

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 3039

6 By: Boles

7  
8 COMMITTEE SUBSTITUTE

9 An Act relating to oil and gas; amending 52 O.S.  
10 2021, Section 87.1, which relates to common source of  
11 supply and well spacing and drilling units; allowing  
12 drilling of wells within location tolerance areas  
13 while spacing applications are pending; allowing the  
14 Oklahoma Corporation Commission to issue a permit to  
15 drill a well prior to issuance of an order; and  
16 declaring an emergency.

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

18 SECTION 1. AMENDATORY 52 O.S. 2021, Section 87.1, is  
19 amended to read as follows:

20 Section 87.1 Whenever the production from any common source of  
21 supply of oil or natural gas in this state can be obtained only  
22 under conditions constituting waste or drainage not compensated by  
23 counterdrainage, then any person having the right to drill into and  
24 produce from such common source of supply may, except as otherwise  
authorized or in this section provided, take therefrom only such  
proportion of the oil or natural gas that may be produced therefrom

1 without waste or without such drainage as the productive capacity of  
2 the well or wells of any such person considered with the acreage  
3 properly assignable to each such well bears to the total productive  
4 capacities of the wells in such common source of supply considered  
5 with the acreage properly assignable to each well therein.

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

1 size and shape, except that the units in the gas area or areas may  
2 be of nonuniform size and shape when they adjoin the units in the  
3 oil area or areas; provided further that the drilling pattern for  
4 such nonuniform units need not be uniform, and provided further that  
5 the Commission shall adjust the allowable production within the  
6 common source of supply, or any part thereof, and take such other  
7 action as may be necessary to protect the rights of interested  
8 parties. Any order issued pursuant to the provisions hereof may be  
9 entered after a hearing upon the petition of any person owning an  
10 interest in the minerals in lands embraced within such common source  
11 of supply, or the right to drill a well for oil or gas on the lands  
12 embraced within such common source of supply, or on the petition of  
13 the Conservation Officer of the State of Oklahoma. When such a  
14 petition is filed with the Commission, the Commission shall give at  
15 least fifteen (15) days' notice of the hearing to be held upon such  
16 petition by one publication, at least fifteen (15) days prior to the  
17 hearing, in some newspaper of general circulation published in  
18 Oklahoma County, and by one publication, at least fifteen (15) days  
19 prior to the date of the hearing, in some newspaper published in the  
20 county, or in each county, if there be more than one, in which the  
21 lands embraced within the application are situated. Except as to  
22 the notice of hearing on such a petition, the procedural  
23 requirements of Section 86.1 et seq. of this title shall govern all  
24 proceedings and hearings provided for by this section.

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

6 (c) In establishing a well spacing or drilling unit for a  
7 common source of supply thereunder, the acreage to be embraced  
8 within each unit may include acreage from more than one governmental  
9 section, but shall not exceed six hundred forty (640) acres for a  
10 gas well plus ten percent (10%) tolerance, unless the unit is a  
11 governmental section and the governmental section contains more than  
12 six hundred forty (640) acres in which case the unit may comprise  
13 the entire section. Provided, however, fractional sections along  
14 the state boundary line and within the townships along the boundary  
15 where the survey west of the Indian Meridian meets the survey east  
16 of the Cimarron Meridian may be spaced with adjoining section unit,  
17 and the shape thereof shall be determined by the Commission from the  
18 evidence introduced at the hearing, and the following facts, among  
19 other things, shall be material: (1) the lands embraced in the  
20 actual or prospective common source of supply; (2) the plan of well  
21 spacing then being employed or contemplated in the source of supply;  
22 (3) the depth at which production from the common source of supply  
23 has been or is expected to be found; (4) the nature and character of  
24 the producing or prospective producing formation or formations; and

1 (5) any other available geological or scientific data pertaining to  
2 the actual or prospective source of supply which may be of probative  
3 value to the Commission in determining the proper spacing and well  
4 drilling unit therefor, with due and relative allowance for the  
5 correlative rights and obligations of the producers and royalty  
6 owners interested therein.

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

1 reason that to require the drilling of a well at the prescribed  
2 location on such spacing unit would be inequitable or unreasonable.  
3 Whenever such an exception is granted, the Commission shall adjust  
4 the allowable production for the spacing unit and take such other  
5 action as may be necessary to protect the rights of interested  
6 parties.

