

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 1

COMMITTEE AMENDMENT

(Date)

I move to amend House Bill No. 2053 by substituting the attached floor substitute (Request 2151) for the title, enacting clause, and entire body of the measure.

Submitted by:

Brent Howard
Senator Howard

I hereby grant permission for the floor substitute to be adopted.

[Signature]
Senator Paxton, Chair (required)

[Signature]
Senator Green

Senator Jett

[Signature]
Senator Kidd

Senator Boren

[Signature]
Senator Bullard

Senator Newhouse

[Signature]
Senator Rader

Senator Dossett

Brent Howard
Senator Howard

Senator Woods

[Signature]
Senator Woods

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Energy and Telecommunications committee majority requires six (6) members' signatures.

Howard-RD-FS-HB2053
4/24/2023 2:35 PM

(Floor Amendments Only)

Date and Time Filed: 4-24-23 3:08 pm gd

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 2053

By: Hardin of the House

and

Howard and Woods of the
Senate

8
9 FLOOR SUBSTITUTE

10 [water and water rights - permits to take and use
11 groundwater - protests - appeals - sanctions -
emergency]

12
13
14 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

15 SECTION 1. AMENDATORY 82 O.S. 2021, Section 1020.9, is
16 amended to read as follows:

17 Section 1020.9. A. 1. Before the Oklahoma Water Resources
18 Board takes final action on an application, the Board shall
19 determine from the evidence presented, from the hydrologic surveys
20 or reports and from other relevant data available to the Board and
21 applicant, whether:

- 22 a. the lands owned or leased by the applicant overlie a
23 fresh groundwater basin or subbasin,
24

- 1 b. the use to which the applicant intends to put the
2 water is a beneficial use,
3 c. waste as specified by Section 1020.15 of this title
4 will occur, and
5 d. the proposed use is likely to degrade or interfere
6 with springs or streams emanating in whole or in part
7 from water originating from a sensitive sole source
8 groundwater basin or subbasin as defined in Section ~~4~~
9 1020.9A of this ~~act~~ title.

10 2. The Board shall approve the application by issuing a regular
11 permit, if the Board finds that:

- 12 a. the lands owned or leased by the applicant overlie the
13 fresh groundwater basin or subbasin,
14 b. the use to which the applicant intends to put the
15 water is a beneficial use,
16 c. waste specified by Section 1020.15 of this title will
17 not occur. When determining whether waste will occur
18 pursuant to this subparagraph, if the activity for
19 which the applicant intends to use the water is
20 required to comply with rules and requirements of or
21 is within the jurisdictional areas of environmental
22 responsibility of the Department of Environmental
23 Quality or the ~~State~~ Oklahoma Department of
24 Agriculture, Food, and Forestry the Board shall be

1 precluded from making a determination whether waste by
2 pollution pursuant to paragraph 7 of subsection A of
3 Section 1020.15 of this title will occur as a result
4 of such activity. Each groundwater protection agency,
5 as such term is defined by Section 1-1-201 of Title
6 27A of the Oklahoma Statutes, shall be responsible for
7 developing and enforcing groundwater protection
8 practices to prevent groundwater contamination from
9 activities within ~~their~~ its respective jurisdictional
10 areas of environmental responsibility, and

11 d. the proposed use is not likely to degrade or interfere
12 with springs or streams emanating in whole or in part
13 from water originating from a sensitive sole source
14 groundwater basin as defined in Section ~~±~~ 1020.9A of
15 this ~~act~~ title.

16 B. Except as otherwise provided in subsection C of this
17 section, a regular permit shall allocate to the applicant the
18 proportionate part of the maximum annual yield of the basin or
19 subbasin. The proportionate part shall be that percentage of the
20 total annual yield of the basin or subbasin, previously determined
21 to be the maximum annual yield as provided in Section 1020.5 of this
22 title, which is equal to the percentage of the land overlying the
23 fresh groundwater basin or subbasin which the applicant owns or
24 leases and which is dedicated to the application.

1 C. If the lands dedicated to the application overlie two or
2 more groundwater basins and both basins have had maximum annual
3 yields determined, the amount to be authorized by the regular permit
4 shall be calculated on the basin having the greatest maximum annual
5 yield. If the lands dedicated to the application overlie two or
6 more groundwater basins or subbasins and the maximum annual yield
7 has been determined for at least one but not all the basins or
8 subbasins, a temporary permit may be issued to the applicant if the
9 applicant demonstrates by substantial competent evidence that the
10 water to be withdrawn by the temporary permit will not be taken from
11 a basin or subbasin for which the maximum annual yield has been
12 determined. If the land overlies two or more groundwater basins or
13 subbasins and the maximum annual yield has not been determined for
14 any of the basins or subbasins, more than one temporary permit may
15 be issued for the land if the applicant demonstrates by substantial
16 competent evidence from which basin the water will be withdrawn for
17 each of the permits.

18 D. The permit shall specify the location of the permitted well
19 or wells and other terms and conditions as specified by the Board,
20 including, but not limited to, the rate of withdrawal, the level of
21 perforating and the level of sealing the well. A regular permit
22 shall not be granted for less than the remaining life of the basin
23 or subbasin as previously determined by the Board.

24

1 E. If the Board's final action to approve an application is
2 appealed, the applicant may take and use groundwater as set forth in
3 the approval of the permit while any appeals are pending with the
4 Board, in district court, or in the appellate courts.

5 F. If all statutory requirements for groundwater permits are
6 fulfilled and the Board approves the application, appeals seeking to
7 prohibit the use of water based solely on the industry or entity
8 applying to use the water are presumed to have no genuine issue as
9 to any material fact and shall be dismissed pursuant to Section 2056
10 of Title 12 of the Oklahoma Statutes. Further, such claims shall be
11 presumed frivolous, and the court may impose sanctions against the
12 appellant, the appellant's attorney, or both, including requiring
13 the appellant or the appellant's attorney to reimburse the appellee
14 for reasonable costs and expenses such as reasonable attorney fees
15 and other expenses incurred as a result of the appeal.

16 SECTION 2. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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21 59-1-2151 RD 4/24/2023 4:19:40 PM