

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1890

By: Ownbey

5
6
7
8 COMMITTEE SUBSTITUTE

9 An Act relating to oil and gas; amending 52 O.S.
10 2011, Section 87.1, as amended by Section 4, Chapter
11 201, O.S.L. 2012 (52 O.S. Supp. 2016, Section 87.1),
12 which relates to well spacing and drilling units for
13 common sources of supply; authorizing the
14 establishment of certain sizes of oil and gas spacing
15 and drilling units; modifying certain definition;
16 defining term; specifying what limitations and
17 provisions are applicable to horizontal well units;
18 requiring certain consent standard be met prior to
19 certain orders being effective; and providing an
20 effective date.

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

22 SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.1, as
23 amended by Section 4, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2016,
24 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
under conditions constituting waste or drainage not compensated by
counterdrainage, then any person having the right to drill into and

1 produce from such common source of supply may, except as otherwise
2 authorized or in this section provided, take therefrom only such
3 proportion of the oil or natural gas that may be produced therefrom
4 without waste or without such drainage as the productive capacity of
5 the well or wells of any such person considered with the acreage
6 properly assignable to each such well bears to the total productive
7 capacities of the wells in such common source of supply considered
8 with the acreage properly assignable to each well therein.

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

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

1 the notice of hearing on such a petition, the procedural
2 requirements of Section 86.1 et seq. of this title shall govern all
3 proceedings and hearings provided for by this section.

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

9 (c) In establishing a well spacing or drilling unit for a
10 common source of supply thereunder, the acreage to be embraced
11 within each unit may include acreage from more than one governmental
12 section, but shall not exceed six hundred forty (640) acres for a
13 gas well plus ten percent (10%) tolerance, unless the unit is a
14 governmental section and the governmental section contains more than
15 six hundred forty (640) acres in which case the unit may comprise
16 the entire section. Provided, however, fractional sections along
17 the state boundary line and within the townships along the boundary
18 where the survey west of the Indian Meridian meets the survey east
19 of the Cimarron Meridian may be spaced with adjoining section unit,
20 and the shape thereof shall be determined by the Commission from the
21 evidence introduced at the hearing, and the following facts, among
22 other things, shall be material: (1) The lands embraced in the
23 actual or prospective common source of supply; (2) the plan of well
24 spacing then being employed or contemplated in the source of supply;

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

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

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

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

21 (d) The Commission shall have jurisdiction upon the filing of a
22 proper application therefor, and upon notice given as provided in
23 subsection (a) of this section, to decrease the size of the well
24 spacing units or to permit additional wells to be drilled within the

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

1 supply. In the instance of reservoir dewatering to extract oil from
2 reservoirs having initial water saturations at or above fifty
3 percent (50%), the Commission may establish drilling and spacing
4 units not to exceed six hundred forty (640) acres in size.

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

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

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

1 in such unit shall be applied toward payment of any cost properly
2 chargeable to any other interest in the unit.

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

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~~

24

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

24

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.

4

5 56-1-7216 SD 03/01/17

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24