

OKLAHOMA SCENIC RIVERS ACT

Unofficial copy provided by the
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Title 82 Oklahoma Statutes,

§ 1451. Short title

Sections 1452 through 1471 of this title shall be known and may be cited as the "Scenic Rivers Act".

§ 1452. Preservation of certain free-flowing streams and rivers – designation of scenic river areas.

A. The Oklahoma Legislature finds that some of the free-flowing streams and rivers of Oklahoma possess such unique natural scenic beauty, water conservation, 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 there are hereby designated certain "scenic river areas" to be preserved as a part of Oklahoma's diminishing resource of free-flowing rivers and streams.

B. The areas of the state designated as "scenic river areas" shall include:

1. The Flint Creek and the Illinois River above the confluence of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;
2. The Barren Fork Creek in Adair and Cherokee Counties from the present alignment of Highway 59 West to the Illinois River;
3. The Upper Mountain Fork River above the 600-foot elevation level of Broken Bow Reservoir in McCurtain and LeFlore Counties;
4. Big Lee's Creek, sometimes referred to as Lee Creek, located in Sequoyah County, above the 420-foot MSL elevation, excluding that portion necessary for a dam to be built in the State of Arkansas with a crest elevation of no more than the 420-foot MSL elevation. The Oklahoma Water Resources Board shall make such classifications, designations or adjustments to Oklahoma's water quality standards as required to allow the impoundment of water by said dam; and
5. Little Lee's Creek, sometimes referred to as Little Lee Creek, located in Adair and Sequoyah Counties, beginning approximately four (4) miles east-southeast of Stilwell, Oklahoma, and ending at its conjunction with Big Lee's Creek approximately two (2) miles southwest of Short, Oklahoma.

C. The term "scenic river area" as used in the Scenic Rivers Act is defined as the stream or river and the public use and access areas located within the area designated.

§ 1453. Legislative intent – construction, operation or maintenance of dams or related projects.

A. Once an area is designated as a "scenic river area", it is the intent of the Legislature that:

1. The stream or river in the area designated be preserved in its free-flowing condition; and

2. The stream or river in the area designated be preserved in its free-flowing condition and that the stream or river shall not be impounded by any large dam or structure except as specifically authorized by the Legislature.

B. 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 any "scenic river area", without legislative consent, except as needed by the municipalities located in the counties or the immediate vicinity of the "scenic river area", for their own municipal or domestic water supply if such structures will not significantly interfere with the preservation of the stream as a scenic free-flowing stream.

§ 1454. Cooperation

A. It is recognized by the Legislature that an effective program for preserving the scenic beauty of the free-flowing streams and rivers designated as "scenic river areas" necessarily involves the cooperation and support of the people in the operating areas of designated "scenic river areas", as well as the people using the "scenic river areas", and the agencies of state government administering these areas.

B. The primary purpose of the Scenic Rivers Act is to encourage the preservation of the areas designated as "scenic river areas" in their natural scenic state.

C. In order to assist in the public use and enjoyment of such areas, any Scenic Rivers Commission, the Oklahoma Tourism and Recreation Department and the Oklahoma Wildlife Conservation Commission may acquire, develop and maintain public access points, easements or park areas in or near "scenic river areas". Such acquisitions shall be by private treaty only, and the use of the power of eminent domain for these purposes is specifically prohibited by the Scenic Rivers Act.

§ 1455. Littering – complaint – penalty

A. It is recognized by the Legislature that littering by people using the "scenic river areas" is one of the most immediate threats to the scenic beauty of our free-flowing streams and surrounding areas.

B. Any law enforcement, police or peace officer, game wardens or any other personnel of the Wildlife Conservation Commission, the personnel of the Tourism and Recreation Department, any landowner in the area, or any other interested party may file a complaint to enforce the provisions of the Scenic Rivers Act.

C. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on or near a scenic river area shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

D. The use of glass containers for any purpose shall be prohibited in any boat, canoe, raft or inflatable watercraft in a scenic river area or on the Lower Mountain Fork River, south of the Broken Bow Lake Reregulation Dam to United States Highway 70. Any person found in violation of this subsection shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

§ 1456. Property rights of private landowners

The property rights of private landowners in and around "scenic river areas" are the same as in any other area. The unauthorized use of private property is trespassing and is subject to the penalties provided elsewhere in the statutes for such an offense.

§ 1457. Agencies

A. The Executive Director of the Department of Environmental Quality, the Corporation Commission, the State Department of Agriculture, the Oklahoma Water Resources Board, the Oklahoma Wildlife Conservation Commission and the Conservation Commission are hereby given the authority to assist the Scenic Rivers Commission in maintaining and improving water quality and in preventing and eliminating the pollution of waters within a "scenic river area".

- B. 1. The Secretary of 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. The strategy shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by January 31, 2003.
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 developed total maximum daily load, 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. For the permitted or registered water pollution sources subject to each state environmental agency's jurisdiction, the following information shall be included:
 - (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. The Secretary of Environment shall coordinate with the appropriate state environmental agencies to create an annual progress report, beginning January 31, 2004, and each year thereafter. The progress report shall be submitted to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.
2. The annual progress report shall include any revisions and updates to the information provided in the original strategy, in addition to the following:
 - a. identification of all actions taken by each state environmental agency to reduce pollutant levels in each impaired scenic river watershed,
 - b. identification of the sources of pollutants causing impairment or continued degradation of each impaired scenic river,
 - c. outline of further steps to be taken by each state environmental agency to reduce pollutants from identified sources in order to accomplish pollutant-specific load reduction goals,
 - d. an analysis of the effectiveness of the pollutant reduction efforts of each state environmental agency based upon data collected by the Oklahoma Water Resources Board's Beneficial Use Monitoring Program, the Conservation Commission's Small Watershed Rotational Monitoring Program and other appropriate monitoring data, and
 - e. recommendations for further administrative, judicial or legislative actions necessary to achieve the load reduction goals assigned to each impaired scenic river watershed and to overcome any identified limitations or obstacles.
- D. 1. For those impaired scenic river watersheds where a total maximum daily load (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 is achievable by the best available waste control process.

2. The annual report required by subsection C of this section shall indicate how the Department has verified that each wastewater treatment facility having a discharge has, in fact, implemented appropriate waste controls for phosphorus.
 3. If the state's water quality monitoring data demonstrate that the water quality standards for phosphorus applicable to a watershed remain impaired, and only after all permitted or registered water pollution sources have also implemented the best available waste control processes for phosphorus to address the pollutant or pollutants contributing to the impairment of the watershed, the Department shall again evaluate and require regulated entities to take additional actions to achieve water quality standards for phosphorus.
- E. 1. The Scenic Rivers Commission shall require all entities using scenic rivers for recreational activities, which are licensed by the Commission, to implement a program to control the amount of pollution entering an impaired scenic river watershed from such recreational activities.
2. The Scenic Rivers Commission shall include in the coordinated watershed restoration and protection strategy, and all subsequent annual reports, an identification of the pollution from recreational activities which are licensed by the Commission and those actions taken and planned to reduce the amount of pollution from entering an impaired scenic river watershed.
- F. If the Legislature or the Governor finds, based on any of the annual reports required by this section, 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 require the agency to meet its mandated responsibilities.

§ 1458. Notice and hearing as to designation of additional scenic areas

Before any plans for additional proposed "scenic river areas" are brought to the Legislature for consideration, the Scenic Rivers Commission and the Oklahoma Tourism and Recreation Department shall give reasonable notice in newspapers of general circulation in every county in which land and streams are situated that would be affected by the proposed "scenic river area". The notice shall include a map or drawing of the proposed area and shall give the time and place of a meeting in each county affected, at which time and place the Commission shall present their plans for the proposed area.

