

1-1 By: Birdwell S.B. No. 1258  
1-2 (In the Senate - Filed March 9, 2021; March 18, 2021, read  
1-3 first time and referred to Committee on Natural Resources &  
1-4 Economic Development; April 26, 2021, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 9,  
1-6 Nays 0; April 26, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Birdwell</u>	X		
1-10	<u>Zaffirini</u>	X		
1-11	<u>Alvarado</u>	X		
1-12	<u>Hancock</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Hughes</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Lucio</u>	X		
1-17	<u>Seliger</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1258 By: Birdwell

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the duty of a lessee or other agent in control of  
1-22 certain state land to drill an offset well, pay compensatory  
1-23 royalty, or otherwise protect the land from drainage of oil or gas  
1-24 by a horizontal drainhole well located on certain land.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 66.75, Education Code, is amended by  
1-27 amending Subsection (a) and adding Subsections (a-1) and (g) to  
1-28 read as follows:

1-29 (a) In this section:

1-30 (1) "Horizontal drainhole well" means a well with a  
1-31 horizontal drainhole that may produce oil or gas along at least 100  
1-32 feet of the drainhole.

1-33 (2) "Take point" means any point in a horizontal  
1-34 drainhole well where oil and gas can be produced from the reservoir  
1-35 or field interval recognized by the Railroad Commission of Texas.

1-36 (3) "Unconventional fracture treated field" means an  
1-37 oil or gas field in which horizontal well development and hydraulic  
1-38 fracture treatment must be used to recover resources from all or  
1-39 part of the field.

1-40 (a-1) The lessee shall protect the leased premises from  
1-41 drainage. The lease may contain express terms regarding drainage  
1-42 as the board may adopt.

1-43 (g) Notwithstanding any other provision of this section, a  
1-44 lease or other agreement relating to university lands may not  
1-45 require a lessee to drill an offset well, pay compensatory royalty,  
1-46 or otherwise protect the leased premises or acreage pooled with the  
1-47 leased premises from drainage by a horizontal drainhole well  
1-48 located in an unconventional fracture treated field if no take  
1-49 point of the horizontal drainhole well is located closer to the  
1-50 leased premises or acreage pooled with the leased premises than the  
1-51 greater of:

1-52 (1) the applicable lease-line spacing distance  
1-53 requirement of the Railroad Commission of Texas; or

1-54 (2) a perpendicular distance of 400 feet.

1-55 SECTION 2. Section 52.034, Natural Resources Code, is  
1-56 amended by amending Subsections (a) and (d) and adding Subsections  
1-57 (a-1) and (a-2) to read as follows:

1-58 (a) In this section:

1-59 (1) "Horizontal drainhole well" means a well with a  
1-60 horizontal drainhole that may produce oil or gas along at least 100

2-1 feet of the drainhole.

2-2 (2) "Take point" means any point in a horizontal  
 2-3 drainhole well where oil and gas can be produced from the reservoir  
 2-4 or field interval recognized by the Railroad Commission of Texas.

2-5 (3) "Unconventional fracture treated field" means an  
 2-6 oil or gas field in which horizontal well development and hydraulic  
 2-7 fracture treatment must be used to recover resources from all or  
 2-8 part of the field.

2-9 (a-1) Except as provided by Subsection (a-2), if [~~if~~] oil or  
 2-10 gas is produced in commercial quantities from a well located on a  
 2-11 privately owned area or areas of state land leased at a lesser  
 2-12 royalty and the well is located within 1,000 feet of an area leased  
 2-13 under this subchapter[~~7~~] or [~~in any case where such an area~~] is  
 2-14 draining an area leased under this subchapter [~~being drained by~~  
 2-15 ~~such a well or wells~~], the lessee of the state area shall begin in  
 2-16 good faith and prosecute diligently the drilling of an offset well  
 2-17 or wells on the area leased from the state within 60 days after the  
 2-18 initial production from the draining well or the well located  
 2-19 within 1,000 feet of the leased state area.

2-20 (a-2) If the well producing oil or gas in commercial  
 2-21 quantities under Subsection (a-1) is a horizontal drainhole well  
 2-22 located in an unconventional fracture treated field, a lessee of a  
 2-23 state area is not required to drill an offset well as provided by  
 2-24 Subsection (a-1) unless any take point in the horizontal drainhole  
 2-25 well is located closer to the leased state area than the greater of:

2-26 (1) the minimum distance established by the applicable  
 2-27 lease-line spacing requirement of the Railroad Commission of Texas;  
 2-28 or

2-29 (2) a perpendicular distance of 330 feet.

