

1 **SENATE FLOOR VERSION**

2 February 20, 2020

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1742

By: David of the Senate

and

Wright of the House

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9 An Act relating to the Oklahoma Water Resources
10 Board; amending 82 O.S. 2011, Section 1020.8, as
11 amended by Section 2, Chapter 411, O.S.L. 2019 (82
12 O.S. Supp. 2019, Section 1020.8), which relates to
13 groundwater permits; specifying required information
14 for protests of certain permit; modifying
15 requirements for protests to be given a hearing;
16 applying Administrative Procedures Act and certain
17 rules to hearing; establishing timeline for issuance
18 of certain unprotested permits; and amending 82 O.S.
19 2011, Section 1085.12, which relates to the Executive
20 Director of the Oklahoma Water Resources Board;
21 authorizing Executive Director to issue certain
22 permits; making language gender neutral; and
23 providing an effective date.

24 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:

Section 1020.8. A. Except as otherwise provided by Section
1020.10 of this title for limited quantity groundwater permits, upon

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

19 B. Each protest shall be submitted in writing to the Board and
20 shall contain:

21 1. The name, address and location of any groundwater wells of
22 the interested party that are owned or operated within one thousand
23 three hundred twenty (1,320) feet of the well locations described in
24 the application;

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

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

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

20 D. If no written protest to the application is filed within
21 thirty (30) days, the application shall be considered complete.
22 After a determination that the requirements in Section 1020.9 of
23 this title have been met, the Board shall have thirty (30) days
24 thereafter to issue the permit.

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

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

1 the ~~Oklahoma Water Resources~~ Board which are applicable thereto.
2 Provided, however, the ~~Oklahoma Water Resources~~ Board shall not
3 delegate to such director any power of determining policy, the
4 execution of any contract or the final adjudication of any claims,
5 applications or controversies, all of which powers and duties shall
6 be exercised solely by the ~~Oklahoma Water Resources~~ Board.

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
14 February 20, 2020 - DO PASS AS AMENDED
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