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

19       (d) The Commission shall have jurisdiction upon the filing of a  
20 proper application therefor, and upon notice given as provided in  
21 subsection (a) of this section, to decrease the size of the well  
22 spacing units or to permit additional wells to be drilled within the  
23 established units, or to increase the size or modify the shape of  
24 the well spacing units, upon proper proof at such hearing that such

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

1 percent (50%), the Commission may establish drilling and spacing  
2 units not to exceed six hundred forty (640) acres in size.

3 (e) The drilling of any well or wells into any common source of  
4 supply for the purpose of producing oil or gas therefrom, after a  
5 spacing order has been entered by the Commission covering such  
6 common source of supply, at a location other than that fixed by the  
7 order is hereby prohibited. The drilling of any well or wells into  
8 a common source of supply, covered by a pending spacing application,  
9 at a location or within location tolerance areas other than that  
10 approved by a special order of the Commission authorizing the  
11 drilling of such well is hereby prohibited. The operation of any  
12 well drilled in violation of any spacing order so entered is also  
13 hereby prohibited. Notwithstanding any provision of this section to  
14 the contrary, the Commission, in the exercise of its authority to  
15 prevent waste and protect correlative rights, may issue a permit to  
16 drill any well for which notice and hearing have occurred for a  
17 special order or an order on the merits in any type case prior to  
18 the issuance of any such order. Any such permit shall be subject to  
19 and conform with the final provisions of any such order when  
20 entered. When two or more separately owned tracts of land are  
21 embraced within an established spacing unit, or where there are  
22 undivided interests separately owned, or both such separately owned  
23 tracts and undivided interests embraced within such established  
24 spacing unit, the owners thereof may validly pool their interests



1 and develop their lands as a unit. Where, however, such owners have  
2 not agreed to pool their interests and where one such separate owner  
3 has drilled or proposes to drill a well on the unit to the common  
4 source of supply, the Commission, to avoid the drilling of  
5 unnecessary wells, or to protect correlative rights, shall, upon a  
6 proper application therefor and a hearing thereon, require such  
7 owners to pool and develop their lands in the spacing unit as a  
8 unit. The applicant shall give all the owners whose addresses are  
9 known or could be known through the exercise of due diligence at  
10 least fifteen (15) days' notice by mail, return receipt requested.  
11 The applicant shall also give notice by one publication, at least  
12 fifteen (15) days prior to the hearing, in some newspaper of general  
13 circulation published in Oklahoma County, and by one publication, at  
14 least fifteen (15) days prior to the date of the hearing, in some  
15 newspaper published in the county, or in each county, if there be  
16 more than one, in which the lands embraced within the spacing unit  
17 are situated. The applicant shall file proof of publication and an  
18 affidavit of mailing with the Commission prior to the hearing. All  
19 orders requiring such pooling shall be made after notice and  
20 hearing, and shall be upon such terms and conditions as are just and  
21 reasonable and will afford to the owner of such tract in the unit  
22 the opportunity to recover or receive without unnecessary expense  
23 the owner's just and fair share of the oil and gas. The portion of  
24 the production allocated to the owner of each tract or interests

1 included in a well spacing unit formed by a pooling order shall,  
2 when produced, be considered as if produced by such owner from the  
3 separately owned tract or interest by a well drilled thereon. Such  
4 pooling order of the Commission shall make definite provisions for  
5 the payment of cost of the development and operation, which shall be  
6 limited to the actual expenditures required for such purpose not in  
7 excess of what are reasonable, including a reasonable charge for  
8 supervision. In the event of any dispute relative to such costs,  
9 the Commission shall determine the proper costs after due notice to  
10 interested parties and a hearing thereon. The operator of such  
11 unit, in addition to any other right provided by the pooling order  
12 or orders of the Commission, shall have a lien on the mineral  
13 leasehold estate or rights owned by the other owners therein and  
14 upon their shares of the production from such unit to the extent  
15 that costs incurred in the development and operation upon the unit  
16 are a charge against such interest by order of the Commission or by  
17 operation of law. Such liens shall be separable as to each separate  
18 owner within such unit, and shall remain liens until the owner or  
19 owners drilling or operating the well have been paid the amount due  
20 under the terms of the pooling order. The Commission is  
21 specifically authorized to provide that the owner or owners  
22 drilling, or paying for the drilling, or for the operation of a well  
23 for the benefit of all shall be entitled to production from such  
24 well which would be received by the owner or owners for whose

1 benefit the well was drilled or operated, after payment of royalty,  
2 until the owner or owners drilling or operating the well have been  
3 paid the amount due under the terms of the pooling order or order  
4 settling such dispute. No part of the production or proceeds  
5 accruing to any owner of a separate interest in such unit shall be  
6 applied toward payment of any cost properly chargeable to any other  
7 interest in the unit.

