

By: Birdwell  
(Goldman)

S.B. No. 1258

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the duty of a lessee or other agent in control of  
3 certain state land to drill an offset well, pay compensatory  
4 royalty, or otherwise protect the land from drainage of oil or gas  
5 by a horizontal drainhole well located on certain land.

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

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

10 (a) In this section:

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

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

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

21 (a-1) Except as provided by Subsection (a-2), if ~~if~~ oil or  
22 gas is produced in commercial quantities from a well located on a  
23 privately owned area or areas of state land leased at a lesser  
24 royalty and the well is located within 1,000 feet of an area leased

1 under this subchapter~~[7]~~ or ~~[in any case where such an area]~~ is  
2 draining an area leased under this subchapter ~~[being drained by~~  
3 ~~such a well or wells]~~, the lessee of the state area shall begin in  
4 good faith and prosecute diligently the drilling of an offset well  
5 or wells on the area leased from the state within 60 days after the  
6 initial production from the draining well or the well located  
7 within 1,000 feet of the leased state area.

8 (a-2) If the well producing oil or gas in commercial  
9 quantities under Subsection (a-1) is a horizontal drainhole well  
10 located in an unconventional fracture treated field, a lessee of a  
11 state area is not required to drill an offset well as provided by  
12 Subsection (a-1) unless any take point in the horizontal drainhole  
13 well is located closer to the leased state area than the greater of:

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

17 (2) a perpendicular distance of 330 feet.

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

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

4 (a) In this section:

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

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

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

15 (a-1) Except as provided by Subsection (a-2), if [~~If~~] oil or  
16 [~~and/or~~] gas is [~~should be~~] produced in commercial quantities  
17 within 1,000 feet of land subject to this subchapter[~~7~~] or if  
18 production of oil or gas is draining [~~in any case where~~] land  
19 subject to this subchapter, [~~is being drained by production of oil~~  
20 ~~or gas~~] the owner, lessee, sublessee, receiver, or other agent in  
21 control of land subject to this subchapter shall in good faith begin  
22 the drilling of a well or wells upon such state land within 100 days  
23 after the draining well or wells or the well or wells completed  
24 within 1,000 feet of the state land commence to produce in  
25 commercial quantities[~~7~~] and shall prosecute such drilling with  
26 diligence to reasonably develop the state land and to protect such  
27 state land against drainage.

1        (a-2) If the well producing oil or gas in commercial  
2 quantities under Subsection (a-1) is a horizontal drainhole well  
3 located in an unconventional fracture treated field, the owner,  
4 lessee, sublessee, receiver, or other agent in control of land  
5 subject to this subchapter is not required to drill an offset well  
6 as provided by Subsection (a-1) unless any take point in the  
7 horizontal drainhole well is located closer to the state land than  
8 the greater of:

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

12            (2) a perpendicular distance of 330 feet.

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

24        SECTION 3. Notwithstanding Section 4 of this Act, the  
25 changes in law made by this Act apply only to a lease or other  
26 agreement or an amendment to a lease or other agreement entered into  
27 on or after the effective date of this Act. A lease or other

1 agreement or an amendment to a lease or other agreement entered into  
2 before the effective date of this Act is governed by the law in  
3 effect on the date the lease or other agreement or amendment to the  
4 lease or other agreement is entered into, and that law is continued  
5 in effect for that purpose.

6 SECTION 4. The parties to a lease or other agreement entered  
7 into before the effective date of this Act pertaining to land  
8 subject to Subchapter B or F, Chapter 52, Natural Resources Code,  
9 may:

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

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

17 SECTION 5. This Act takes effect September 1, 2021.