

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB284 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Todd Thomsen

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 284

By: Schulz of the Senate
and
McCall of the House

PROPOSED COMMITTEE SUBSTITUTE

[oil and gas - Oklahoma Energy Jobs Act of 2017 -
multiunit horizontal wells in certain targeted
reservoirs - Corporation Commission - Commissioners
of the Land Office - noncodification]

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Energy
Jobs Act of 2017".

1 SECTION 2. AMENDATORY 52 O.S. 2011, Section 87.1, as
2 amended by Section 4, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2016,
3 Section 87.1), is amended to read as follows:

4 Section 87.1 Whenever the production from any common source of
5 supply of oil or natural gas in this state can be obtained only
6 under conditions constituting waste or drainage not compensated by
7 counterdrainage, then any person having the right to drill into and
8 produce from such common source of supply may, except as otherwise
9 authorized or in this section provided, take therefrom only such
10 proportion of the oil or natural gas that may be produced therefrom
11 without waste or without such drainage as the productive capacity of
12 the well or wells of any such person considered with the acreage
13 properly assignable to each such well bears to the total productive
14 capacities of the wells in such common source of supply considered
15 with the acreage properly assignable to each well therein.

16 (a) To prevent or to assist in preventing the various types of
17 waste of oil or gas prohibited by statute, or any wastes, or to
18 protect or assist in protecting the correlative rights of interested
19 parties, the Corporation Commission, upon a proper application and
20 notice given as hereinafter provided, and after a hearing as
21 provided in the notice, shall have the power to establish well
22 spacing and drilling units of specified and approximately uniform
23 size and shape covering any common source of supply, or prospective
24 common source of supply, of oil or gas within the State of Oklahoma;

1 provided, that the Commission may authorize the drilling of an
2 additional well or wells on any spacing and drilling unit or units
3 or any portion or portions thereof or may establish, reestablish, or
4 reform well spacing and drilling units of different sizes and shapes
5 when the Commission determines that a common source of supply
6 contains predominantly oil underlying an area or areas and contains
7 predominantly gas underlying a different area or areas; provided
8 further that the units in the predominantly oil area or areas shall
9 be of approximately uniform size and shape, and the units in the
10 predominantly gas area or areas shall be of approximately uniform
11 size and shape, except that the units in the gas area or areas may
12 be of nonuniform size and shape when they adjoin the units in the
13 oil area or areas; provided further that the drilling pattern for
14 such nonuniform units need not be uniform, and provided further that
15 the Commission shall adjust the allowable production within the
16 common source of supply, or any part thereof, and take such other
17 action as may be necessary to protect the rights of interested
18 parties. Any order issued pursuant to the provisions hereof may be
19 entered after a hearing upon the petition of any person owning an
20 interest in the minerals in lands embraced within such common source
21 of supply, or the right to drill a well for oil or gas on the lands
22 embraced within such common source of supply, or on the petition of
23 the Conservation Officer of the State of Oklahoma. When such a
24 petition is filed with the Commission, the Commission shall give at

1 least fifteen (15) days' notice of the hearing to be held upon such
2 petition by one publication, at least fifteen (15) days prior to the
3 hearing, in some newspaper of general circulation published in
4 Oklahoma County, and by one publication, at least fifteen (15) days
5 prior to the date of the hearing, in some newspaper published in the
6 county, or in each county, if there be more than one, in which the
7 lands embraced within the application are situated. Except as to
8 the notice of hearing on such a petition, the procedural
9 requirements of Section 86.1 et seq. of this title shall govern all
10 proceedings and hearings provided for by this section.

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

16 (c) In establishing a well spacing or drilling unit for a
17 common source of supply thereunder, the acreage to be embraced
18 within each unit may include acreage from more than one governmental
19 section, but shall not exceed six hundred forty (640) acres for a
20 gas well plus ten percent (10%) tolerance, unless the unit is a
21 governmental section and the governmental section contains more than
22 six hundred forty (640) acres in which case the unit may comprise
23 the entire section. Provided, however, fractional sections along
24 the state boundary line and within the townships along the boundary

1 where the survey west of the Indian Meridian meets the survey east
2 of the Cimarron Meridian may be spaced with adjoining section unit,
3 and the shape thereof shall be determined by the Commission from the
4 evidence introduced at the hearing, and the following facts, among
5 other things, shall be material: (1) The lands embraced in the
6 actual or prospective common source of supply; (2) the plan of well
7 spacing then being employed or contemplated in the source of supply;
8 (3) the depth at which production from the common source of supply
9 has been or is expected to be found; (4) the nature and character of
10 the producing or prospective producing formation or formations; and
11 (5) any other available geological or scientific data pertaining to
12 the actual or prospective source of supply which may be of probative
13 value to the Commission in determining the proper spacing and well
14 drilling unit therefor, with due and relative allowance for the
15 correlative rights and obligations of the producers and royalty
16 owners interested therein.