§ 1460. Scenic rivers – statement of purpose

The Legislature finds that the protection and development of the state's Scenic River Areas and adjacent and contiguous lands and quality of outstanding resource waters included within each Commission's operating area should be provided for by properly planned and executed rules promulgated by that Commission respecting 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 said affected areas, 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.

§ 1461. Scenic Rivers Commissions

- A. 1. A Scenic Rivers Commission may be created pursuant to the Scenic Rivers Act for each designated scenic river area or combination of areas for which operating areas for planning and management have been delineated. Each Scenic Rivers Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act.

2. Each Commission shall be an agency of the state and shall be named to reflect the area or areas subject to its jurisdiction.
 3. State funds for each Commission shall be provided for by a separate line-item appropriation through the state agency specifically named or by direct appropriation. If funded through the named state agency, said state agency shall disburse the funds to the appropriate Scenic Rivers Commission in the amount and pursuant to the conditions prescribed by the Legislature.
- B.
1. There is hereby re-created, to continue until July 1, 2017, in accordance with the provisions of the Oklahoma Sunset Law, a Scenic Rivers Commission for the Illinois River and Flint Creek Scenic River Areas within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County.
 2. The operating area for the Scenic Rivers Commission for the Illinois River and Flint Creek will be limited to areas within Adair, Cherokee and Delaware Counties, and to areas within Cherokee County for Barren Fork Creek.
- C. Each Commission shall consist of not less than seven (7) nor more than fifteen (15) members. The term of office for each member shall be four (4) years. Each Commission shall be composed of the following members:
1. a. The Governor shall appoint three members, one of whom shall be a representative of the Oklahoma Conservation Commission or the Oklahoma Tourism and Recreation Commission.
 - b. The President Pro Tempore of the Senate shall appoint two members who shall each be a member of a statewide citizens' conservation or environmental group.
 - c. The Speaker of the House of Representatives shall appoint two members who shall each be a resident of one of the counties containing the scenic river area, and one of whom shall be a representative of the agriculture industry; and
 2. a. The additional members of the Scenic Rivers Commission created pursuant to this subsection and as authorized by subsection A of this section shall be elected in a nonpartisan election to represent the following:
 - (1) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River or Flint Creek within Delaware County, shall elect one member to represent them,
 - (2) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River in Adair County, Oklahoma, shall elect one member to represent them,
 - (3) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River above its confluence with the Barren Fork Creek or those portions of the Barren Fork Creek in Cherokee County shall elect one member to represent them,
 - (4) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of:
 - (a) the Illinois River, above its confluence with the Barren Fork Creek located in Adair, Cherokee and Delaware Counties, or
 - (b) Flint Creek located within Delaware County or Barren Fork Creek within Cherokee County,
 shall elect two at-large members to represent them, and
 - (5) no person shall be eligible to vote in more than one of the jurisdictional areas outlined in divisions (1), (2) and (3) of subparagraph a of this paragraph.
 - b. All members elected under divisions (1), (2) and (3) of subparagraph a of this paragraph shall reside or own property within the county they represent. All at-large members elected under division (4) of subparagraph a of this paragraph shall reside or own property within Adair, Cherokee or Delaware Counties.

