

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2654 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By deleting on Page 4 Section 4 Line 19 the language "; and" and inserting in lieu thereof a period ".";

By deleting on Page 4 Section 4 Lines 20-23 Paragraph 3 in its entirety;

By deleting on Pages 6-7 Section 6 in its entirety;

By inserting on Page 8 Line ½ new sections 8,9 and 10 as follows:

"See attached."; and

By renumbering sections accordingly.

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Fred Jordan

Adopted: _____

Reading Clerk

1 "SECTION 8. AMENDATORY 52 O.S. 2011, Section 318.21, is
2 amended to read as follows:

3 Section 318.21 ~~This act~~ Sections 318.21 through 318.23 of this
4 title shall be known and may be cited as the "Seismic Exploration
5 Regulation Act".

6 ~~For purposes of this act only, "seismic B.~~ As used in the
7 Seismic Exploration Regulation Act:

8 1. "Seismic exploration" means the drilling of seismograph test
9 holes and use of surface energy sources such as weight drop
10 equipment, thumpers, hydropulses or vibrators;

11 2. "Operator" or "applicant" means a person or entity who is
12 either the owner of the right to conduct seismic exploration or the
13 agent of the owner;

14 3. "Surface estate" means the same as defined in Section 802 of
15 this title; and

16 4. "Surface owner" means the owner or owners of record of the
17 surface estate of the property upon which the seismic exploration is
18 to occur, based upon the records of the county clerk of the county
19 within which the surface estate is actually located.

20 SECTION 9. AMENDATORY 52 O.S. 2011, Section 318.22, is
21 amended to read as follows:

22 Section 318.22 A. The Corporation Commission is hereby
23 directed and authorized to promulgate rules governing the operations
24

1 of seismographic exploration for the purpose of protecting the
2 interests and property of the citizens of this state.

3 B. Any person, firm, corporation or entity desiring to commence
4 any seismographic exploration in this state shall, prior to any such
5 activity, be duly registered with the Corporation Commission and
6 shall be required to apply for a permit for each separate seismic
7 exploration.

8 C. Rules promulgated by the Commission governing all seismic
9 exploration operations shall include, but not be limited to,
10 requirements for:

11 1. Applicants to post a form of financial surety guarantee, the
12 form and amount to be determined by the Commission which shall
13 remain in effect until release is authorized by the Commission;

14 2. Applicants to attempt to notify all surface owners of
15 ~~property~~ the surface estate where the seismic exploration will occur
16 at least fifteen (15) days prior to commencement of seismic
17 exploration. If the applicant has ~~obtained specific written~~
18 ~~permission~~ the right to conduct seismic exploration and has ~~given~~
19 attempted to give actual notice of intent to conduct seismic
20 exploration to the surface owner any time before fifteen (15) days
21 prior to conducting seismic exploration, such action shall be
22 considered sufficient notification for the purposes of this section.
23 Notification by U.S. mail shall be sufficient for the purposes of
24 this section, provided the notice is postmarked at least fifteen

1 (15) days prior to commencement of any seismic exploration and has
2 been given at the last address shown of record for the surface owner
3 in the records of the county clerk in the county where the surface
4 estate is located, or an address that is known by applicant to be
5 more accurate than the foregoing address of record; and

6 3. Applicants to be permitted for each seismic exploration
7 operation.

8 D. The notice required in subsection C of this section shall be
9 sent by U.S. mail, include a copy of the oil or gas lease or seismic
10 permit authorizing the use of the surface for seismic exploration
11 and contain the following information:

12 1. Name of the company conducting seismic exploration;

13 2. Anticipated date of seismic exploration; ~~and~~

14 3. A description of the surface estate of the notice recipient
15 to be entered upon for the seismic exploration to be conducted;

16 4. If there is not a prior written agreement with the surface
17 owner which addresses the payment of damages for the seismic
18 operations, the following provision with regard to the amount of the
19 damages offered by the operator to the surface owner shall be
20 included in the notice:

21 "Operator will conduct the proposed seismic exploration in a
22 prudent manner and agrees to indemnify and hold you harmless from
23 any personal injury or property damage claims that may result from
24 the operator's seismic exploration. Pursuant to the Seismic

1 Exploration Regulation Act, you, as the surface owner, are entitled
2 to reasonable damages that will be sustained by reason of the
3 operator's seismic exploration. The operator hereby offers you
4 \$(operator shall fill in the amount) as compensation for the
5 reasonable damages to be sustained by reason of the operator's
6 seismic exploration. If you accept this offer, either by cashing
7 this check or failing to reject this offer in writing received by
8 the operator within fifteen (15) days of the date of this letter,
9 you will be deemed to have accepted said amount as full
10 consideration for all reasonable damages by reason of the operator's
11 seismic exploration, and you will not be required to execute
12 anything further. The acceptance of this amount shall not prohibit
13 you from attempting to recover damages which are unreasonable and
14 caused by reason of the operator's seismic exploration on your
15 surface estate.

