

THE HOUSE OF REPRESENTATIVES
Thursday, February 26, 2009

Committee Substitute for
House Bill No. 2052

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2052 - By: THOMPSON of the House.

An Act relating to oil and gas; amending 52 O.S. 2001, Section 87.1, as amended by Section 2, Chapter 331, O.S.L. 2007 (52 O.S. Supp. 2008, Section 87.1), which relates to common source of supply and well spacing and drilling units; updating statutory language and citations; providing an exception for horizontal units from certain well spacing and drilling unit limits; establishing the maximum size of a well spacing and drilling unit for certain horizontal units; and providing an effective date.

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

1 SECTION 1. AMENDATORY 52 O.S. 2001, Section 87.1, as amended by
2 Section 2, Chapter 331, O.S.L. 2007 (52 O.S. Supp. 2008, Section 87.1), is amended to
3 read as follows:
4 Section 87.1 A. Whenever the production from any common source of supply of oil
5 or natural gas in this state can be obtained only under conditions constituting waste or
6 drainage not compensated by counterdrainage, then any person having the right to drill
7 into and produce from ~~such~~ the common source of supply may, except as otherwise
8 authorized or in this section provided, take ~~therefrom~~ from the common source of supply
9 only ~~such~~ the proportion of the oil or natural gas that may be produced therefrom
10 without waste or without ~~such~~ drainage as the productive capacity of the well or wells of

1 any ~~such~~ person considered with the acreage properly assignable to each ~~such~~ well bears
2 to the total productive capacities of the wells in ~~such~~ the common source of supply
3 considered with the acreage properly assignable to each well therein.

4 ~~(a)~~ B. To prevent or to assist in preventing the various types of waste of oil or gas
5 prohibited by statute, or any of ~~said~~ the wastes, or to protect or assist in protecting the
6 correlative rights of interested parties, the Corporation Commission, upon a proper
7 application and notice given as ~~hereinafter~~ provided in this section, and after a hearing
8 as provided in ~~said~~ the notice, shall have the power to establish well spacing and drilling
9 units of specified and approximately uniform size and shape covering any common source
10 of supply, or prospective common source of supply, of oil or gas within the State of
11 Oklahoma; ~~provided, that the.~~ The Commission may authorize the drilling of an
12 additional well or wells on any spacing and drilling unit or units or any portion or
13 portions thereof or may establish, reestablish, or reform well spacing and drilling units of
14 different sizes and shapes when the Commission determines that a common source of
15 supply contains predominantly oil underlying an area or areas and contains
16 predominantly gas underlying a different area or areas; ~~provided further that the.~~ The
17 units in the predominantly oil area or areas shall be of approximately uniform size and
18 shape, and the units in the predominantly gas area or areas shall be of approximately
19 uniform size and shape, except that the units in the gas area or areas may be of
20 nonuniform size and shape when they adjoin the units in the oil area or areas; ~~provided~~
21 ~~further that the.~~ The drilling pattern for ~~such~~ nonuniform units need not be uniform,
22 and provided further that the Commission shall adjust the allowable production within

1 ~~said~~ the common source of supply, or any part thereof, and take ~~such~~ other action as may
2 be necessary to protect the rights of interested parties. Any order issued pursuant to the
3 provisions ~~hereof~~ of this subsection may be entered after a hearing upon the petition of
4 any person owning an interest in the minerals in lands embraced within ~~such~~ the
5 common source of supply, or the right to drill a well for oil or gas on the lands embraced
6 within ~~such~~ the common source of supply, or on the petition of the Conservation Officer
7 of the State of Oklahoma. When ~~such~~ a petition is filed with the Commission, the
8 Commission shall give ~~at least fifteen (15) days'~~ notice of the hearing to be held upon
9 ~~such~~ the petition by one publication, at least fifteen (15) days prior to the hearing, in
10 some newspaper of general circulation published in Oklahoma County, and by one
11 publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper
12 published in the county, or in each county, if there ~~be~~ are more than one county, in which
13 the lands embraced within the application are situated. Except as to the notice of
14 hearing on ~~such~~ a petition, the procedural requirements of Sections 86.1 et seq. of this
15 title, shall govern all proceedings and hearings provided for by this section.