2-30 (d) At the determination of the commissioner and with the  
 2-31 commissioner's [~~his~~] written approval, the payment of a  
 2-32 compensatory royalty shall satisfy the obligation to drill an  
 2-33 offset well or wells required by Subsection (a-1) [~~Subsection (a-~~  
 2-34 ~~of this section~~]. Such compensatory royalty shall be paid at the  
 2-35 royalty rate provided by the state lease issued under this  
 2-36 subchapter and shall be paid on the market value at the well of  
 2-37 production from the [~~draining~~] well producing oil or gas in  
 2-38 commercial quantities described by Subsection (a-1) [~~or the well~~  
 2-39 ~~located within 1,000 feet of the leased state area~~].

2-40 SECTION 3. Section 52.173, Natural Resources Code, is  
 2-41 amended by amending Subsections (a) and (d) and adding Subsections  
 2-42 (a-1) and (a-2) to read as follows:

2-43 (a) In this section:

2-44 (1) "Horizontal drainhole well" means a well with a  
 2-45 horizontal drainhole that may produce oil or gas along at least 100  
 2-46 feet of the drainhole.

2-47 (2) "Take point" means any point in a horizontal  
 2-48 drainhole well where oil or gas can be produced from the reservoir  
 2-49 or field interval recognized by the Railroad Commission of Texas.

2-50 (3) "Unconventional fracture treated field" means an  
 2-51 oil or gas field in which horizontal well development and hydraulic  
 2-52 fracture treatment must be used to recover resources from all or  
 2-53 part of the field.

2-54 (a-1) Except as provided by Subsection (a-2), if [~~if~~] oil or  
 2-55 [~~and/or~~] gas is [~~should be~~] produced in commercial quantities  
 2-56 within 1,000 feet of land subject to this subchapter[~~7~~] or if  
 2-57 production of oil or gas is draining [~~in any case where~~] land  
 2-58 subject to this subchapter, [~~is being drained by production of oil~~  
 2-59 ~~or gas~~] the owner, lessee, sublessee, receiver, or other agent in  
 2-60 control of land subject to this subchapter shall in good faith begin  
 2-61 the drilling of a well or wells upon such state land within 100 days  
 2-62 after the draining well or wells or the well or wells completed  
 2-63 within 1,000 feet of the state land commence to produce in  
 2-64 commercial quantities[~~7~~] and shall prosecute such drilling with  
 2-65 diligence to reasonably develop the state land and to protect such  
 2-66 state land against drainage.

2-67 (a-2) If the well producing oil or gas in commercial  
 2-68 quantities under Subsection (a-1) is a horizontal drainhole well  
 2-69 located in an unconventional fracture treated field, the owner,

3-1 lessee, sublessee, receiver, or other agent in control of land  
3-2 subject to this subchapter is not required to drill an offset well  
3-3 as provided by Subsection (a-1) unless any take point in the  
3-4 horizontal drainhole well is located closer to the state land than  
3-5 the greater of:

3-6 (1) the minimum distance established by the applicable  
3-7 lease-line spacing requirement of the Railroad Commission of Texas;  
3-8 or

3-9 (2) a perpendicular distance of 330 feet.

3-10 (d) At the determination of the commissioner and with the  
3-11 commissioner's [his] written approval, the payment of a  
3-12 compensatory royalty shall satisfy the obligation to drill an  
3-13 offset well or wells required by Subsection (a-1). Such  
3-14 compensatory royalty shall be paid at a royalty rate established by  
3-15 the commissioner if the land is unleased, or at the royalty rate  
3-16 provided by the state lease, if the land is leased. Such  
3-17 compensatory royalty shall be paid on the market value at the well  
3-18 of production from the [draining] well producing oil or gas in  
3-19 commercial quantities described by Subsection (a-1) [~~or the well~~  
3-20 ~~located within 1,000 feet of the state land~~].

3-21 SECTION 4. Notwithstanding Section 5 of this Act, the  
3-22 changes in law made by this Act apply only to a lease or other  
3-23 agreement or an amendment to a lease or other agreement entered into  
3-24 on or after the effective date of this Act. A lease or other  
3-25 agreement or an amendment to a lease or other agreement entered into  
3-26 before the effective date of this Act is governed by the law in  
3-27 effect on the date the lease or other agreement or amendment to the  
3-28 lease or other agreement is entered into, and that law is continued  
3-29 in effect for that purpose.

3-30 SECTION 5. The parties to a lease or other agreement entered  
3-31 into before the effective date of this Act pertaining to land  
3-32 subject to Subchapter D, Chapter 66, Education Code, or Subchapter  
3-33 B or F, Chapter 52, Natural Resources Code, may:

3-34 (1) contractually agree to amend the lease or other  
3-35 agreement to bring the lease or other agreement into conformity  
3-36 with the changes in law made by this Act; or

3-37 (2) after reviewing pertinent data, contractually  
3-38 agree that a horizontal drainhole well in an unconventional  
3-39 fracture treated field is incapable of draining the land subject to  
3-40 the lease or other agreement.

3-41 SECTION 6. This Act takes effect September 1, 2021.

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