- D. The Scenic Rivers Commission shall promulgate rules governing the procedure and conduct of elections for Commission members. Such rules shall be consistent with the purposes of general election laws except where otherwise provided for by this act.
- E. 1. Vacancies on each Commission shall be filled, as applicable, by the appointing authority or by election, pursuant to the provisions of this section. Members shall serve until their respective successors shall be appointed and qualify, or be elected, unless terminated by death or resignation.
2. Each Scenic Rivers Commission shall promulgate rules consistent with the requirements of this section for replacing members who fail to attend meetings or otherwise become unable to function due to disability, death, or resignation. The replacement shall serve for the remainder of the unexpired term of the member being replaced.
- F. 1. Each Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act.
2. An interim commission consisting of the members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall provide for the election of additional members as provided for in paragraph 2 of subsection C of this section.
- G. 1. Each Scenic Rivers Commission shall be invested with the power to:
- a. prepare and establish minimum standards for planning and other ordinances and rules for the implementation of the Scenic Rivers Act by counties, municipalities, or any other local authorities in the Commissions' operating area, and
 - b. promulgate such rules and issue such orders as necessary to protect the public interest and to achieve the purposes of the Scenic Rivers Act.
2. The standards shall be developed and executed in such manner as to protect and enhance the values which caused the area to be named a scenic river area without, insofar as is consistent with said protection and enhancement, limiting other uses that do not substantially interfere with the protection, public use, and enjoyment of these values.
3. Primary emphasis in the standards shall be given to protecting the aesthetic, scenic, historic, archeologic, and scientific features of the scenic river area with due consideration being given to the orderly development of the lands adjacent and contiguous to the scenic river area.
4. Standards set pursuant to the provisions of the Scenic Rivers Act shall not be less rigid or exacting than those established by any other federal or state agency having jurisdiction in respect to the subject covered by the particular standard.
- H. Each Scenic Rivers Commission may engage in or supervise the conduct of studies, make a plan or plans, receive, disburse, and allocate monies granted or appropriated to it, and do all things, whether expressly enumerated in the Scenic Rivers Act or not, which may be lawful and necessary and proper for the accomplishment of the purposes of the Scenic Rivers Act. Nothing in this section shall be interpreted as giving any Commission the power of eminent domain.
- I. Each Scenic Rivers Commission, in addition, shall have the following powers and responsibilities:
1. Appoint and fix the salary of an administrator experienced in land resource planning and management who shall serve at the pleasure of the Commission and in accordance with its policies, budgets, powers, and responsibilities. Such administrator may be commissioned as a peace officer. The administrator may select, appoint, and employ individuals to fill personnel positions authorized, budgeted, and deemed necessary by the Commission to implement the purposes of the Scenic Rivers Act;
 2. Act in cooperation with all federal, state, and local governments and agencies thereof to implement the purposes of the Scenic Rivers Act;
 3. Elect from the Commission membership a chair and such other officers as the Commission deems necessary to conduct the affairs of the Commission. The officers shall be permitted to succeed themselves once for a total of two (2) consecutive years of service in any office. The Commission

shall hold meetings not less than once each quarter, at such times as may be fixed by call of its chair or as determined by majority vote in advance of the meeting. It is the responsibility of the Commissioners to encourage general public participation in the formation and adoption of plans, standards, procedures, and regulations. The meetings of the Commission shall be open to the public. Minutes of each meeting shall be kept and filed in the office of the Commission and shall be available for public inspection during reasonable office hours;

4. Promulgate rules and issue orders necessary to the exercise of the powers of the Commission and to achieve the purposes of the Scenic Rivers Act;
5. Prepare and adopt a management plan or plans to guide and control private activities and public programs and to include varying degrees of protection and development based on the special attributes of the area;
6. Provide, where appropriate in the discretion of the Commission, for the review and consideration by the Commission of the impact on the natural and aesthetic environment within the Commission's operating area related to any existing or proposed action by public agencies, private individuals or any other activity;
7. Accept, in the name of and through the Commission, real and personal property that is granted, bequeathed, devised, or conveyed to the Commission to implement the purposes of the Scenic Rivers Act, upon such trusts and conditions as may be prescribed by the grantors or devisors, upon approval of the Commission;
8. Enter into contracts on behalf of the Commission to implement the purposes of the Scenic Rivers Act and may accept gifts and grants, whether the grants be of federal or other funds or real or personal property;
9. Identify public and private nuisances which are adverse to the purposes of the Scenic Rivers Act and take such action as permitted by law to remove the public nuisances;
10. Own and control public access points to the scenic river area, issue use permits, and purchase easements and fee title to land within the Commission's operating area. Legal title to property shall be held in the name of the individual Scenic Rivers Commission as an agency of the State of Oklahoma;
11. Review any action taken by any local, municipal, or county authority within the operating area of the Commission in an administrative adjudicatory proceeding brought upon the petition of any officer or agency of this state, including the administrator, or of any person acting in behalf of the public interest, to determine whether such action conforms to the standards promulgated by the Commission or has an adverse effect upon the proper achievement of the purposes of the Scenic Rivers Act. Upon a finding that such action does not so conform or does have such adverse effect, order that the action be nullified, superseded, or amended to the extent necessary to produce such conformity or eliminate such adverse effect, the Commission may issue such orders as may be necessary and proper to effectuate its primary order;
12. Hire an attorney or request legal assistance from the district attorney or the State Attorney General when appropriate and if there is no conflict in the legal interest of the parties;
13. Bring an action in the district court of any county of the state where service can be obtained on one or more of the defendants, to enjoin the acts or practices which appear to constitute a violation of any provision of the Scenic Rivers Act or any rule or order promulgated and to enforce compliance with the provisions of the Scenic Rivers Act or any rule or order. Upon a proper showing, a restraining order, permanent or temporary injunction, writ of mandamus, or other appropriate remedies including damages shall be granted. The court may not require the administrator or Commission to post a bond; and
14. Suspend the effectiveness of any action taken by a municipality or county within the designated operating area of such Commission when, in the exercise of alleged local functions, it appears the action has or may have an adverse effect upon the proper achievement of the purposes of the