17 The order establishing such spacing or drilling units shall set
18 forth: (1) the outside boundaries of the surface area included in
19 such order; (2) the size, form, and shape of the spacing or drilling
20 units so established; (3) the drilling pattern for the area, which
21 shall be uniform except as hereinbefore provided; and (4) the
22 location of the permitted well on each such spacing or drilling
23 unit. To such order shall be attached a plat upon which shall be
24 indicated the foregoing information. Subject to other provisions of

1 Section 86.1 et seq. of this title, the order establishing such
2 spacing or drilling units shall direct that no more than one well
3 shall thereafter be produced from the common source of supply on any
4 unit so established, and that the well permitted on that unit shall
5 be drilled at the location thereon as prescribed by the Commission,
6 with such exception as may be reasonably necessary where it is
7 shown, upon application, notice and hearing in conformity with the
8 procedural requirements of Section 86.1 et seq. of this title, and
9 the Commission finds that any such spacing unit is located on the
10 edge of a pool and adjacent to a producing unit, or for some other
11 reason that to require the drilling of a well at the prescribed
12 location on such spacing unit would be inequitable or unreasonable.
13 Whenever such an exception is granted, the Commission shall adjust
14 the allowable production for the spacing unit and take such other
15 action as may be necessary to protect the rights of interested
16 parties.

17 Any well spacing or drilling unit for a common source of supply
18 thereunder which exceeds six hundred forty (640) acres for a gas
19 well plus ten percent (10%) tolerance or exceeds the total amount of
20 acreage contained in a governmental section, and is not in
21 production or in the process of drilling development on the
22 effective date of this act shall be de-spaced. However, fractional
23 sections along the state boundary line and within the townships
24 along the boundary where the survey west of the Indian Meridian

1 meets the survey east of the Cimarron Meridian may be spaced with
2 adjoining section unit, and the shape thereof shall be determined by
3 the Commission.

4 (d) The Commission shall have jurisdiction upon the filing of a
5 proper application therefor, and upon notice given as provided in
6 subsection (a) of this section, to decrease the size of the well
7 spacing units or to permit additional wells to be drilled within the
8 established units, or to increase the size or modify the shape of
9 the well spacing units, upon proper proof at such hearing that such
10 modification or extension of the order establishing drilling or
11 spacing units will prevent or assist in preventing the various types
12 of wastes prohibited by statute, or any of the wastes, or will
13 protect or assist in protecting the correlative rights of persons
14 interested in the common source of supply, or upon the filing of a
15 proper application therefor to enlarge the area covered by the
16 spacing order, if such proof discloses that the development or the
17 trend of development indicates that such common source of supply
18 underlies an area not covered by the spacing order and such proof
19 discloses that the applicant is an owner within the area or within a
20 drilling and spacing unit contiguous to the area covered by the
21 application. Except in the instance of reservoir dewatering as
22 described herein, the Commission shall not establish well spacing
23 units of more than forty (40) acres in size covering common sources
24 of supply of oil, the top of which lies less than four thousand

1 (4,000) feet below the surface as determined by the original or
2 discovery well in the common source of supply, and the Commission
3 shall not establish well spacing units of more than eighty (80)
4 acres in size covering common sources of supply of oil, the top of
5 which lies less than nine thousand nine hundred ninety (9,990) feet
6 and more than four thousand (4,000) feet below the surface as
7 determined by the original or discovery well in the common source of
8 supply. In the instance of reservoir dewatering to extract oil from
9 reservoirs having initial water saturations at or above fifty
10 percent (50%), the Commission may establish drilling and spacing
11 units not to exceed six hundred forty (640) acres in size.

12 (e) The drilling of any well or wells into any common source of
13 supply for the purpose of producing oil or gas therefrom, after a
14 spacing order has been entered by the Commission covering such
15 common source of supply, at a location other than that fixed by the
16 order is hereby prohibited. The drilling of any well or wells into
17 a common source of supply, covered by a pending spacing application,
18 at a location other than that approved by a special order of the
19 Commission authorizing the drilling of such well is hereby
20 prohibited. The operation of any well drilled in violation of any
21 spacing so entered is also hereby prohibited. When two or more
22 separately owned tracts of land are embraced within an established
23 spacing unit, or where there are undivided interests separately
24 owned, or both such separately owned tracts and undivided interests

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

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

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

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

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

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

20 (f) Notwithstanding any provision of this section limiting the
21 size or shape of well spacing and drilling units to the contrary,
22 the Corporation Commission ~~shall have jurisdiction upon the filing~~
23 ~~of a proper application therefor, and upon notice given as provided~~
24 ~~in subsection (a) of this section, to establish spacing rules~~ may

1 establish well spacing and drilling units for horizontally drilled
2 ~~oil wells whereby horizontally drilled oil wells may have well~~
3 ~~spacing units established of up to six hundred forty (640) one~~
4 thousand two hundred eighty (1,280) acres plus tolerances and
5 ~~variances as allowed for gas wells pursuant to subsection (c) of~~
6 ~~this section.~~ subject to the following:

7 1. For purposes of this subsection a "horizontally drilled ~~oil~~
8 well" shall mean an oil or gas well drilled, completed or
9 recompleted in a manner in which the horizontal component of the
10 completion interval in the geological formation exceeds the vertical
11 component thereof and which horizontal component extends a minimum
12 of one hundred fifty (150) feet in the formation-;

13 2. For purposes of this subsection a "horizontal well unit"
14 shall mean a well spacing and drilling unit established for a common
15 source of supply for the purpose of developing such unit by the
16 drilling of a single horizontally drilled well;

17 3. Other than limitations on the size and shape of well spacing
18 and drilling units, all other provisions of this section shall apply
19 to the establishment of a horizontal well unit;

20 4. No order of the Corporation Commission establishing a
21 horizontal well unit that overlies any existing well or producing
22 lease or any portion of any existing well spacing and drilling unit
23 with an existing well producing from the same common source of
24 supply will become effective until at least fifty percent (50%) of

1 the ownership having a right to drill in each such well and well
2 spacing and drilling unit consents in writing to the establishment
3 of such horizontal well unit; and

4 5. The Corporation Commission shall promulgate rules necessary
5 for the proper administration of this subsection.

6 SECTION 3. AMENDATORY 52 O.S. 2011, Section 87.6, as
7 last amended by Section 1, Chapter 400, O.S.L. 2014 (52 O.S. Supp.
8 2016, Section 87.6), is amended to read as follows:

9 Section 87.6 A. Sections 87.6 through 87.9 of this title shall
10 be known and may be cited as the "~~2011 Shale Reservoir~~ Horizontal
11 Well Development Act".

12 B. As used in the ~~2011 Shale Reservoir~~ Horizontal Well
13 Development Act:

14 1. "Allocation factor" means the percentage of costs,
15 production or proceeds allocated to a unit affected by a multiunit
16 horizontal well;

17 2. "Application" means a written request filed by an owner of
18 the right to drill seeking approval to drill, complete and produce a
19 multiunit horizontal well or to create a horizontal well
20 unitization;

21 3. ~~"Associated common source of supply" means a common source~~
22 ~~of supply which is subject to a drilling and spacing unit formed by~~
23 ~~the Corporation Commission and located in all or a portion of the~~
24 ~~lands in which the completion interval of a multiunit horizontal~~

~~well is located, or which is located within the boundaries of a unit created through a horizontal well unitization, and which is immediately adjoining the shale common source of supply in which the completion interval of the horizontal well is located, and which is inadvertently encountered in the drilling of the lateral of such horizontal well when such well is drilled out of or exits, whether on one or multiple occasions, such shale common source of supply;~~

4. "Commission" means the Corporation Commission;

~~5.~~ 4. "Completion interval" means, for an open hole completion in a horizontal well, the interval from the point of entry to the terminus and, for a cased and cemented completion in a horizontal well, the interval from the first perforations to the last perforations;

~~6.~~ 5. "Horizontal well" means a well drilled, completed, or recompleted with one or more laterals which, for at least one lateral, the horizontal component of the completion interval exceeds the vertical component ~~of the completion interval~~ thereof and the horizontal component extends a minimum of one hundred fifty (150) feet in the formation;

~~7.~~ 6. "Horizontal well unitization" means a unitization for a ~~shale~~ targeted reservoir created pursuant to Section 87.9 of this title;

~~8.~~ 7. "Horizontal component" means the calculated horizontal distance from the point of entry to the terminus;

1 ~~9.~~ 8. "Lateral" means the portion of the wellbore of a
2 horizontal well from the point of entry to the terminus;

3 ~~10.~~ "Marmaton common source of supply" means a common source of
4 supply located within Texas and Beaver Counties and designated as
5 the Marmaton by the Commission through rule or order;

6 ~~11.~~ 9. "Multiunit horizontal well" means a horizontal well ~~in a~~
7 ~~targeted reservoir~~ wherein the completion interval of the well is
8 located in more than one unit formed for the same targeted
9 reservoir, with the well being completed in and producing from such
10 targeted reservoir in two or more of such units;

11 ~~12.~~ 10. "Plan of development" means the proposed plan for
12 developing the ~~shale~~ targeted reservoir unitized pursuant to Section
13 87.9 of this title, which plan, based upon the information and
14 knowledge then available to the applicant, shall include:

- 15 a. a map or maps indicating the location of each existing
16 well in the proposed unit and the anticipated location
17 of each horizontal well proposed to be drilled in the
18 proposed unit that is anticipated to be necessary,
19 based upon the information and knowledge then
20 available to the applicant, for the full and efficient
21 development and operation of the proposed unit for the
22 recovery of oil and gas from the ~~shale~~ targeted
23 reservoir within the proposed unit,

