

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1742

By: David

AS INTRODUCED

An Act relating to the Oklahoma Water Resources Board; amending 82 O.S. 2011, Sections 105.1, 1020.1, as amended by Section 1, Chapter 261, O.S.L. 2018, 1020.8, as amended by Section 2, Chapter 411, O.S.L. 2019 and 1085.12 (82 O.S. Supp. 2019, Sections 1020.1 and 1020.8), which relate to stream water use definitions, groundwater use definitions, groundwater permit application hearings, and Executive Director duties; amending definitions; 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; expanding powers of Executive Director; 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 105.1, is amended to read as follows:

Section 105.1. As used in Sections 105.2 through 105.32 of this title:

1. "Board" means the Oklahoma Water Resources Board or its Executive Director;

1        2. "Definite stream" means a watercourse in a definite, natural  
2 channel, with defined beds and banks, originating from a definite  
3 source or sources of supply. The stream may flow intermittently or  
4 at irregular intervals if that is characteristic of the sources of  
5 supply in the area;

6        ~~2.~~ 3. "Domestic use" means the use of water by a natural  
7 individual or by a family or household for household purposes, for  
8 farm and domestic animals up to the normal grazing capacity of the  
9 land and for the irrigation of land not exceeding a total of three  
10 (3) acres in area for the growing of gardens, orchards and lawns,  
11 and for such other purposes, specified by Board rules, for which de  
12 minimis amounts are used;

13        ~~3.~~ 4. "Regular permit" means a permit granted by the Oklahoma  
14 Water Resources Board authorizing the holder to appropriate water on  
15 a year-round basis in an amount and from a source approved by the  
16 Board;

17        ~~4.~~ 5 "Seasonal permit" means a permit granted by the Board  
18 authorizing the holder of such permit to divert available water for  
19 specified time periods during the calendar year;

20        ~~5.~~ 6. "Temporary permit" means a permit granted by the Board  
21 authorizing the appropriation of water in an amount and from a  
22 source approved by the Board which does not exceed a time period of  
23 three (3) months, which does not vest in the holder any permanent  
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1 right and which may be canceled by the Board in accordance with its  
2 terms;

3 ~~6.~~ 7. "Term permit" means a permit granted by the Board  
4 authorizing the appropriation of water in an amount and from a  
5 source approved by the Board for a term of years which does not vest  
6 the holder with any permanent right and which expires upon  
7 expiration of the term of the permit; and

8 ~~7.~~ 8. "Provisional temporary permit" means a nonrenewable  
9 permit which may be summarily granted upon administrative approval  
10 by the Board and which authorizes an appropriation of water in an  
11 amount and from a source approved by the Board. A provisional  
12 temporary permit shall not authorize an appropriation for a period  
13 of time exceeding ninety (90) days, shall not vest in the holder any  
14 permanent water right and shall be subject to cancellation by the  
15 Board at any time within its term in accordance with its provisions.

16 SECTION 2. AMENDATORY 82 O.S. 2011, Section 1020.1, as  
17 amended by Section 1, Chapter 261, O.S.L. 2018 (82 O.S. Supp. 2019,  
18 Section 1020.1), is amended to read as follows:

19 Section 1020.1. As used in Section 1020.1 et seq. of this  
20 title:

21 1. "Groundwater" means fresh water and marginal water under the  
22 surface of the earth regardless of the geologic structure in which  
23 it is standing or moving outside the cut bank of any definite  
24 stream;

1           2. "Domestic use" means the use of water by a natural  
2 individual or by a family or household for household purposes, for  
3 farm and domestic animals up to the normal grazing capacity of the  
4 land and for the irrigation of land not exceeding a total of three  
5 (3) acres in area for the growing of gardens, orchards and lawns,  
6 and for such other purposes, specified by Board rules, for which de  
7 minimis amounts are used;

8           3. "Major groundwater basin" shall mean a distinct underground  
9 body of water overlain by contiguous land and having substantially  
10 the same geological and hydrological characteristics and from which  
11 groundwater wells yield at least fifty (50) gallons per minute on  
12 the average basinwide if from a bedrock aquifer and at least one  
13 hundred fifty (150) gallons per minute on the average basinwide if  
14 from an alluvium or alluvium and terrace aquifer, or as otherwise  
15 designated by the Board;

16           4. "Subbasin" means a subdivision of a major or minor  
17 groundwater basin overlain by contiguous land and having  
18 substantially the same geological and hydrological characteristics  
19 and yield capabilities;

20           5. "Board" means the Oklahoma Water Resources Board or its  
21 Executive Director;

22           6. "Person" means any individual, firm, partnership,  
23 association, corporation, business trust, federal agency, state  
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1 agency, the state or any political subdivision thereof,  
2 municipalities, and any other legal entities;

3 7. "Fresh water" means water which has less than five thousand  
4 (5,000) parts per million total dissolved solids. For the purpose  
5 of Section 1020.1 et seq. of this title all other water is salt  
6 water;

7 8. "Commercial drilling", "commercial plugging" and "commercial  
8 installation" mean drilling or plugging and installation as a  
9 business, trade or occupation for compensation;

10 9. "Minor groundwater basin" means a distinct underground body  
11 of water overlain by contiguous land and having substantially the  
12 same geological and hydrological characteristics and which is not a  
13 major groundwater basin; and

14 10. "Marginal water" means water which has at least five  
15 thousand (5,000) and less than ten thousand (10,000) parts per  
16 million total dissolved solids.

17 SECTION 3. AMENDATORY 82 O.S. 2011, Section 1020.8, as  
18 amended by Section 2, Chapter 411, O.S.L. 2019 (82 O.S. Supp. 2019,  
19 Section 1020.8), is amended to read as follows:

20 Section 1020.8. A. Except as otherwise provided by Section  
21 1020.10 of this title for limited quantity groundwater permits, upon  
22 the filing of an application which complies with the provisions of  
23 Chapter 11 of this title, and the rules promulgated by the Oklahoma  
24 Water Resources Board pursuant thereto, the Board staff shall

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

16 B. Each protest shall be submitted in writing to the Board and  
17 shall contain:

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

22 2. A statement of specific allegations showing that the  
23 application as noticed does not comply with the provisions of  
24 Section 1020.9 of this title and will have a direct, substantial and

1 immediate effect upon a legally protecting interest of the  
2 interested party; and

3 3. The relief sought by the interested party.

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

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

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

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



1 any power of determining policy, the execution of any contract or  
2 the final adjudication of any claims, applications or controversies,  
3 all of which powers and duties shall be exercised solely by the  
4 ~~Oklahoma Water Resources Board.~~

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

10 SECTION 5. This act shall become effective November 1, 2020.

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