16 ~~(b)~~ C. In case of a spacing unit of one hundred sixty (160) acres or more, no oil
17 ~~and/or~~ or gas leasehold interest outside the spacing unit involved may be held by
18 production from the spacing unit more than ninety (90) days beyond expiration of the
19 primary term of the lease.

20 ~~(e)~~ D. 1. In establishing a well spacing or drilling unit for a common source of
21 supply thereunder, except for horizontal units, the acreage to be embraced within each
22 unit shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%)

1 tolerance, unless a governmental section contains more than six hundred forty (640)
2 acres in which case the unit may comprise the entire section. In establishing a well
3 spacing or drilling unit for a common source of supply thereunder for a horizontal unit
4 that will contain at least one lateral exceeding five thousand (5,000) feet in length, the
5 acreage to be embraced within each unit shall not exceed one thousand two hundred
6 eighty (1,280) acres for a gas well plus ten percent (10%) tolerance. Provided, however,
7 fractional sections along the state boundary line and within the townships along the
8 boundary where the survey west of the Indian Meridian meets the survey east of the
9 Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof of
10 the well spacing or drilling unit shall be determined by the Commission from the
11 evidence introduced at the hearing, and the following facts, among other things, shall be
12 material: ~~(1) The~~

- 13 a. the lands embraced in the actual or prospective common source of
14 supply; ~~(2)~~,
- 15 b. the plan of well spacing then being employed or contemplated in ~~said~~
16 the source of supply; ~~(3)~~,
- 17 c. the depth at which production from ~~said~~ the common source of supply
18 has been or is expected to be found; ~~(4)~~,
- 19 d. the nature and character of the producing or prospective producing
20 formation or formations; ~~and (5)~~
- 21 e. any other available geological or scientific data pertaining to ~~said~~ the
22 actual or prospective source of supply which may be of probative value

1 to ~~said~~ the Commission in determining the proper spacing and well
2 drilling unit therefor, with due and relative allowance for the
3 correlative rights and obligations of the producers and royalty owners
4 interested therein.

5 2. The order establishing ~~such~~ spacing or drilling units shall set forth: ~~(1)~~

6 a. the outside boundaries of the surface area included in ~~such~~ the order;

7 ~~(2)~~;

8 b. the size, form, and shape of the spacing or drilling units so established;

9 ~~(3)~~;

10 c. the drilling pattern for the area, which shall be uniform except as

11 ~~hereinbefore~~ otherwise provided; for in this subsection, and ~~(4)~~

12 d. the location of the permitted well on each ~~such~~ spacing or drilling unit.

13 3. To ~~such~~ the order shall be attached a plat upon which shall be indicated the
14 foregoing information. Subject to other provisions of ~~this act~~, Section 81 et seq. of this
15 title, the order establishing ~~such~~ spacing or drilling units shall direct that no more than
16 one well shall thereafter be produced from the common source of supply on any unit so
17 established, and that the well permitted on that unit shall be drilled at the location
18 ~~thereon~~ as prescribed by the Commission, with ~~such~~ any exception as may be reasonably
19 necessary where it is shown, upon application, notice and hearing in conformity with the
20 procedural requirements of Sections 86.1 et seq. of this title, and the Commission finds
21 that any ~~such~~ spacing unit is located on the edge of a pool and adjacent to a producing
22 unit, or for some other reason that to require the drilling of a well at the prescribed

1 location on ~~such~~ the spacing unit would be inequitable or unreasonable. Whenever ~~such~~
2 an exception is granted, the Commission shall adjust the allowable production for ~~said~~
3 the spacing unit and take ~~such~~ other action as may be necessary to protect the rights of
4 interested parties.

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

14 ~~(d)~~ E. The Commission shall have jurisdiction upon the filing of a proper
15 application ~~therefor~~, and upon notice given as provided in subsection ~~(a)~~ above B of this
16 section, to decrease the size of the well spacing units or to permit additional wells to be
17 drilled within the established units, upon proper proof at ~~such~~ the hearing that ~~such~~ the
18 modification or extension of the order establishing drilling or spacing units will prevent
19 or assist in preventing the various types of wastes prohibited by statute, or any of ~~said~~
20 the wastes, or will protect or assist in protecting the correlative rights of persons
21 interested in ~~said~~ the common source of supply, or upon the filing of a proper application
22 ~~therefor~~ to enlarge the area covered by the spacing order, if ~~such~~ proof discloses that the

