

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1910

By: Jackson

AS INTRODUCED

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

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

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

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

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

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

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) for each  
24   well, borehole or pump for which action is taken.

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

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

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

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

20       ~~F.~~ 2. In addition to imposing administrative penalties, the  
21 Board may issue orders prohibiting actions by holders of valid  
22 licenses and operator certifications and by persons who are required  
23 to become licensed under the provisions of this section that  
24 constitute violations of rules promulgated pursuant to this section

1 and requiring actions to remedy violations or other noncompliance  
2 with minimum standards rules for the construction of wells and  
3 borings, the plugging of wells and borings, and the installation of  
4 water well pumps.

5 3. If the Board has 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 may issue an emergency order requiring certain action without  
9 notice and hearing. Notice and opportunity for hearing on an  
10 emergency order shall be provided within ten (10) days of the filing  
11 of an application for a hearing to an aggrieved person.

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

18 a. a person does not hold a valid well drilling or pump  
19 installation license from the Board as required  
20 pursuant to this section, or

21 b. a person holds a valid license but has failed to  
22 comply with a previous Board order involving the  
23 drilling or plugging of a well or borehole or the  
24 installation of a pump.

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

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

16        I. If a respondent fails, refuses or neglects to comply with an  
17 order of the Board to pay an administrative penalty, to take certain  
18 action, or to surrender rigs, other equipment or commercial vehicles  
19 for temporary impoundment, the Board may present the matter to the  
20 Attorney General who is empowered to take action to collect the  
21 administrative penalty, to compel compliance with the order of the  
22 Board, or to seek forfeiture and sale of impounded rigs, other  
23 equipment or commercial vehicles. One-half (1/2) of all penalties  
24 collected and proceeds of the sale of impounded rigs, other



1 equipment or commercial vehicles collected by the Attorney General  
2 shall be deposited in the Well Drillers and Pump Installers  
3 Regulation Account established pursuant to subsection E of this  
4 section and one-half (1/2) shall be deposited in the Attorney  
5 General's Revolving Fund created in Section 20 of Title 74 of the  
6 Oklahoma Statutes.

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

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

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

- 19             a. remedial actions to protect groundwater from pollution  
20                 or potential pollution from wells, or boreholes under  
21                 the jurisdiction of the Board which do not meet  
22                 minimum standards for construction or that have been  
23                 abandoned, and  
24

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 shall promulgate rules  
necessary to implement the provisions of this act.

SECTION 3. 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.

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