

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#2087
3/11/2019 4:45 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 and Branham of the
8 House

9
10 FLOOR SUBSTITUTE

11 [environment - moratorium - permits and amendments
12 or revisions to permits - Department of Environmental
13 Quality, Department of Mines and Oklahoma Water
14 Resources Board - codification - effective date]

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

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

19 A. For purposes of this section, a "subject mine" shall mean a
20 mine, as defined in paragraph 2 of Section 723 of Title 45 of the
21 Oklahoma Statutes, proposed for a location overlying a sensitive
22 sole source groundwater basin or subbasin, exclusive of any mine
23 that:
24

- 1 1. As of November 1, 2019, is engaged in the permitted
2 extraction of minerals from natural deposits;
- 3 2. Satisfies the criteria of paragraph 1 or 2 of subsection C
4 of Section 1020.2 of Title 82 of the Oklahoma Statutes;
- 5 3. Is not to be permitted to operate for a period of more than
6 five (5) years, with no extensions or renewals; or
- 7 4. The operation of which will not result in more than five (5)
8 acre feet per year of groundwater emanating from a sensitive sole
9 source groundwater basin or subbasin to infiltrate its pit, as that
10 term is defined in paragraph 12 of section 723 of Title 45 of the
11 Oklahoma Statutes.

12 B. Due to the inadequacy of existing technical resources,
13 analytic tools and regulatory systems for purposes of the effective
14 implementation of statutes relating to the operation of mines that
15 may affect sensitive sole source groundwater basins or subbasins,
16 the Legislature hereby declares and establishes a moratorium on the
17 Department of Environmental Quality permitting of any discharge from
18 a subject mine to streams fed or supported by water emanating from
19 sensitive sole source groundwater basins or subbasins.

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

- 21 1. The conditions of subsection C of Section 3 of this act have
22 been satisfied; and
- 23 2. The Department of Environmental Quality promulgates final
24 rules to provide for effective interagency consultation and

1 coordination of activities amongst the Department, the Oklahoma
2 Water Resources Board and the Department of Mines on all
3 administrative matters relating to the operation of mines at
4 locations that overlie a sensitive sole source groundwater basin or
5 subbasin.

6 D. Notwithstanding the moratorium, the Department of
7 Environmental Quality may issue any permits, permit modifications,
8 permit amendments or permit renewals necessary to maintain
9 compliance or remedy identified compliance issues pursuant to Title
10 27A of the Oklahoma Statutes for any mine lawfully engaged in
11 mining, as that term is defined in paragraph 3 of Section 723 of
12 Title 45 of the Oklahoma Statutes.

13 E. The Department of Environmental Quality is hereby authorized
14 and instructed to promulgate rules to implement the provisions of
15 this section.

16 F. The Department of Environmental Quality is hereby authorized
17 to cooperate with federal, tribal and any other agencies in this
18 state in performing its responsibilities under this section.

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

22 A. For purposes of this section, a "subject mine" shall mean a
23 mine, as defined in paragraph 2 of Section 723 of Title 45 of the
24 Oklahoma Statutes, proposed for a location overlying a sensitive

1 sole source groundwater basin or subbasin, exclusive of any mine
2 that:

3 1. As of November 1, 2019, is engaged in the permitted
4 extraction of minerals from natural deposits;

5 2. Satisfies the criteria of paragraph 1 or 2 of subsection C
6 of Section 1020.2 of Title 82 of the Oklahoma Statutes

7 3. Is not to be permitted to operate for a period of more than
8 five (5) years, with no extensions or renewals; or

9 4. The operation of which will not result in more than five (5)
10 acre feet per year of groundwater emanating from a sensitive sole
11 source groundwater basin or subbasin to infiltrate its pit, as that
12 term is defined in paragraph 12 of section 723 of Title 45 of the
13 Oklahoma Statutes.

14 B. Due to the inadequacy of existing technical resources,
15 analytic tools and regulatory systems for purposes of the effective
16 implementation of statutes relating to the operation of mines that
17 may affect sensitive sole source groundwater basins or subbasins,
18 the Legislature hereby declares and establishes a moratorium on the
19 Oklahoma Department of Mines issuing, in relation to any location
20 overlying a sensitive sole source groundwater basin or subbasin or
21 in which groundwater emanating from any sensitive sole source
22 groundwater basin or subbasin may collect within a pit, as defined
23 in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes:

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1 1. Any permit, pursuant to Section 724 of Title 45 of the
2 Oklahoma Statutes, to any subject mine; or

3 2. Any amendment or revision, pursuant to subsection J of
4 Section 724 of Title 45 of the Oklahoma Statutes, to any existing
5 mining permit if such amendment or revision would increase the
6 acreage under such permit for that mine location by more than one
7 hundred percent (100%) or four hundred (400) acres, whichever is
8 less, as compared to what was under permit for that mine location
9 prior to the effective date of this act.

10 C. Notwithstanding the moratorium, nothing shall preclude the
11 Department of Mines from issuing an amendment or revision or other
12 authorization to permit a change in mine ownership or to implement
13 bonding under a permit issued prior to the effective date of this
14 act, nor shall any permit amendment or revision issued pursuant to
15 this section be deemed to render the permitted mine a subject mine
16 for purposes of Titles 27A, 45, or 82 of the Oklahoma Statutes.

17 D. Notwithstanding the moratorium or any other provision of
18 law, the Department of Mines shall not require a permit for purposes
19 of road or railroad construction in relation to mining activities by
20 any mine.

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

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

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1 2. The Department of Mines promulgates final rules to provide
2 for effective interagency consultation and coordination of
3 activities amongst the Department, the Oklahoma Water Resources
4 Board and the Department of Environmental Quality on all
5 administrative matters relating to the operation of mines at
6 locations that overlie a sensitive sole source groundwater basin or
7 subbasin.

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

10 G. The Department of Mines is hereby authorized to cooperate
11 with federal, tribal and any other agencies in this state in
12 performing its responsibilities under this section.

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

16 A. For the purposes of this section, a "subject mine" shall
17 mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of
18 the Oklahoma Statutes, that overlies a sensitive sole source
19 groundwater basin or subbasin, exclusive of any mine that:

20 1. As of November 1, 2019, is engaged in the permitted
21 extraction of minerals from natural deposits;

22 2. Satisfies the criteria of paragraph 1 or 2 of subsection C
23 of Section 1020.2 of Titles 82 of the Oklahoma Statutes;

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1 3. Is not to be permitted to operate for a period of more than
2 five (5) years, with no extensions or renewals; or

3 4. The operation of which will not result in more than five (5)
4 acre feet per year of groundwater emanating from a sensitive sole
5 source groundwater basin or subbasin to infiltrate its pit, as that
6 term is defined in paragraph 12 of section 723 of Title 45 of the
7 Oklahoma Statutes.

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 moratorium 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 that term is defined in
18 paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes, of
19 a subject 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 or
23 any other provision of law, any offset to the consumptive use of
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1 water of a subject mine where such offset is based on a claimed
2 augmentation of stream flow or groundwater.

3 C. The moratorium 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, and 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 at locations that overlie a sensitive sole source groundwater
19 basin or subbasin.

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 agencies in this state in performing its
24 responsibilities under this section.

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

57-1-2087 CB 3/11/2019 4:45:23 PM

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