

ENGROSSED SENATE
BILL NO. 30

By: Muegge of the Senate

and

Leist of the House

[waters and water rights - rural water districts -
creating the Water Wellhead Protection Act -
codification -
emergency]

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 981 of Title 82, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Water Wellhead Protection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 982 of Title 82, unless there is created a duplication in numbering, reads as follows:

As used in the Water Wellhead Protection Act:

1. "Water wellhead protection plan" means any ordinance or rule duly adopted by any municipality or rural water district to protect its groundwater supply from possible pollution or contamination pursuant to the provisions of this act;

2. "Water wellhead protection area" means an area delineated by the Department of Environmental Quality as a ground water protection area, provided such area shall not exceed one (1) mile around a

public water supply well that is owned, leased or controlled by a municipality or rural water district;

3. "Municipality" means any municipality of this state or the public trust which has as its beneficiary the municipality;

4. "Rural water district" means any rural water district which was formed with one of its purposes being to supply and distribute potable water pursuant to the terms of Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

5. "Nonprofit water corporation" means any nonprofit water corporation formed for the purpose of providing potable water for distribution and resale to the public; and

6. "Study team" means those persons selected by the governing body of the municipality, rural water district or nonprofit water corporation to carry out the purposes of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 983 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Any municipality, rural water district or nonprofit water corporation desiring to implement the provisions of this act shall select at least four persons to study and evaluate the potential for possible pollution or contamination of its groundwater supply and make appropriate recommendations to the municipality, rural water district or nonprofit water corporation governing body.

B. With approval of the governing body, the study team may contract with any professional individual or entity necessary to assist in the study and evaluation of the need for a water wellhead protection area, and obligation for payment to such individual or entity shall remain with the contracting municipality, rural water district or nonprofit water corporation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 984 of Title 82, unless there is created a duplication in numbering, reads as follows:

Prior to the adoption of a water wellhead protection plan, a municipality, rural water district or nonprofit water corporation shall publish in a newspaper of general circulation within the county the complete final report and recommendation of the study team, or a summary thereof, and a notice of the date, time and place when the governing body will consider implementing the study team recommendations.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Each municipality shall enforce ordinances enacted pursuant to this act in the same manner as all other ordinances.

B. After notice of possible violation of its water wellhead protection plan, the district attorney for the county in which a majority of the rural water district or nonprofit water corporation's water wellhead protection area exists shall have the duty and responsibility to seek injunctive relief to enforce the provisions of the water wellhead protection plan within such area.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 1324.10, is amended to read as follows:

Section 1324.10 A. Every district incorporated hereunder shall have perpetual existence, subject to dissolution as provided by Section 1325.1 et seq. of this title, and shall have power:

1. To sue and be sued, complain and defend, in its corporate name;

2. To adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;

3. To 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 this act-; i

4. To 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-; i

5. To make bylaws for the management and regulation of its affairs-; i

6. To 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. To 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, to 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 governing body of any such city, county or state agency may require, as a condition of the governing body's concurrence in the attachment of 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. To make any and all contracts necessary or convenient for the exercise of the powers of the district-;

10. To 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-; i

11. No district organized hereunder shall sell or export water or gas under this act outside of the state without consent of the Legislature-; i

12. To 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-; i

13. To 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-; i

14. To 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-; i

15. To enter into contracts jointly with any other district, municipality, city or town, the state, the United States of America, or any other governmental agency, or any of them, for the purpose of purchasing water, constructing, acquiring, operating water facilities or purchasing or leasing reservoir space-; i

16. To 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-; i

17. To 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; and

18. To adopt wellhead protection criteria. The wellhead protection criteria shall be enforced by the District Attorney for the county in which a majority of the rural water district's wellhead protection area exists, upon request of the rural water district.

