

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 702, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator McCortney

McCortney-CB-FS-Req#2016
2/26/2019 1:23 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 702

By: McCortney, Kidd, Bullard,
and Simpson of the Senate

6 and

7 McCall of the House

8
9 FLOOR SUBSTITUTE

10 [environment - moratorium - permits - codification -
11 effective date]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-6-111 of Title 27A, unless
16 there is created a duplication in numbering, reads as follows:

17 A. For purposes of this section, "non-exempt mine" shall mean a
18 mine, as defined in paragraph 2 of Section 723 of Title 45 of the
19 Oklahoma Statutes, that overlies a sensitive sole source groundwater
20 basin or subbasin and has not, as of the effective date of this act,
21 engaged in the permitted extraction of minerals from natural
22 deposits at that site; provided, regardless of whether a mine so
23 located is engaged in permitted mining activities as of the
24 effective date of this act, no mine that satisfies the criteria of

1 paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of
2 the Oklahoma Statutes shall be considered non-exempt.

3 B. Due to the inadequacy of existing technical resources,
4 analytic tools and regulatory systems for purposes of the effective
5 implementation of statutes relating to the operation of mines that
6 may affect sensitive sole source groundwater basins or subbasins,
7 the Legislature hereby declares and establishes a moratorium on the
8 Department of Environmental Quality permitting of any discharge from
9 a non-exempt mine to streams fed or supported by water emanating
10 from sensitive sole source groundwater basins or subbasins.

11 C. The moratorium shall remain in effect until such time as:

12 1. The conditions of subsection C of Section 3 of this act have
13 been satisfied; and

14 2. The Department of Environmental Quality promulgates final
15 rules to provide for effective interagency consultation and
16 coordination of activities amongst the Department, the Oklahoma
17 Water Resources Board and the Oklahoma Department of Mines on all
18 administrative matters relating to the operation of mines that may
19 affect sensitive sole source groundwater basins or subbasins.

20 D. Notwithstanding the moratorium, the Department of
21 Environmental Quality may issue those permits or permit
22 modifications necessary to remedy identified compliance issues
23 pursuant to Title 27A of the Oklahoma Statutes for any mine lawfully
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1 engaged in mining, as defined in paragraph 3 of Section 723 of Title
2 45 of the Oklahoma Statutes.

3 E. The Department of Environmental Quality is hereby authorized
4 and instructed to promulgate rules to implement the provisions of
5 this section.

6 F. The Department of Environmental Quality is hereby authorized
7 to cooperate with federal, tribal and any other agency in this state
8 in performing its responsibilities under this section.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 950 of Title 45, unless there is
11 created a duplication in numbering, reads as follows:

12 A. For purposes of this section:

13 1. "Non-exempt mine" shall mean a mine, as defined in paragraph
14 2 of Section 723 of Title 45 of the Oklahoma Statutes, that overlies
15 a sensitive sole source groundwater basin or subbasin and has not,
16 as of the effective date of this act, engaged in the permitted
17 extraction of minerals from natural deposits at that site; provided,
18 regardless of whether a mine so located is engaged in permitted
19 mining activities as of the effective date of this act, no mine that
20 satisfies the criteria of paragraph 1 or 2 of subsection C of
21 Section 1020.2 of Title 82 of the Oklahoma Statutes shall be
22 considered non-exempt; and

23 2. "Exempt mine" shall mean any mine that is not a non-exempt
24 mine.

1 B. Due to the inadequacy of existing technical resources,
2 analytic tools and regulatory systems for purposes of the effective
3 implementation of statutes relating to the operation of mines that
4 may affect sensitive sole source groundwater basins or subbasins,
5 the Legislature hereby declares and establishes a moratorium on the
6 Oklahoma Department of Mines issuing, in relation to any location
7 within the outcrop of any sensitive sole source groundwater basin or
8 subbasin or in which groundwater emanating from any sensitive sole
9 source groundwater basin or subbasin may collect within a pit, as
10 defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma
11 Statutes:

12 1. Any permit to any non-exempt mine pursuant to Section 724 of
13 Title 45 of the Oklahoma Statutes; or

14 2. Any amendment or revision, issued pursuant to subsection J
15 of Section 724 of Title 45 of the Oklahoma Statutes, to any existing
16 permit, if such amendment or revision would increase the number of
17 acres available under such permit for excavation of a pit, as that
18 term is defined at paragraph 12 of Section 723 of Title 45 of the
19 Oklahoma Statutes.

20 C. Notwithstanding the moratorium, nothing shall preclude the
21 Department of Mines from issuing an amendment or revision or other
22 authorization to implement phased bonding under a permit issued
23 prior to the effective date of this act.

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1 D. Notwithstanding the moratorium or any other provision of
2 law, the Department of Mines shall not require a permit for purposes
3 of road or railroad construction in relation to mining activities by
4 any mine.