Scenic Rivers Act, whereupon all proceedings thereunder shall be held in abeyance upon receipt of written notice from the administrator pending a final determination of the Commission in regard to such action. If it is determined that such adverse effects exist, the Commission may nullify, supersede, or amend said action only to the extent necessary to achieve the purposes of the Scenic Rivers Act.

J. A Commission member to whom some private benefit, direct or indirect, financial or otherwise, may come as the result of some public action should not be a participant in that action. The possibility, not the actuality, of a conflict of interest should govern. A Commission member experiencing a conflict of interest should declare his or her interest publicly, abstain from voting on the matter should he or she have a vote, and refrain from deliberation on the matter. In addition, the Commission member should not discuss the matter with any fellow member for the purpose of influencing a decision thereon.

K. The rules and orders of the Commission shall be promulgated in compliance with all applicable provisions of the Administrative Procedures Act.

- L. 1. The administrator may appoint commissioned peace officers certified by the Council on Law Enforcement Education and Training to secure such scenic river area, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Cherokee and Delaware Counties, and those portions of the Barren Fork Creek within Cherokee County. All persons appointed by the administrator as peace officers shall be and have the full powers and authority of peace officers of the State of Oklahoma in securing such scenic river area, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Delaware and Cherokee Counties, and those portions of the Barren Fork Creek within Cherokee County. All peace officers appointed by the administrator shall be in the unclassified service.
2. Peace officers who become employed under this subsection or who are transferred to the Scenic Rivers Commission pursuant to this act who have service credit in the Oklahoma Law Enforcement Retirement System may, within thirty (30) days after becoming employed or transferred, elect to continue membership in the Oklahoma Law Enforcement Retirement System; otherwise they may be eligible to enroll only in the Oklahoma Public Employees Retirement System.
3. Any peace officer who has completed twenty (20) years of service or retires from the Scenic Rivers Commission may maintain possession of his or her badge and assigned firearm.
4. The administrator is authorized to employ seasonal employees, including commissioned peace officers certified by the Council on Law Enforcement Education and Training throughout the calendar year to secure such scenic river area, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Cherokee and Delaware Counties, and those portions of the Barren Fork Creek within Cherokee County. For the purposes of the Scenic Rivers Act, seasonal employees shall be unclassified employees employed by the administrator who work less than one thousand six hundred (1,600) hours in any twelve-month period. The administrator may employ seasonal employees throughout the calendar year. Seasonal employees employed by the administrator for a period of time necessary to complete a project shall be in the unclassified service of the state as provided by the Oklahoma Personnel Act. Seasonal employees shall not be entitled to paid leave, paid holidays, retirement, health, dental or life insurance, and shall be exempt from any laws, rules or practices providing for such benefits. The administrator, in the annual budget request for the Scenic Rivers Commission, shall include a summary of the use of seasonal employees, which shall include the number of seasonal employees employed under the provisions of this subsection and the total wages paid to these employees.
5. Project labor employed by the Scenic Rivers Commission for a period of time necessary to complete a project shall be in the unclassified service of the state as provided by the Oklahoma Personnel Act. Such employees shall not be entitled to paid leave, paid holidays, retirement, health, dental or life insurance, and shall be exempt from any laws, rules or practices providing

