

ESB 1888

THE HOUSE OF REPRESENTATIVES
Thursday, April 1, 2010

ENGROSSED

Senate Bill No. 1888

As Amended

ENGROSSED SENATE BILL NO. 1888 - By: BINGMAN of the Senate and THOMPSON of the House.

[oil and gas - well spacing - updating statutory language and citations -
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
11 any ~~such~~ person considered with the acreage properly assignable to each ~~such~~ well bears

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

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

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

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

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

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

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

1 drilling unit therefor, with due and relative allowance for the
2 correlative rights and obligations of the producers and royalty owners
3 interested therein.

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

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

6 ~~(2)~~;

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

8 ~~(3)~~;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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, 2010.

16 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND UTILITY
17 REGULATION, dated 03-31-10 - DO PASS, As Amended.