

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 285

By: Schulz

6 AS INTRODUCED

7 An Act relating to the Corporation Commission;  
8 amending 17 O.S. 2011, Sections 500, 501, 502, 503,  
9 504, 506, 507 and 508, which relate to short title,  
10 purpose, definitions, jurisdiction, utilization and  
11 application of brine rights, the Commission's  
12 findings, delineation of unit area and provisions;  
13 amending short title; clarifying certain Legislative  
14 findings; defining terms; modifying definitions;  
15 conforming language; updating references to act to  
16 Oklahoma Brine and Produced Water Development Act;  
17 modifying certain findings required by Commission;  
18 applying certain orders of the Commission to oil or  
19 gas wells; providing for certain exceptions;  
20 instructing Commission to authorize unit areas to be  
21 a certain size; specifying certain types of units as  
22 brine development units; specifying required terms of  
23 certain utilization plans; modifying terms required  
24 for certain utilization plans to become effective;  
specifying certain owners as brine owners of record;  
and declaring an emergency.

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

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

22 Section 500. This act shall be known and may be cited as the  
23 "Oklahoma Brine and Produced Water Development Act".  
24

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

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

Section 502. As used in this act:

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

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

3        3. "Common source of supply" ~~shall include that~~ means the area  
4 ~~which that~~ is underlain, or which from geological or other  
5 scientific data, or from drilling operations, or other evidence,  
6 appears to be underlain by a common accumulation of brine; ~~provided,~~  
7 ~~that, if.~~ If any such area is underlain or appears from geologic or  
8 other scientific data, or from drilling operations, or from other  
9 evidence to be underlain by more than one common accumulation of  
10 brine separated from each other by a strata of earth and not  
11 connected with each other, then such the area, as to each said  
12 common accumulation of brine, shall be deemed a separate common  
13 source of supply. When brine is produced as an incident to the  
14 production of oil or gas and is saved or sold for the purpose of  
15 removing chemical substances from the brine, the common source of  
16 supply shall be considered the same as that of the associated oil or  
17 gas;

18        4. "Brine" ~~shall mean~~ means subterranean saltwater and all of  
19 its constituent parts and chemical substances therein contained,  
20 including, but not limited to bromine, magnesium, potassium,  
21 lithium, boron, chlorine, iodine, calcium, strontium, sodium,  
22 sulphur, barium or other chemical substances produced with or  
23 separated from ~~such the~~ saltwater. Brine produced as an incident to  
24 the production of oil or gas from an oil or gas well, unless ~~such~~

1 the brine is saved or sold for the purposes of removing chemical  
2 substances therefrom, shall not be considered brine for the purposes  
3 of ~~this act~~ the Oklahoma Brine and Produced Water Development Act.

4 Gas or other hydrocarbons, whether found in solution or otherwise,  
5 shall not be included within the meaning of the term "brine";

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

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

11 ~~6.~~ 7. "Solution gas" shall mean means all gas produced from  
12 brine wells from the brine common source of supply within the unit  
13 area;

14 ~~7.~~ 8. "Solution gas owner" shall mean means any person entitled  
15 to share in the proceeds from the sale of solution gas;

16 ~~8.~~ 9. "Owner" or "owners" means, unless a more specific term is  
17 used, ~~shall mean~~ any person or entity who qualifies as either a  
18 brine owner or a solution gas owner;

19 ~~9.~~ 10. "Operator" shall mean means a person who:

- 20 a. has the right to drill into and produce from any brine  
21 common source of supply and to appropriate that  
22 production, either for ~~himself~~ the operator, or for  
23 ~~himself~~ the operator and others, and is authorized by  
24 the Commission to drill, or

1           b.    is an operator of an oil or gas well that produces  
2                   brine, which is saved or sold for the purpose of  
3                   recycling or reusing the water or removing chemical  
4                   substances from the brine;

5       ~~10.~~ 11.    "Effluent" ~~shall mean~~ means the liquid remaining,  
6       including recycled or distilled water, after extraction of the  
7       chemical substances from brine;

8       ~~11.~~ 12.    "Brine production unit" or "unit" ~~shall mean~~ means  
9       either:

10           a.    each separate specific area of land so designated by  
11                   order of the Commission for production of brine and  
12                   associated solution gas ~~and the~~ from brine wells,  
13                   including the related injection of effluent, or

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

20       ~~12.~~ 13.    "Injection well" ~~shall mean~~ means a well authorized by  
21       the Commission for the injection of effluent or other solutions; ~~and~~

22       ~~13.~~ 14.    "Manufacture" ~~shall mean~~ means the complete process of  
23       drilling, completing, equipping and operating production and  
24       injection wells and of extracting and packaging brine.

