

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 871

By: Easley of the Senate

and

Rice of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to oil and gas; amending 52 O.S. 2001, Section 288.4, which relates to the Oklahoma Energy Resources Board; modifying membership of Board; amending 52 O.S. 2001, Section 318.5, as amended by Section 16 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Legislature, which relates to surface damages; providing compensation for certain property utilizing the current use value of property; providing statutory reference; and amending 52 O.S. 2001, Section 570.12, which relates to interest owner payment information; modifying requirements for lease or well information; authorizing interest owner to request certain information; requiring information within certain time period; authorizing civil action and awarding court costs and attorney fees for prevailing party; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 2001, Section 288.4, is amended to read as follows:

Section 288.4 A. The Oklahoma Energy Resources Board shall be composed of at least ~~eighteen (18)~~ twenty-one (21) members. ~~The eighteen~~ Eighteen members shall be independent oil or natural gas producers, ~~or~~ and representatives of major oil companies which do business in the state, six to be appointed by the Governor, six to be appointed by the President Pro Tempore of the Senate and six to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives shall make appointments of independent

producers from a list of names of independent producers which do business in the state submitted by qualified independent producer associations. Three members shall be royalty owner representatives which own producing mineral or royalty interest in the state, one to be appointed by the Governor, one to be appointed by the President Pro Tempore of the Senate, and one to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives shall make appointments of royalty owner representatives from a list of names of royalty owners submitted by qualified royalty owner associations.

B. The members of the Board shall:

1. Be at least twenty-five (25) years of age; and
2. Have at least five (5) years of active experience in the oil or natural gas industry.

C. The initial term of office for independent producer members of the Board shall be as follows: six members for one (1) year, six members for two (2) years and six members for three (3) years.

For the initial appointments of independent producers, each appointing authority shall make two appointments for one-year terms, two appointments for two-year terms and two appointments for three-year terms. Thereafter, the terms of the independent producer members shall be for three (3) years.

The initial term of office for royalty owner representative members of the Board shall be as follows: the member appointed by the Governor for one (1) year, the member appointed by the President Pro Tempore of the Senate for two (2) years, and the member appointed by the Speaker of the House of Representatives for three (3) years.

D. The six independent producer members of the Board whose initial term of office is for one (1) year shall serve until October 1, 1993, at which time their terms shall expire and will be replaced

by the members appointed to three-year terms under subsection E of this section.

E. On October 1, 1993, six members shall be appointed to the Board who represent major oil companies which do business in the state, two to be appointed by the Governor, two to be appointed by the President Pro Tempore of the Senate and two to be appointed by the Speaker of the House of Representatives. After October 1, 1993, the Board shall be composed of eighteen (18) members, twelve of which shall be independent producers and six shall be representatives of major oil companies. After October 1, 2002, the Board shall be composed of twenty-one (21) members, twelve of which shall be independent producers, six shall be representatives of major oil companies, and three shall be representatives of royalty owners.

F. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. The appointed members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

G. ~~After October 1, 1993, the independent producer and major oil company~~ The members of the Board appointed pursuant to subsection A of this section may by majority vote appoint a maximum of ~~three~~ two representatives ~~from each of the following producer-related areas~~ to serve as members of the Board: ~~one member from a royalty owner association and two members~~ representing crude oil or natural gas purchasing companies. These additional members shall have full voting rights and privileges and will serve three-year terms. They may be removed from the Board by a majority vote of the independent producer ~~and~~ major oil company, and royalty owner representative members of the Board appointed pursuant to subsection A of this section.

H. The Board shall at its first meeting elect one of its members as chairperson, who shall preside over meetings of the Board

and perform such other duties as may be required by the Board. The first meeting of the Board shall be called by the Governor.

I. No member of the Board shall receive a salary for duties performed as a member of the Board however, members are eligible to receive reimbursement for expenses and travel reimbursement as provided for in the State Travel Reimbursement Act.

J. Members serving on the Board shall be eligible to serve on any other state board or commission if such member is otherwise qualified to hold such appointed office, notwithstanding the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 52 O.S. 2001, Section 318.5, as amended by Section 16 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 318.5 A. Prior to entering the site with heavy equipment, the operator shall negotiate with the surface owner for the payment of any damages which may be caused by the drilling operation. If the parties agree, and a written contract is signed, the operator may enter the site to drill. If agreement is not reached, or if the operator is not able to contact all parties, the operator shall petition the district court in the county in which the drilling site is located for appointment of appraisers to make recommendations to the parties and to the court concerning the amount of damages, if any. Once the operator has petitioned for appointment of appraisers, the operator may enter the site to drill.

B. Ten (10) days' notice of the petition to appoint appraisers shall be given to the opposite party, either by personal service or by leaving a copy thereof at the party's usual place of residence with some family member over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs or other persons whose whereabouts cannot be ascertained, by publication in one issue of a newspaper qualified to publish legal notices in said county, as

provided in Section 106 of Title 25 of the Oklahoma Statutes, said ten-day period to begin with the first publication.

