

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1890

By: Ownbey of the House

and

Simpson of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to oil and gas; amending 52 O.S.  
12                   2011, Section 87.1, as amended by Section 4, Chapter  
13                   201, O.S.L. 2012 (52 O.S. Supp. 2016, Section 87.1),  
14                   which relates to well spacing and drilling units for  
15                   common sources of supply; authorizing the  
16                   establishment of certain sizes of oil and gas spacing  
17                   and drilling units; modifying certain definition;  
18                   defining term; specifying what limitations and  
19                   provisions are applicable to horizontal well units;  
20                   requiring certain consent standard be met prior to  
21                   certain orders being effective; and providing an  
22                   effective date.

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

24                   SECTION 1.            AMENDATORY            52 O.S. 2011, Section 87.1, as  
amended by Section 4, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2016,  
Section 87.1), is amended to read as follows:

                  Section 87.1 Whenever the production from any common source of  
supply of oil or natural gas in this state can be obtained only

1 under conditions constituting waste or drainage not compensated by  
2 counterdrainage, then any person having the right to drill into and  
3 produce from such common source of supply may, except as otherwise  
4 authorized or in this section provided, take therefrom only such  
5 proportion of the oil or natural gas that may be produced therefrom  
6 without waste or without such drainage as the productive capacity of  
7 the well or wells of any such person considered with the acreage  
8 properly assignable to each such well bears to the total productive  
9 capacities of the wells in such common source of supply considered  
10 with the acreage properly assignable to each well therein.

11 (a) To prevent or to assist in preventing the various types of  
12 waste of oil or gas prohibited by statute, or any wastes, or to  
13 protect or assist in protecting the correlative rights of interested  
14 parties, the Corporation Commission, upon a proper application and  
15 notice given as hereinafter provided, and after a hearing as  
16 provided in the notice, shall have the power to establish well  
17 spacing and drilling units of specified and approximately uniform  
18 size and shape covering any common source of supply, or prospective  
19 common source of supply, of oil or gas within the State of Oklahoma;  
20 provided, that the Commission may authorize the drilling of an  
21 additional well or wells on any spacing and drilling unit or units  
22 or any portion or portions thereof or may establish, reestablish, or  
23 reform well spacing and drilling units of different sizes and shapes  
24 when the Commission determines that a common source of supply

1 contains predominantly oil underlying an area or areas and contains  
2 predominantly gas underlying a different area or areas; provided  
3 further that the units in the predominantly oil area or areas shall  
4 be of approximately uniform size and shape, and the units in the  
5 predominantly gas area or areas shall be of approximately uniform  
6 size and shape, except that the units in the gas area or areas may  
7 be of nonuniform size and shape when they adjoin the units in the  
8 oil area or areas; provided further that the drilling pattern for  
9 such nonuniform units need not be uniform, and provided further that  
10 the Commission shall adjust the allowable production within the  
11 common source of supply, or any part thereof, and take such other  
12 action as may be necessary to protect the rights of interested  
13 parties. Any order issued pursuant to the provisions hereof may be  
14 entered after a hearing upon the petition of any person owning an  
15 interest in the minerals in lands embraced within such common source  
16 of supply, or the right to drill a well for oil or gas on the lands  
17 embraced within such common source of supply, or on the petition of  
18 the Conservation Officer of the State of Oklahoma. When such a  
19 petition is filed with the Commission, the Commission shall give at  
20 least fifteen (15) days' notice of the hearing to be held upon such  
21 petition by one publication, at least fifteen (15) days prior to the  
22 hearing, in some newspaper of general circulation published in  
23 Oklahoma County, and by one publication, at least fifteen (15) days  
24 prior to the date of the hearing, in some newspaper published in the

1 county, or in each county, if there be more than one, in which the  
2 lands embraced within the application are situated. Except as to  
3 the notice of hearing on such a petition, the procedural  
4 requirements of Section 86.1 et seq. of this title shall govern all  
5 proceedings and hearings provided for by this section.

6 (b) In case of a spacing unit of one hundred sixty (160) acres  
7 or more, no oil and/or gas leasehold interest outside the spacing  
8 unit involved may be held by production from the spacing unit more  
9 than ninety (90) days beyond expiration of the primary term of the  
10 lease.

