

By: Representative Cockerham

To: Energy

HOUSE BILL NO. 1351

1 AN ACT TO AMEND SECTION 53-3-7, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE THRESHOLD PERCENTAGE AMOUNT BY OWNERS OF OIL DRILLING
3 RIGHTS IN A DRILLING UNIT THAT ALLOWS THE OPERATOR TO PETITION THE
4 STATE OIL AND GAS BOARD TO ALLOW IT TO CHARGE CERTAIN ALTERNATE
5 CHARGES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 53-3-7, Mississippi Code of 1972, is
8 amended as follows:

9 53-3-7. (1) (a) When two (2) or more separately owned
10 tracts of land are embraced within an established drilling unit or
11 when there are separately owned interests in all or part of an
12 established drilling unit the persons owning the drilling rights
13 therein and the rights to share in the production therefrom may
14 validly agree to integrate their interests and to develop their
15 lands as a drilling unit. Where, however, such persons have not
16 agreed to integrate their interests the board may, for the
17 prevention of waste or to avoid the drilling of unnecessary wells,
18 require such persons to integrate their interests and to develop
19 their lands as a drilling unit. All orders requiring such pooling



20 shall be made after notice and hearing, and shall be upon terms
21 and conditions that are just and reasonable, and will afford to
22 the owner of each tract the opportunity to recover or receive his
23 just and equitable share of the oil and gas in the pool without
24 unnecessary expense.

25 The portion of the production allocated to the owner of each
26 tract included in a drilling unit formed by a pooling order shall,
27 when produced, be considered as if it had been produced from such
28 tract by a well drilled thereon.

29 (b) Except as otherwise provided for in this section,
30 in the event such pooling is required, the cost of development and
31 operation of the pooled unit chargeable by the operator to the
32 other interested owner or owners shall be limited to the actual
33 expenditures required for such purpose not in excess of what are
34 reasonable including a reasonable charge for supervision. In the
35 event that the operator elects to proceed under the provisions of
36 this subsection (1) (b), and does not elect to seek alternate
37 charges as provided for in this section, the notice procedure
38 followed shall be in accordance with Section 53-1-21, Mississippi
39 Code of 1972.

40 (c) For the purposes of this section, as to a drilling
41 unit, the term "nonconsenting owner" shall mean an owner of
42 drilling rights which the owner has not agreed, in writing, to
43 integrate in the drilling unit. The owner may own other drilling
44 rights in the unit which the owner has agreed, in writing, to



integrate in the unit and thereby also be a "consenting owner" as to the interest which the owner has agreed to integrate in the unit.

(2) (a) In the event that one or more owners owning not less than * * * eighty percent (80%) of the drilling rights in a drilling unit voluntarily consent to the drilling of a unit well thereon, and the operator has made a good faith effort to (i) negotiate with each nonconsenting owner to have said owner's interest voluntarily integrated into the unit, (ii) notify each nonconsenting owner of the names of all owners of drilling rights who have agreed to integrate any interests in the unit, (iii) ascertain the address of each nonconsenting owner, (iv) give each nonconsenting owner written notice of the proposed operation, specifying the work to be performed, the location, proposed depth, objective formation and the estimated cost of the proposed operation, and (v) offer each nonconsenting owner the opportunity to lease or farm out on reasonable terms or to participate in the cost and risk of developing and operating the unit well involved on reasonable terms, by agreeing in writing, then the operator may petition the board to allow it to charge alternate charges (alternate to and in lieu of the charges provided for in subsection (1) (b) of this section).

(b) Any such petition on which alternate charges may be ordered by the board shall include a statement which shall name all nonconsenting real parties in interest in said proposed



drilling unit, as of a date not more than ninety (90) days prior to the filing of the petition, giving each such person's name, and address if known; and if any owner's address is not known, the operator shall state in its petition that such person's address is unknown after diligent search and inquiry. Only those parties served with actual or constructive notice as set forth hereinbelow will be subject to any alternate charges allowed by the board.

(c) Upon the filing of a petition on which alternate charges may be ordered, the petitioner shall have prepared, and furnish to the board with said petition, a notice to each and all nonconsenting real parties in interest whose address is unknown, whether such person be a resident of the State of Mississippi or not, which the board shall have published, noticing each such person to appear before a regular meeting of the board sufficiently distant in time to allow thirty (30) days to elapse between the date of the last publication of said notice as hereinafter provided, and the date of the regular meeting of the board to which each such person is noticed. Said notice shall also notice all unknown heirs or devisees of deceased owners, if any there be, and all unknown persons owning drilling rights in said proposed drilling unit. The notice shall be substantially in the following form, to wit:

NOTICE TO APPEAR BEFORE THE STATE OIL AND GAS BOARD

You are noticed to appear before the State Oil and Gas Board at its regular ____ term, being on the __ day of ____, 20__ to



show cause if you can why the petition of _____

(Operator)

being Petition No. _____ in said board and seeking to force
to integrate and pool all interests in (description of Unit by
legal description) _____
should not be granted.

