

ENGROSSED HOUSE
BILL NO. 1316

By: Benson and Perry of the
House

and

Littlefield of the
Senate

An Act relating to water and water rights; amending 82 O.S. 1991, Sections 105.1 and 105.11, as amended by Section 2, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1994, Section 105.11), which relate to water rights; amending 82 O.S. 1991, Sections 1020.17, 1020.18, 1020.1, as amended by Section 8, Chapter 164, O.S.L. 1993, and 1020.8, as amended by Section 13, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1994, Sections 1020.1 and 1020.8), which relate to the Oklahoma Water Resources Board; modifying terms; modifying hearing and notification procedures; requiring certain public hearings; providing for promulgation of rules for certain criteria for exceptions; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 105.1, is amended to read as follows:

Section 105.1 ~~A.~~ 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-;

~~B.~~ ~~In this act, unless the context clearly indicates otherwise,~~
~~"domestic~~ 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;

~~C.~~ 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-;

~~D.~~ 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-;

~~E.~~ 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-;

~~F.~~ 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

~~G.~~ 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.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 105.11, as amended by Section 2, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1994, Section 105.11), is amended to read as follows:

Section 105.11 A. Upon the acceptance of an application which complies with the provisions of this act and the rules and regulations established thereunder, 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, the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant and the manner in which a protest to the application may be made. 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 shall be given within thirty (30) days after the Board has given him notice of his 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.

B. ~~Upon~~ Unless the Board has previously scheduled a hearing and required the applicant to provide notice thereof with notice of the application, upon receipt of a protest which meets the requirements of the Board's rules, the Board shall schedule a hearing on the application and advise the applicant of the hearing date, and the applicant shall notify the ~~applicant and~~ protestant of such hearing.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 1020.17, is amended to read as follows:

Section 1020.17 ~~Before issuing any permits in a ground water basin or subbasin the~~ The Board may determine and order 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 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.

SECTION 4. AMENDATORY 82 O.S. 1991, Section 1020.18, is amended to read as follows:

Section 1020.18 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 ~~grant~~ 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.

SECTION 5. AMENDATORY 82 O.S. 1991, Section 1020.1, as amended by Section 8, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1994, Section 1020.1), is amended to read as follows:

Section 1020.1 As used in this act:

1. "Groundwater" means fresh 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 this act 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; and

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.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 1020.8, as amended by Section 13, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1994, Section 1020.8), is amended to read as follows:

Section 1020.8 Upon the filing of an application which complies with the provisions of this act and the rules and regulations established thereunder, 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, the places of taking and of use, amount of water, the purpose for which it is to be used, name and address of applicant and the manner in which a protest to the application may be made. No hearing shall be had upon the application until proper notice shall have been given. Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest. ~~Upon~~ Unless the Board has previously scheduled a hearing and required the applicant to provide notice thereof with notice of the application, upon receipt of a protest which meets the requirements of the Board's rules, the Board shall schedule a hearing on the application and advise the applicant of the hearing date, and the applicant shall notify the applicant and protestant of such hearing.

SECTION 7. This act shall become effective November 1, 1995.

Passed the House of Representatives the 8th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate