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STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

ENGROSSED SENATE  
BILL NO. 285

By: Schulz of the Senate

By: Schulz of the Senate

and

McCall of the House

[ Corporation Commission - Legislative findings -  
Oklahoma Brine and Produced Water Development Act -  
certain utilization plans to become effective -  
specifying certain owners as brine owners of record -

~~emergency~~ ]

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

SECTION 1. AMENDATORY 17 O.S. 2011, Section 500, is amended to read as follows:

Section 500. This act shall be known and may be cited as the "Oklahoma Brine and Produced Water Development Act".

SECTION 2. AMENDATORY 17 O.S. 2011, Section 501, is amended to read as follows:

Section 501. The Legislature finds that it is desirable and necessary to authorize and provide for unitized management, operation, and further development of brine and associated solution gas, to the end that a greater ultimate recovery of brine and

1 solution gas may be had, waste prevented, and the correlative rights  
2 of owners therein be protected. The Legislature also finds that it  
3 is a desirable public policy and necessity to reduce disposal of  
4 brine water, also referred to as "produced water", from oil and gas  
5 operations and encourage reuse, recycling and reclaiming of the  
6 water and its constituent salts, metals and other elements dissolved  
7 therein. It is further found to be in the public interest to  
8 foster, encourage and promote the development and production in the  
9 State of Oklahoma of brine and solution gas and to authorize and  
10 provide for the operation and development of unitized brine and  
11 solution gas properties, and to authorize the Commission to regulate  
12 brine and solution gas production.

13 SECTION 3. AMENDATORY 17 O.S. 2011, Section 502, is  
14 amended to read as follows:

15 Section 502. As used in this act:

16 1. "Commission" ~~shall mean~~ means the Corporation Commission of  
17 Oklahoma;

18 2. "Person" ~~shall include~~ means any individual, partnership,  
19 corporation or association of whatever character;

20 3. "Common source of supply" ~~shall include that~~ means the area  
21 ~~which~~ that is underlain, or which from geological or other  
22 scientific data, or from drilling operations, or other evidence,  
23 appears to be underlain by a common accumulation of brine; ~~provided,~~  
24 ~~that, if.~~ If any such area is underlain or appears from geologic or

1 other scientific data, or from drilling operations, or from other  
2 evidence to be underlain by more than one common accumulation of  
3 brine separated from each other by a strata of earth and not  
4 connected with each other, then ~~such~~ the area, as to each said  
5 common accumulation of brine, shall be deemed a separate common  
6 source of supply. When brine is produced as an incident to the  
7 production of oil or gas and is saved or sold for the purpose of  
8 removing chemical substances from the brine, the common source of  
9 supply shall be considered the same as that of the associated oil or  
10 gas;

11 4. "Brine" ~~shall mean~~ means subterranean saltwater and all of  
12 its constituent parts and chemical substances therein contained,  
13 including, but not limited to bromine, magnesium, potassium,  
14 lithium, boron, chlorine, iodine, calcium, strontium, sodium,  
15 sulphur, barium or other chemical substances produced with or  
16 separated from ~~such~~ the saltwater. Brine produced as an incident to  
17 the production of oil or gas from an oil or gas well, unless ~~such~~  
18 the brine is saved or sold for the purposes of removing chemical  
19 substances therefrom, shall not be considered brine for the purposes  
20 of ~~this act~~ the Oklahoma Brine and Produced Water Development Act.  
21 Gas or other hydrocarbons, whether found in solution or otherwise,  
22 shall not be included within the meaning of the term "brine";  
23  
24

1        5. "Brine well" means a well drilled or operated for the  
2 primary purpose of extracting brine and shall not include a well  
3 drilled or operated for the primary purpose of producing oil or gas;

4        6. "Brine owner" ~~shall mean~~ means any person entitled to share  
5 in the proceeds from the sale of brine production;

6        ~~6.~~ 7. "Solution gas" ~~shall mean~~ means all gas produced from  
7 brine wells from the brine common source of supply within the unit  
8 area;

9        ~~7.~~ 8. "Solution gas owner" ~~shall mean~~ means any person entitled  
10 to share in the proceeds from the sale of solution gas;

11        ~~8.~~ 9. "Owner" or "owners" means, unless a more specific term is  
12 used, ~~shall mean~~ any person or entity who qualifies as either a  
13 brine owner or a solution gas owner;

14        ~~9.~~ 10. "Operator" ~~shall mean~~ means a person who:

15            a. has the right to drill into and produce from any brine  
16 common source of supply and to appropriate that  
17 production, either for ~~himself~~ the operator, or for  
18 ~~himself~~ the operator and others, and is authorized by  
19 the Commission to drill, or

20            b. is an operator of an oil or gas well that produces  
21 brine, which is saved or sold for the purpose of  
22 recycling or reusing the water or removing chemical  
23 substances from the brine;  
24

1       ~~10.~~ 11. "Effluent" ~~shall mean~~ means the liquid remaining,  
2       including recycled or distilled water, after extraction of the  
3       chemical substances from brine;

4       ~~11.~~ 12. "Brine production unit" or "unit" ~~shall mean~~ means  
5       either:

6           a.   each separate specific area of land so designated by  
7                   order of the Commission for production of brine and  
8                   associated solution gas ~~and the~~ from brine wells,  
9                   including the related injection of effluent, or

10          b.   each specific area of land so designated by order of  
11                   the Commission for the production of brine from an oil  
12                   or gas well, in which case the Commission may  
13                   authorize the brine production unit to be of the same  
14                   size and shape as the unit authorized by the  
15                   Commission for the associated oil and gas production;

16       ~~12.~~ 13. "Injection well" ~~shall mean~~ means a well authorized by  
17       the Commission for the injection of effluent or other solutions; ~~and~~

18       ~~13.~~ 14. "Manufacture" ~~shall mean~~ means the complete process of  
19       drilling, completing, equipping and operating production and  
20       injection wells and of extracting and packaging brine.

21       15. "Oil or gas well" means a well drilled or operated for the  
22       primary purpose of extracting oil or gas as those terms are defined  
23       in Title 52 of the Oklahoma Statutes; and

1        16. "Associated oil or gas production" means the oil or gas  
2 produced from an oil and gas well from which brine is produced as an  
3 incident to the production of the oil or gas and the brine is saved  
4 or sold for the purpose of reusing or recycling the water or  
5 removing chemicals from the brine.

6        SECTION 4.        AMENDATORY        17 O.S. 2011, Section 503, is  
7 amended to read as follows:

8        Section 503. A. The Corporation Commission is hereby vested  
9 with jurisdiction over the following:

10        1. The drilling for ~~and~~ or production of brine for commercial  
11 purposes;

12        2. Class V injection wells used for the injection or disposal  
13 of mineral brines as defined in the federal Safe Drinking Water Act  
14 and 40 CFR Part 146; and

15        3. Class V wells used to inject spent brine into the same  
16 formation from which it was withdrawn after extraction of halogens  
17 or their salts as defined in 40 CFR Part 146.

18        B. The Commission may promulgate ~~such~~ rules that:

19        1. ~~As are~~ Are reasonably necessary to effectuate the purposes  
20 of this act, including rules governing the drilling of production,  
21 injection or disposal wells and the injection of effluent into  
22 underground formations; and

23        2. ~~To ensure~~ Ensure that the drilling, casing and plugging of  
24 wells is done in such a manner as to prevent the escape of brine and

1 effluent from one formation to another and to prevent the pollution  
2 of fresh water supplies throughout the state.

3 C. The enforcement and adherence to the Oklahoma Brine and  
4 Produced Water Development Act shall not apply to nor shall the  
5 Corporation Commission have jurisdiction over Class I, III, IV or V  
6 wells regulated by the Department of Environmental Quality pursuant  
7 to the federal Safe Drinking Water Act and 40 CFR Parts 144 through  
8 148, inclusive, and the Oklahoma Environmental Quality Act.

9 SECTION 5. AMENDATORY 17 O.S. 2011, Section 504, is  
10 amended to read as follows:

11 Section 504. A. A party desiring to unitize brine rights shall  
12 file with the Corporation Commission an application setting forth a  
13 description of the proposed unit area with a map or plat thereof  
14 attached. The application shall allege the existence of the facts  
15 required to be found by the Commission as provided in Section 7 506  
16 of this ~~act~~ title. The application shall set forth the name and  
17 address of each brine owner within the area affected by the  
18 application. Each such person shall be a respondent to the  
19 application. In an application to enlarge the unit area, brine  
20 owners within the existing unit and brine owners in the area to be  
21 added to the unit shall be respondents to the application.

22 B. In the event the brine sought to be unitized is found in  
23 association with solution gas, the application shall set forth the  
24 name and address of each solution gas owner within the area affected

1 by the application. Each such person shall be a respondent to the  
2 application. In an application to enlarge the unit area, solution  
3 gas owners within the existing unit and solution gas owners in the  
4 area to be added to the unit shall be respondents to the  
5 application.

6 C. Every application to establish a brine unit shall have  
7 attached thereto a recommended plan of unitization applicable to the  
8 proposed unit area.

