department is hereby authorized to promulgate rules necessary to implement the provisions of this section.

C. There is hereby created an account within the Oklahoma Weather Modification Revolving Fund created pursuant to Section 1085.6 of this title. The account shall be designated as the "Voluntary Participation Account" and shall consist of all monies received on behalf of the Oklahoma Weather Modification program pursuant to this act. All monies accruing to the credit of the account are hereby appropriated and may be budgeted and expended by the Oklahoma Weather Modification Advisory Board for expenses

relating to administration, duties, operations, maintenance, special projects and acquisitions for the Weather Modification Program. Expenditures from the account shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1999, c. 400, § 4, emerg. eff. June 10, 1999. Amended by Laws 2012, c. 304, § 1073.