

BILL ANALYSIS

Senate Research Center
87R21832 ANG-F

C.S.S.B. 1258
By: Birdwell
Natural Resources & Economic Development
4/22/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1258 amends three outdated Texas statutes that currently require an operator producing oil from state land that is overseen by University Lands and the General Land Office (GLO) to drill an offset well if a well or wells are drilled on non-university lands within 1000 feet of the premises or are otherwise draining the university lands or state lands managed by GLO leased by the operator.

This requirement does not make sense in the context of more modern production methods, otherwise known as horizontal drilling and fracking. This is because natural porosity and permeability are not at issue with modern horizontal drilling and hydraulic fracturing in tight shale formations with low permeability.

C.S.S.B. 1258 changes the requirement to drill an offset well when an operator drills a horizontal well to the greater of the applicable lease-line spacing distance requirement of the Railroad Commission of Texas, or a perpendicular distance of 330 feet for GLO-managed lands; and the greater of the applicable lease-line spacing distance requirement of the Railroad Commission of Texas, or a perpendicular distance of 400 feet for University Lands.

C.S.S.B. 1258 amends current law relating to the duty of a lessee or other agent in control of certain state land to drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas by a horizontal drainhole well located on certain land.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 66.75, Education Code, by amending Subsection (a) and adding Subsections (a-1) and (g), as follows:

(a) Defines "horizontal drainhole well," "take point," and "unconventional fracture treated field" for Section 66.75 (Protection from Drainage; Compensatory Royalties).

(a-1) Creates this subsection from existing text and makes no further changes.

(g) Prohibits a lease or other agreement relating to university lands, notwithstanding any other provision of this section, from requiring a lessee to drill an offset well, pay compensatory royalty, or otherwise protect the leased premises or acreage pooled with the leased premises from drainage by a horizontal drainhole well located in an unconventional fracture treated field if no take point of the horizontal drainhole well is located closer to the leased premises or acreage pooled with the leased premises than the greater of the applicable lease-line spacing distance requirement of the Railroad Commission of Texas (RRC) or a perpendicular distance of 400 feet.

SECTION 2. Amends Section 52.034, Natural Resources Code, by amending Subsections (a) and (d) and adding Subsections (a-1) and (a-2), as follows:

(a) Defines, in Section 52.034 (Offset Wells), "horizontal drainhole well," "take point," and "unconventional fracture treated field."

(a-1) Creates this subsection from existing text. Creates an exception as provided by Subsection (a-2) to the requirement that the lessee of the state area, if oil or gas is produced in commercial quantities from a well located on a privately owned area or certain areas of state land and the well is located within 1,000 feet of an area leased under Subchapter B (Lease of Public School and Gulf Land) or is draining an area leased under Subchapter B, rather than in any case where such an area is being drained by such a well or wells, to begin in good faith and prosecute diligently the drilling of an offset well or wells on the area leased from the state within 60 days after the initial production from the draining well or the well located within 1,000 feet of the leased state area. Makes nonsubstantive changes.

(a-2) Provides that a lessee of a state area, if the well producing oil or gas in commercial quantities under Subsection (a-1) is a horizontal drainhole well located in an unconventional fracture treated field, is not required to drill an offset well as provided by Subsection (a-1) unless any take point in the horizontal drainhole well is located closer to the leased state area than the greater of the minimum distance established by the applicable lease-line spacing requirement of RRC or a perpendicular distance of 330 feet.

(d) Requires that the payment of a compensatory royalty, at the determination of the Commissioner of the General Land Office (commissioner) and with the commissioner's written approval satisfy the obligation to drill an offset well or wells required by Subsection (a-1). Requires that such compensatory royalty be paid at the royalty rate provided by the state lease issued under this subchapter and be paid on the market value at the well of production from the well producing oil or gas in commercial quantities described by Subsection (a-1), rather than the draining well or the well located within 1,000 feet of the leased state area. Makes conforming changes.

SECTION 3. Amends Section 52.173, Natural Resources Code, by amending Subsections (a) and (d) and adding Subsections (a-1) and (a-2), as follows:

(a) Defines "horizontal drainhole well," "take point," and "unconventional fracture treated field" for Section 52.173 (Offset Wells).

(a-1) Creates this subsection from existing text. Requires the owner, lessee, sublessee, receiver, or other agent in control of land subject to Subchapter F (Relinquishment), except as provided by Subsection (a-2), if oil or gas is produced in commercial quantities within 1,000 feet of land subject to Subchapter F or if production of oil or gas is draining land subject to Subchapter F, rather than if oil and/or gas should be produced in commercial quantities within 1,000 feet of land subject to Subchapter F or in any case where land subject to Subchapter F is being drained by production of oil or gas, in good faith to begin the drilling of a well or wells upon such state land within 100 days after the draining well or wells or the well or wells completed within 1,000 feet of the state land commence to produce in commercial quantities and to prosecute such drilling with diligence to reasonably develop the state land and to protect such state land against drainage. Makes nonsubstantive changes.

(a-2) Provides that the owner, lessee, sublessee, receiver, or other agent in control of land subject to Subchapter F, if the well producing oil or gas in commercial quantities under Subsection (a-1) is a horizontal drainhole well located in an unconventional fracture treated field, is not required to drill an offset well as provided by Subsection (a-1) unless any take point in the horizontal drainhole well is located closer to the state land than the greater of the minimum distance established by the applicable lease-line spacing requirement of RRC or a perpendicular distance of 330 feet.

(d) Requires that the payment of a compensatory royalty, at the determination of the commissioner and with the commissioner's written approval, satisfy the obligation to drill

an offset well or wells required by Subsection (a-1). Requires that such compensatory royalty be paid on the market value at the well of production from the well producing oil or gas in commercial quantities described by Subsection (a-1), rather than from the draining well or the well located within 1,000 feet of the state land. Makes conforming changes.

SECTION 4. Makes application of this Act, notwithstanding Section 5 of this Act, prospective.

SECTION 5. Authorizes the parties to a lease or other agreement entered into before the effective date of this Act pertaining to land subject to Subchapter D (Board for Lease of University Lands), Chapter 66, Education Code, or Subchapter B or F, Chapter 52, Natural Resources Code, to:

(1) contractually agree to amend the lease or other agreement to bring the lease or other agreement into conformity with the changes in law made by this Act; or

(2) after reviewing pertinent data, contractually agree that a horizontal drainhole well in an unconventional fracture treated field is incapable of draining the land subject to the lease or other agreement.

SECTION 6. Effective date: September 1, 2021.