9 SECTION 6. AMENDATORY 17 O.S. 2011, Section 506, is  
10 amended to read as follows:

11 Section 506. A. If, after proper application and notice, the  
12 Commission in its hearing shall find by substantial evidence that:

13 1. There exists a common source of supply or prospective common  
14 source of supply for brine or that substantial quantities of brine  
15 are being produced as an incident to the production of oil and gas  
16 from oil or gas wells within the proposed brine development unit;

17 2. Unitized management, operation and further development of  
18 the common source of supply for brine or the brine produced from oil  
19 or gas wells is reasonably necessary in order to effectively develop  
20 the brine common source of supply;

21 3. Unitized operation as applied to such common source of  
22 supply is feasible and will prevent waste and, with reasonable  
23 probability, will result in greater ultimate recovery of brine and  
24 its constituent parts;



1        4. Such unitization is for the common good and will result in  
2 the general advantage of the owners of the brine rights within the  
3 proposed brine development unit and will protect the correlative  
4 rights of the owners within the common source of supply; and

5        5. The creation of a unit will accomplish one or more of the  
6 following:

- 7            a. avoid the drilling of unnecessary wells,
- 8            b. prevent waste,
- 9            c. protect correlative rights, or
- 10           d. increase the ultimate recovery of brine from the  
11 common source of supply and unit covered by the  
12 application,

13 the Commission shall make a finding to that effect and enter an  
14 order creating the unit, and requiring unitized operation of the  
15 prospective common source of supply or portion thereof described in  
16 the order.

17        B. If the Commission in its hearing shall find by substantial  
18 evidence that:

19           1. The proposed unit is not for the primary purpose of  
20 producing brine together with associated oil and gas production from  
21 oil or gas wells;

22           2. Solution gas exists within the common source of supply or  
23 prospective common source of supply;

1       ~~2.~~ 3. The production of brine is impossible or impractical  
2 without also producing the solution gas; and

3       ~~3.~~ 4. The unitization of the brine common source of supply is  
4 impractical or impossible without also unitizing the associated  
5 solution gas,

6 the Commission shall make a finding to that effect and shall further  
7 provide in its order for the unitization of the solution gas within  
8 the unit area.

9       C. Orders of the Commission entered pursuant to Section 87.1 of  
10 Title 52 of the Oklahoma Statutes establishing drilling and spacing  
11 units for the production of oil, gas or oil and gas shall not be  
12 applicable to the drilling of brine wells and production of solution  
13 gas from a unit established by an order issued pursuant to ~~this act~~  
14 Section 500 et seq. of this title, but shall remain applicable to  
15 oil or gas wells and associated oil and gas productions.

16       SECTION 7.       AMENDATORY       17 O.S. 2011, Section 507, is  
17 amended to read as follows:

18       Section 507. A. The order of the Commission shall define the  
19 area of the common source of supply or portion ~~thereof~~ of the common  
20 source of supply to be included within the unit area. ~~Each~~ Except  
21 as otherwise provided for in this subsection, each unit and unit  
22 area shall be limited to all or a portion of a single common source  
23 of supply. The Commission may authorize the unit area to be of the  
24

1 same size and shape as the unit authorized by the Commission for the  
2 associated oil and gas production.

3 B. Brine owners within the unit shall share in the production  
4 of brine in the proportion that their acreage bears to total acreage  
5 within the unit, unless the Commission, after notice and hearing,  
6 shall provide for another method in the unit plan. Solution gas  
7 owners within the unit shall share in production of solution gas in  
8 the proportion that their acreage bears to total acreage in the  
9 unit, unless the Commission, after notice and hearing, shall provide  
10 for another method in the unit plan.

11 SECTION 8. AMENDATORY 17 O.S. 2011, Section 508, is  
12 amended to read as follows:

13 Section 508. A. The plan of unitization for each such unit and  
14 unit area shall be one suited to the needs and requirements of the  
15 particular unit dependent upon the facts and conditions found to  
16 exist with respect thereto. In addition to such other terms,  
17 provisions, conditions and requirements found by the Commission to  
18 be reasonably necessary or proper to effectuate or accomplish the  
19 purpose of this act, and subject to the further requirements hereof,  
20 each such plan of unitization shall contain fair, reasonable and  
21 equitable provisions for:

22 1. The efficient unitized management or control of further  
23 development and operation of the unit area. Under ~~such~~ the plan the  
24 actual operations of the unit shall be carried on by one of the

1 owners of the right to drill for and produce brine within the unit  
2 area as unit operator or in the case of brine produced with  
3 associated oil and gas production, by the operator of the unit  
4 approved by the Commission for the drilling and operation of the oil  
5 or gas well. The designation of unit operator shall be by majority  
6 vote of the owners of the right to drill for and produce brine in  
7 the unit in accordance with their acreage ownership in the unit or  
8 as designated by the Commission in the case of brine being produced  
9 with associated oil and gas production;

10 2. The method and circumstances under which brine or effluent  
11 from the unit, or from any other source, may be injected into the  
12 common source of supply under the unit area or into other  
13 formations;

14 3. The fair, just and reasonable compensation to be awarded to  
15 any owner within the brine development unit who does not wish to  
16 participate in development of the unit by paying such owner's share  
17 of unit costs;