1        15. "Oil or gas well" means a well drilled or operated for the  
2 primary purpose of extracting oil or gas at those terms are defined  
3 in Title 52 of the Oklahoma Statutes; and

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

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

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

13        1. The drilling for ~~and~~ or production of brine for commercial  
14 purposes;

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

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

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

22        1. ~~As are~~ Are reasonably necessary to effectuate the purposes  
23 of this act, including rules governing the drilling of production,

1 injection or disposal wells and the injection of effluent into  
2 underground formations; and

3 2. ~~To ensure~~ Ensure that the drilling, casing and plugging of  
4 wells is done in such a manner as to prevent the escape of brine and  
5 effluent from one formation to another and to prevent the pollution  
6 of fresh water supplies throughout the state.

7 C. The enforcement and adherence to the Oklahoma Brine and  
8 Produced Water Development Act shall not apply to nor shall the  
9 Corporation Commission have jurisdiction over Class I, III, IV or V  
10 wells regulated by the Department of Environmental Quality pursuant  
11 to the federal Safe Drinking Water Act and 40 CFR Parts 144 through  
12 148, inclusive, and the Oklahoma Environmental Quality Act.

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

15 Section 504. A. A party desiring to unitize brine rights shall  
16 file with the Corporation Commission an application setting forth a  
17 description of the proposed unit area with a map or plat thereof  
18 attached. The application shall allege the existence of the facts  
19 required to be found by the Commission as provided in Section 7 506  
20 of this ~~act~~ title. The application shall set forth the name and  
21 address of each brine owner within the area affected by the  
22 application. Each such person shall be a respondent to the  
23 application. In an application to enlarge the unit area, brine  
24

1 owners within the existing unit and brine owners in the area to be  
2 added to the unit shall be respondents to the application.

3 B. In the event the brine sought to be unitized is found in  
4 association with solution gas, the application shall set forth the  
5 name and address of each solution gas owner within the area affected  
6 by the application. Each such person shall be a respondent to the  
7 application. In an application to enlarge the unit area, solution  
8 gas owners within the existing unit and solution gas owners in the  
9 area to be added to the unit shall be respondents to the  
10 application.

11 C. Every application to establish a brine unit shall have  
12 attached thereto a recommended plan of unitization applicable to the  
13 proposed unit area.

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

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

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

22 2. Unitized management, operation and further development of  
23 the common source of supply for brine or the brine produced from oil  
24

1 or gas wells is reasonably necessary in order to effectively develop  
2 the brine common source of supply;

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

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

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

- 13 a. avoid the drilling of unnecessary wells,
- 14 b. prevent waste,
- 15 c. protect correlative rights, or
- 16 d. increase the ultimate recovery of brine from the  
17 common source of supply and unit covered by the  
18 application,

19 the Commission shall make a finding to that effect and enter an  
20 order creating the unit, and requiring unitized operation of the  
21 prospective common source of supply or portion thereof described in  
22 the order.

23 B. If the Commission in its hearing shall find by substantial  
24 evidence that:

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

4        2. Solution gas exists within the common source of supply or  
5 prospective common source of supply;

6        ~~2.~~ 3. The production of brine is impossible or impractical  
7 without also producing the solution gas; and

8        ~~3.~~ 4. The unitization of the brine common source of supply is  
9 impractical or impossible without also unitizing the associated  
10 solution gas,

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

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

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

23        Section 507. A. The order of the Commission shall define the  
24 area of the common source of supply or portion ~~thereof~~ of the common

1 source of supply to be included within the unit area. ~~Each~~ Except  
2 as otherwise provided for in this subsection, each unit and unit  
3 area shall be limited to all or a portion of a single common source  
4 of supply. The Commission may authorize the unit area to be of the  
5 same size and shape as the unit authorized by the Commission for the  
6 associated oil and gas production.

