

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 3024

By: Roggow and Balkman of the  
House

and

Laster of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 1020.16, which relates to licensing of well drillers and pump installers; adding procedures and requirements for licensing of certain persons by the Oklahoma Water Resources Board; authorizing certain inspection; adding authorization for certain administrative fines; stating legislative findings; authorizing the towing and impoundment of certain equipment; providing requirements and procedures regarding towing and impoundment; authorizing Oklahoma Water Resources Board to promulgate rules; amending 82 O.S. 2001, Section 1085.1, as amended by Section 24, Chapter 375, O.S.L. 2002 (82 O.S. Supp. 2005, Section 1085.1), which relates to the Oklahoma Water Resources Board; modifying requirements for membership on the Board; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 1020.16, is amended to read as follows:

Section 1020.16 A. All persons engaged in the commercial drilling or commercial plugging of groundwater wells, monitoring wells, observation wells, wells utilized for heat exchange purposes, including but not limited to heat pump wells and geothermal wells, and in the commercial drilling or plugging of geotechnical borings and all persons engaged in the commercial installation of water well pumps in this state shall make application for and become licensed

with the Oklahoma Water Resources Board. After July 1, 1990, persons required to be licensed pursuant to this section shall pay an annual fee as required by the Board. Such fees shall be deposited and expended as provided in subsection B of this section~~.~~.

1. The Board may prepare examinations and establish other requirements for applications to obtain, maintain, and renew licenses and operator certifications. The examinations shall test the knowledge and skills of:

- a. water well drillers in the construction, alteration, and repair of wells and boreholes, including proper sealing and abandonment of wells and boreholes, and the rules promulgated by the Board regarding water well and borehole drilling and plugging, and
- b. pump installers in the planning, installation, operation, and repair of pumping equipment and water wells including sealing and abandonment, pumping efficiency, and the rules promulgated by the Board regarding pump installation.

2. The Board may inspect any water well, monitoring well, boring, water well pump, or abandoned well and borehole. Authorized representatives of the Board, with consent of the owner of the land on which the well or borehole is located, or as allowed by district court order, may enter upon and shall be given access to any premises for the purpose of inspection. If the Board finds noncompliance with applicable laws or rules or that a health hazard exists, the Board may disapprove use of the well and shall provide notice to the owner of the land on which the well is located and to the well driller, if known, of such disapproval. If disapproved, no well shall thereafter be used until brought into compliance and any health hazard is eliminated. Any person aggrieved by the disapproval of a well shall be afforded the opportunity of a hearing before the Board.

B. 1. There is hereby created within the Oklahoma Water Resources Board the Well Drillers and Pump Installers Remedial Action Indemnity Fund. The Indemnity Fund shall be administered by the Board.

2. The Indemnity Fund shall be excluded from budget and expenditure limitations. Except as otherwise provided by subsection C of this section, the monies deposited in the Indemnity Fund shall at no time become part of the general budget of the Oklahoma Water Resources Board or any other state agency. Except as otherwise provided by subsection C of this section, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Board or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expenses. Monies in the Indemnity Fund shall only be expended for remedial actions necessary, without notice and hearing, to protect groundwater from pollution or potential pollution from wells, or boreholes under the jurisdiction of the Board that do not meet minimum standards for construction or that have been abandoned or as may be recommended by the Well Drillers and Pump Installers Advisory Council.

3. The fees collected pursuant to subsection A of this section shall be first credited to the "Well Drillers and Pump Installers Remedial Action Indemnity Fund". The Indemnity Fund shall be maintained at Fifty Thousand Dollars (\$50,000.00).

4. Expenditures from the Indemnity Fund required pursuant to the provisions of this section shall be made pursuant to the provisions of the Oklahoma Central Purchasing Act upon terms and conditions established by the Department of Central Services and shall not exceed Five Thousand Dollars (\$5,000.00) for each well, borehole or pump for which action is taken.

5. Except in situations where the Governor has declared an emergency and a claim by the owner of the well or borehole for costs

of remedial action is not paid by private insurance or other relief, the Board shall seek reimbursement as recommended by the Well Drillers and Pump Installers Advisory Council for any remedial action taken or required by the Board. Any monies received as reimbursement shall be deposited in the Well Drillers and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection C of this section.

C. When the Well Drillers and Pump Installers Remedial Action Indemnity Fund reaches Fifty Thousand Dollars (\$50,000.00), the fees, monies received as reimbursement, and administrative penalties recovered under subsection E of this section shall be deposited in a separate account in the Water Resources Board Revolving Fund designated as the Well Drillers and Pump Installers Regulation Account, which shall be a continuing account not subject to fiscal year limitations. Monies in said account shall be used by the Board for inspections, licensing, enforcement and education, reimbursing per diem and travel costs for members of the Well Drillers and Pump Installers Advisory Council pursuant to the State Travel Reimbursement Act, and as otherwise determined to be necessary to implement the provisions of this section.

