

Act 408 of the 1989 Regular Session.

Act 408

HB1468

By: Representatives Northcutt, Mahony, and O. Miller

"AN ACT TO AMEND ARKANSAS CODE 15-22-215 TO PROVIDE FOR A MAXIMUM FIVE HUNDRED DOLLAR (\$500.00) LATE REGISTRATION FEE FOR THE FAILURE TO REGISTER THE ANNUAL DIVERSION OF SURFACE WATER AND TO REQUIRE A REPORT OF NO CHANGE WHEN WATER USE REMAINS UNCHANGED DURING A YEAR; TO AMEND ARKANSAS CODE 15-22-302 TO PROVIDE FOR A MAXIMUM FIVE HUNDRED DOLLAR (\$500.00) LATE REPORTING FEE FOR THE FAILURE TO REPORT THE ANNUAL WITHDRAWAL OF UNDERGROUND WATER; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 15-22-215 is hereby amended to read as follows:

"15-22-215. Certificates of registration - Water diversion - Exceptions.

(a) Any person diverting water from any stream, lake, or pond, except those natural lakes or ponds in the exclusive ownership of one (1) person, shall register the diversion with the commission or their local conservation district.

(b) Each registration shall set forth:

- (1) The name and post office address of the registrant;
- (2) The source of water supply and location of the point of diversion, the manner of diversion, whether a dam is utilized, and the size and location of any such dam;
- (3) The purpose for the water diversion;
- (4) The estimated quantity of water diverted for direct use, and the quantity of water stored away from the point of diversion for use when needed;
- (5) The location of the land on which the water is used, and, if for irrigation, the area and legal description of the lands irrigated, which may be depicted by the use of appropriate maps, and the kinds of crops cultivated under irrigation during the year;
- (6) The times during the water year that the water was diverted;
- (7) Any other reasonable information requested by the commission in the performance of its duties under the laws of the state of Arkansas;
- (8) The registration shall be based upon a water year, the twelve (12) month period beginning October 1 and ending the next September 30;
- (9) Registrations shall be submitted annually no later than March 1 for the prior water year; and
- (10) After the initial registration, persons whose water use remains unchanged from prior year need only report no change in water use.

(c) Upon receipt of the registration by the commission, it shall be the duty of the commission to furnish to the registrant a certificate of registration containing all the information as set forth by the registrant.

(d) In any proceeding before any court or the commission for the adjudication of rights to divert water from any stream, lake, or pond, no party shall be granted any allocation of water above that required for domestic use unless he has complied with the provisions of this section. However, this section shall not operate to allow a nonriparian use of water to supersede, subordinate, or otherwise take priority or precedence over a

riparian right to divert water from a stream, lake, or pond.

(e) Any person who fails to register a diversion as required by subsections (a) and (b) of this section shall be subject to a late reporting fee of not more than five hundred dollars (\$500.00) for each year they fail to register. At the direction of the commission, the Attorney General or the commission's counsel shall bring suit on the relation of the State of Arkansas for the collection of the fee. All fees received shall go to the Arkansas Water Development Fund."

SECTION 2. Arkansas Code 15-22-302 is hereby amended to read as follows:

"15-22-302. Withdrawal of underground water - Annual reports. (a) All persons who withdraw underground water, except from individual household wells used exclusively for domestic use, and except from wells having a maximum potential flow rate of less than fifty thousand (50,000) gallons per day, shall report to their local conservation district or the Arkansas Soil and Water Conservation Commission the following:

(1) If the water is used for agricultural irrigation:
(A) The number and size of wells;
(B) The crops and acreage irrigated; and
(C) The legal description of the lands irrigated, which may be depicted by the use of appropriate maps;

(2) If the water is used for other than agricultural irrigation:
(A) The number and size of wells;
(B) The name of the water user and the location of the use;

and

(C) The use of the water and the quantity used;

(3) Any other reasonable information requested by the Arkansas Soil and Water Conservation Commission in the performance of its duties under the laws of the State of Arkansas.

(b) The reports shall be submitted annually no later than March 1, indicating the water usage for the prior water year. After the initial report, persons whose water use remains unchanged from the prior water year need only report no change in water use. A "water year" is a twelve-month period beginning October 1 and ending the next September 30.

(c)(1) Any person who fails to report a withdrawal of underground water as required by subsection (a) of this section shall be subject to a late registration fee of not more than five hundred dollars (\$500.00) for each year they fail to register.

(2) At the direction of the commission, the Attorney General or the commission's counsel shall bring suit on the relation of the State of Arkansas for the collection of the fee.

(3) All fees received shall go to the Arkansas Water Development Fund."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws or parts of laws in conflict with act are hereby repealed.

APPROVED: March 8, 1989