- 1 b. any applicable proposed allocation factor or factors
2 for allocating the costs, production and proceeds from
3 the proposed unit,
4 c. the anticipated timing and anticipated sequence of
5 drilling of each horizontal well in the proposed unit,
6 and
7 d. any other specific terms, provisions, conditions and
8 requirements set forth in Section 87.9 of this title
9 or determined by the Commission to be reasonably
10 necessary or proper to effectuate or accomplish the
11 purpose of Section 87.9 of this title;

12 ~~13.~~ 11. "Point of entry" means the point at which the borehole
13 of a horizontal well first intersects the top of the targeted
14 reservoir;

15 ~~14.~~ 12. "PRSA" means the Production Revenue Standards Act;

16 ~~15.~~ 13. "Shale reservoir" means a common source of supply which
17 is a shale formation that is so designated by the Commission through
18 rule or order, and shall also include any associated common source
19 of supply as defined in this section;

20 ~~16.~~ 14. "Targeted reservoir" means ~~any shale reservoir or any~~
21 ~~portion of the Marmaton~~ one or more common source sources of supply
22 which may be encountered by the lateral portion of a horizontal well
23 and which has been designated by the Commission as part of any
24 order, rule or emergency rule as potentially suited for development

1 through a multiunit horizontal well or a unitization pursuant to
2 Section 87.9 of this title. Any such designation or determination
3 may be limited to certain geographical areas. Subject to approval
4 of the Commission, any such targeted reservoir may include any other
5 common source of supply which may be or is encountered by the
6 lateral of a multiunit horizontal well or a horizontal well in a
7 unitization pursuant to Section 87.9 of this title;

8 ~~17.~~ 15. "Terminus" means the end point of the borehole of a
9 horizontal well in the targeted reservoir;

10 ~~18.~~ 16. "Wellbore royalty interest" means, for each separate
11 multiunit horizontal well, the sum of resulting products of each
12 affected unit's royalty share for that unit, as defined by the PRSA,
13 multiplied by that unit's allocation factor for production and
14 proceeds;

15 ~~19.~~ 17. "Wellbore royalty proceeds" means the proceeds or other
16 revenue derived from or attributable to any production of oil and
17 gas from the multiunit horizontal well multiplied by the wellbore
18 royalty interest;

19 ~~20.~~ 18. "Unit" means a drilling and spacing unit for a single
20 common source of supply created pursuant to Section 87.1 of this
21 title or a horizontal well unitization created pursuant to Section
22 87.9 of this title;

23 ~~21.~~ 19. "Unit's royalty contribution factor" means the royalty
24 share for an affected unit, as defined by PRSA, multiplied by that

1 unit's allocation factor, then divided by the total wellbore royalty
2 interest; and

3 ~~22.~~ 20. "Vertical component" means the calculated vertical
4 distance from the point of entry to the terminus.

5 SECTION 4. AMENDATORY 52 O.S. 2011, Section 87.7, is
6 amended to read as follows:

7 Section 87.7 Corporation Commission Jurisdiction.

8 The Corporation Commission shall have jurisdiction, upon the
9 filing of a proper application therefor, to permit the drilling,
10 completing and producing of a multiunit horizontal well in
11 conformity with Section ~~4~~ 87.8 of this ~~act~~ title, or to create a
12 horizontal well unitization in conformity with Section ~~5~~ 87.9 of
13 this ~~act~~ title, if the Commission finds that the multiunit
14 horizontal well or the horizontal well unitization will prevent
15 waste and will protect the correlative rights of the owners of oil
16 and gas rights.

17 SECTION 5. AMENDATORY 52 O.S. 2011, Section 87.8, as
18 amended by Section 2, Chapter 400, O.S.L. 2014 (52 O.S. Supp. 2016,
19 Section 87.8), is amended to read as follows:

20 Section 87.8 A. Under the conditions contained in this
21 section, the Corporation Commission is authorized to allow multiunit
22 horizontal wells in any targeted reservoir in order to prevent waste
23 and protect the correlative rights of the owners of oil and gas
24 rights.

1 B. Ownership, Allocation of Costs, Commingled Production, and
2 Proceeds.

3 The Commission shall require the allocation of the reasonable
4 drilling, completion and production costs associated with ~~a~~ such
5 multiunit horizontal well to each of the affected units which the
6 well actually penetrates within the completion interval and shall
7 further require the allocation to each of the units affected by a
8 multiunit horizontal well of the commingled production, and the
9 proceeds from the sale thereof, from the completion interval of ~~a~~
10 such multiunit horizontal well, with any allocation to be in a
11 manner that will prevent waste and protect the correlative rights of
12 the owners of the oil and gas rights in each of the affected units
13 which the well actually penetrates within the completion interval.

14 1. The allocation factor for each affected unit shall be
15 determined by dividing the length of the completion interval located
16 within the affected unit by the entire length of the completion
17 interval in the subject multiunit horizontal well. The Commission
18 shall have the authority to adjust the allocation factors, based
19 upon reasonable testimony and evidence presented to the Commission,
20 if necessary to prevent waste and adequately protect the correlative
21 rights of the owners of the oil and gas rights in each of the
22 affected units.

