

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1910

 By: Jackson

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to waters and water rights; amending
10 82 O.S. 2001, Section 1020.16, as amended by Section
11 1, Chapter 331, O.S.L. 2008 (82 O.S. Supp. 2010,
12 Section 1020.16), which relates to commercial
13 drilling and plugging licenses; clarifying language;
14 deleting obsolete language; authorizing the Oklahoma
15 Water Resources Board to prepare examinations for
16 applicants for certain licenses; granting the Board
17 authority to inspect certain wells or boreholes;
18 providing for access to certain lands for
19 inspections; allowing the Board to disapprove use of
20 a well under certain circumstances; prohibiting use
21 of a disapproved well; providing for a hearing;
22 changing maximum expenditures from the Indemnity
23 Fund; modifying emergency declaration process;
24 modifying certain data and reporting requirements;
 deleting separate violation provision; authorizing
 the Board to issue orders and require action for
 certain violations; allowing the Board to issue
 emergency orders under certain conditions; providing
 for notice and hearing; authorizing the Board to
 temporarily impound rigs and equipment for certain
 violations; specifying criteria for the release of
 impounded rigs and equipment; allowing the Board to
 collect penalties or compel certain actions through
 the Attorney General; requiring deposit of certain
 penalties and proceeds in certain funds; modifying
 certain uses of monies in the Well Drillers and Pump
 Installers Remedial Action Indemnity Fund; directing

1 the Board to promulgate rules; providing for
2 noncodification; and declaring an emergency.

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

5 SECTION 1. AMENDATORY 82 O.S. 2001, Section 1020.16, as
6 amended by Section 1, Chapter 331, O.S.L. 2008 (82 O.S. Supp. 2010,
7 Section 1020.16), is amended to read as follows:

8 Section 1020.16 A. All persons engaged in the commercial
9 drilling or commercial plugging of groundwater wells, monitoring
10 wells, observation wells, wells utilized for heat exchange purposes,
11 including but not limited to heat pump wells and geothermal wells,
12 and in the commercial drilling or plugging of geotechnical borings
13 and all persons engaged in the commercial installation of water well
14 pumps in this state shall make application for and become licensed
15 with the Oklahoma Water Resources Board. ~~After July 1, 1990,~~
16 ~~persons~~ Persons required to be licensed pursuant to this section
17 shall pay an annual fee as required by the Board. ~~Such~~ The fees
18 shall be deposited and expended as provided in subsection ~~B~~ D of
19 this section.

20 B. The Board may prepare examinations and establish other
21 requirements for applicants to obtain, maintain, and renew licenses
22 and operator certifications. The examinations shall test the
23 knowledge and skills of:

1 1. Water well drillers in the construction, alteration, and
2 repair of wells and boreholes, including proper sealing and
3 abandonment of wells and boreholes, and the rules promulgated by the
4 Board regarding water well and borehole drilling and plugging; and

5 2. Pump installers in the planning, installation, operation,
6 and repair of pumping equipment and water wells including sealing
7 and abandonment, pumping efficiency, and the rules promulgated by
8 the Board regarding pump installation.

9 C. The Board may inspect any water well, monitoring well,
10 boring, water well pump, or abandoned well and borehole. Upon
11 consent of the owner of the land on which the well or borehole is
12 located or as allowed by district court order, authorized
13 representatives of the Board may enter upon and shall be given
14 access to the premises for the purpose of inspection. If the Board
15 finds noncompliance with applicable laws or rules or that a health
16 hazard exists, the Board may disapprove use of the well and shall
17 provide notice to the owner of the land on which the well is located
18 and to the well driller, if known, of the disapproval. If a well
19 has been disapproved, it shall not be used until brought into
20 compliance and any health hazard is eliminated. Any person
21 aggrieved by the disapproval of a well may request a hearing before
22 the Board.

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

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

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

3 4. Expenditures from the Indemnity Fund required pursuant to
4 the provisions of this section shall be made pursuant to the
5 provisions of The Oklahoma Central Purchasing Act upon terms and
6 conditions established by the Department of Central Services and
7 shall not exceed ~~Fifteen Thousand Dollars (\$15,000.00)~~ Ten Thousand
8 Dollars (\$10,000.00) for each well, borehole or pump for which
9 action is taken.

10 5. Except in situations where the ~~Governor~~ Board has assessed
11 and declared an a health or safety emergency and a claim by the
12 owner of the well or borehole for costs of remedial action is not
13 paid by private insurance or other relief, the Board shall seek
14 reimbursement as recommended by the Well Drillers and Pump
15 Installers Advisory Council for any remedial action taken or
16 required by the Board. Any monies received as reimbursement shall
17 be deposited in the Well Drillers and Pump Installers Remedial
18 Action Indemnity Fund except as otherwise provided in subsection ~~E~~ E
19 of this section.

20 ~~E.~~ E. When the Well Drillers and Pump Installers Remedial
21 Action Indemnity Fund reaches Fifty Thousand Dollars (\$50,000.00),
22 the fees, monies received as reimbursement, and administrative
23 penalties recovered under paragraph 1 of subsection ~~E~~ G of this
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1 section shall be deposited in a separate account in the Water
2 Resources Board Revolving Fund designated as the Well Drillers and
3 Pump Installers Regulation Account, which shall be a continuing
4 account not subject to fiscal year limitations. Monies in said
5 account shall be used by the Board for inspections, licensing,
6 enforcement and education, reimbursing per diem and travel costs for
7 members of the Well Drillers and Pump Installers Advisory Council
8 pursuant to the State Travel Reimbursement Act, and as otherwise
9 determined to be necessary to implement the provisions of this
10 section.