11 (c) In establishing a well spacing or drilling unit for a  
12 common source of supply thereunder, the acreage to be embraced  
13 within each unit may include acreage from more than one governmental  
14 section, but shall not exceed six hundred forty (640) acres for a  
15 gas well plus ten percent (10%) tolerance, unless the unit is a  
16 governmental section and the governmental section contains more than  
17 six hundred forty (640) acres in which case the unit may comprise  
18 the entire section. Provided, however, fractional sections along  
19 the state boundary line and within the townships along the boundary  
20 where the survey west of the Indian Meridian meets the survey east  
21 of the Cimarron Meridian may be spaced with adjoining section unit,  
22 and the shape thereof shall be determined by the Commission from the  
23 evidence introduced at the hearing, and the following facts, among  
24 other things, shall be material: (1) The lands embraced in the

1 actual or prospective common source of supply; (2) the plan of well  
2 spacing then being employed or contemplated in the source of supply;  
3 (3) the depth at which production from the common source of supply  
4 has been or is expected to be found; (4) the nature and character of  
5 the producing or prospective producing formation or formations; and  
6 (5) any other available geological or scientific data pertaining to  
7 the actual or prospective source of supply which may be of probative  
8 value to the Commission in determining the proper spacing and well  
9 drilling unit therefor, with due and relative allowance for the  
10 correlative rights and obligations of the producers and royalty  
11 owners interested therein.

12       The order establishing such spacing or drilling units shall set  
13 forth: (1) the outside boundaries of the surface area included in  
14 such order; (2) the size, form, and shape of the spacing or drilling  
15 units so established; (3) the drilling pattern for the area, which  
16 shall be uniform except as hereinbefore provided; and (4) the  
17 location of the permitted well on each such spacing or drilling  
18 unit. To such order shall be attached a plat upon which shall be  
19 indicated the foregoing information. Subject to other provisions of  
20 Section 86.1 et seq. of this title, the order establishing such  
21 spacing or drilling units shall direct that no more than one well  
22 shall thereafter be produced from the common source of supply on any  
23 unit so established, and that the well permitted on that unit shall  
24 be drilled at the location thereon as prescribed by the Commission,

1 with such exception as may be reasonably necessary where it is  
2 shown, upon application, notice and hearing in conformity with the  
3 procedural requirements of Section 86.1 et seq. of this title, and  
4 the Commission finds that any such spacing unit is located on the  
5 edge of a pool and adjacent to a producing unit, or for some other  
6 reason that to require the drilling of a well at the prescribed  
7 location on such spacing unit would be inequitable or unreasonable.  
8 Whenever such an exception is granted, the Commission shall adjust  
9 the allowable production for the spacing unit and take such other  
10 action as may be necessary to protect the rights of interested  
11 parties.

12 Any well spacing or drilling unit for a common source of supply  
13 thereunder which exceeds six hundred forty (640) acres for a gas  
14 well plus ten percent (10%) tolerance or exceeds the total amount of  
15 acreage contained in a governmental section, and is not in  
16 production or in the process of drilling development on the  
17 effective date of this act shall be de-spaced. However, fractional  
18 sections along the state boundary line and within the townships  
19 along the boundary where the survey west of the Indian Meridian  
20 meets the survey east of the Cimarron Meridian may be spaced with  
21 adjoining section unit, and the shape thereof shall be determined by  
22 the Commission.

23 (d) The Commission shall have jurisdiction upon the filing of a  
24 proper application therefor, and upon notice given as provided in

1 subsection (a) of this section, to decrease the size of the well  
2 spacing units or to permit additional wells to be drilled within the  
3 established units, or to increase the size or modify the shape of  
4 the well spacing units, upon proper proof at such hearing that such  
5 modification or extension of the order establishing drilling or  
6 spacing units will prevent or assist in preventing the various types  
7 of wastes prohibited by statute, or any of the wastes, or will  
8 protect or assist in protecting the correlative rights of persons  
9 interested in the common source of supply, or upon the filing of a  
10 proper application therefor to enlarge the area covered by the  
11 spacing order, if such proof discloses that the development or the  
12 trend of development indicates that such common source of supply  
13 underlies an area not covered by the spacing order and such proof  
14 discloses that the applicant is an owner within the area or within a  
15 drilling and spacing unit contiguous to the area covered by the  
16 application. Except in the instance of reservoir dewatering as  
17 described herein, the Commission shall not establish well spacing  
18 units of more than forty (40) acres in size covering common sources  
19 of supply of oil, the top of which lies less than four thousand  
20 (4,000) feet below the surface as determined by the original or  
21 discovery well in the common source of supply, and the Commission  
22 shall not establish well spacing units of more than eighty (80)  
23 acres in size covering common sources of supply of oil, the top of  
24 which lies less than nine thousand nine hundred ninety (9,990) feet