C. The operator shall select one appraiser, the surface owner shall select one appraiser, and the two selected appraisers shall select a third appraiser for appointment by the court, which such third appraiser shall be a state-certified general real estate appraiser and be in good standing with the Oklahoma Real Estate Appraisal Board. Unless for good cause shown, additional time is allowed by the district court, the three (3) appraisers shall be selected within twenty (20) days of service of the notice of the petition to appoint appraisers or within twenty (20) days of the first date of publication of the notice as specified in subsection B of this section. If either of the parties fails to appoint an appraiser or if the two appraisers cannot agree on the selection of the third appraiser within the required time period, the remaining required appraisers shall be selected by the district court upon application of either party of which at least one shall be a state-certified general real estate appraiser and be in good standing with the Oklahoma Real Estate Appraisal Board. Before entering upon their duties, such appraisers shall take and subscribe an oath, before a notary public or some other person authorized to administer oaths, that they will perform their duties faithfully and impartially to the best of their ability. They shall inspect the real property and consider the surface damages which the owner has sustained or will sustain by reason of entry upon the subject land and by reason of drilling or maintenance of oil or gas production on the subject tract of land. The appraisers shall then file a written report within thirty (30) days of the date of their appointment with the clerk of the court. The report shall set forth the quantity, boundaries and value of the property entered on or to be utilized in said oil or gas drilling, and the amount of surface damages done or to be done to the property. The appraisers shall make a valuation

and determine the amount of compensation to be paid by the operator to the surface owner and the manner in which the amount shall be paid. The amount of compensation to be paid by the operator to the surface owner shall not exceed five times the current use value of the property on a per acre basis of the property actually utilized in said oil and gas drilling. Said appraisers shall then make a report of their proceedings to the court. The compensation of the appraisers shall be fixed and determined by the court. The operator and the surface owner shall share equally in the payment of the appraisers' fees and court costs.

D. Within ten (10) days after the report of the appraisers is filed, the clerk of the court shall forward to each attorney of record, each party, and interested party of record, a copy of the report of the appraisers and a notice stating the time limits for filing an exception or a demand for jury trial as provided for in this section. The operator shall provide the clerk of the court with the names and last-known addresses of the parties to whom the notice and report shall be mailed, sufficient copies of the notice and report to be mailed, and pre-addressed, postage-paid envelopes.

1. This notice shall be on a form prepared by the Administrative Director of the Courts, approved by the Oklahoma Supreme Court, and supplied to all district court clerks.

2. If a party has been served by publication, the clerk shall forward a copy of the report of the appraisers and the notice of time limits for filing either an exception or a demand for jury trial to the last-known mailing address of each party, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices as provided in Section 106 of Title 25 of the Oklahoma Statutes.

3. After issuing the notice provided herein, the clerk shall endorse on the notice form filed in the case the date that a copy of the report and the notice form was forwarded to each attorney of

record, each party, and each interested party of record, or the date the notice was published.

E. The time for filing an exception to the report or a demand for jury trial shall be calculated as commencing from the date the report of the appraisers is filed with the court. Upon failure of the clerk to give notice within the time prescribed, the court, upon application by any interested party, may extend the time for filing an exception to the report or filing a demand for trial by jury for a reasonable period of time not less than twenty (20) days from the date the application is heard by the court. Appraisers' fees and court costs may be the subject of an exception, may be included in an action by the petitioner, and may be set and allowed by the court.

F. The report of the appraisers may be reviewed by the court, upon written exceptions filed with the court by either party within thirty (30) days after the filing of the report. After the hearing the court shall enter the appropriate order either by confirmation, rejection, modification, or order of a new appraisal for good cause shown. Provided, that in the event a new appraisal is ordered, the operator shall have continuing right of entry subject to the continuance of the bond required herein. Either party may, within sixty (60) days after the filing of such report, file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury. The trial shall be conducted and judgment entered in the same manner as railroad condemnation actions tried in the court. A copy of the final judgment shall be forwarded to the county assessor in the county or counties in which the property is located. If the party demanding the jury trial does not recover a more favorable verdict than the assessment award of the appraisers, all court costs including reasonable attorney fees shall be assessed against the party.

SECTION 3. AMENDATORY 52 O.S. 2001, Section 570.12, is amended to read as follows:

Section 570.12 A. The following information for each property and month of sale shall be included with each payment made to an interest owner from the sale of oil or gas:

1. Lease or well identification including county and state in which the lease or well is located, and a telephone number at which additional information regarding the payment may be obtained and questions may be answered;

2. Month and year of sales included in the payment;

3. Total barrels or MCF attributed to such payment;

4. Price per barrel or MCF, ~~including British Thermal Unit adjustment of gas sold;~~

5. Total amount attributed to such payment of severance and other production taxes, with the exception of windfall profit tax;

6. Net value of total sales attributed to such payment after taxes are deducted;

7. Owner's interest, expressed as a decimal, in production from the property;

8. Owner's share of the total value of sales attributed to such payment prior to any deductions; and

9. Owner's share of the sales value attributed to such payment less owner's share of the production and severance taxes; ~~and.~~

~~10.~~ A B. Upon the request of an interest owner, the British Thermal Unit adjustment of the gas sold, the section, township and range in which the lease is located, and a specific listing of the amount and purpose of any other deductions from the proceeds attributed to such payment due to the owner upon request by the owner shall be provided.

~~B. C.~~ For purposes of the Production Revenue Standards Act:

1. All revenue decimals shall be calculated to not less than the nearest sixth decimal place, which is the nearest part in one million; and

2. Gas volumes reported to any owner shall be measured as required by Section 474 of ~~Title 52 of the Oklahoma Statutes~~ this title.

SECTION 4. This act shall become effective August 1, 2002.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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