

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE JOINT  
RESOLUTION NO. 1046

By: Rice and Gray

AS INTRODUCED

A Joint Resolution relating to a certain rule of the Oklahoma Water Resources Board; disapproving proposed permanent rule amendments to OAC 785:30-3-6, regarding taking and use of groundwater; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof; and

WHEREAS, on March 11, 1997, the Oklahoma Water Resources Board adopted proposed permanent rule amendments to OAC 785:30-3-6, regarding taking and use of groundwater relating to well spacing, and on March 20, 1997, the Oklahoma Water Resources Board submitted proposed permanent rule amendments to OAC 785:30-3-6, regarding taking and use of groundwater relating to well spacing to the Legislature for its review; and

WHEREAS, Section 1020.17 of Title 82 of the Oklahoma Statutes provides that the Oklahoma Water Resources Board may promulgate rules 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; and

WHEREAS, Section 1020.18 of Title 82 of the Oklahoma Statutes provides that rules promulgated by the Oklahoma Water Resources Board shall establish the criteria and conditions under which location exceptions may be authorized; and

WHEREAS, the Legislature recognizes that the following proposed permanent rule amendments to OAC 785:30-3-6 have the potential to adversely affect the fresh groundwater users of Oklahoma and are inconsistent with legislative intent in that the proposed permanent rule amendments authorize the Oklahoma Water Resources Board to limit a particular permit applicant's well location without imposing similar well spacing limits on other permittees in the same basin or subbasin.

785:30-3.6. Well spacing

(a) Spacing. Within groundwater basins where the maximum annual yield has been determined, no new or proposed well(s) shall be drilled and completed within one thousand three hundred twenty feet (1320') of an authorized existing well or proposed well location on lands of another. Upon sufficient showing and as conditions warrant, the Board may determine that the new or proposed wells must be located at distances further than one thousand three hundred twenty feet (1320') from authorized existing or proposed well locations. This well spacing provision shall not be applicable to plugged or abandoned wells on lands adjacent to the lands dedicated to the application.

(b) Location exceptions. A location exception shall be granted if the person requesting the exception shows in an individual proceeding that drilling or completing the new or proposed well at the location required to comply with the established well spacing set forth in subsection (a) of this section would be inequitable or unreasonable, that notice, as set forth in 785:30-3-4, of the location exception request is provided and that one of the following conditions is met:

(1) No objection is received from any landowner having a well located within the established well spacing distance of the proposed well requested to be authorized.

(2) The applicant presents substantial, competent evidence to the Board and the Board determines that the well requested to be authorized will not be pumped at a rate and/or duration that creates a cone of depression which will cause an excessive drawdown in the historic average static water levels of existing wells located within the established well spacing distance of the well proposed to be authorized.

(3) The amount or dimensions of the land dedicated to the permit precludes the drilling of a well in compliance with the spacing requirement set forth in (a) of this section.

(4) The well requested to be authorized is an existing well which does not meet the spacing requirements of (a) of this section.

(5) The applicant presents substantial, competent evidence to the Board and the Board determines that the amount of groundwater available in locations that would meet spacing requirements is insufficient for the purposes to be authorized.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves proposed permanent rule amendments to OAC 785:30-3-6, regarding taking and use of groundwater relating to well spacing which was adopted by the Oklahoma Water Resources Board on March 11, 1997, and submitted by the Oklahoma Water Resources Board to the Legislature on March 20, 1997.

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Executive

Director of the Oklahoma Water Resources Board and the Editor of  
"The Oklahoma Register".

SECTION 3. 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.

46-1-7237

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