1 and more than four thousand (4,000) feet below the surface as  
2 determined by the original or discovery well in the common source of  
3 supply. In the instance of reservoir dewatering to extract oil from  
4 reservoirs having initial water saturations at or above fifty  
5 percent (50%), the Commission may establish drilling and spacing  
6 units not to exceed six hundred forty (640) acres in size.

7 (e) The drilling of any well or wells into any common source of  
8 supply for the purpose of producing oil or gas therefrom, after a  
9 spacing order has been entered by the Commission covering such  
10 common source of supply, at a location other than that fixed by the  
11 order is hereby prohibited. The drilling of any well or wells into  
12 a common source of supply, covered by a pending spacing application,  
13 at a location other than that approved by a special order of the  
14 Commission authorizing the drilling of such well is hereby  
15 prohibited. The operation of any well drilled in violation of any  
16 spacing so entered is also hereby prohibited. When two or more  
17 separately owned tracts of land are embraced within an established  
18 spacing unit, or where there are undivided interests separately  
19 owned, or both such separately owned tracts and undivided interests  
20 embraced within such established spacing unit, the owners thereof  
21 may validly pool their interests and develop their lands as a unit.  
22 Where, however, such owners have not agreed to pool their interests  
23 and where one such separate owner has drilled or proposes to drill a  
24 well on the unit to the common source of supply, the Commission, to



1 avoid the drilling of unnecessary wells, or to protect correlative  
2 rights, shall, upon a proper application therefor and a hearing  
3 thereon, require such owners to pool and develop their lands in the  
4 spacing unit as a unit. The applicant shall give all the owners  
5 whose addresses are known or could be known through the exercise of  
6 due diligence at least fifteen (15) days' notice by mail, return  
7 receipt requested. The applicant shall also give notice by one  
8 publication, at least fifteen (15) days prior to the hearing, in  
9 some newspaper of general circulation published in Oklahoma County,  
10 and by one publication, at least fifteen (15) days prior to the date  
11 of the hearing, in some newspaper published in the county, or in  
12 each county, if there be more than one, in which the lands embraced  
13 within the spacing unit are situated. The applicant shall file  
14 proof of publication and an affidavit of mailing with the Commission  
15 prior to the hearing. All orders requiring such pooling shall be  
16 made after notice and hearing, and shall be upon such terms and  
17 conditions as are just and reasonable and will afford to the owner  
18 of such tract in the unit the opportunity to recover or receive  
19 without unnecessary expense the owner's just and fair share of the  
20 oil and gas. The portion of the production allocated to the owner  
21 of each tract or interests included in a well spacing unit formed by  
22 a pooling order shall, when produced, be considered as if produced  
23 by such owner from the separately owned tract or interest by a well  
24 drilled thereon. Such pooling order of the Commission shall make

1 definite provisions for the payment of cost of the development and  
2 operation, which shall be limited to the actual expenditures  
3 required for such purpose not in excess of what are reasonable,  
4 including a reasonable charge for supervision. In the event of any  
5 dispute relative to such costs, the Commission shall determine the  
6 proper costs after due notice to interested parties and a hearing  
7 thereon. The operator of such unit, in addition to any other right  
8 provided by the pooling order or orders of the Commission, shall  
9 have a lien on the mineral leasehold estate or rights owned by the  
10 other owners therein and upon their shares of the production from  
11 such unit to the extent that costs incurred in the development and  
12 operation upon the unit are a charge against such interest by order  
13 of the Commission or by operation of law. Such liens shall be  
14 separable as to each separate owner within such unit, and shall  
15 remain liens until the owner or owners drilling or operating the  
16 well have been paid the amount due under the terms of the pooling  
17 order. The Commission is specifically authorized to provide that  
18 the owner or owners drilling, or paying for the drilling, or for the  
19 operation of a well for the benefit of all shall be entitled to  
20 production from such well which would be received by the owner or  
21 owners for whose benefit the well was drilled or operated, after  
22 payment of royalty, until the owner or owners drilling or operating  
23 the well have been paid the amount due under the terms of the  
24 pooling order or order settling such dispute. No part of the

1 production or proceeds accruing to any owner of a separate interest  
2 in such unit shall be applied toward payment of any cost properly  
3 chargeable to any other interest in the unit.

