By:  Birdwell S.B. No. 1258

(In the Senate - Filed March 9, 2021; March 18, 2021, read first time and referred to Committee on Natural Resources & Economic Development; April 26, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 26, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Zaffirini       X

Alvarado        X

Hancock         X

Hinojosa        X

Hughes          X

Kolkhorst       X

Lucio           X

Seliger         X

COMMITTEE SUBSTITUTE FOR S.B. No. 1258 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(a)  In this section:

(1)  "Horizontal drainhole well" means a well with a horizontal drainhole that may produce oil or gas along at least 100 feet of the drainhole.

(2)  "Take point" means any point in a horizontal drainhole well where oil and gas can be produced from the reservoir or field interval recognized by the Railroad Commission of Texas.

(3)  "Unconventional fracture treated field" means an oil or gas field in which horizontal well development and hydraulic fracture treatment must be used to recover resources from all or part of the field.

(a-1)  The lessee shall protect the leased premises from drainage. The lease may contain express terms regarding drainage as the board may adopt.

(g)  Notwithstanding any other provision of this section, a lease or other agreement relating to university lands may not require 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:

(1)  the applicable lease-line spacing distance requirement of the Railroad Commission of Texas; or

(2)  a perpendicular distance of 400 feet.

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

(a)  In this section:

(1)  "Horizontal drainhole well" means a well with a horizontal drainhole that may produce oil or gas along at least 100 feet of the drainhole.

(2)  "Take point" means any point in a horizontal drainhole well where oil and gas can be produced from the reservoir or field interval recognized by the Railroad Commission of Texas.

(3)  "Unconventional fracture treated field" means an oil or gas field in which horizontal well development and hydraulic fracture treatment must be used to recover resources from all or part of the field.

(a-1)  Except as provided by Subsection (a-2), if [~~If~~] oil or gas is produced in commercial quantities from a well located on a privately owned area or areas of state land leased at a lesser royalty and the well is located within 1,000 feet of an area leased under this subchapter[~~,~~] or [~~in any case where such an area~~] is draining an area leased under this subchapter [~~being drained by such a well or wells~~], the lessee of the state area shall 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.

(a-2)  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, a lessee of a state area 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:

(1)  the minimum distance established by the applicable lease-line spacing requirement of the Railroad Commission of Texas; or

(2)  a perpendicular distance of 330 feet.

(d)  At the determination of the commissioner and with the commissioner's [~~his~~] written approval, the payment of a compensatory royalty shall satisfy the obligation to drill an offset well or wells required by Subsection (a-1) [~~Subsection (a) of this section~~]. Such compensatory royalty shall be paid at the royalty rate provided by the state lease issued under this subchapter and shall be paid on the market value at the well of production from the [~~draining~~] well producing oil or gas in commercial quantities described by Subsection (a-1) [~~or the well located within 1,000 feet of the leased state area~~].

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

(a)  In this section:

(1)  "Horizontal drainhole well" means a well with a horizontal drainhole that may produce oil or gas along at least 100 feet of the drainhole.

(2)  "Take point" means any point in a horizontal drainhole well where oil or gas can be produced from the reservoir or field interval recognized by the Railroad Commission of Texas.

(3)  "Unconventional fracture treated field" means an oil or gas field in which horizontal well development and hydraulic fracture treatment must be used to recover resources from all or part of the field.

(a-1)  Except as provided by Subsection (a-2), if [~~If~~] oil or [~~and/or~~] gas is [~~should be~~] produced in commercial quantities within 1,000 feet of land subject to this subchapter[~~,~~] or if production of oil or gas is draining [~~in any case where~~] land subject to this subchapter, [~~is being drained by production of oil or gas~~] the owner, lessee, sublessee, receiver, or other agent in control of land subject to this subchapter shall in good faith 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 shall prosecute such drilling with diligence to reasonably develop the state land and to protect such state land against drainage.

(a-2)  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, the owner, lessee, sublessee, receiver, or other agent in control of land subject to this subchapter 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:

(1)  the minimum distance established by the applicable lease-line spacing requirement of the Railroad Commission of Texas; or

(2)  a perpendicular distance of 330 feet.

(d)  At the determination of the commissioner and with the commissioner's [~~his~~] written approval, the payment of a compensatory royalty shall satisfy the obligation to drill an offset well or wells required by Subsection (a-1). Such compensatory royalty shall be paid at a royalty rate established by the commissioner if the land is unleased, or at the royalty rate provided by the state lease, if the land is leased. Such compensatory royalty shall be paid on the market value at the well of production from the [~~draining~~] well producing oil or gas in commercial quantities described by Subsection (a-1) [~~or the well located within 1,000 feet of the state land~~].

SECTION 4.  Notwithstanding Section 5 of this Act, the changes in law made by this Act apply only to a lease or other agreement or an amendment to a lease or other agreement entered into on or after the effective date of this Act. A lease or other agreement or an amendment to a lease or other agreement entered into before the effective date of this Act is governed by the law in effect on the date the lease or other agreement or amendment to the lease or other agreement is entered into, and that law is continued in effect for that purpose.

SECTION 5.  The parties to a lease or other agreement entered into before the effective date of this Act pertaining to land subject to Subchapter D, Chapter 66, Education Code, or Subchapter B or F, Chapter 52, Natural Resources Code, may:

(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.  This Act takes effect September 1, 2021.

\* \* \* \* \*