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

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

17 Section 508. A. The plan of unitization for each such unit and  
18 unit area shall be one suited to the needs and requirements of the  
19 particular unit dependent upon the facts and conditions found to  
20 exist with respect thereto. In addition to such other terms,  
21 provisions, conditions and requirements found by the Commission to  
22 be reasonably necessary or proper to effectuate or accomplish the  
23 purpose of this act, and subject to the further requirements hereof,  
24

1 each such plan of unitization shall contain fair, reasonable and  
2 equitable provisions for:

3 1. The efficient unitized management or control of further  
4 development and operation of the unit area. Under ~~such~~ the plan the  
5 actual operations of the unit shall be carried on by one of the  
6 owners of the right to drill for and produce brine within the unit  
7 area as unit operator or in the case of brine produced with  
8 associated oil and gas production, by the operator of the unit  
9 approved by the Commission for the drilling and operation of the oil  
10 or gas well. The designation of unit operator shall be by majority  
11 vote of the owners of the right to drill for and produce brine in  
12 the unit in accordance with their acreage ownership in the unit or  
13 as designated by the Commission in the case of brine being produced  
14 with associated oil and gas production;

15 2. The method and circumstances under which brine or effluent  
16 from the unit, or from any other source, may be injected into the  
17 common source of supply under the unit area or into other  
18 formations;

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

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

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

8        6. The procedure and basis upon which wells, equipment and  
9 other properties of the owners within the brine development unit  
10 area are to be taken over and used for unit operations, including  
11 the method of arriving at the compensation therefor, or for  
12 otherwise proportionately equalizing the investment of the several  
13 owners in the unit;

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

17        8. The time when the plan of unitization shall become  
18 effective; and

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

21        B. No order of the Commission creating a brine development unit  
22 and prescribing the plan of unitization applicable ~~thereto~~ to the  
23 unit shall become effective unless and until the plan of unitization  
24 has been signed, or in an express writing other than a lease that is

1 ratified or approved by record owners of the right to drill or  
2 produce brine of not less than ~~fifty-five percent (55%)~~ sixty-three  
3 percent (63%) of the unit area affected thereby and by owners of  
4 record of not less than ~~fifty-five percent (55%)~~ sixty-three percent  
5 (63%) (exclusive of royalty interest owned by lessees or  
6 subsidiaries of any lessee) of the royalty interest in and to the  
7 unit area comprised of the brine owners, and if applicable,  
8 separately to solution gas owners, who would be entitled to a  
9 royalty interest if they elected not to participate in the  
10 development of the unit by paying their share of the costs and the  
11 Commission has made a finding either in the order creating the unit  
12 or in a supplemental order that the plan of unitization has been so  
13 signed, ratified or approved by ~~lessees and royalty~~ brine owners of  
14 record owning the required percentage interest in and to the unit  
15 area. Provided, however, in any instance where a ~~royalty~~ brine  
16 owner has, through ~~lease or other~~ an express agreement other than a  
17 lease, previously authorized pooling or unitization of a size equal  
18 to or larger than the size specified in the Commission order, ~~said~~  
19 ~~lease or other~~ the agreement shall be deemed to be ~~such royalty~~ the  
20 brine owner's authorization to unitize, and no additional signature,  
21 ratification or approval shall be necessary from such owner, unless  
22 the lease or express writing provides for a different ~~production~~  
23 ~~sharing~~ production-sharing formula than set out in the plan of  
24 unitization. Further provided, however, in any instance where a

1 ~~royalty owner has~~ the brine owners of record have, through ~~lease or~~  
2 ~~other~~ an express agreement other than a lease, previously consented  
3 to have the unit boundaries and the allocation formula established  
4 by the Commission, ~~said lease or other~~ the agreement shall be deemed  
5 to be ~~such royalty~~ the brine owner's authorization to unitize, and  
6 no additional signature, ratification or approval shall be necessary  
7 from such owner. Where the plan of unitization has not been so  
8 signed, ratified or approved by ~~lessees and royalty~~ the brine owners  
9 of record owning the required percentage interest in and to the unit  
10 area at the time the order creating the unit is made, the Commission  
11 shall hold such additional and supplemental hearings as may be  
12 requested or required to determine if and when the plan of  
13 unitization has been so signed, ratified or approved by ~~lessees and~~  
14 ~~royalty~~ the brine owners of record owning the required percentage  
15 interest in and to the unit area and shall, in respect to such  
16 hearings, make and enter a finding of its determination in such  
17 regard. In the event ~~lessees or royalty~~ the brine owners of record,  
18 ~~or either~~, owning the required percentage interest in and to the  
19 unit area have not so signed, ratified or approved the plan of  
20 unitization within a period of six (6) months from and after the  
21 date on which the order creating the unit is made, the order  
22 creating the unit shall be deemed vacated and of no force and  
23 effect.

1 C. A participating brine owner shall have a one-time election  
2 to sell, and any brine owner in the unit with brine refining  
3 equipment shall have the obligation to buy, the brine produced from  
4 the unit at the value determined by the Commission; provided  
5 however, nothing herein shall require the purchasing brine owner to  
6 purchase brine when it is not producing brine from the unit for its  
7 own account.

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

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