

An Act

ENROLLED HOUSE
BILL NO. 2471

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

and

McCortney, Kidd, Bullard
and Simpson of the Senate

An Act relating to mines and mining; defining terms; declaring purpose of certain moratorium; declaring moratorium on issuance of certain permits and amendments or revisions to permits; providing conditions for ending moratorium; providing certain exception to moratorium; allowing for the issuance of 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.

SUBJECT: Mines and mining

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:

A. For purposes of this section, a "subject mine" shall mean a 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 meets at least one of the following conditions:

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

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

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 overlies a sensitive sole source groundwater basin or subbasin, the Legislature hereby declares and establishes a moratorium on the Department of Environmental Quality permitting of any discharge from a subject mine to streams fed or supported by water emanating from sensitive sole source groundwater basins or subbasins.

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

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

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

D. Notwithstanding the moratorium, the Department of Environmental Quality may issue any new permits, permit modifications, permit amendments, permit revisions or permit renewals necessary to maintain compliance or remedy identified compliance issues pursuant to Title 27A of the Oklahoma Statutes to operators of any mines lawfully engaged in mining, as defined in paragraph 3 of Section 723 of Title 45 of the Oklahoma Statutes.

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

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

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

A. For purposes of this section, a "subject mine" shall mean a 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 meets at least one of the following conditions:

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

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

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 overlies a sensitive sole source groundwater basin or subbasin, the Legislature hereby declares and establishes a moratorium on the 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. Any permit, pursuant to Section 724 of Title 45 of the Oklahoma Statutes, to any subject mine;

2. Any amendment or revision to any existing mining permit, that covers additional land which shall include extensions of boundaries shown in the initial permit, pursuant to subsection J of Section 724 of Title 45 of the Oklahoma Statutes, if such amendment or revision would increase the acreage under such permit for that mine location by more than one hundred percent (100%) or four hundred (400) acres, whichever is less, as compared to the acreage under permit for that mine location prior to the effective date of this act; provided, however, on or after November 1, 2030, there shall be no limitation on an increase in acreage as specified in this paragraph.

C. Notwithstanding the moratorium, nothing in paragraph 2 of subsection B of this section shall preclude the Department of Mines from issuing an amendment or revision to cover additional land, other changes to method or conduct of mining, reclamation operations contemplated by the original permit or other authorization to allow a change in mine ownership or to implement bonding under a permit issued prior to the effective date of this act, nor shall any permit amendment or revision issued pursuant to this section be deemed to render the permitted mine a subject mine for purposes of Title 27A, 45 or 82 of the Oklahoma Statutes.

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

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

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

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

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

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

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

A. For the purposes of this section, a "subject mine" shall mean a mine, as defined in paragraph 2 of Section 723 of Title 45 of the Oklahoma Statutes, that overlies a sensitive sole source groundwater basin or subbasin, exclusive of any mine that meets at least one of the following conditions:

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

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

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 following actions:

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

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

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

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

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

- a. waste, degradation and interference analyses required by subparagraphs c and d of paragraph 1 and subparagraphs c and d of paragraph 2 of subsection A of Section 1020.9 of Title 82 of the Oklahoma Statutes,
- b. uniform minimum standards and requirements for the development of, and annual reporting regarding compliance with, site-specific water management and conservation plans pursuant to Section 1020.2 of Title 82 of the Oklahoma Statutes, with particular regard to methodologies for calculating amounts claimed in consumptive use of water and any claimed augmentation of stream flow or groundwater, and
- c. consultation, review and approval of such site-specific water management and conservation plans, with specific provisions for making such consultations,

reviews and approvals subject to Article 2 of the Administrative Procedures Act; and

3. Promulgates final rules to provide for effective interagency Department of Mines and the Department of Environmental Quality on all administrative matters relating to the operation of mines at locations that overlie a sensitive sole source groundwater basin or subbasin.

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

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

SECTION 4. This act shall become effective November 1, 2019.

Passed the House of Representatives the 6th day of May, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 23rd day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____