

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3049

By: Boles

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6 AS INTRODUCED

7 An Act relating to water; stating legislative intent;  
8 promulgating standards for operation of municipal  
9 sanitary sewer systems; prohibiting right of personal  
10 injury recovery for certain sanitary sewer overflow  
11 when standards are met; requiring accordance with  
12 certain standards to qualify for relief; listing  
13 components that owner or operator may include to  
14 qualify as operating in conformance; listing  
15 requirements for certain conformance consideration;  
16 providing for certain moratorium; setting expiration  
17 for certain moratorium; providing for codification;  
18 and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1085.66 of Title 82, unless  
there is created a duplication in numbering, reads as follows:

A. To encourage municipalities to work to maintain and upgrade  
sewage treatment and delivery systems, as well as to conserve the  
resources of municipalities for such maintenance or to make such  
upgrades, including having adequate available funding to participate  
in grant or loan programs available for such purposes through the

1 Oklahoma Water Resources Board or other governmental avenues, there  
2 is hereby recognized that there shall be no right of recovery for  
3 personal injury from a sanitary sewer overflow as long as the owner  
4 or operator of the municipal sanitary sewer system is working to  
5 maintain its sanitary sewage system in accordance with the  
6 guidelines and criteria promulgated by the Oklahoma Water Resources  
7 Board to be eligible for a grant, loan, or other similar guidelines  
8 or criteria promulgated by a governmental entity including, but not  
9 limited to, an interlocal cooperative created under Section 1001 et  
10 seq. of Title 74 of the Oklahoma Statutes. While those  
11 municipalities qualifying for relief under this section shall be  
12 exempt from personal injury damage claims of annoyance and  
13 inconvenience associated with a sanitary sewer overflow that alleges  
14 a nuisance-based cause of action, nothing herein shall otherwise  
15 prohibit a right of recovery for property damages associated with a  
16 sanitary sewer overflow in accordance with the Governmental Tort  
17 Claims Act.

18 B. To qualify for relief under this section as operating in  
19 conformance with recognized standards, the operational standards  
20 promulgated by the Oklahoma Water Resources Board or other  
21 governmental entity may include any or all of the following  
22 components as such components are determined by the governing body  
23 to be fiscally achievable considering available revenue streams to  
24 the public utility to fund the same:

1           1. Have their municipal sanitary sewer system mapped and have a  
2 policy of recordkeeping for maintenance and operation of the  
3 municipal system.

4           2. Have a policy of inspections, cleaning, and root control of  
5 municipal lines that contain the following elements:

6           a. an inspection program of municipal lines to determine  
7 whether sewage flows are clear, moderately occluded or  
8 severely occluded,

9           b. a program of routine maintenance of municipal lines,

10          c. a cleaning or jetting program for those sections of  
11 municipal lines for which the municipality has notice  
12 of clogging or occlusion since the last routine  
13 cleaning, and

14          d. a treatment program for municipal lines identified as  
15 having blockages due to root infiltration of which the  
16 municipality has notice with root control through  
17 either mechanical or chemical treatments.

18           3. Have a policy of responding to calls for sanitary sewer  
19 overflows (SSO) to clear municipal sewer mains, flush with water and  
20 deodorize the land upon which SSO occurred, and remove SSO debris  
21 from land upon which SSO occurred.

22           4. Have adopted a "Fats, Oils and Grease (FOG) Ordinance" that  
23 makes unlawful the introduction of any fats, oils or grease from  
24 nonresidential entities that are connected to the municipal sanitary  
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1 sewer system and incorporates pretreatment regulations adopted by  
2 the Oklahoma Department of Environmental Quality. Periodically  
3 advise sewer system participants and dischargers of this  
4 restriction.

5 5. Have adopted an ordinance that requires new construction or  
6 renovations of existing building to be connected to the sanitary  
7 sewer system to include installation of a backflow prevention device  
8 on the lateral line connection to the structure to the sanitary  
9 sewer main line.

10 6. Have adopted a policy that will periodically advise a  
11 private residential property owner who is connected to the municipal  
12 sanitary sewer system of the option to provide additional personal  
13 protection through the installation of a backflow prevention system  
14 on the private service line. At the discretion of the governing  
15 body after considering available funding, private residential  
16 property owners connected to the municipal sewer system may be  
17 offered public assistance with installing and inspection of backflow  
18 prevention devices.

19 7. The governing body of the municipal sanitary sewer system  
20 shall adopt a funding availability model that considers the  
21 following elements:

- 22 a. identifies the total revenue from ratepayers that can  
23 reasonably be expected over a fiscal year,  
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- b. identifies other funding sources from municipal revenues that can reasonably be expected to be contributed to the sanitary sewer system operations, maintenance or capital improvements,
- c. identifies other sources of funding, such as local, state, or federal that could be available for sanitary sewer system operations, maintenance, or capital improvements,
- d. identifies bonding capacities, whether revenue bonds or general obligations bonds, that could be available for sanitary sewer system operations, maintenance, or capital improvements,
- e. funding availability models should be reviewed at least every five (5) years to include a "rate study" recommending reasonable rates for those connected to the sanitary sewer system.

8. The governing body of the municipal sanitary sewer system shall adopt a five-year capital improvement plan that considers dedication of funding available to the following:

- a. repair or replacement of municipal sanitary sewer lines that have been identified as severely occluded,
- b. repair or replacement of municipal sanitary sewer lift stations necessary for the continued operation of the system, and

1 c. access to or purchase of equipment for operation of  
2 the municipal sanitary sewer system serving the  
3 citizens of the municipality that is connected to the  
4 sanitary sewer system.

5 9. Periodically advising as referenced in paragraphs 4 and 6 of  
6 this subsection shall be satisfied by any one of the following:

- 7 a. annual publication in a newspaper of general  
8 circulation within the county,  
9 b. at least annually posting on a municipal sponsored  
10 website, or  
11 c. providing at least annual inserts in a monthly utility  
12 bill.

13 C. 1. A municipality with a goal of completion and full  
14 implementation within five (5) years of the effective date of this  
15 measure shall be considered in conformance with recognized standards  
16 if the municipality is in the process of implementing the following  
17 policies:

- 18 a. mapping and recordkeeping policy as set out in  
19 paragraph 1 of subsection B of this section,  
20 b. creating policies for regular inspections, cleaning,  
21 and root control as set out in paragraph 2 of  
22 subsection B of this section,  
23 c. funding availability models for operation and  
24 maintenance of their municipal sanitary sewer systems  
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1 as set out in paragraph 7 of subsection B of this  
2 section, and

3 d. adopted a five (5) year capital improvement plan as  
4 set out in paragraph 8 of subsection B of this  
5 section.

6 2. There shall be a moratorium against nuisance-based tort  
7 claims relating to the operation of municipal sanitary sewer systems  
8 for five (5) years from the effective date this act for those  
9 municipalities working towards implementing policies as set forth in  
10 paragraph 1 of this subsection.

11 SECTION 2. This act shall become effective November 1, 2024.

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