such benefits. The administrator shall submit in its annual budget reporting a summary of the use of project labor that shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

§ 1462. Oklahoma Tourism and Recreation Department – Power and duties
The Oklahoma Tourism and Recreation Department shall:

1. Establish procedures for organizing and certifying Scenic Rivers Commissions to administer a resource management program for designated scenic river areas and adjacent lands, consistent with the purposes of the Scenic Rivers Act. No Commission shall be certified as an agency of the state to exercise the powers provided for in the Scenic Rivers Act until an interim commission has formulated procedures for holding an election for the additional Commission members. No Scenic Rivers Commission shall be established unless otherwise provided for in the Scenic Rivers Act or recommended for organization by one of the following methods:
 - a. A resolution signed by two or more counties or one county and a city or conservation district of an adjoining county statutorily defined as part of the designated scenic river area, or
 - b. A resolution signed by at least one county statutorily defined as part of the designated scenic river area and a state agency, or
 - c. A petition signed by five hundred (500) registered voters residing in any county statutorily defined as a part of the designated scenic river area;
2. Disburse line-item or other state appropriations to certified Scenic Rivers Commissions established in accordance with the Scenic Rivers Act and provide upon request, if funds and resources are available, technical assistance to said Commissions in the planning and administration of resource management programs within its operating areas;
3. Prepare procedures for review and comment by appropriate state and local agencies on proposed management plans, standards, and developments identified by a Scenic Rivers Commission as having a significant impact within its operating area; and
4. Establish, as provided in subsection C of Section 1461 of this title, a Scenic Rivers Commission for the Flint Creek, Illinois River Scenic River Areas, and those portions of Barren Fork Creek within Cherokee County.

§ 1462A. Scenic River Commissions funds

- A. The Director of Office of Management and Enterprise Services is hereby authorized to establish a special fund in the State Treasury for each Scenic Rivers Commission.
- B. Said fund shall consist of all monies received by the Commission under statutory authority or appropriated for its use. The fund shall be a continuing fund not subject to fiscal year limitations.
- C. Monies accruing to the credit of the fund shall be expended pursuant to laws of the state in carrying out the duties and responsibilities of the Commission, and without legislative appropriation.
- D. Warrants for expenditure from the fund shall be made pursuant to claims prepared by the Administrator of the Scenic Rivers Commission and approved by the Director of Office of Management and Enterprise Services for payment.
- E. Expenditures made pursuant to the provisions of the Scenic Rivers Act may be spent for water quality monitoring, streambank stabilization projects, and riparian area protection agreements located within the drainage basin of a scenic river that will stop degradation or improve the water quality of a scenic river.

Section 1462B. Scenic River Commissions Petty Cash Funds

- A. The Director of Office of Management and Enterprise Services is hereby authorized to establish a Petty Cash Fund for each Scenic Rivers Commission in an amount not to exceed Five Hundred Dollars (\$500.00).

B. The fund shall be established and replenished from any monies available to a Scenic Rivers Commission for operating expenses.

C. The Director of Office of Management and Enterprise Services shall prescribe all forms, systems and procedures for administering a Petty Cash Fund so established.

§ 1462C. Fees collected

A. The fees collected pursuant to the provisions of subsection B of Section 1470 of this title shall be used to purchase additional public access areas along the Flint Creek and Illinois River Scenic River Areas within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County or for the general operations of the Commission.

