

1 ENGROSSED HOUSE
2 BILL NO. 2471

By: McCall, Branham, Johns and
Roberts (Dustin) of the
House

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4 and

McCortney of the Senate
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8 An Act relating to mines and mining; defining terms;
9 declaring purpose of certain moratorium; declaring
10 moratorium on issuance of certain permits and
11 amendments or revisions to permits; providing
12 conditions for ending moratorium; providing certain
13 exception to moratorium; allowing for the issuance of
14 certain permits; authorizing Department of
Environmental Quality, Department of Mines and the
Oklahoma Water Resources Board to promulgate certain
rules; providing for cooperation among certain
entities; creating moratorium on issuance, allocation
or recognition of certain use of water; providing for
codification; and providing an effective date.
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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

21 A. For purposes of this section, a "subject mine" shall mean a
22 mine, as defined in paragraph 2 of Section 723 of Title 45 of the
23 Oklahoma Statutes, proposed for a location overlying a sensitive
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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 Department of Environmental Quality permitting of any discharge from
20 a subject mine to streams fed or supported by water emanating from
21 sensitive sole source groundwater basins or subbasins.

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

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

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

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

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

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

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

23 A. For purposes of this section, a "subject mine" shall mean a
24 mine, as defined in paragraph 2 of Section 723 of Title 45 of the

Oklahoma Statutes, proposed for a location overlying a sensitive sole source groundwater basin or subbasin, exclusive of any mine that:

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

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

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

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

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

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

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 Title 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 among the Department, the Oklahoma Water Resources Board
4 and the Department of Environmental Quality on all administrative
5 matters relating to the operation of mines at locations that overlie
6 a sensitive sole source groundwater basin or subbasin.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 b. uniform minimum standards and requirements for the
23 development of, and annual reporting regarding
24 compliance with, site-specific water management and

1 conservation plans pursuant to Section 1020.2 of Title
2 82 of the Oklahoma Statutes, with particular regard to
3 methodologies for calculating amounts claimed in
4 consumptive use of water and any claimed augmentation
5 of stream flow or groundwater, and

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

11 3. Promulgates final rules to provide for effective interagency
12 consultation and coordination of activities among the Board, the
13 Oklahoma Department of Mines and the Department of Environmental
14 Quality on all administrative matters relating to the operation of
15 mines at locations that overlie a sensitive sole source groundwater
16 basin or subbasin.

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

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

22 SECTION 4. This act shall become effective November 1, 2019.
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1 Passed the House of Representatives the 13th day of March, 2019.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

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8 Presiding Officer of the Senate