18 4. The fair, just and reasonable manner of participation for  
19 any owner desiring to participate in the development of the brine  
20 development unit by paying such owners share of unit costs;

21 5. The fair, just and reasonable allocation and distribution to  
22 each owner and the value of such owner's share of the brine,  
23 including the usable resources extracted from the brine, and  
24 solution gas, if any, produced from the unit;

1        6. The procedure and basis upon which wells, equipment and  
2 other properties of the owners within the brine development unit  
3 area are to be taken over and used for unit operations, including  
4 the method of arriving at the compensation therefor, or for  
5 otherwise proportionately equalizing the investment of the several  
6 owners in the unit;

7        7. The method of apportioning costs of development and  
8 operation between owners of brine and owners of solution gas, if  
9 solution gas has also been unitized;

10       8. The time when the plan of unitization shall become  
11 effective; and

12       9. The time when and conditions under which the unit shall or  
13 may be dissolved and all affairs concluded.

14       B. No order of the Commission creating a brine development unit  
15 and prescribing the plan of unitization applicable ~~thereto~~ to the  
16 unit shall become effective unless and until the plan of unitization  
17 has been signed, or in an express writing other than a lease that is  
18 ratified or approved by record owners of the right to drill or  
19 produce brine of not less than ~~fifty-five percent (55%)~~ sixty-three  
20 percent (63%) of the unit area affected thereby and by owners of  
21 record of not less than ~~fifty-five percent (55%)~~ sixty-three percent  
22 (63%) (exclusive of royalty interest owned by lessees or  
23 subsidiaries of any lessee) of the royalty interest in and to the  
24 unit area comprised of the brine owners, and if applicable,

1 separately to solution gas owners, who would be entitled to a  
2 royalty interest if they elected not to participate in the  
3 development of the unit by paying their share of the costs and the  
4 Commission has made a finding either in the order creating the unit  
5 or in a supplemental order that the plan of unitization has been so  
6 signed, ratified or approved by ~~lessees and royalty~~ brine owners of  
7 record owning the required percentage interest in and to the unit  
8 area. Provided, however, in any instance where a ~~royalty~~ brine  
9 owner has, through ~~lease or other~~ an express agreement other than a  
10 lease, previously authorized pooling or unitization of a size equal  
11 to or larger than the size specified in the Commission order, ~~said~~  
12 ~~lease or other~~ the agreement shall be deemed to be ~~such royalty~~ the  
13 brine owner's authorization to unitize, and no additional signature,  
14 ratification or approval shall be necessary from such owner, unless  
15 the lease or express writing provides for a different ~~production~~  
16 ~~sharing~~ production-sharing formula than set out in the plan of  
17 unitization. Further provided, however, in any instance where ~~a~~  
18 ~~royalty owner has~~ the brine owners of record have, through ~~lease or~~  
19 ~~other~~ an express agreement other than a lease, previously consented  
20 to have the unit boundaries and the allocation formula established  
21 by the Commission, ~~said lease or other~~ the agreement shall be deemed  
22 to be ~~such royalty~~ the brine owner's authorization to unitize, and  
23 no additional signature, ratification or approval shall be necessary  
24 from such owner. Where the plan of unitization has not been so

1 signed, ratified or approved by ~~lessees and royalty~~ the brine owners  
2 of record owning the required percentage interest in and to the unit  
3 area at the time the order creating the unit is made, the Commission  
4 shall hold such additional and supplemental hearings as may be  
5 requested or required to determine if and when the plan of  
6 unitization has been so signed, ratified or approved by ~~lessees and~~  
7 ~~royalty~~ the brine owners of record owning the required percentage  
8 interest in and to the unit area and shall, in respect to such  
9 hearings, make and enter a finding of its determination in such  
10 regard. In the event ~~lessees or royalty~~ the brine owners of record,  
11 ~~or either~~, owning the required percentage interest in and to the  
12 unit area have not so signed, ratified or approved the plan of  
13 unitization within a period of six (6) months from and after the  
14 date on which the order creating the unit is made, the order  
15 creating the unit shall be deemed vacated and of no force and  
16 effect.

17 C. A participating brine owner shall have a one-time election  
18 to sell, and any brine owner in the unit with brine refining  
19 equipment shall have the obligation to buy, the brine produced from  
20 the unit at the value determined by the Commission; provided  
21 however, nothing herein shall require the purchasing brine owner to  
22 purchase brine when it is not producing brine from the unit for its  
23 own account.

24

1       ~~SECTION 9. It being immediately necessary for the preservation~~  
2 ~~of the public peace, health or safety, an emergency is hereby~~  
3 ~~declared to exist, by reason whereof this act shall take effect and~~  
4 ~~be in full force from and after its passage and approval.~~

5  
6 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
7 dated 04/13/2017 - DO PASS, As Amended.  
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