5 E. The moratorium shall remain in effect until such time as:

6 1. The conditions of subsection C of Section 3 of this act have
7 been satisfied; and

8 2. The Department of Mines promulgates final rules to provide
9 for effective interagency consultation and coordination of
10 activities amongst the Department, the Oklahoma Water Resources
11 Board and the Department of Environmental Quality on all
12 administrative matters relating to the operation of mines that may
13 affect sensitive sole source groundwater basins or subbasins.

14 F. The Department of Mines is hereby authorized and instructed
15 to promulgate rules to implement the provisions of this section.

16 G. The Department of Mines is hereby authorized to cooperate
17 with federal, tribal and any other agency in this state in
18 performing its responsibilities under this section.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1020.9C of Title 82, unless
21 there is created a duplication in numbering, reads as follows:

22 A. For the purposes of this section, "non-exempt mine" shall
23 mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of
24 the Oklahoma Statutes, that overlies a sensitive sole source

1 groundwater basin or subbasin and has not, as of the effective date
2 of this act, engaged in the permitted extraction of minerals from
3 natural deposits at that site; provided, regardless of whether a
4 mine so located is engaged in permitted mining activities as of the
5 effective date of this act, no mine that satisfies the criteria of
6 paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of
7 the Oklahoma Statutes shall be considered non-exempt.

8 B. Due to the inadequacy of existing technical resources,
9 analytic tools and regulatory systems for purposes of the effective
10 implementation of statutes relating to the operation of mines that
11 may affect sensitive sole source groundwater basins or subbasins,
12 the Legislature hereby declares and establishes a moratoria on the
13 following actions:

14 1. The Oklahoma Water Resources Board shall not issue any
15 permit or other administrative authorization for the appropriation,
16 diversion, withdrawal or removal of water from or for the
17 dewatering, in part or in full, of a pit, as defined in paragraph 12
18 of Section 723 of Title 45 of the Oklahoma Statutes, of a non-exempt
19 mine; and

20 2. The Board shall not issue, allocate or recognize, pursuant
21 to subsection D of Section 1020.2 of Title 82 of the Oklahoma
22 Statutes, Section 785: 30-15-5 of the Oklahoma Administrative Code
23 or any other provision of law, any offset to the consumptive use of
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1 water of a non-exempt mine where such offset is based on a claimed
2 augmentation of stream flow or groundwater.

3 C. The moratoria shall be in effect until such time as the
4 Board, working in coordination with the Oklahoma Department of
5 Environmental Quality, the Oklahoma Department of Mines and East
6 Central University, in cooperation with federal and tribal
7 governmental agencies with interests in a subject sensitive sole
8 source groundwater basin or subbasin:

9 1. Completes the Enhanced Monitoring and Evaluation of
10 Hydrologic Trends for the Eastern Arbuckle-Simpson Aquifer, South-
11 Central Oklahoma and, based thereon, develops modeling and other
12 technical tools capable of accurately measuring and projecting, as a
13 matter both of incremental and cumulative effect, whether a proposed
14 withdrawal of groundwater from a sensitive sole source groundwater
15 basin or subbasin would degrade or interfere with springs and
16 streams emanating therefrom;

17 2. Promulgates final rules to integrate the use of such studies
18 and tools to administrative implementation of:

19 a. waste, degradation and interference analyses required
20 by subparagraphs c and d of paragraph 1 and
21 subparagraphs c and d of paragraph 2 of subsection A
22 of Section 1020.9 of Title 82 of the Oklahoma
23 Statutes,

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1 b. uniform minimum standards and requirements for the
2 development of, and annual reporting regarding
3 compliance with, site-specific water management and
4 conservation plans pursuant to Section 1020.2 of Title
5 82 of the Oklahoma Statutes, with particular regard to
6 methodologies for calculating amounts claimed in
7 consumptive use of water and any claimed augmentation
8 of stream flow or groundwater, and

9 c. consultation, review and approval of such site-
10 specific water management and conservation plans, with
11 specific provisions for making such consultations,
12 reviews and approvals subjection to Article 2 of the
13 Oklahoma Administrative Procedures Act; and

14 3. Promulgates final rules to provide for effective interagency
15 consultation and coordination of activities amongst the Board, the
16 Oklahoma Department of Mines and the Department of Environmental
17 Quality on all administrative matters relating to the operation of
18 mines that may affect sensitive sole source groundwater basins or
19 subbasins.

20 D. The Board is hereby authorized and instructed to promulgate
21 rules to implement the provisions of this section.

22 E. The Board is hereby authorized to cooperate with federal,
23 tribal and any other agency in this state in performing its
24 responsibilities under this section.

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SECTION 4. This act shall become effective November 1, 2019.

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