

SB 1888

THE STATE SENATE  
Wednesday, February 17, 2010

Senate Bill No. 1888  
As Amended

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:

SECTION 1. AMENDATORY 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), is amended to read as follows:

Section 87.1 A. 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 produce from ~~such~~ the common source of supply may, except as otherwise authorized or in this section provided, take ~~therefrom~~ from the common source of supply only ~~such~~ the proportion of the oil or natural gas that may be produced therefrom without waste or without ~~such~~ drainage as the productive capacity of the well or wells of any ~~such~~ person considered with the acreage properly assignable to each ~~such~~ well bears to the total productive capacities of the wells in ~~such~~ the common source of supply

1 considered with the acreage properly assignable to each well  
2 therein.

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

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

1 Sections 86.1 et seq. of this title, shall govern all proceedings  
2 and hearings provided for by this section.

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

8 ~~(e)~~ D. 1. In establishing a well spacing or drilling unit for  
9 a common source of supply thereunder, except for horizontal units,  
10 the acreage to be embraced within each unit shall not exceed six  
11 hundred forty (640) acres for a gas well plus ten percent (10%)  
12 tolerance, unless a governmental section contains more than six  
13 hundred forty (640) acres in which case the unit may comprise the  
14 entire section. In establishing a well spacing or drilling unit for  
15 a common source of supply thereunder for a horizontal unit that will  
16 contain at least one lateral exceeding five thousand (5,000) feet in  
17 length, the acreage to be embraced within each unit shall not exceed  
18 one thousand two hundred eighty (1,280) acres for a gas well plus  
19 ten percent (10%) tolerance. Provided, however, fractional sections  
20 along the state boundary line and within the townships along the  
21 boundary where the survey west of the Indian Meridian meets the  
22 survey east of the Cimarron Meridian may be spaced with adjoining  
23 section unit, and the shape thereof of the well spacing or drilling

1 unit shall be determined by the Commission from the evidence  
2 introduced at the hearing, and the following facts, among other  
3 things, shall be material: ~~(1) The~~  
4 a. the lands embraced in the actual or prospective common  
5 source of supply, ~~(2),~~  
6 b. the plan of well spacing then being employed or  
7 contemplated in ~~said~~ the source of supply, ~~(3),~~  
8 c. the depth at which production from ~~said~~ the common  
9 source of supply has been or is expected to be found,  
10 ~~(4),~~  
11 d. the nature and character of the producing or  
12 prospective producing formation or formations, ~~(5)~~ and  
13 ~~(5)~~  
14 e. any other available geological or scientific data  
15 pertaining to ~~said~~ the actual or prospective source of  
16 supply which may be of probative value to ~~said~~ the  
17 Commission in determining the proper spacing and well  
18 drilling unit therefor, with due and relative  
19 allowance for the correlative rights and obligations  
20 of the producers and royalty owners interested  
21 therein.

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

- 1           a.    the outside boundaries of the surface area included in  
2                    ~~such~~ the order; ~~(2)~~,
- 3            b.    the size, form, and shape of the spacing or drilling  
4                    units so established; ~~(3)~~,
- 5            c.    the drilling pattern for the area, which shall be  
6                    uniform except as ~~hereinbefore~~ otherwise provided; for  
7                    in this subsection, and ~~(4)~~
- 8            d.    the location of the permitted well on each ~~such~~  
9                    spacing or drilling unit.

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

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

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

17 ~~(d)~~ E. The Commission shall have jurisdiction upon the filing  
18 of a proper application ~~therefor~~, and upon notice given as provided  
19 in subsection ~~(a)~~ above B of this section, to decrease the size of  
20 the well spacing units or to permit additional wells to be drilled  
21 within the established units, upon proper proof at ~~such~~ the hearing  
22 that ~~such~~ the modification or extension of the order establishing  
23 drilling or spacing units will prevent or assist in preventing the

1 various types of wastes prohibited by statute, or any of ~~said~~ the  
2 wastes, or will protect or assist in protecting the correlative  
3 rights of persons interested in ~~said~~ the common source of supply, or  
4 upon the filing of a proper application ~~therefor~~ to enlarge the area  
5 covered by the spacing order, if ~~such~~ proof discloses that the  
6 development or the trend of development indicates that ~~such~~ the  
7 common source of supply underlies an area not covered by the spacing  
8 order and ~~such~~ proof discloses that the applicant is an owner within  
9 the area or within a drilling and spacing unit contiguous to the  
10 area covered by the application. Except in the instance of  
11 reservoir dewatering as described ~~herein~~ in this section, the  
12 Commission shall not establish well spacing units of more than forty  
13 (40) acres in size covering common sources of supply of oil, the top  
14 of which lies less than four thousand (4,000) feet below the surface  
15 as determined by the original or discovery well in ~~said~~ the common  
16 source of supply, and the Commission shall not establish well  
17 spacing units of more than eighty (80) acres in size covering common  
18 sources of supply of oil, the top of which lies less than nine  
19 thousand nine hundred ninety (9,990) feet and more than four  
20 thousand (4,000) feet below the surface as determined by the  
21 original or discovery well in ~~said~~ the common source of supply. In  
22 the instance of reservoir dewatering to extract oil from reservoirs  
23 having initial water saturations at or above fifty percent (50%),

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

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

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

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

1 settling ~~such~~ the dispute. No part of the production or proceeds  
2 accruing to any owner of a separate interest in ~~such~~ the unit shall  
3 be applied toward payment of any cost properly chargeable to any  
4 other interest in ~~said~~ the unit.

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

21 In the event a producing well or wells are completed upon a unit  
22 where there are, or may thereafter be, two or more separately owned  
23 tracts, each royalty interest owner shall share in all production

1 from the well or wells drilled within the unit, or in the gas well  
2 rental provided for in the lease covering ~~such~~ the separately owned  
3 tract or interest in lieu of the customary fixed royalty, to the  
4 extent of ~~such royalty interest owner's~~ the interest in the unit of  
5 the royalty interest owner. Each royalty interest owner's interest  
6 in the unit shall be defined as the percentage of royalty owned in  
7 each separate tract by the royalty owner, multiplied by the  
8 proportion that the acreage in each separately owned tract or  
9 interest bears to the entire acreage of the unit.

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

1 Commission shall promulgate rules necessary for the proper  
2 administration of this subsection.

3 SECTION 2. This act shall become effective November 1, 2010.

4 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
5 2-11-10 - DO PASS, As Amended and Coauthored.