- B. 1. For these purposes, there is hereby created in the State Treasury a revolving fund for the Scenic Rivers Commission, to be designated the "Scenic Rivers Commission Revolving Fund".
2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Scenic Rivers Commission from all fees. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Scenic Rivers Commission for the purpose of performing the duties imposed by law upon the Scenic Rivers Commission.
3. 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 Office of Management and Enterprise Services for approval and payment.

Section 1463. Dissolution of Scenic River Commissions

A. Each Scenic Rivers Commission may be dissolved by a resolution passed by an affirmative vote of two-thirds (2/3) of the members of the Scenic Rivers Commission.

B. Upon the dissolution of a Commission, the title to all real property and other property and funds shall vest in the State of Oklahoma.

§ 1464. Construction of Act

A. Nothing in the Scenic Rivers Act shall be construed to unduly restrict or adversely affect the use of property within the jurisdiction of any Scenic Rivers Commission 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 any Scenic Rivers Commission.

C. The Scenic Rivers Act shall not be construed in any way to affect existing rights between a landowner and utility or pipeline companies.

§ 1465. Powers of cities, incorporated towns and counties

A. All cities and incorporated towns and counties that make up a part of a jurisdiction of a certified Scenic River Commission 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.

§ 1466. Authority to provide funds for Commission

Each county, city, incorporated town or other governmental entity that makes up a part of the operating area of a Scenic River Commission is hereby authorized to grant or otherwise provide funds for the operation of the Commission.

§ 1467 Violations

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.

§ 1468. Review of acts by Scenic Rivers Commission

Action taken hereunder by any Scenic Rivers Commission or by its administrator may be reviewed in the district court of the county in which the office of the Commission is located or the county in which the property affected is located and in accordance with the standards established by the Administrative Procedures Act of this state.

§ 1469. Application of law – policy

- A. It is hereby declared to be the policy of the State of Oklahoma to develop in an orderly and expeditious manner the Scenic Rivers Commissions contemplated in the Scenic Rivers Act.
- B. For such purposes, the provisions of the Scenic Rivers Act shall apply only to the Illinois River and Flint Creek within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County and the operating areas of the Scenic Rivers Commission established pursuant to subsection C of Section 1461 of this title.

§ 1470. User fees

- A.
 - 1. The Scenic Rivers Commission for the Flint Creek and Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County is authorized and directed to charge an annual use fee of Thirty-five Dollars (\$35.00) per commercially owned and operated flotation device.
 - 2. The operation of a commercial flotation device without displaying a proper Oklahoma Scenic Rivers Commission license is subject to a fine not to exceed One Hundred Dollars (\$100.00). The penalty will be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.
- B. The Scenic Rivers Commission for the Flint Creek and Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County is authorized and directed to charge:
 - 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 state-designated scenic rivers areas located within the operating area of jurisdiction of the Commission; provided, however, landowners located immediately adjacent to state-designated scenic rivers areas shall not be required to pay either fee authorized by this subsection.
- C. The Scenic Rivers Commission for the Flint Creek and Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County Scenic River Areas shall promulgate rules and regulations for the collection and administration of the fees imposed pursuant to the provisions of this section in accordance with the Administrative Procedures Act.

D. The Commission may establish a fee for use of camping sites located in public use and access areas controlled by the Commission. The fee charged by the Commission shall not exceed the rate charged by the Oklahoma Tourism and Recreation Department for camping sites. The Commission is authorized to promulgate rules to implement such fee pursuant to Article I of the Administrative Procedures Act.

E. The administrator of the Scenic Rivers Commission is authorized to be commissioned as a peace officer after completion of all required training for the purpose of supervision of peace officers employed by the Commission and such administrator may be utilized for any law enforcement purpose as may be necessary.

F. For the purposes of this section, "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 waterways within the operating area of the Oklahoma Scenic Rivers Commission.

§ 1471. Collection of fees.

Fees assessed in subsection B of Section 1470 of this title shall be collected year round.