An Act

ENROLLED HOUSE
BILL NO. 1910

By: Jackson of the House

and

Anderson and Fields of the Senate

An Act relating to waters and water rights; amending 82 O.S. 2011, 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 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.

SUBJECT: Commercial drilling and plugging of wells

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

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

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

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

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

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

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

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

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

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

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

5. Except in situations where the ~~Governor~~ Board has assessed and declared ~~an~~ a health or safety emergency and a claim by the owner of the well or borehole for costs of remedial action is not paid by private insurance or other relief, the Board shall seek reimbursement as recommended by the Well Drillers and Pump Installers Advisory Council for any remedial action taken or required by the Board. Any monies received as reimbursement shall be deposited in the Well Drillers and Pump Installers Remedial

Action Indemnity Fund except as otherwise provided in subsection ~~C~~ E of this section.

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

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

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

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

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

H. If a respondent fails, refuses or neglects to comply with an order of the Board to pay an administrative penalty or to take certain action, the Board may present the matter to the Attorney General who is empowered to take action to collect the administrative penalty or to compel compliance with the order of the Board. One-half (1/2) of all penalties 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.

I. 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 the jurisdiction of the Board which do not meet minimum standards for construction or that have been abandoned, and

b. inspections, licensing, the pursuit of enforcement action with the proper authorities 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.

Passed the House of Representatives the 30th day of April, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 19th day of April, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 1st

day of May, **20** 12,

at 11:11 **o'clock** AM.

By: Jessica R. Bryan

Approved by the Governor of the State of Oklahoma the 7th **day of** May, **20** 12, **at** 9:15 **o'clock** AM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 7th **day of** May, **20** 12,

at 10:45 **o'clock** A **M.**

By: Michelle R. Day