

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1910

By: Jackson

COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 1020.16, as amended by Section 1, Chapter 331, O.S.L. 2008 (82 O.S. Supp. 2010, Section 1020.16), which relates to commercial drilling and plugging licenses; clarifying language; deleting obsolete language; authorizing the Oklahoma Water Resources Board to prepare examinations for applicants for certain licenses; granting the Board authority to inspect certain wells or boreholes; providing for access to certain lands for inspections; allowing the Board to disapprove use of a well under certain circumstances; prohibiting use of a disapproved well; providing for a hearing; changing maximum expenditures from the Indemnity Fund; modifying emergency declaration process; 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 the Board to promulgate rules; providing for noncodification; and declaring an emergency.

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

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

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

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

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

1 2. Pump installers in the planning, installation, operation,
2 and repair of pumping equipment and water wells including sealing
3 and abandonment, pumping efficiency, and the rules promulgated by
4 the Board regarding pump installation.

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

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

23 2. The Indemnity Fund shall be excluded from budget and
24 expenditure limitations. Except as otherwise provided by subsection

1 € E of this section, the monies deposited in the Indemnity Fund
2 shall at no time become part of the general budget of the Oklahoma
3 Water Resources Board or any other state agency. Except as
4 otherwise provided by subsection € E of this section, no monies from
5 the Indemnity Fund shall be transferred for any purpose to any other
6 state agency or any account of the Board or be used for the purpose
7 of contracting with any other state agency or reimbursing any other
8 state agency for any expenses. Monies in the Indemnity Fund shall
9 only be expended for remedial actions necessary, without notice and
10 hearing, to protect groundwater from pollution or potential
11 pollution from wells, or boreholes under the jurisdiction of the
12 Board that do not meet minimum standards for construction or that
13 have been abandoned or as may be recommended by the Well Drillers
14 and Pump Installers Advisory Council.

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

19 4. Expenditures from the Indemnity Fund required pursuant to
20 the provisions of this section shall be made pursuant to the
21 provisions of The Oklahoma Central Purchasing Act upon terms and
22 conditions established by the Department of Central Services and
23 shall not exceed ~~Fifteen Thousand Dollars (\$15,000.00)~~ Ten Thousand
24

1 Dollars (\$10,000.00) for each well, borehole or pump for which
2 action is taken.

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

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

1 determined to be necessary to implement the provisions of this
2 section.

3 ~~D.~~ F. Before any person or firm licensed pursuant to this
4 section shall commence the commercial drilling or plugging of any
5 well or borehole or commence commercial installation of any pump,
6 ~~such~~ the person or firm shall file with the Board ~~such~~ all data or
7 information as the Board may by rule require to assure the
8 protection of the groundwater in the well or borehole. After
9 completion, the driller ~~or installer~~ shall file a completion report
10 showing ~~such~~ all such data ~~as the Board may require~~ together with a
11 log of the well and pumping test data if applicable.

12 ~~E.~~ G. 1. The Board may, after notice and hearing, impose on
13 any person administrative penalties of up to Five Thousand Dollars
14 (\$5,000.00) and may revoke, suspend or deny renewal of any license
15 or operator certification for each violation of the rules of the
16 Board regarding license or certification requirements, the
17 requirement to obtain a license or certification, or minimum
18 construction or installation standards. ~~Each day a violation~~
19 ~~continues shall constitute a separate violation.~~ ~~Such~~ The
20 administrative penalties shall be deposited in the Well Drillers and
21 Pump Installers Remedial Action Indemnity Fund except as otherwise
22 provided in subsection ~~E~~ E of this section.

23 ~~F.~~ 2. In addition to imposing administrative penalties, the
24 Board may issue orders prohibiting actions by holders of valid

1 licenses and operator certifications and by persons who are required
2 to become licensed under the provisions of this section that
3 constitute violations of rules promulgated pursuant to this section
4 and requiring actions to remedy violations or other noncompliance
5 with minimum standards rules for the construction of wells and
6 borings, the plugging of wells and borings, and the commercial
7 installation of water well pumps.

8 3. If the Board can document reasonable cause to believe that
9 there is imminent danger that the condition of a well or boring, or
10 that the installation of a pump, will cause pollution to water
11 resources, the Board may issue an emergency order requiring certain
12 remedial action without notice and hearing. Notice and opportunity
13 for hearing on an emergency order shall be provided within ten (10)
14 days of the filing of an application for a hearing to an aggrieved
15 person.

16 H. 1. In addition to the administrative penalties and other
17 actions authorized in subsection G of this section, the Oklahoma
18 Water Resources Board may, after notice and opportunity for hearing,
19 order the temporary impoundment of rigs, other equipment or
20 commercial vehicles used in the commercial drilling or plugging of
21 wells or commercial installation of pumps if:

22 a. a person does not hold a valid well drilling or pump
23 installation license from the Board as required
24 pursuant to this section, or

1 b. a person holds a valid license but has failed to
2 comply with a previous Board order involving the
3 drilling or plugging of a well or borehole or the
4 installation of a pump.

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

13 3. Rigs, other equipment and commercial vehicles temporarily
14 impounded as ordered by the Board or Executive Director may be
15 released on order of the Executive Director of the Board upon
16 written request and showing that a valid license has been obtained,
17 or there has been compliance with the previous order involving the
18 drilling or plugging of a well or borehole or the installation of a
19 pump.

20 I. If a respondent fails, refuses or neglects to comply with an
21 order of the Board to pay an administrative penalty, to take certain
22 action, or to surrender rigs, other equipment or commercial vehicles
23 for temporary impoundment, the Board may present the matter to the
24 Attorney General who is empowered to take action to collect the

administrative penalty, to compel compliance with the order of the Board, or to seek forfeiture and sale of impounded rigs, other equipment or commercial vehicles. One-half (1/2) of all penalties collected and proceeds of the sale of impounded rigs, other equipment or commercial vehicles collected by the Attorney General shall be deposited in the Well Drillers and Pump Installers Regulation Account established pursuant to subsection E of this section and one-half (1/2) shall be deposited in the Attorney General's Revolving Fund created in Section 20 of Title 74 of the Oklahoma Statutes.

J. 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

1 the jurisdiction of the Board which do not meet
2 minimum standards for construction or that have been
3 abandoned, and

4 b. inspections, licensing, the pursuit of enforcement
5 action with the proper authorities and education by
6 the Board.

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

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

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

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