

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 385

By: Sparks

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 87.1, as amended by Section 4, Chapter
9 201, O.S.L. 2012 (52 O.S. Supp. 2014, Section 87.1),
10 which relates to common source of supply; modifying
11 purpose of certain well spacing authority; stating
12 restriction; modifying well spacing requirements;
13 updating statutory reference; authorizing Corporation
14 Commission to modify certain well spacing units;
15 requiring Commission to protect previous rights of
16 certain parties; requiring Commission to consider
17 certain evidence in pooling hearings; modifying
18 certain definition; providing for separate election
19 for owners participating in certain subsequent wells;
20 and declaring an emergency.

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1 authorized or in this section provided, take therefrom only such
2 proportion of the oil or natural gas that may be produced therefrom
3 without waste or without such drainage as the productive capacity of
4 the well or wells of any such person considered with the acreage
5 properly assignable to each such well bears to the total productive
6 capacities of the wells in such common source of supply considered
7 with the acreage properly assignable to each well therein.

8 (a) To prevent or to assist in preventing the various types of
9 waste of oil or gas prohibited by statute, or any wastes, or to
10 protect or assist in protecting the correlative rights of interested
11 parties, and to promote the advancement in drilling and production
12 technologies, the Corporation Commission, upon a proper application
13 and notice given as hereinafter provided, and after a hearing as
14 provided in the notice, shall have the power to establish well
15 spacing and drilling units for either vertical or horizontal
16 development, or both, with such units having the ability to coexist
17 with, and be operated independently of, the other unit or units so
18 long as the correlative rights and equities of the owners in
19 coexisting units are protected and waste prevented thereby, and
20 being of specified and approximately uniform size and shape covering
21 any common source of supply, or prospective common source of supply,
22 of oil or gas within the State of Oklahoma; provided, that the
23 Commission may authorize the drilling of an additional well or wells
24 on any spacing and drilling unit or units or any portion or portions

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

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

9 (b) ~~In case of a spacing unit of one hundred sixty (160) acres~~
10 ~~or more, no~~ No oil and/or gas leasehold interest outside ~~the spacing~~
11 ~~unit involved~~ of a unit created pursuant to this section or sections
12 87.9 or 287.1 of this title may be held by production from the
13 ~~spacing~~ unit more than ninety (90) days beyond expiration of the
14 primary term of the lease.

15 (c) In establishing a well spacing or drilling unit pursuant to
16 this section for a common source of supply thereunder, the acreage
17 to be embraced within each unit may include acreage from more than
18 one governmental section, but shall not exceed six hundred forty
19 (640) acres for a gas well plus ten percent (10%) tolerance, unless
20 the unit is a governmental section and the governmental section
21 contains more than six hundred forty (640) acres in which case the
22 unit may comprise the entire section. Provided, 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 from the evidence introduced at the hearing, and the
4 following facts, among other things, shall be material: (1) The
5 lands embraced in the actual or prospective common source of supply;
6 (2) the plan of well spacing then being employed or contemplated in
7 the source of supply; (3) the depth at which production from the
8 common source of supply has been or is expected to be found; (4) the
9 nature and character of the producing or prospective producing
10 formation or formations; and (5) any other available geological or
11 scientific data pertaining to the actual or prospective source of
12 supply which may be of probative value to the Commission in
13 determining the proper spacing and well drilling unit therefor, with
14 due and relative allowance for the correlative rights and
15 obligations of the producers and royalty owners interested therein.

16 The order establishing such spacing or drilling units shall set
17 forth: (1) the outside boundaries of the surface area included in
18 such order; (2) the size, form, and shape of the spacing or drilling
19 units so established; (3) the drilling pattern for the area, which
20 shall be uniform except as hereinbefore provided; and (4) the
21 location of the permitted well on each such spacing or drilling
22 unit. To such order shall be attached a plat upon which shall be
23 indicated the foregoing information. Subject to other provisions of
24 Section 86.1 et seq. of this title, the order establishing such

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

16 Any well spacing or drilling unit for a common source of supply
17 thereunder previously created pursuant to this section which exceeds
18 six hundred forty (640) acres for a gas well plus ten percent (10%)
19 tolerance or exceeds the total amount of acreage contained in a
20 governmental section, and is not in production or in the process of
21 drilling development on ~~the effective date of this act~~ March 26,
22 1980, shall be de-spaced. However, fractional sections along the
23 state boundary line and within the townships along the boundary
24 where the survey west of the Indian Meridian meets the survey east