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

1 to all other applicable provisions of this act, the owner of each  
2 tract or interest embraced within a spacing unit may drill on his or  
3 her separately owned tract, and the allowable production therefrom  
4 shall be that portion of the allowable for the full spacing unit as  
5 the area of such separately owned tract bears to the full spacing  
6 unit.

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

19 (f) Notwithstanding any provision of this title to the  
20 contrary, the Corporation Commission shall have jurisdiction upon  
21 the filing of a proper application therefor, and upon notice given  
22 as provided in subsection (a) of this section, to establish spacing  
23 rules for horizontally drilled oil or gas wells whereby horizontally  
24 drilled oil or gas wells may have well spacing units established of

1 up to one thousand two hundred eighty (1,280) acres plus tolerances  
2 and variances as allowed pursuant to subsection (c) of this section.  
3 For purposes of this subsection a "horizontally drilled oil or gas  
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. The Corporation  
9 Commission shall promulgate rules necessary for the proper  
10 administration of this subsection. For the creation and  
11 continuation of any horizontal spacing unit pursuant to this  
12 subsection that exceeds six hundred forty (640) acres plus  
13 tolerances and variances as allowed pursuant to subsection (c) of  
14 this section:

15 (1) absent a showing of reasonable cause, the unit shall  
16 include all lands within each governmental section to be included in  
17 the horizontal spacing unit;

18 (2) the applicant or applicants requesting the Commission to  
19 form the horizontal spacing unit must be the owner of an interest in  
20 the oil, gas and other minerals in each of the governmental sections  
21 to be included in the horizontal spacing unit;

22 (3) the applicant or applicants requesting the Commission to  
23 form a horizontal spacing unit must include in the application the  
24 basis for requesting a spacing unit size greater than six hundred

1 forty (640) acres plus tolerances and variances as allowed pursuant  
2 to subsection (c) of this section. Absent a showing of reasonable  
3 cause, the contemplated horizontal lateral length for the initial  
4 unit well in the horizontal spacing unit shall be at least seven  
5 thousand five hundred (7,500) feet. If the lateral length of the  
6 initial horizontal well does not actually measure a minimum of seven  
7 thousand five hundred (7,500) feet, the Commission shall require the  
8 applicant to show cause as to why such spacing order should not be  
9 modified, superseded or vacated under the circumstances; and

10 (4) absent a showing of reasonable cause, the drilling of a  
11 multiunit horizontal well pursuant to Section 87.8 of this title  
12 shall not be available as the initial unit well for a horizontal  
13 spacing unit unless the contemplated completed portion of the  
14 lateral for said well is to exceed ten thousand five hundred sixty  
15 (10,560) feet.

16 (g) A horizontal spacing unit may be established for a common  
17 source of supply for which there are already established non-  
18 horizontal drilling and spacing units. A horizontal spacing unit  
19 formed under subsection (f) of this section may exist concurrently  
20 with any previously formed nonhorizontal drilling and spacing unit,  
21 or any portion thereof, such that each concurrently existing unit  
22 may be separately developed with a well drilled into, completed in  
23 and hydrocarbons produced from the same common source of supply in  
24 each such concurrently existing unit, with production from each such

1 well to be governed by and allocated pursuant to the applicable  
2 unit. Subject to all of the provisions of this section, a pooling  
3 order for a horizontal spacing unit which overlies an existing,  
4 producing nonhorizontal drilling and spacing unit, shall provide  
5 that, if a working interest owner in such producing nonhorizontal  
6 drilling and spacing unit does not agree to develop the horizontal  
7 spacing unit, the owner shall relinquish its nonparticipating  
8 working interest in the horizontal spacing unit while retaining all  
9 other rights, including the right to concurrently develop the  
10 producing nonhorizontal unit.

