

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2471

By: McCall, **Branham** and **Johns**  
of the House

and

**McCortney** of the Senate

11                               COMMITTEE SUBSTITUTE

12           An Act relating to mines and mining; defining terms;  
13           declaring purpose of certain moratorium; declaring  
14           moratorium on issuance of certain permits and  
15           amendments or revisions to permits; providing  
16           conditions for ending moratorium; providing certain  
17           exception to moratorium; allowing for the issuance of  
18           certain permits; authorizing Department of  
19           Environmental Quality, Department of Mines and the  
20           Oklahoma Water Resources Board to promulgate certain  
21           rules; providing for cooperation among certain  
22           entities; creating moratorium on issuance, allocation  
23           or recognition of certain use of water; providing for  
24           codification; and providing an effective date.

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

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

1       A. For purposes of this section, "nonexempt mine" shall mean a  
2 mine, as defined in paragraph 2 of Section 723 of Title 45 of the  
3 Oklahoma Statutes, that overlies a sensitive sole source groundwater  
4 basin or subbasin and has not, as of November 1, 2019, engaged in  
5 the permitted extraction of minerals from natural deposits at that  
6 site; provided, regardless of whether a mine so located is engaged  
7 in permitted mining activities as of the effective date of this  
8 section, no mine that satisfies the criteria of paragraph 1 or 2 of  
9 subsection C of Section 1020.2 of Title 82 of the Oklahoma Statutes  
10 shall be considered nonexempt.

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

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

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

22       2. The Department of Environmental Quality promulgates final  
23 rules to provide for effective interagency consultation and  
24 coordination of activities amongst the Department, the Oklahoma

1 Water Resources Board and the Department of Mines on all  
2 administrative matters relating to the operation of mines that may  
3 affect sensitive sole source groundwater basins or subbasins.

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

10 E. The Department of Environmental Quality is hereby authorized  
11 and instructed to promulgate rules to implement the provisions of  
12 this section.

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

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

19 A. For purposes of this section:

20 1. "Nonexempt mine" shall mean a mine, as defined in paragraph  
21 2 of Section 723 of Title 45 of the Oklahoma Statutes, that overlies  
22 a sensitive sole source groundwater basin or subbasin and has not,  
23 as of November 1, 2019, engaged in the permitted extraction of  
24 minerals from natural deposits at that site; provided, regardless of

1 whether a mine so located is engaged in permitted mining activities  
2 as of the effective date of this section, no mine that satisfies the  
3 criteria of paragraph 1 or 2 of subsection C of Section 1020.2 of  
4 Title 82 of the Oklahoma Statutes shall be considered nonexempt; and

5 2. "Exempt mine" shall mean a mine that is not a nonexempt  
6 mine.

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

18 1. Any permit to any nonexempt mine pursuant to Section 724 of  
19 Title 45 of the Oklahoma Statutes; or

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

3 C. Notwithstanding the moratorium, nothing shall preclude the  
4 Department of Mines from issuing an amendment or revision or other  
5 authorization to implement phased bonding under a permit issued  
6 prior to the effective date of this section.

7 D. Notwithstanding the moratorium or any other provision of  
8 law, the Department of Mines shall not require a permit for purposes  
9 of road or railroad construction in relation to mining activities by  
10 any mine.

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

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

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

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

4       A. For the purposes of this section, "nonexempt mine" shall  
5 mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of  
6 the Oklahoma Statutes, that overlies a sensitive sole source  
7 groundwater basin or subbasin and has not, as of November 1, 2019,  
8 engaged in the permitted extraction of minerals from natural  
9 deposits at that site; provided, regardless of whether a mine so  
10 located is engaged in permitted mining activities as of the  
11 effective date of this section, no mine that satisfies the criteria  
12 of paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of  
13 the Oklahoma Statutes shall be considered nonexempt.

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 following actions:

20       1. The Oklahoma Water Resources Board shall not issue any  
21 permit or other administrative authorization for the appropriation,  
22 diversion, withdrawal or removal of water from or for the  
23 dewatering, in part or in full, of a pit, as defined in paragraph 12  
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1 of Section 723 of Title 45 of the Oklahoma Statutes, of a nonexempt  
2 mine; and

3 2. The Board shall not issue, allocate or recognize, pursuant  
4 to subsection D of Section 1020.2 of Title 82 of the Oklahoma  
5 Statutes, Section 785:30-15-5 of the Oklahoma Administrative Code or  
6 any other provision of law, any offset to the consumptive use of  
7 water of a nonexempt mine where such offset is based on a claimed  
8 augmentation of stream flow or groundwater.

9 C. The moratorium shall be in effect until such time as the  
10 Board, working in coordination with the Oklahoma Department of  
11 Environmental Quality, the Oklahoma Department of Mines, and East  
12 Central University and in cooperation with federal and tribal  
13 governmental agencies with interests in a subject sensitive sole  
14 source groundwater basin or subbasin:

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

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

1           a.    waste, degradation and interference analyses required  
2                   by subparagraphs c and d of paragraph 1 and  
3                   subparagraphs c and d of paragraph 2 of subsection A  
4                   of Section 1020.9 of Title 82 of the Oklahoma  
5                   Statutes,

6           b.    uniform minimum standards and requirements for the  
7                   development of, and annual reporting regarding  
8                   compliance with, site-specific water management and  
9                   conservation plans pursuant to Section 1020.2 of Title  
10                  82 of the Oklahoma Statutes, with particular regard to  
11                  methodologies for calculating amounts claimed in  
12                  consumptive use of water and any claimed augmentation  
13                  of stream flow or groundwater, and

14          c.    consultation, review and approval of such site-  
15                  specific water management and conservation plans, with  
16                  specific provisions for making such consultations,  
17                  reviews and approvals subjection to Article 2 of the  
18                  Oklahoma Administrative Procedures Act; and

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



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

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

6 SECTION 4. This act shall become effective November 1, 2019.  
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8 COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 02/28/2019 - DO  
9 PASS, As Amended and Coauthored.  
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