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

3 (d) The Commission shall have jurisdiction upon the filing of a
4 proper application therefor, and upon notice given as provided in
5 subsection (a) of this section, to decrease the size of the well
6 spacing units or to permit additional wells to be drilled within the
7 established units, or to increase the size or modify the shape of
8 the well spacing units, upon proper proof at such hearing that such
9 modification or extension of the order establishing drilling or
10 spacing units will prevent or assist in preventing the various types
11 of wastes prohibited by statute, or any of the wastes, or will
12 protect or assist in protecting the correlative rights of persons
13 interested in the common source of supply, or upon the filing of a
14 proper application therefor to enlarge the area covered by the
15 spacing order, if such proof discloses that the development or the
16 trend of development indicates that such common source of supply
17 underlies an area not covered by the spacing order and such proof
18 discloses that the applicant is an owner within the area or within a
19 drilling and spacing unit contiguous to the area covered by the
20 application. If the Commission modifies, supercedes, amends or
21 vacates the existing drilling and spacing unit or units or creates a
22 new drilling and spacing unit or units for a common source of supply
23 covering the same lands where there is currently or has been
24 production from the common source of supply within a previously

1 existing unit or units, the Commission shall have the authority to
2 take such other action and to make such orders as may be necessary
3 to protect the correlative rights or vested rights or both of
4 interested parties within the previously existing unit or units, as
5 well as the newly formed unit or units. Except in the instance of
6 reservoir dewatering as described herein, the Commission shall not
7 establish well spacing units of more than forty (40) acres in size
8 covering common sources of supply of oil, the top of which lies less
9 than four thousand (4,000) feet below the surface as determined by
10 the original or discovery well in the common source of supply, and
11 the Commission shall not establish well spacing units of more than
12 eighty (80) acres in size covering common sources of supply of oil,
13 the top of which lies less than nine thousand nine hundred ninety
14 (9,990) feet and more than four thousand (4,000) feet below the
15 surface as determined by the original or discovery well in the
16 common source of supply. In the instance of reservoir dewatering to
17 extract oil from reservoirs having initial water saturations at or
18 above fifty percent (50%), the Commission may establish drilling and
19 spacing units not to exceed six hundred forty (640) acres in size.

20 (e) The drilling of any well or wells into any common source of
21 supply for the purpose of producing oil or gas therefrom, after a
22 spacing order has been entered by the Commission covering such
23 common source of supply, at a location other than that fixed by the
24 order is hereby prohibited. The drilling of any well or wells into

1 a common source of supply, covered by a pending spacing application,
2 at a location other than that approved by a special order of the
3 Commission authorizing the drilling of such well is hereby
4 prohibited. The operation of any well drilled in violation of any
5 spacing so entered is also hereby prohibited. When two or more
6 separately owned tracts of land are embraced within an established
7 spacing unit created pursuant to this section or Section 87.9 of
8 this title, or where there are undivided interests separately owned,
9 or both such separately owned tracts and undivided interests
10 embraced within such established spacing unit, the owners thereof
11 may validly pool their interests and develop their lands as a unit.
12 Where, however, such owners have not agreed to pool their interests
13 and where one such separate owner has drilled or proposes to drill a
14 well on the unit to the common source of supply, the Commission, to
15 avoid the drilling of unnecessary wells, or to protect correlative
16 rights, shall, upon a proper application therefor and a hearing
17 thereon, require such owners to pool and develop their lands in the
18 spacing unit as a unit. The applicant shall give all the owners
19 whose addresses are known or could be known through the exercise of
20 due diligence at least fifteen (15) days' notice by mail, return
21 receipt requested. The applicant shall also give notice by one
22 publication, at least fifteen (15) days prior to the hearing, in
23 some newspaper of general circulation published in Oklahoma County,
24 and by one publication, at least fifteen (15) days prior to the date

1 of the hearing, in some newspaper published in the county, or in
2 each county, if there be more than one, in which the lands embraced
3 within the spacing unit are situated. The applicant shall file
4 proof of publication and an affidavit of mailing with the Commission
5 prior to the hearing. All orders requiring such pooling shall be
6 made after notice and hearing, and shall be upon such terms and
7 conditions as are just and reasonable, after considering all
8 relevant evidence and giving it the weight it is due, and will
9 afford to the owner of such tract in the unit the opportunity to
10 recover or receive without unnecessary expense the owner's just and
11 fair share of the oil and gas. The portion of the production
12 allocated to the owner of each tract or interests included in a well
13 spacing unit formed by a pooling order shall, when produced, be
14 considered as if produced by such owner from the separately owned
15 tract or interest by a well drilled thereon. Such pooling order of
16 the Commission shall make definite provisions for the payment of
17 cost of the development and operation, which shall be limited to the
18 actual expenditures required for such purpose not in excess of what
19 are reasonable, including a reasonable charge for supervision. In
20 the event of any dispute relative to such costs, the Commission
21 shall determine the proper costs after due notice to interested
22 parties and a hearing thereon. The operator of such unit, in
23 addition to any other right provided by the pooling order or orders
24 of the Commission, shall have a lien on the mineral leasehold estate

