An Act

ENROLLED SENATE
BILL NO. 288

By: Gumm and Crutchfield of the Senate

and

Roan of the House

An Act relating to waters and water rights; stating legislative findings; establishing a moratorium on issuance of certain temporary permits for the use of certain groundwater; providing a definition; establishing a moratorium on municipalities or political subdivisions entering into contracts for use of certain groundwater; amending 82 O.S. 2001, Section 1020.9, which relates to certain groundwater permits; modifying provisions relating to certain groundwater permits; and providing for codification.

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 1020.9A of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds that a moratorium is necessary on the issuance of certain temporary permits on certain sensitive sole source groundwater basins or subbasins to protect the health, safety and welfare of the people of Oklahoma.

B. 1. A moratorium is hereby established on the issuance of any temporary permit that would lead to any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin or subbasin outside of any county that overlays in whole or in part said basin or subbasin. "Sensitive sole source groundwater basin" means a major groundwater basin or subbasin all or a portion of which has been designated as a "Sole Source Aquifer" by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act as of the effective date of this act, including any portion of any contiguous aquifer located within five (5) miles of the known areal extent of the surface out-crop of the sensitive sole source groundwater basin.

2. Said moratorium shall be in effect until such time as the Oklahoma Water Resources Board conducts and completes a hydrological study and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin or subbasin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin.

3. The provisions of this act shall be applicable to groundwater permit applications for which no final adjudication has been made by the Oklahoma Water Resources Board before the effective date of this act.

4. Any revalidation of a temporary permit, in effect upon the effective date of this act, that allows for any municipal or public water supply use of groundwater from a sensitive sole source groundwater basin outside of any county that overlays in whole or in part said basin shall be considered a new permit application and subject to the provisions of this act.

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

A. A moratorium is hereby established on any municipality or other political subdivision of this state prohibiting any such entity from entering into a contract or other agreement which would lead to municipal or public water supply use of groundwater from a sensitive sole source groundwater basin as defined in Section 1 of this act. Said moratorium shall apply only to municipalities or political subdivisions which are located outside of any county that overlays in whole or in part said basin or subbasin.

B. Said moratorium shall be in effect until such time as the Oklahoma Water Resources Board conducts and completes a hydrological study and approves a maximum annual yield that will ensure that any permit for the removal of water from a sensitive sole source groundwater basin will not reduce the natural flow of water from springs or streams emanating from said basin or subbasin.

SECTION 3. AMENDATORY 82 O.S. 2001, Section 1020.9, is amended to read as follows:

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

a. the lands owned or leased by the applicant overlie a fresh groundwater basin or subbasin,

b. the use to which the applicant intends to put the water is a beneficial use, ~~and~~

c. waste as specified by Section 1020.15 of this title will occur, and

d. the proposed use is likely to degrade or interfere with springs or streams emanating in whole or in part from water originating from a sensitive sole source groundwater basin or subbasin as defined in Section 1 of this act.

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

a. the lands owned or leased by the applicant overlie the fresh groundwater basin or subbasin,

b. the use to which the applicant intends to put the water is a beneficial use, ~~and~~

c. waste specified by Section 1020.15 of this title will not occur. When determining whether waste will occur pursuant to this subparagraph, if the activity for which the applicant intends to use the water is required to comply with rules and requirements of or is within the jurisdictional areas of environmental responsibility of the Department of Environmental Quality or the State Department of Agriculture, the Board shall be precluded from making a determination whether waste by pollution pursuant to paragraph 7 of subsection A of Section 1020.15 of this title will occur as a result of such activity. Each groundwater protection agency, as such term is defined by Section 1-1-201 of Title 27A of the Oklahoma Statutes, shall be responsible for developing and enforcing groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility, and

d. the proposed use is not likely to degrade or interfere with springs or streams emanating in whole or in part from water originating from a sensitive sole source groundwater basin as defined in Section 1 of this act.

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

C. If the lands dedicated to the application overlie two or more groundwater basins and both basins have had maximum annual yields determined, the amount to be authorized by the regular permit shall be calculated on the basin having the greatest maximum annual yield. If the lands dedicated to the application overlie two or more groundwater basins or subbasins and the maximum annual yield has been determined for at least one but not all the basins or subbasins, a temporary permit may be issued to the applicant if the applicant demonstrates by substantial competent evidence that the water to be withdrawn by the temporary permit will not be taken from a basin or subbasin for which the maximum annual yield has been determined. If the land overlies two or more groundwater basins or subbasins and the maximum annual yield has not been determined for

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any of the basins or subbasins, more than one temporary permit may be issued for the land if the applicant demonstrates by substantial competent evidence from which basin the water will be withdrawn for each of the permits.

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

Passed the Senate the 20th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2003.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 28th **day of** May, 2003, **at** 4:10 **o'clock** P. **M.**

By: Lauri Parker

Approved by the Governor of the State of Oklahoma the 3rd **day of** June, 2003, **at** 4:22 **o'clock** P. **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 4th **day of** June, 2003 **at** 11:00 **o'clock** A **M.**

By: Kathy Jekel

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