B. 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.

C. 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.

SECTION 7. AMENDATORY Section 56, Chapter 145, O.S.L. 1993, as last amended by Section 8, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1996, Section 2-6-101), is amended to read as follows:

Section 2-6-101. For purposes of this article:

1. "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;
2. "Disposal system" means pipelines or conduits, pumping stations and force mains and all other devices, construction,

appurtenances and facilities used for collecting, conducting or disposing of wastewater, including treatment systems;

3. "Drainage basin" means all of the water collection area adjacent to the highest water line of a reservoir which may be considered by the Department to be necessary to protect adequately the waters of the reservoir. The area may extend upstream on any watercourse to any point within six hundred (600) feet of the highest water line of the reservoir;

4. "Federal Safe Drinking Water Act" means the federal law at 42 U.S.C., Section 300 et seq., as amended;

5. "Indirect discharge" means the introduction of pollutants to a publicly owned treatment works from a nondomestic source;

6. "NPDES" or "National Pollutant Discharge Elimination System" means the system for the issuance of permits under the federal Water Pollution Control Act, 33 U.S.C., Section 1251 et seq., as amended;

7. "Nonpoint source" means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined;

8. "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agribusiness waste discharged into waters of the state;

9. "Public water supply" means water supplied to the public for domestic or drinking purposes;

10. "Reservoir" means any reservoir, whether completed or in the process of construction, whether or not used as a water supply, and whether or not constructed by any recipient of water therefrom;

11. "Sludge" means nonhazardous solid, semi-solid, or liquid residue generated by the treatment of domestic sewage or wastewater by a treatment works, or water by a water supply system, or manure,

or such residue, treated or untreated, which results from industrial, nonindustrial, commercial, or agribusiness activities or industrial or manufacturing processes and which is within the jurisdiction of the Department;

12. "Small public sewage system" shall mean a disposal or collection system which serves less than ten (10) residential units or a public or commercial sewage system which has an average flow of less than five thousand (5,000) gallons per day;

13. "Treatment" means any method, technique or process used to remove pollutants from wastewater or sludge to the extent that the wastewater or sludge may be reused, discharged into waters of the state or otherwise disposed and includes, but is not limited to, the utilization of mechanized works, surface impoundments and lagoons, aeration, evaporation, digesters or other devices or methods. "Treatment" also means any method, technique or process used in the purification of drinking water;

14. "Treatment works" means any facility used for the purpose of treating or stabilizing wastes or wastewater. "Treatment works" shall be synonymous with "wastewater works";

15. "Waste" means any liquid, gaseous or solid or semi-solid substance, or thermal component, whether domestic, municipal, commercial, agricultural or industrial in origin, which may pollute or contaminate, or tend to pollute or contaminate, any air, land or waters of the state and which is within the jurisdiction of the Department;

16. "Wastewater" includes any substance, including sewage, that contains any discharge from the bodies of human beings or animals, or contaminating chemicals or other waste or pollutants from domestic, municipal, commercial, agricultural, industrial or manufacturing activities or facilities and which is within the jurisdiction of the Department;

17. "Wastewater treatment system" means treatment works and all related pipelines or conduits, pumping stations and force mains, and all other appurtenances and devices used for collecting, treating, conducting or discharging wastewater;

18. "Water supply system" means a water treatment plant, water wells, and all related pipelines or conduits, pumping stations and mains and all other appurtenances and devices used for distributing water to the public and, as such, shall be synonymous with waterworks;

19. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers, 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, and shall include under all circumstances the water of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof; ~~and~~

20. "Wellhead protection area" means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, that defines the areal extent from which water is supplied to such water well or wellfield; and

21. "Wellhead protection criteria" means any ordinances or rules duly adopted by a municipality or rural water district to protect its groundwater supply from possible pollution or contamination.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-309 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Prior to the adoption of wellhead protection criteria, the municipality or rural water district desiring to implement wellhead

protection criteria shall submit the criteria to the Department of Environmental Quality for approval.

B. The Department shall review the wellhead protection criteria to ensure that they do not impose excessive requirements. The review by the Department shall be based on rules promulgated by the Environmental Quality Board.

C. The Department shall not condition approval of wellhead protection criteria upon the addition of any requirement more stringent than those proposed by the municipality or rural water district.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of February, 1997.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1997.

Speaker of the House of Representatives