1 or rights owned by the other owners therein and upon their shares of
2 the production from such unit to the extent that costs incurred in
3 the development and operation upon the unit are a charge against
4 such interest by order of the Commission or by operation of law.
5 Such liens shall be separable as to each separate owner within such
6 unit, and shall remain liens until the owner or owners drilling or
7 operating the well have been paid the amount due under the terms of
8 the pooling order. The Commission is specifically authorized to
9 provide that the owner or owners drilling, or paying for the
10 drilling, or for the operation of a well for the benefit of all
11 shall be entitled to production from such well which would be
12 received by the owner or owners for whose benefit the well was
13 drilled or operated, after payment of royalty, until the owner or
14 owners drilling or operating the well have been paid the amount due
15 under the terms of the pooling order or order settling such dispute.
16 No part of the production or proceeds accruing to any owner of a
17 separate interest in such unit shall be applied toward payment of
18 any cost properly chargeable to any other interest in the unit.

19 For the purpose of this section, the owner or owners of oil and
20 gas rights in and under an unleased tract of land shall be regarded
21 as a lessee to the extent of a seven-eighths (7/8) interest in and
22 to the rights and a lessor to the extent of the remaining one-eighth
23 (1/8) interest therein, unless and until the owner or owners make an
24 election or are deemed to make an election not to participate under

1 a pooling order issued by the Commission, at which time each such
2 owner shall be considered a lessor, subject to the judicially
3 recognized implied covenant to market found to exist by the courts
4 of this state in oil and gas leases covering lands located in this
5 state, to the extent of the full royalty percentage elected under
6 the pooling order. Should the owners of separate tracts or
7 interests embraced within a spacing unit fail to agree upon a
8 pooling of their interests and the drilling of a well on the unit,
9 and should it be established by final, unappealable judgment of a
10 court of competent jurisdiction that the Commission is without
11 authority to require pooling as provided for herein, then, subject
12 to all other applicable provisions of this act, the owner of each
13 tract or interest embraced within a spacing unit may drill on his or
14 her separately owned tract, and the allowable production therefrom
15 shall be that portion of the allowable for the full spacing unit as
16 the area of such separately owned tract bears to the full spacing
17 unit.

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

1 royalty interest owner's interest in the unit shall be defined as
2 the percentage of royalty owned in each separate tract by the
3 royalty owner, multiplied by the proportion that the acreage in each
4 separately owned tract or interest bears to the entire acreage of
5 the unit.

6 (f) Notwithstanding any provision of this section, or section
7 87.9 of this title to the contrary, the Corporation Commission shall
8 have jurisdiction upon the filing of a proper application therefor,
9 and upon notice given as provided in subsection (a) of this section,
10 to establish spacing rules for horizontally drilled oil or gas wells
11 whereby horizontally drilled oil or gas wells may have well spacing
12 units established of up to six hundred forty (640) acres plus
13 tolerances and variances as allowed for gas wells pursuant to
14 subsection (c) of this section. For purposes of this subsection a
15 "horizontally drilled oil or gas well" shall mean an oil or gas well
16 drilled, completed or recompleted in a manner in which the
17 horizontal component of the completion interval in the geological
18 formation exceeds the vertical component thereof and which
19 horizontal component extends a minimum of one hundred fifty (150)
20 feet in the formation. The Corporation Commission shall promulgate
21 rules necessary for the proper administration of this subsection.

22 (g) As a condition to granting a permit to drill any well in a
23 unit created pursuant to this section or section 87.9 of this title
24 after January 1, 2016, the Commission shall require that any owner

1 who participates or who participated in the drilling and development
2 of the initial well drilled in the unit pursuant to a pooling order
3 authorized by this section be entitled to a separate election on the
4 subsequent well, and each subsequent well proposed in the unit,
5 after January 1, 2016, so long as the pooling order remains in
6 effect and if the pooling order was entered by the Commission:

7 1. After January 1, 2016; or

8 2. Prior to January 1, 2016, and

9 a. the pooling order was still in effect as of January 1,
10 2016, and

11 b. the owner was vested with the right to participate in
12 the drilling and development of additional wells in
13 the unit as of January 1, 2016.

14 An owner who elects not to participate in a subsequent well
15 pursuant to this subsection shall:

16 1. Not be divested of the right to participate in other
17 proposed subsequent wells;

18 2. Not be entitled to receive a cash bonus under the pooling
19 order; and

20 3. Surrender the right to participate in the proposed well
21 reserving the highest royalty rate provided for in the pooling order
22 for that unit.

23 SECTION 2. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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