

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2834

BY DELEGATES ANDERSON, J. KELLY, HARSHBARGER,

HOWELL, PORTERFIELD AND NELSON

[Introduced February 4, 2019; Referred

to the Committee on Energy]

1 A BILL to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating
2 to updating and modernizing the minimum spacing provisions for the drilling of horizontal
3 deep wells, which will allow exploration and production companies to implement evidence
4 based best practices; establishing no spacing limitations on horizontal deep wells that are
5 operated by the same operator or different operators pursuant to written agreement;
6 establishing setbacks from unit boundaries between different operators; establishing the
7 spacing between the wells of different operators; and limiting the distances that may be
8 established to only those between the producing portions of horizontal deep wells and
9 not the entire well bore.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-4. Oil and Gas Conservation Commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.

1 (a) The Oil and Gas Conservation Commission ~~shall be~~ is composed of five members.
2 The ~~director~~ Secretary of the Department of Environmental Protection and the Chief of the Office
3 of Oil and Gas ~~shall be~~ are members of the commission ex officio. The remaining three members
4 of the commission shall be appointed by the Governor, by and with the advice and consent of the
5 Senate, and may not be employees of the Department of Environmental Protection. Of the three
6 members appointed by the Governor, one shall be an independent producer and at least one
7 shall be a public member not engaged in an activity under the jurisdiction of the Public Service
8 Commission or the Federal Energy Regulatory Commission. The third appointee shall possess a
9 degree from an accredited college or university in petroleum engineering or geology and must be
10 a registered professional engineer with particular knowledge and experience in the oil and gas
11 industry and shall serve as commissioner and as chair of the commission.

12 (b) The members of the commission appointed by the Governor shall be appointed for
13 overlapping terms of six years each, except that the original appointments shall be for terms of
14 two, four and six years, respectively. Each member appointed by the Governor ~~shall serve~~ serves
15 until the members successor has been appointed and qualified. Members may be appointed by
16 the Governor to serve any number of terms. The members of the commission appointed by the
17 Governor, before performing any duty hereunder, shall take and subscribe to the oath required
18 by section 5, article IV of the Constitution of West Virginia. Vacancies in the membership
19 appointed by the Governor shall be filled by appointment by the Governor for the unexpired term
20 of the member whose office is vacant and ~~such~~ the appointment shall be made by the Governor
21 within 60 days of the occurrence of ~~such~~ the vacancy. Any member appointed by the Governor
22 may be removed by the Governor in case of incompetency, neglect of duty, gross immorality or
23 malfeasance in office. A commission member's appointment shall be terminated as a matter of
24 law if that member fails to attend three consecutive meetings. The Governor shall appoint a
25 replacement within 30 days of the termination.

26 (c) The commission shall meet at ~~such~~ times and places ~~as shall be~~ designated by the
27 chair. The chair may call a meeting of the commission at any time, and shall call a meeting of the
28 commission upon the written request of two members or upon the written request of the Oil and
29 Gas Conservation Commissioner or the Chief of the Office of Oil and Gas. Notification of each
30 meeting shall be given in writing to each member by the chair at least 14 calendar days in advance
31 of the meeting. Three members of the commission, at least two of whom are appointed members,
32 ~~shall~~ constitute a quorum for the transaction of any business.

33 (d) The commission shall pay each member the same compensation as is paid to
34 members of the Legislature for their interim duties as recommended by the Citizens Legislative
35 Compensation Commission and authorized by law for each day or portion thereof engaged in the
36 discharge of official duties and shall reimburse each member for actual and necessary expenses
37 incurred in the discharge of official duties.

38 (e) The commission ~~is hereby empowered and it is the commission's duty to~~ shall execute
39 and carry out, administer and enforce the provisions of this article in the manner provided ~~herein~~
40 in this article. Subject to the provisions of §22C-9-3 of this code, the commission has jurisdiction
41 and authority over all persons and property necessary therefor. The commission ~~is authorized to~~
42 may make ~~such investigation~~ investigations of records and facilities as the commission ~~deems~~
43 considers proper. In the event of a conflict between the duty to prevent waste and the duty to
44 protect correlative rights, the commission's duty to prevent waste ~~shall be~~ is paramount.