23 2. Each party who participates as a working interest owner in a
24 multiunit horizontal well shall own an undivided interest in all

1 portions of the wellbore of the well and in the equipment on or in
2 the well in the same ratio that the party's allocated portion of the
3 total costs of the well and equipment bears to the total costs of
4 the well and equipment. The ownership of undivided interest
5 described in this paragraph shall not affect or prejudice the
6 ownership of oil and gas rights of the affected owners outside of
7 the targeted reservoir for the multiunit horizontal well.

8 3. A multiunit horizontal well shall be treated as a well in
9 each of the affected units and shall be subject to all of the rules
10 otherwise applicable to any other well in any of the affected units.
11 In allowing a multiunit horizontal well, the Commission, under
12 Section 87.1 of this title, may grant any necessary exceptions to
13 the permitted well location tolerances in each of the affected units
14 for the well and permit the well as an additional well in each of
15 the affected units. When an owner has drilled or proposes to drill
16 a multiunit horizontal well or wells and the owners of a present
17 right to drill in any of the affected units have not agreed to pool
18 their interests in the unit or units for the ~~affected common sources~~
19 ~~of supply~~ targeted reservoir, the Commission, under Section 87.1 of
20 this title, may, upon the filing of a proper application therefor,
21 require the owners to pool their interests in the targeted reservoir
22 in each affected unit on a unitwide basis as to the respective unit
23 in regard to the development involving the portion of the multiunit
24 horizontal well or wells located within the affected unit.

1 Furthermore, if the Commission has previously entered an order
2 pooling the interests of owners in an affected unit in which a
3 multiunit horizontal well or wells have been drilled or are proposed
4 to be drilled, the Commission, under Section 87.1 of this title may,
5 upon the filing of a proper application therefor, amend the pooling
6 order to the extent necessary to have the pooling order cover the
7 development involving the portion of the multiunit horizontal well
8 or wells located within the affected unit.

9 4. The application shall include:

- 10 a. the approximate anticipated location of the proposed
11 multiunit horizontal well or wells,
12 b. a map or maps indicating the location of each
13 currently existing well in each affected unit which is
14 the subject of the application and the anticipated
15 location of each multiunit horizontal well currently
16 proposed to be drilled in each affected unit as a
17 result of the application and any other horizontal
18 well not included in the current application, but
19 anticipated to be necessary, based upon the
20 information and knowledge then available to the
21 applicant, for the full and efficient development and
22 operations of the targeted reservoir within the
23 affected units if the well or wells are approved by
24

1 the Commission upon the filing of a proper application
2 at a future date, and

3 c. any applicable proposed allocation factor or factors
4 for allocating the costs, production and proceeds from
5 each proposed multiunit horizontal well under the
6 application.

7 5. Production from the completion interval in the targeted
8 reservoir ~~from~~ in each of the affected units in which a multiunit
9 horizontal well is completed may be commingled in the wellbore of
10 the well and produced to the surface. The commingled production
11 from a multiunit horizontal well shall be allocated to each of the
12 affected units based upon the allocation factors approved by the
13 Commission.

14 6. In granting an application for a multiunit horizontal well
15 or wells, the Commission shall find, based on the testimony and
16 evidence presented, that given the information and knowledge then
17 available, the proposed multiunit horizontal well or wells will
18 prevent waste, protect correlative rights and likely will aid in the
19 full and efficient development of each of the affected units.

20 7. The wellbore royalty proceeds for a multiunit horizontal
21 well shall be allocated to each affected unit by multiplying the
22 royalty contribution factor of the unit by the wellbore royalty
23 proceeds, with the resulting product being the royalty proceeds for
24 that unit. Each royalty interest owner in an affected unit shall be

1 entitled to receive the owner's proportionate royalty share of the
2 allocated royalty proceeds for that unit.

3 8. The multiunit horizontal well shall be subject to the
4 provisions of the Product Revenue Standards Act (PRSA). The
5 operator of the multiunit horizontal well shall be the designated
6 royalty distributor pursuant to the PRSA for the multiunit
7 horizontal well, unless there is a diversity of operators in the
8 affected units from which the multiunit horizontal well is producing
9 and another operator in each of the affected units agrees to perform
10 separately the PRSA royalty distribution functions for the unit.

11 C. Application, Notice and Retained Jurisdiction.

12 Application for approval of a multiunit horizontal well shall be
13 in a form prescribed by the Commission. The application, and the
14 notice of hearing on the application, shall be served no less than
15 fifteen (15) days prior to the date of the hearing, by regular mail,
16 upon each person or governmental entity having the right to share in
17 production from each of the affected units covered by the
18 application, as well as other persons or governmental entities
19 required by the rules of the Commission. Upon approval of a
20 multiunit horizontal well, the Commission shall retain jurisdiction
21 over the well. The retained jurisdiction of the Commission set
22 forth herein shall neither preclude nor impair the right of any
23 affected party to obtain through the district courts of this state
24 any remedy or relief available at law or in equity for injuries

1 caused by any action or inaction of the applicant, operator or any
2 other affected party.