16 In the event that you reject the offer in this letter in the
17 manner set forth herein, then pursuant to the Seismic Exploration
18 Regulation Act, you may initiate an action pursuant to the Small
19 Claims Procedure Act or as a civil action pursuant to the Oklahoma
20 Pleading Code to recover the reasonable damages, if any, sustained
21 by reason of the operator's seismic exploration. If an action to
22 recover reasonable damages is commenced accordingly and a judgment
23 is entered in the action for you as to said damages in an amount in
24 excess of the amount set forth in this notice for reasonable damages

1 by reason of the operator's seismic exploration, you shall be
2 considered the prevailing party. If the action is dismissed prior
3 to the entry of a judgment, or the judgment entered is for an amount
4 equal to or less than the amount set forth in this notice for
5 reasonable damages by reason of the operator's seismic exploration,
6 although you will be entitled to receive the judgment amount, if
7 any, the operator shall be considered the prevailing party. The
8 prevailing party in any court proceeding brought pursuant to the
9 Seismic Exploration Regulation Act shall be entitled to recover the
10 costs of the suit, including but not limited to reasonable attorney
11 and expert witness fees and litigation expenses."; and

12 5. Any other pertinent information the Commission deems
13 appropriate and relevant for the protection of surface owners.

14 E. The Commission is further directed to promulgate rules to
15 implement a system to register complaints against any person, firm
16 or corporation conducting seismic exploration. The Commission may
17 determine if and when a complaint has been adequately resolved.

18 F. Any person, firm, corporation or entity which conducts any
19 seismic exploration without a permit by the Commission, or in any
20 other manner violates the rules of the Commission governing such
21 exploration shall be subject to a penalty of One Thousand Dollars
22 (\$1,000.00) per violation per day by the Commission, in addition to
23 any other legal remedy provided by law.

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1 SECTION 10. AMENDATORY 52 O.S. 2011, Section 318.23, is
2 amended to read as follows:

3 Section 318.23 A. It shall be unlawful for any person, firm,
4 corporation or entity to conduct any seismic test hole blasting
5 within two hundred (200) feet of any habitable dwelling, building or
6 water well without written permission from the owner of the
7 property.

8 B. The surface owner shall be entitled to reasonable damages
9 that have been or will be sustained to the surface estate by reason
10 of the operator's seismic exploration.

11 C. In the absence of an agreement between the surface owner and
12 the operator as to seismic exploration, at least fifteen (15) days
13 prior to commencement of seismic exploration, the operator shall
14 provide the notice to the surface owner required by Section 318.22
15 of this title and make a good faith effort to resolve any reasonable
16 damage issues raised by the surface owner by reason of operator's
17 seismic exploration.

18 D. If the surface owner and operator cannot agree upon the
19 amount of the reasonable damages to be paid prior to the expiration
20 of the fifteen-day-notice period notice set forth in Section 318.22
21 of this title, the operator may commence seismic operations and the
22 surface owner may initiate an action pursuant to the Small Claims
23 Procedure Act or as a civil action pursuant to the Oklahoma Pleading
24 Code to recover the reasonable damages, if any, sustained by reason

1 of the operator's seismic exploration. Jurisdiction and venue shall
2 properly be in the district court where the surface estate is
3 located.

4 E. If an action to recover the reasonable damages is commenced
5 pursuant to subsection D of this section and a judgment is entered
6 in the action for the surface owner for reasonable damages by reason
7 of the operator's seismic exploration in an amount in excess of the
8 amount set forth in the notice required by Section 318.22 of this
9 title, the surface owner shall be considered the prevailing party;
10 if the action is dismissed prior to the entry of a judgment, or if
11 the judgment entered for reasonable damages by reason of the
12 operator's seismic exploration is for an amount equal to or less
13 than the amount set forth in the notice required by Section 318.22
14 of this title, the operator shall be considered the prevailing
15 party. The prevailing party in any court proceeding brought
16 pursuant to this section shall be entitled to recover the costs of
17 the suit, including but not limited to reasonable attorney and
18 expert witness fees and litigation expenses."

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