11 (h) Notwithstanding anything in this title or a pooling order  
12 to the contrary, each party owning a right to participate in  
13 development of a horizontal well described in this subsection with a  
14 vested interest as to which there is production in the geographical  
15 area of the spacing unit or spacing units for a proposed horizontal  
16 well which is drilled after the effective date of this act pursuant  
17 to a pooling order, whether the pooling order was issued before or  
18 after the effective date of this act, shall be afforded separate  
19 elections as set forth below, subject to the following, provided;  
20 however, a geographic area in which there is no existing producing  
21 unit as of the date of the filing of the application for the  
22 governing pooling order and which is initially developed pursuant to  
23 a multiunit horizontal well authorized under Section 87.8 of this  
24 title, or a horizontal spacing unit which contains more than six

1 hundred forty (640) acres plus tolerances and variances as allowed  
2 for pursuant to subsection (c) of this section shall not be  
3 considered to contain existing production for purposes of this  
4 subsection, unless the geographical area of any spacing unit covered  
5 by the governing pooling order: is overlain by a horizontal spacing  
6 unit greater than six hundred forty (640) acres plus tolerances and  
7 variances as allowed for pursuant to subsection (c) of this section  
8 which is not subject to said pooling order; has a multiunit well  
9 drilled pursuant to Section 87.8 of this title which includes a  
10 horizontal spacing unit which contains more than six hundred forty  
11 (640) acres plus tolerances and variances as allowed for pursuant to  
12 subsection (c) of this section which is subject to said pooling  
13 order; or has a multiunit well drilled pursuant to Section 87.8 of  
14 this title for a combination of units different than drilled by the  
15 initial multiunit well pursuant to said pooling order:

16 (1) as to a multiunit horizontal well authorized under Section  
17 87.8 of this title, each party owning a right to participate in  
18 development of the proposed multiunit horizontal well with a vested  
19 interest as to which there is existing production in the  
20 geographical area of the spacing unit for the proposed multiunit  
21 well shall be allowed, and as to the extent of their development  
22 rights as to which there is existing production, an election as to  
23 the targeted reservoir or targeted reservoirs covered by each  
24 pooling order for such proposed multiunit horizontal well described



1 above, unless otherwise agreed to or waived in writing after the  
2 effective date of this act. If said multiunit well is drilled in  
3 accordance with the pooling order, the relinquished rights of an  
4 owner who elects or is deemed to have elected not to participate  
5 with all or any part of that owner's interest in the multiunit  
6 horizontal well shall be limited to only the owner's  
7 nonparticipating working interest in the common source or common  
8 sources of supply within the targeted reservoir or targeted  
9 reservoirs covered by said election which are actually horizontally  
10 drilled and completed by said well. The owner shall retain all  
11 other rights, including all rights in any existing wellbores in  
12 which the owner has participated;

13 (2) as to a horizontal well authorized by the Commission for a  
14 horizontal spacing unit created under subsection (f) of this  
15 section, if the horizontal spacing unit contains more than six  
16 hundred forty (640) acres plus tolerances and variances as allowed  
17 for pursuant to subsection (c) of this section, or is comprised of  
18 more than one governmental section, each party owning a right to  
19 participate in development of the proposed horizontal well with a  
20 vested interest as to which there is existing production in the  
21 geographical area of the spacing unit for the proposed horizontal  
22 well shall be allowed, and as to the extent of their development  
23 rights as to which there is existing production, a separate election  
24 as to each common source of supply or common sources of supply

1 covered by the pooling order for a proposed horizontal well  
2 described above, unless otherwise agreed to or waived in writing  
3 after the effective date of this act. If said horizontal well is  
4 drilled in accordance with the pooling order, the relinquished  
5 rights of an owner who elects or is deemed to have elected not to  
6 participate with all or any part of that owner's interest in the  
7 horizontal well shall be limited to only the owner's  
8 nonparticipating working interest in the common source or common  
9 sources of supply covered by said election which are actually  
10 horizontally drilled and completed by said well. The owner shall  
11 retain all other rights, including any rights in all existing  
12 wellbores in which the owner has participated;

13 (3) as to any well which is subject to a pooling order which  
14 was entered prior to the effective date of this act, in order to be  
15 entitled to the rights and benefits of this subsection, the owner  
16 must have been vested with the right to participate in the subject  
17 well as of the effective date of this act;

18 (4) any relinquishment of rights under this subsection shall be  
19 pursuant to the governing pooling order and at such fair value as  
20 determined by the Commission; and

21 (5) the provisions of subsections (g) and (h) of this section  
22 shall supplement each affected pooling order as to development of  
23 the affected spacing unit by use of horizontal wells from and after  
24 the effective date of this act.

1       SECTION 2. It being immediately necessary for the preservation  
2 of the public peace, health or safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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6       58-2-10935       JL       03/02/22

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