

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1742

By: David of the Senate

and

Wright of the House

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Water Resources Board; amending 82 O.S. 2011, Section 1020.8, as amended by Section 2, Chapter 411, O.S.L. 2019 (82 O.S. Supp. 2019, Section 1020.8), which relates to groundwater permits; specifying required information for protests of certain permit; modifying requirements for protests to be given a hearing; applying Administrative Procedures Act and certain rules to hearing; establishing timeline for issuance of certain unprotested permits; and amending 82 O.S. 2011, Section 1085.12, which relates to the Executive Director of the Oklahoma Water Resources Board; authorizing Executive Director to issue certain permits; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2011, Section 1020.8, as amended by Section 2, Chapter 411, O.S.L. 2019 (82 O.S. Supp. 2019, Section 1020.8), is amended to read as follows:

1 Section 1020.8. A. Except as otherwise provided by Section
2 1020.10 of this title for limited quantity groundwater permits, upon
3 the filing of an application which complies with the provisions of
4 Chapter 11 of this title, and the rules promulgated by the Oklahoma
5 Water Resources Board pursuant thereto, the Board staff shall
6 instruct the applicant to provide notice thereof, at the applicant's
7 expense, and as required by the Board's rules. Such notice shall
8 give all the essential facts as to the proposed taking, among them
9 being the places of taking and of use, amount of water, the purpose
10 for which it is to be used, name and address of applicant, the
11 hearing date, time and place if a hearing is scheduled by the Board
12 before instructions to provide notice are given, and a thirty-day
13 protest period as well as the manner in which a protest to the
14 application may be made. At the time the Board provides notice of
15 application to the applicant, the Board shall publish on its website
16 the applications and instructions for public notice, including the
17 draft public notice prepared by the Board. The website publishing
18 is in addition to, and not in lieu of, the requirement for
19 applicants to publish notice in the newspaper. The time to protest
20 shall run from the date of the first newspaper publication.

21 B. Each protest shall be submitted in writing to the Board and
22 shall contain:

23 1. The name, address and location of any groundwater wells of
24 the interested party that are owned or operated within one thousand

1 three hundred twenty (1,320) feet of the well locations described in
2 the application;

3 2. A statement of specific allegations showing that the
4 application, as noticed, does not comply with the provisions of
5 Section 1020.9 of this title and will have a direct, substantial and
6 immediate effect upon a legally protected interest of the interested
7 party; and

8 3. A statement of the relief sought by the interested party.

9 C. No hearing shall be had upon the application until proper
10 notice shall have been given. Any interested party shall have the
11 right to ~~protest the application and~~ present evidence and testimony
12 in support of ~~such a~~ protest meeting the requirements of this
13 section. If the Board does not schedule a hearing on the
14 application before instructing the applicant to provide notice, a
15 hearing on the application shall be scheduled by the Board upon
16 receipt of a protest which meets the requirements of the Board's
17 rules and the Board shall notify the applicant and ~~protestant~~
18 interested party of such hearing. Any administrative hearing held
19 pursuant to the provisions of this subsection shall comply with the
20 Administrative Procedures Act and any rules promulgated by the
21 Board.

22 D. If no written protest to the application is filed within
23 thirty (30) days, the application shall be considered complete.
24 After a determination that the requirements in Section 1020.9 of

1 this title have been met, the Board shall have thirty (30) days
2 thereafter to issue the permit.

3 SECTION 2. AMENDATORY 82 O.S. 2011, Section 1085.12, is
4 amended to read as follows:

5 Section 1085.12. A. The Oklahoma Water Resources Board shall
6 appoint an Executive Director, who shall have had at least six (6)
7 years practical and administrative experience in water resource
8 management, and fix his or her duties and compensation. The
9 ~~Oklahoma Water Resources~~ Board is specifically authorized to
10 delegate to such Executive Director such of its powers and duties as
11 it may deem proper, including powers and duties involving the
12 exercise of official discretion. The authority hereby granted to
13 the ~~Oklahoma Water Resources~~ Board to delegate powers and duties to
14 the Executive Director shall extend to any powers and duties given
15 or transferred to the ~~Oklahoma Water Resources~~ Board under this ~~act~~
16 title, or under any other law conferring powers or imposing duties
17 upon the ~~Oklahoma Water Resources~~ Board, and shall also extend to
18 any powers conferred or duties imposed upon the ~~Oklahoma Water~~
19 ~~Resources~~ Board by any future law, unless ~~such~~ any future ~~laws~~ shall
20 law expressly ~~negate~~ negates the authority to make such delegation.
21 Any other part of this ~~act~~ title, or any other law granting
22 authority to the ~~Oklahoma Water Resources~~ Board to delegate any
23 powers or duties, shall not be deemed to be a limitation upon the
24 authority conferred by this section. The Executive Director shall

1 exercise any such delegated powers and perform such delegated
2 duties, in accordance with any rules, regulations or orders made by
3 the ~~Oklahoma Water Resources~~ Board which are applicable thereto.
4 Provided, however, the ~~Oklahoma Water Resources~~ Board shall not
5 delegate to such director any power of determining policy, the
6 execution of any contract or the final adjudication of any claims,
7 applications or controversies, all of which powers and duties shall
8 be exercised solely by the ~~Oklahoma Water Resources~~ Board.

9 B. In addition to the powers and duties specified in subsection
10 A of this section, the Executive Director shall have the power and
11 duty to issue temporary and regular permits meeting the requirements
12 of Sections 105.12 and 1020.9 of this title and that have not been
13 the subject of a protest from an interested party.

14 SECTION 3. This act shall become effective November 1, 2020.

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