3 SECTION 6. AMENDATORY 52 O.S. 2011, Section 87.9, is
4 amended to read as follows:

5 Section 87.9 A. Horizontal Well Unitization for Shale
6 Reservoirs.

7 Under limited circumstances and conditions contained in this
8 section, the Corporation Commission is authorized to unitize a shale
9 reservoir for the drilling of horizontal wells to the end that a
10 greater ultimate recovery of oil and gas may be had therefrom, waste
11 is prevented, and the correlative rights of the owners are
12 protected. Unless and until a unit created pursuant to this section
13 is effective, nothing in this section shall prohibit the drilling of
14 a horizontal well within a drilling and spacing unit created
15 pursuant to Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this
16 title.

17 B. Prerequisites for Unitization.

18 Upon the filing of an appropriate application, and after notice
19 and hearing, the Commission shall determine if:

20 1. The proposed unitization of the shale reservoir is
21 reasonably calculated to increase the ultimate recovery of oil and
22 gas from the shale reservoir through the use of horizontal well
23 technology to drill one or more horizontal wells in the unit;
24

1 2. The use of horizontal well technology to drill the
2 horizontal well or wells in the shale reservoir is feasible, will
3 prevent waste, will protect correlative rights and will with
4 reasonable probability result in the increased recovery of
5 substantially more oil and gas from the shale reservoir within the
6 unit than would otherwise be recovered;

7 3. The estimated additional cost, if any, of conducting the
8 horizontal well operations is not anticipated to exceed the value of
9 the additional oil and gas to be recovered; and

10 4. The unitization and the use of horizontal well technology to
11 drill one or more horizontal wells is for the common good and will
12 result in the general advantage of the owners of the oil and gas
13 rights within the unit.

14 Upon making these findings, the Commission may enter an order
15 creating the unit and providing for the unitized operation of the
16 shale reservoir described in the order, all upon terms and
17 conditions as may be shown by the evidence to be fair, reasonable,
18 equitable and which are necessary or proper to protect and safeguard
19 the respective rights and obligations of the several persons
20 affected, including royalty owners, owners of overriding royalties
21 and others, as well as the lessees. The application shall set forth
22 a description of the proposed unit with a map or plat thereof
23 attached, shall allege the existence of the facts required to be
24 found by the Commission as provided in this subsection and shall

1 have attached thereto a recommended plan of development which is
2 applicable to the proposed unit and which is fair, reasonable and
3 equitable.

4 C. Size of the Unit.

5 Each unit shall be two governmental sections. However, the
6 Commission may expand the size of the unit by including additional
7 governmental sections ~~up to a maximum unit size of four governmental~~
8 ~~sections~~, if for good cause shown the Commission finds the expansion
9 of the unit size beyond two governmental sections is necessary to
10 prevent waste, to protect correlative rights and will result in the
11 increased recovery of substantially more oil and gas from the shale
12 reservoir than would otherwise be recovered based upon, but not
13 necessarily limited to:

14 1. Geological features existing within the proposed unit;

15 2. The proposed location or orientation of the horizontal
16 wells;

17 3. The length of the laterals of the proposed horizontal wells;

18 4. The proposed use of multilateral wells; or

19 5. Any combination thereof.

20 D. Ownership of Oil and Gas Rights within the Unit.

21 Where there are, or may thereafter be, two or more separately
22 owned tracts within the unit, each owner of oil and gas rights
23 within the unit shall own an interest in the unit of the same
24 character as the ownership of the owner in the separately owned

1 tract. From and after the effective date of the order of the
2 Commission creating the unit and subject to the provisions of any
3 pooling order covering the unit, the interest of each owner in the
4 unit shall be defined as the percentage of interest owned in each
5 separate tract by the owner, multiplied by the proportion that the
6 acreage in each separately owned tract bears to the entire acreage
7 of the unit. The costs incurred in connection with and the
8 production and proceeds from the wells in the unit shall be
9 allocated to each separate tract in the unit and shall be borne or
10 shared by the owners in each separate tract based upon and
11 determined by the interest of each owner in the tract. However, if
12 a well or wells already exist within the area of the ~~proposed~~ unit
13 which are producing or have produced or appear to be productive from
14 the shale reservoir being unitized, the Commission may adjust the
15 sharing of future costs incurred in connection with and future
16 production and proceeds from any existing well or any subsequent
17 well in the proposed unit in any manner deemed necessary by the
18 Commission in order to protect the correlative rights of the owners
19 within any existing well or any subsequent well or within the
20 ~~proposed~~ unit, including providing for the sharing of future costs
21 incurred in connection with and future production and proceeds from
22 any existing well or any subsequent well in a manner different from
23 any other well in the unit so long as the various methods of sharing
24 future costs, production and proceeds from the existing and