1 development or the trend of development indicates that ~~such~~ the common source of
2 supply underlies an area not covered by the spacing order and ~~such~~ proof discloses that
3 the applicant is an owner within the area or within a drilling and spacing unit
4 contiguous to the area covered by the application. Except in the instance of reservoir
5 dewatering as described ~~herein~~ in this section, the Commission shall not establish well
6 spacing units of more than forty (40) acres in size covering common sources of supply of
7 oil, the top of which lies less than four thousand (4,000) feet below the surface as
8 determined by the original or discovery well in ~~said~~ the common source of supply, and the
9 Commission shall not establish well spacing units of more than eighty (80) acres in size
10 covering common sources of supply of oil, the top of which lies less than nine thousand
11 nine hundred ninety (9,990) feet and more than four thousand (4,000) feet below the
12 surface as determined by the original or discovery well in ~~said~~ the common source of
13 supply. In the instance of reservoir dewatering to extract oil from reservoirs having
14 initial water saturations at or above fifty percent (50%), the Commission may establish
15 drilling and spacing units not to exceed six hundred forty (640) acres in size.

16 ~~(e)~~ F. The drilling of any well or wells into any common source of supply for the
17 purpose of producing oil or gas therefrom, after a spacing order has been entered by the
18 Commission covering ~~such~~ the common source of supply, at a location other than that
19 fixed by ~~said~~ the order is hereby prohibited. The drilling of any well or wells into a
20 common source of supply, covered by a pending spacing application, at a location other
21 than that approved by a special order of the Commission authorizing the drilling of ~~such~~
22 the well is hereby prohibited. The operation of any well drilled in violation of any

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

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

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

4 For the purpose of this section, the owner or owners of oil and gas rights in and
5 under an unleased tract of land shall be regarded as a lessee to the extent of a
6 seven-eighths (7/8) interest in and to said rights and a lessor to the extent of the
7 remaining one-eighth (1/8) interest therein. Should the owners of separate tracts or
8 interests embraced within a spacing unit fail to agree upon a pooling of their interests
9 and the drilling of a well on the unit, and should it be established by final, unappealable
10 judgment of a court of competent jurisdiction that the Commission is without authority
11 to require pooling as provided for ~~herein~~ in this section, then, subject to all other
12 applicable provisions of this act, the owner of each tract or interest embraced within a
13 spacing unit may drill on ~~his~~ the separately owned tract of the owner, and the allowable
14 production therefrom shall be that portion of the allowable for the full spacing unit as the
15 area of ~~such~~ the separately owned tract bears to the full spacing unit.

16 In the event a producing well or wells are completed upon a unit where there are, or
17 may thereafter be, two or more separately owned tracts, each royalty interest owner shall
18 share in all production from the well or wells drilled within the unit, or in the gas well
19 rental provided for in the lease covering ~~such~~ the separately owned tract or interest in
20 lieu of the customary fixed royalty, to the extent of ~~such royalty interest owner's~~ the
21 interest in the unit of the royalty interest owner. Each royalty interest owner's interest
22 in the unit shall be defined as the percentage of royalty owned in each separate tract by

1 the royalty owner, multiplied by the proportion that the acreage in each separately
2 owned tract or interest bears to the entire acreage of the unit.

3 ~~€~~ G. Notwithstanding any provision of this section to the contrary, the Corporation
4 Commission shall have jurisdiction upon the filing of a proper application therefor, and
5 upon notice given as provided in subsection ~~(a) above~~ B of this section, to establish
6 spacing rules for horizontally drilled oil wells whereby horizontally drilled oil wells may
7 have well spacing units established of up to six hundred forty (640) acres plus tolerances
8 and variances as allowed for gas wells pursuant to subsection ~~€~~ D of this section. For
9 purposes of this subsection a "horizontally drilled oil well" shall mean an oil well drilled,
10 completed or recompleted in a manner in which the horizontal component of the
11 completion interval in the geological formation exceeds the vertical component thereof
12 and which horizontal component extends a minimum of one hundred fifty (150) feet in
13 the formation. The Corporation Commission shall promulgate rules necessary for the
14 proper administration of this subsection.

15 SECTION 2. This act shall become effective November 1, 2009.

16 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND UTILITY
17 REGULATION, dated 02-25-09 - DO PASS, As Amended.