D. Before any person or firm licensed pursuant to this section shall commence the commercial drilling or plugging of any well or borehole or commence installation of any pump, such person or firm shall file with the Board such data or information as the Board may by rule require. After completion, the driller or installer shall file a completion report showing such data as the Board may require together with a log of the well and pumping test data if applicable.

E. The Board may, after notice and hearing, impose administrative penalties of up to Five Hundred Dollars (\$500.00) and may revoke, suspend or deny renewal of the license or operator certification for each violation of the Board's rules and regulations regarding license or certification requirements or

minimum construction or installation standards. Each day a violation continues shall constitute a separate violation. Such administrative penalties shall be deposited in the Well Drillers and Pump Installers Remedial Action Indemnity Fund except as otherwise provided in subsection C of this section. In addition to imposing administrative penalties, the Board may issue orders to holders of valid licenses and operator certifications and to persons who are required to become licensed under the provisions of this section prohibiting actions that constitute violations of rules promulgated pursuant to this section and requiring actions to be taken to remedy violations or other noncompliance with rules regarding minimum standards for construction of wells and borings, the plugging of wells and borings, and the installation of water well pumps. If the Board has reasonable cause to believe that there is imminent danger that the condition of a well, boring, or the installation of a pump will cause pollution to water resources, the Board may issue such orders without notice and hearing. Notice and opportunity for hearing on such order shall be provided within ten (10) days of the filing of an application for such hearing to an aggrieved person.

F. In addition to the administrative penalties authorized in subsection E of this section, the Oklahoma Water Resources Board may order the impoundment of rigs, other equipment or commercial vehicles used in the commercial drilling or plugging of wells or commercial installation of pumps if:

1. A person does not hold a valid well drilling or pump installation license from the Board as required by this section; or
2. A person holds a valid license but has failed to comply with a previous Board order involving the drilling or plugging of a well or borehole or the installation of a pump.

If the Board has reasonable cause to believe that there is imminent danger that the condition of a well, boring, or the installation of a pump will cause pollution to water resources, the

Board may issue such orders without notice and hearing. Notice and opportunity for hearing on such order shall be provided within ten (10) days of the filing of an application for such hearing by an aggrieved person.

G. The Board is authorized to create a Well Drillers and Pump Installers Advisory Council. The Board shall establish rules stating the qualifications for membership and organization of the Council. Meetings of the Council shall be held at the call of the Executive Director of the Board. The Council shall have the following duties:

1. To recommend rules to the Board, provided such written recommendations have been concurred upon by a majority of the membership of the Council; and

2. To review and recommend approval or denial of use of monies in the Well Drillers and Pump Installers Remedial Action Indemnity Fund for:

- a. remedial actions to protect groundwater from pollution or potential pollution from wells, or boreholes under the jurisdiction of the Board which do not meet minimum standards for construction or that have been abandoned, and
- b. inspections, licensing, enforcement and education by the Board.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Oklahoma Water Resources Board is hereby authorized to promulgate rules necessary to implement the provisions of this act.

SECTION 3. AMENDATORY 82 O.S. 2001, Section 1085.1, as amended by Section 24, Chapter 375, O.S.L. 2002 (82 O.S. Supp. 2005, Section 1085.1), is amended to read as follows:

Section 1085.1 A. There is hereby created the Oklahoma Water Resources Board, hereinafter referred to as the Board, consisting of

~~nine (9)~~ eleven (11) members to be appointed by the Governor, by and with the advice and consent of the Senate. The Board shall constitute a body corporate and politic and an instrumentality, agency and department of the State of Oklahoma, and exercise by the Board of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma. One member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; one member shall be appointed for a term of five (5) years; two members shall be appointed for a term of six (6) years; and two members shall be appointed for a term of seven (7) years. Upon the expiration of said terms, their successors shall be appointed for terms of seven (7) years. One member shall be appointed from each of the congressional districts of this state and the remaining members shall be appointed at large. However, when congressional districts are redrawn then each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. Each member shall be a qualified elector of this state. At all times the membership of the Board shall have represented on it at least one member well versed in each of the following major types of water use: recreational, industrial, irrigational, municipal, rural residential, agricultural, independent oil and gas exploration and production interests, and soil conservation work. Not more than two members

may be selected representing any one of the major types of water use. The Board shall meet at least once each month. The members of the Board may be removed only for cause. Whenever a vacancy shall occur, the Governor shall appoint a qualified person to fill the unexpired term of the vacant office. Each member of the Board upon entering upon his duties shall take and subscribe to the constitutional and statutory oath of office and file the same with the Secretary of State.

B. The Board shall organize annually by electing a chairman, vice-chairman, and secretary from the membership of the Board, who shall perform such duties as shall be prescribed by the Board.

SECTION 4. 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.

50-2-10312      SAB      05/24/06