1 subsequent wells in the ~~proposed~~ unit prevents waste and protects
2 the correlative rights of all the affected owners. For the purpose
3 of this section, any owner or owners of oil and gas rights in and
4 under an unleased tract of land within the unit, unless the owner
5 has relinquished the drilling rights or working interest of the
6 owner in the applicable shale reservoir in the tract of land under a
7 pooling order entered by the Commission which order remains in
8 effect, shall be regarded as a lessee to the extent of a seven-
9 eighths (7/8) interest in and to the rights and a lessor to the
10 extent of the remaining one-eighth (1/8) interest therein.

11 E. The Plan of Development.

12 The application shall include a proposed plan of development.
13 Based upon the facts and conditions found to exist with respect to a
14 proposed unit, the Commission shall determine the necessary terms,
15 provisions, conditions and requirements to be included in the plan
16 of development for the unit. If a well or wells already exist
17 within the area of the proposed unit which are producing or have
18 produced or appear to be productive from the shale reservoir being
19 unitized, the plan of development shall also include:

20 1. Any adjustments to the sharing of future costs incurred in
21 connection with future development and production, and the sharing
22 of proceeds, from any existing well or any subsequent well which ~~the~~
23 ~~Commission determines to be~~ are necessary in order to be fair,
24 reasonable and equitable, and to protect the correlative rights of

1 the owners, considering the existing development in and the prior
2 and anticipated future production from the shale reservoir within
3 the ~~proposed~~ unit; and

4 2. The procedure and basis upon which existing wells, equipment
5 and other properties of the several lessees within the unit area are
6 to be taken over and used for the unit operations, including the
7 method of arriving at the compensation therefor, or of otherwise
8 proportionately equalizing or adjusting the investment of the
9 several lessees in the project as of the effective date of unit
10 operation.

11 F. Order of the Commission.

12 The order of the Commission creating the unit shall:

13 1. Designate the size and shape of the unit;

14 2. Set forth the drilling pattern and setbacks for the unit,
15 including the permitted well location tolerances for the permitted
16 wells within the unit;

17 3. Approve and adopt the plan of development for the unit, with
18 a copy thereof attached to the order and include any necessary
19 special allocation factors for allocating the costs, production and
20 proceeds from the proposed unit resulting from existing wells or
21 subsequent wells, or both;

22 4. Designate the unit operator; and

23 5. Provide for the conditions upon which the unit, and the
24 order creating the unit, shall terminate.

1 G. Consent by Owners.

2 No order of the Commission creating a unit pursuant to this
3 section shall become effective unless and until the proposed
4 unitization has been consented to in writing, and the written
5 consent submitted to the Commission, by lessees of record of not
6 less than sixty-three percent (63%) of the working interest in the
7 shale reservoir in the area to be included in the unit and by owners
8 of record of not less than sixty-three percent (63%), exclusive of
9 any royalty interest owned by any lessee or by any subsidiary of any
10 lessee, of the one-eighth (1/8) royalty interest in the shale
11 reservoir in the area to be included in the unit in an express
12 writing separate from the oil and gas lease. The Commission shall
13 make a finding in the order creating the unit as to whether the
14 requisite consent has been obtained. Where the requisite consent
15 has not been obtained at the time the order creating the unit is
16 entered, the Commission shall, upon application and notice, hold any
17 additional and supplemental hearings as may be requested or required
18 to determine if and when the requisite consent has been obtained and
19 the date the unitization will become effective. In the event
20 lessees and royalty owners, or either, owning the required
21 percentage interest in and to the unit area have not so consented to
22 the unitization within a period of six (6) months from and after the
23 date on which the order creating the unit is entered, the order

1 creating the unit shall cease to be of further force and effect and
2 shall be revoked by the Commission.

3 H. Notice.

4 The application for the creation of a horizontal well
5 unitization ~~for a shale reservoir~~ under this section, and the notice
6 of hearing on the application, shall be served no less than fifteen
7 (15) days prior to the date of the hearing, by regular mail, upon
8 each person or governmental entity having the right to share in
9 production from the proposed unit covered by the application, as
10 well as other persons or governmental entities required by
11 Commission rules. Any person aggrieved by any order of the
12 Commission made pursuant to this section may appeal therefrom to the
13 Supreme Court of the State of Oklahoma upon the same conditions,
14 within the same time and in the same manner as is provided for in
15 ~~Title 52 of the Oklahoma Statutes~~ this title, for the taking of
16 appeals from the orders of the Commission made thereunder.