45 (f) Without limiting the commission's general authority, the commission ~~shall have specific~~
46 authority to may:

47 (1) Regulate the spacing of deep wells: Provided, That with regard to horizontal deep wells
48 permitted in accordance with the requirements of §22-6A-1 et seq. of this code to be drilled using
49 horizontal drilling techniques: (i) The commission may not impose spacing or setback limitations
50 with regard to the wellhead location, including the vertical or angled portions of a wellbore, other
51 than the estimated productive interval described in clause (iv) of this subdivision; (ii) the
52 commission may not impose spacing of greater than 1,000 feet between deep wells operated by
53 different operators or require a setback of more than 500 feet from a unit boundary or lease that
54 divides operators; (iii) the commission may not establish minimum well setback or spacing
55 between deep wells operated by the same operator, or multiple operators who agree in writing to
56 appropriate deep well spacing intended to increase production efficiencies and limit waste,
57 regardless of whether there are unit or lease boundaries between or crossed by those wells; and
58 (iv) for purposes of well setback and spacing provisions, a horizontal deep well means only the
59 estimated productive interval, being the perforated length, of a horizontal section of the well bore
60 in the target formation, as shown on a directional survey, projected vertically to the surface and
61 the commission shall not include the area of the well pad, or vertical or angled portions of the well
62 bore, whether within or outside the unit or lease boundaries, to calculate a minimum distance
63 between deep wells or the distance between deep wells and unit or lease boundaries;

64 (2) Make and enforce reasonable rules and orders reasonably necessary to prevent
65 waste, protect correlative rights, govern the practice and procedure before the commission and
66 otherwise administer the provisions of this article;

67 (3) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the
68 production of any books, records, maps, charts, diagrams and other pertinent documents, and
69 administer oaths and affirmations to ~~such~~ the witnesses, whenever, in the judgment of the
70 commission, it is necessary to do so for the effective discharge of the commission's duties under
71 the provisions of this article; and

72 (4) Serve as technical advisor regarding oil and gas to the Legislature, its members and
73 committees, to the Chief of Office of Oil and Gas, to the Department of Environmental Protection
74 and to any other agency of state government having responsibility related to the oil and gas
75 industry.

76 (g) The commission may delegate to the commission staff the authority to approve or deny
77 an application for new well permits, to establish drilling units or special field rules if:

78 (1) The application conforms to the rules of the commission; and

79 (2) No request for hearing has been received.

80 (h) The commission may not delegate its authority to:

81 (1) Propose legislative rules;

82 (2) Approve or deny an application for new well permits, to establish drilling units or special
83 field rules if the conditions set forth in subsection (g) of this section are not met; or

84 (3) Approve or deny an application for the pooling of interests within a drilling unit.

85 (i) Any exception to the field rules or the spacing of wells which does not conform to the
86 rules of the commission, and any application for the pooling of interests within a drilling unit, must
87 be presented to and heard before the commission.

88 (j) The commission ~~is hereby empowered and it is the commission's duty to~~ shall execute
89 and carry out, administer, and enforce the relevant provisions of §37B-1-1 *et seq.* of this code

90 concerning mineral development by covenants for all wells at all depths. The commission has
91 jurisdiction and authority over all persons and property necessary therefor. The commission is
92 authorized to make ~~such investigation~~ investigations of records and facilities ~~as~~ the commission
93 ~~deems~~ considers proper.

NOTE: The purpose of this bill is to update and modernize the minimum spacing requirements for the drilling of horizontal deep wells to recognize changing drilling practices and techniques developed in recent years, which will allow exploration and production companies to implement evidence based best practices. The bill would establish no spacing limitations on wells that are operated by the same operator or operators that agree in writing to specific spacing limitations. It limits setbacks from unit and lease boundaries between different operators and limits the spacing between the wells of different operators. It also limits the distances that may be established to only those between the estimated productive intervals of horizontal deep wells and not the entire well bore.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.