11 ~~D.~~ F. Before any person or firm licensed pursuant to this
12 section shall commence the commercial drilling or plugging of any
13 well or borehole or commence commercial installation of any pump,
14 ~~such~~ the person or firm shall file with the Board ~~such~~ all data or
15 information as the Board may by rule require to assure the
16 protection of the groundwater in the well or borehole. After
17 completion, the driller ~~or installer~~ shall file a completion report
18 showing ~~such~~ all such data ~~as the Board may require~~ together with a
19 log of the well and pumping test data if applicable.

20 ~~E.~~ G. 1. The Board may, after notice and hearing, impose on
21 any person administrative penalties of up to Five Thousand Dollars
22 (\$5,000.00) and may revoke, suspend or deny renewal of any license
23 or operator certification for each violation of the rules of the

1 Board regarding license or certification requirements, the
2 requirement to obtain a license or certification, or minimum
3 construction or installation standards. ~~Each day a violation~~
4 ~~continues shall constitute a separate violation.~~ Such The
5 administrative penalties shall be deposited in the Well Drillers and
6 Pump Installers Remedial Action Indemnity Fund except as otherwise
7 provided in subsection ~~C~~ E of this section.

8 ~~F.~~ 2. In addition to imposing administrative penalties, the
9 Board may issue orders prohibiting actions by holders of valid
10 licenses and operator certifications and by persons who are required
11 to become licensed under the provisions of this section that
12 constitute violations of rules promulgated pursuant to this section
13 and requiring actions to remedy violations or other noncompliance
14 with minimum standards rules for the construction of wells and
15 borings, the plugging of wells and borings, and the commercial
16 installation of water well pumps.

17 3. If the Board can document reasonable cause to believe that
18 there is imminent danger that the condition of a well or boring, or
19 that the installation of a pump, will cause pollution to water
20 resources, the Board may issue an emergency order requiring certain
21 remedial action without notice and hearing. Notice and opportunity
22 for hearing on an emergency order shall be provided within ten (10)
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1 days of the filing of an application for a hearing to an aggrieved
2 person.

3 H. 1. In addition to the administrative penalties and other
4 actions authorized in subsection G of this section, the Oklahoma
5 Water Resources Board may, after notice and opportunity for hearing,
6 order the temporary impoundment of rigs, other equipment or
7 commercial vehicles used in the commercial drilling or plugging of
8 wells or commercial installation of pumps if:

9 a. a person does not hold a valid well drilling or pump
10 installation license from the Board as required
11 pursuant to this section, or

12 b. a person holds a valid license but has failed to
13 comply with a previous Board order involving the
14 drilling or plugging of a well or borehole or the
15 installation of a pump.

16 2. If there is reasonable cause to believe that there is
17 imminent danger that the condition of a well or boring, or that the
18 installation of a pump, will cause pollution to water resources, the
19 Board or the Executive Director of the Board may issue emergency
20 orders to impound rigs, other equipment or commercial vehicles
21 without notice and hearing. Notice and opportunity for hearing on
22 an emergency order shall be provided within ten (10) days of the
23 filing of an application for a hearing by an aggrieved person.

1 3. Rigs, other equipment and commercial vehicles temporarily
2 impounded as ordered by the Board or Executive Director may be
3 released on order of the Executive Director of the Board upon
4 written request and showing that a valid license has been obtained,
5 or there has been compliance with the previous order involving the
6 drilling or plugging of a well or borehole or the installation of a
7 pump.

8 I. If a respondent fails, refuses or neglects to comply with an
9 order of the Board to pay an administrative penalty, to take certain
10 action, or to surrender rigs, other equipment or commercial vehicles
11 for temporary impoundment, the Board may present the matter to the
12 Attorney General who is empowered to take action to collect the
13 administrative penalty, to compel compliance with the order of the
14 Board, or to seek forfeiture and sale of impounded rigs, other
15 equipment or commercial vehicles. One-half (1/2) of all penalties
16 collected and proceeds of the sale of impounded rigs, other
17 equipment or commercial vehicles collected by the Attorney General
18 shall be deposited in the Well Drillers and Pump Installers
19 Regulation Account established pursuant to subsection E of this
20 section and one-half (1/2) shall be deposited in the Attorney
21 General's Revolving Fund created in Section 20 of Title 74 of the
22 Oklahoma Statutes.

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

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

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

13 a. remedial actions to protect groundwater from pollution
14 or potential pollution from wells, or boreholes under
15 the jurisdiction of the Board which do not meet
16 minimum standards for construction or that have been
17 abandoned, and

18 b. inspections, licensing, the pursuit of enforcement
19 action with the proper authorities and education by
20 the Board.

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

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1 The Oklahoma Water Resources Board shall promulgate rules
2 necessary to implement the provisions of this act.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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8 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND
9 ENVIRONMENT, dated 03-03-2011 - DO PASS, As Amended.

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