4 For the purpose of this section, the owner or owners of oil and  
5 gas rights in and under an unleased tract of land shall be regarded  
6 as a lessee to the extent of a seven-eighths (7/8) interest in and  
7 to the rights and a lessor to the extent of the remaining one-eighth  
8 (1/8) interest therein, unless and until the owner or owners make an  
9 election or are deemed to make an election not to participate under  
10 a pooling order issued by the Commission, at which time each such  
11 owner shall be considered a lessor, subject to the judicially  
12 recognized implied covenant to market found to exist by the courts  
13 of this state in oil and gas leases covering lands located in this  
14 state, to the extent of the full royalty percentage elected under  
15 the pooling order. Should the owners of separate tracts or  
16 interests embraced within a spacing unit fail to agree upon a  
17 pooling of their interests and the drilling of a well on the unit,  
18 and should it be established by final, unappealable judgment of a  
19 court of competent jurisdiction that the Commission is without  
20 authority to require pooling as provided for herein, then, subject  
21 to all other applicable provisions of this act, the owner of each  
22 tract or interest embraced within a spacing unit may drill on his or  
23 her separately owned tract, and the allowable production therefrom  
24 shall be that portion of the allowable for the full spacing unit as

1 the area of such separately owned tract bears to the full spacing  
2 unit.

3 In the event a producing well or wells are completed upon a unit  
4 where there are, or may thereafter be, two or more separately owned  
5 tracts, each royalty interest owner shall share in all production  
6 from the well or wells drilled within the unit, or in the gas well  
7 rental provided for in the lease covering such separately owned  
8 tract or interest in lieu of the customary fixed royalty, to the  
9 extent of such royalty interest owner's interest in the unit. Each  
10 royalty interest owner's interest in the unit shall be defined as  
11 the percentage of royalty owned in each separate tract by the  
12 royalty owner, multiplied by the proportion that the acreage in each  
13 separately owned tract or interest bears to the entire acreage of  
14 the unit.

15 (f) Notwithstanding any provision of this section limiting the  
16 size or shape of well spacing and drilling units to the contrary,  
17 the Corporation Commission ~~shall have jurisdiction upon the filing~~  
18 ~~of a proper application therefor, and upon notice given as provided~~  
19 ~~in subsection (a) of this section, to establish spacing rules~~ may  
20 establish well spacing and drilling units for horizontally drilled  
21 ~~oil wells whereby horizontally drilled oil wells may have well~~  
22 ~~spacing units established of up to six hundred forty (640) one~~  
23 ~~thousand two hundred eighty (1,280) acres plus tolerances and~~

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1 ~~variances as allowed for gas wells pursuant to subsection (c) of~~  
2 ~~this section.~~ subject to the following:

3 1. For purposes of this subsection a "horizontally drilled oil  
4 well" shall mean an oil or gas well drilled, completed or  
5 recompleted in a manner in which the horizontal component of the  
6 completion interval in the geological formation exceeds the vertical  
7 component thereof and which horizontal component extends a minimum  
8 of one hundred fifty (150) feet in the formation;

9 2. For purposes of this subsection a "horizontal well unit"  
10 shall mean a well spacing and drilling unit established for a common  
11 source of supply for the purpose of developing such unit by the  
12 drilling of a single horizontally drilled well;

13 3. Other than limitations on the size and shape of well spacing  
14 and drilling units, all other provisions of this section shall apply  
15 to the establishment of a horizontal well unit;

16 4. No order of the Corporation Commission establishing a  
17 horizontal well unit that overlies any existing well or producing  
18 lease or any portion of any existing well spacing and drilling unit  
19 with an existing well producing from the same common source of  
20 supply will become effective until at least fifty percent (50%) of  
21 the ownership having a right to drill in each such well and well  
22 spacing and drilling unit consents in writing to the establishment  
23 of such horizontal well unit; and

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1        5. The Corporation Commission shall promulgate rules necessary  
2 for the proper administration of this subsection.

3        SECTION 2. This act shall become effective November 1, 2017.  
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5 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2017 - DO PASS,  
6 As Amended and Coauthored.  
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