17 I. Pooling of the Unit.

18 From and after the effective date of an order creating a unit
19 pursuant to this section and subject to the provisions of the order
20 in regard to the matters to be found by the Commission in the
21 creation of the unit and the provisions of the applicable plan of
22 development, an owner of the right to drill for and produce oil or
23 gas from the unit may request the Commission to pool the oil and gas
24 interests of the owners in the unit on a unitwide basis pursuant to

1 the provisions of subsection (e) of Section 87.1 of ~~Title 52 of the~~
2 ~~Oklahoma Statutes~~ this title in regard to the development of the
3 unit ~~involving a horizontal well or wells.~~

4 J. Effect on Existing Spacing Units and Pooling Orders.

5 From and after the effective date of an order creating a unit
6 pursuant to this section, the operation of any well producing from
7 the shale reservoir within the unit defined in the order by persons
8 other than the unit operator, or except in the manner and to the
9 extent provided in the order creating the unit shall be unlawful and
10 is hereby prohibited. Once the order of the Commission creating a
11 unit pursuant to this section becomes effective, the unit so created
12 shall supersede any drilling and spacing unit previously formed by
13 the Commission pursuant to Section 87.1 of ~~Title 52 of the Oklahoma~~
14 ~~Statutes~~ this title for the same shale reservoir within the area of
15 the new unit. Any pooling order which was entered by the Commission
16 pursuant to subsection (e) of Section 87.1 of ~~Title 52 of the~~
17 ~~Oklahoma Statutes~~ this title covering any drilling and spacing unit
18 superseded by a unit created pursuant to this section and which was
19 in effect at the time of the creation of the unit shall remain in
20 full force and effect as to any oil and gas interests in the shale
21 reservoir which were relinquished and transferred by operation of
22 law under the pooling order. However, further development of the
23 shale reservoir in the area of the unit created pursuant to this
24 section shall not be subject to any of the other provisions of any

1 prior pooling order, but shall be governed by and pursuant to the
2 order creating the unit, including the applicable plan of
3 development, and any subsequent pooling order covering the unit.

4 K. Payment of Proceeds.

5 Units created pursuant to this section shall be subject to the
6 terms and provision of the PRSA.

7 L. The Commissioners of the Land Office.

8 The Commissioners of the Land Office, or other proper board or
9 officer of the state having the control and management of state
10 land, and the proper board or officer of any political, municipal,
11 or other subdivision or agency of the state, are hereby authorized
12 and shall have the power on behalf of the state or of any political,
13 municipal, or other subdivision or agency thereof, with respect to
14 land or oil and gas rights subject to the control and management of
15 the respective body, board, or officer, to consent to or participate
16 in any unitization ~~adopted~~ created pursuant to the ~~2011 Shale~~
17 ~~Reservoir~~ Horizontal Well Development Act.

18 M. Retained Jurisdiction.

19 Upon the creation of a unit pursuant to this section, and
20 approval of the plan of development in connection therewith, the
21 Commission shall retain jurisdiction over the unit and the plan of
22 development. The retained jurisdiction of the Commission set forth
23 herein shall neither preclude nor impair the right of any affected
24 party to obtain through the district courts of this state any remedy

1 or relief available at law or in equity for injuries caused by any
2 action or inaction of the applicant, operator or any other affected
3 party.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 155 of Title 52, unless there is
6 created a duplication in numbering, reads as follows:

7 A. This act shall be known and may be cited as the "Vertical
8 Well Protection Act of 2017".

9 B. Should a vertical well operator determine that a horizontal
10 well has affected the production from its vertical well, the
11 vertical well operator shall notify the horizontal well operator of
12 the damages to its vertically producing well. The parties shall
13 have thirty (30) days in which to arrive at a settlement of damages
14 to the vertical well's production as well as the reserves which were
15 lost.

16 C. In the event the matter cannot be resolved within this
17 thirty-day period, the vertical well operator shall have the right
18 to file an application with the district court for an appraiser to
19 determine the damages which were sustained to the vertical well.
20 The damages to be considered shall take into account both the loss
21 of oil and gas production as well as the loss of reserves
22 attributable to the drilling of the horizontal well.

23 D. The appraiser determining damages may be mutually selected
24 by the parties or appointed by the district court if the parties

1 cannot mutually agree on an appraiser. The appraiser shall be a
2 qualified petroleum engineer who is capable of evaluating the loss
3 of oil and gas production, as well as the loss of reserves and is
4 capable of presenting a damage report to the parties and the court.

5 E. In the event both parties agree that the appraisal report of
6 the damages is accurate and is accepted, this damage finding shall
7 become the court's final determination and shall act as a judgment
8 in favor of the vertical well operator against the horizontal well
9 operator and its working interest owners.

10 F. In the event the vertical and horizontal well operators do
11 not agree with the appraiser's damage report, the case shall be
12 placed on the district court trial docket and shall proceed in an
13 orderly manner to a final resolution. Further, in the event either
14 part recovers a finding by the court that is ten percent (10%)
15 different from the appraisal damage report, the prevailing party
16 shall be entitled to attorney fees calculated from the time of
17 rejection of the offer by the parties.

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