

1 **SENATE FLOOR VERSION**

2 March 29, 2012

3 ENGROSSED HOUSE
4 BILL NO. 1910

By: Jackson of the House

5 and

6 Anderson and Fields of the
7 Senate

8
9 [waters and water rights - amending 82 O.S., Section
10 1020.16 - commercial drilling and plugging licenses -
11 Well Drillers and Pump Installers Remedial Action
12 Indemnity Fund - noncodification -
13 emergency]

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

15 SECTION 1. AMENDATORY 82 O.S. 2011, Section 1020.16, is
16 amended to read as follows:

17 Section 1020.16 A. All persons engaged in the commercial
18 drilling or commercial plugging of groundwater wells, monitoring
19 wells, observation wells, wells utilized for heat exchange purposes,
20 including but not limited to heat pump wells and geothermal wells,
21 and in the commercial drilling or plugging of geotechnical borings
22 and all persons engaged in the commercial installation of water well
23 pumps in this state shall make application for and become licensed
24 with the Oklahoma Water Resources Board. ~~After July 1, 1990,~~

1 ~~persons~~ Persons required to be licensed pursuant to this section
2 shall pay an annual fee as required by the Board. ~~Such~~ The fees
3 shall be deposited and expended as provided in subsection ~~B~~ D of
4 this section.

5 B. The Board may prepare examinations and establish other
6 requirements for applicants to obtain, maintain, and renew licenses
7 and operator certifications. The examinations shall test the
8 knowledge and skills of:

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

13 2. Pump installers in the planning, installation, operation,
14 and repair of pumping equipment and water wells including sealing
15 and abandonment, pumping efficiency, and the rules promulgated by
16 the Board regarding pump installation.

17 C. The Board may inspect any water well, monitoring well,
18 boring, water well pump, or abandoned well and borehole. Upon
19 consent of the owner of the land on which the well or borehole is
20 located or as allowed by district court order, authorized
21 representatives of the Board may enter upon and shall be given
22 access to the premises for the purpose of inspection. If the Board
23 finds noncompliance with applicable laws or rules or that a health
24 hazard exists, the Board may disapprove use of the well and shall

1 provide notice to the owner of the land on which the well is located
2 and to the well driller, if known, of the disapproval. If a well
3 has been disapproved, it shall not be used until brought into
4 compliance and any health hazard is eliminated. Any person
5 aggrieved by the disapproval of a well may request a hearing before
6 the Board.

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

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

1 have been abandoned or as may be recommended by the Well Drillers
2 and Pump Installers Advisory Council.

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

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

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

24

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

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

24

1 ~~E.~~ G. 1. The Board may, after notice and hearing, impose on
2 any person administrative penalties of up to Five Thousand Dollars
3 (\$5,000.00) and may revoke, suspend or deny renewal of any license
4 or operator certification for each violation of the rules of the
5 Board regarding license or certification requirements, the
6 requirement to obtain a license or certification, or minimum
7 construction or installation standards. ~~Each day a violation~~
8 ~~continues shall constitute a separate violation.~~ Such The
9 administrative penalties shall be deposited in the Well Drillers and
10 Pump Installers Remedial Action Indemnity Fund except as otherwise
11 provided in subsection ~~E~~ E of this section.

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

21 3. If the Board can document reasonable cause to believe that
22 there is imminent danger that the condition of a well or boring, or
23 that the installation of a pump, will cause pollution to water
24 resources, the Board may issue an emergency order requiring certain

1 remedial action without notice and hearing. Notice and opportunity
2 for hearing on an emergency order shall be provided within ten (10)
3 days of the filing of an application for a hearing to an aggrieved
4 person.

5 H. If a respondent fails, refuses or neglects to comply with an
6 order of the Board to pay an administrative penalty or to take
7 certain action, the Board may present the matter to the Attorney
8 General who is empowered to take action to collect the
9 administrative penalty or to compel compliance with the order of the
10 Board. One-half (1/2) of all penalties collected by the Attorney
11 General shall be deposited in the Well Drillers and Pump Installers
12 Regulation Account established pursuant to subsection E of this
13 section and one-half (1/2) shall be deposited in the Attorney
14 General's Revolving Fund created in Section 20 of Title 74 of the
15 Oklahoma Statutes.

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

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

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

- 4 a. remedial actions to protect groundwater from pollution
5 or potential pollution from wells, or boreholes under
6 the jurisdiction of the Board which do not meet
7 minimum standards for construction or that have been
8 abandoned, and
- 9 b. inspections, licensing, the pursuit of enforcement
10 action with the proper authorities and education by
11 the Board.

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, dated 3-29-12 - DO PASS,
21 As Amended and Coauthored.