To _____ (inserting the name of such person or persons, whose
address is unknown), and all such unknown heirs or devisees and
all such unknown owners, whose names and addresses remain unknown
after diligent search and inquiry.

Said meeting of said board shall be held at _____ (the then
hearing room of said Oil and Gas Board) on the above date
at _____.
(the time)

This _____ day of _____, A.D. ____.

Supervisor

(d) The publication of notice to nonconsenting real
parties in interest whose address is unknown after diligent search
and inquiry shall be made once in each week during three (3)
successive weeks in a public newspaper of the county or counties
in which the proposed drilling unit is located, if there be such a
newspaper. If there is not such a county newspaper, then the said
publication of notice shall be published in a newspaper having



120 general circulation in the State of Mississippi. The period of
121 publication shall be deemed to be completed at the end of
122 twenty-one (21) days from the date of the first publication,
123 provided there have been three (3) publications made as
124 hereinabove required.

125 (e) Upon the filing of a petition on which alternate
126 charges may be ordered, the petitioner shall also have prepared,
127 and shall furnish to the board, a notice which shall be
128 substantially in the form set out above, to each nonconsenting
129 real party in interest whose address is known, together with
130 addressed and stamped envelopes, and the board shall mail each
131 notice by certified mail, return receipt requested, sufficiently
132 distant in time to allow thirty (30) days to elapse between the
133 date of the mailing of said notice and the date of the regular
134 meeting of the board at which said petition will be first
135 scheduled to be heard.

136 (f) Petitioner shall also advance to the board at the
137 time of the filing of said petition the cost of publication and
138 mailing of notices as set out above which shall be established by
139 the board. Said costs of publication and mailing of notices shall
140 be considered as part of the costs of operation which are
141 chargeable to the nonconsenting owner's nonconsenting share of
142 production as set forth in paragraph (g) of this subsection (2).

143 (g) In the event a pooling order is issued by the
144 board, and any nonconsenting owner does not subsequently agree in



145 writing as provided for herein, and if the operations on the
146 existing or proposed well which are described in the pooling order
147 are actually commenced within one (1) year after the pooling order
148 is issued by the board, and thereafter with due diligence and
149 without undue delay, the existing or proposed well is actually
150 completed as a well capable of producing oil, gas and/or other
151 minerals in quantities sufficient to yield a return in excess of
152 monthly operating costs, then, subject to the limitations set out
153 in this section, the operator and/or the appropriate consenting
154 owners shall be entitled to receive as alternate charges
155 (alternate to and in lieu of the charges provided for in
156 subsection (1)(b) of this section; provided, however, that in no
157 event shall the operator and/or the appropriate consenting owners
158 be entitled to recover less than such charges provided in
159 subsection (1)(b) of this section) the share of production from
160 the well attributable to the nonconsenting owner's nonconsenting
161 interests in the unit established or subsequently reformed for
162 production therefrom, until the point in time when the proceeds
163 from the sale of such share, calculated at the well, or the market
164 value thereof if such share is not sold, after deducting
165 production and excise taxes, which operator will pay or cause to
166 be paid, and the payment required by this paragraph (g) shall
167 equal the sum of:

168 (i) One hundred percent (100%) of the
169 nonconsenting owner's nonconsenting share of the cost of any newly



acquired surface equipment beyond the wellhead connections including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping; and

(ii) Two hundred fifty percent (250%) of that portion of the costs and expenses of the operations provided for in the pooling order, and two hundred fifty percent (250%) of that portion of the cost of newly acquired equipment in the well, including wellhead connections, which would have been chargeable to the nonconsenting owner's nonconsenting share thereof; provided, however, when a mineral interest that is severed from the surface estate is owned by a nonconsenting owner or when a mineral interest is subject to an oil and gas lease that is owned by a nonconsenting owner, the payment under this subparagraph (ii) shall be three hundred percent (300%); and

(iii) One hundred percent (100%) of the nonconsenting owner's nonconsenting share of the cost of operation of the well commencing with first production and continuing to such point in time.

Whenever a drilling unit established by a pooling order issued by the board under subsection (2) of this section is to be reformed or altered by the board for good cause, after notice and hearing, then the interest of any nonconsenting owner listed in the pooling order who received notice of the application to reform or alter the unit and had not agreed in writing as provided for herein shall remain subject to the charges set forth in this



subsection (2)(g) with respect to its interest in the reformed or altered unit. If there is any nonconsenting owner within a proposed reformed or altered unit who has not been previously provided the information and offers set forth in subparagraphs (ii) through (v) of subsection (2)(a) of this section which was sent to the owners, and if the applicant for an order of reformation or alteration of such unit provides to the nonconsenting owner the information and offers set forth in subparagraphs (ii) through (v) of subsection (2)(a) of this section at the same time and in the same manner as such nonconsenting owners receive notice of the application to reform or alter the drilling unit, then the interest of any nonconsenting owner listed in the pooling order for the reformed or altered unit who does not agree in writing as provided for herein shall be subject to the charges set forth in this subsection (2)(g) with respect to its interest in the reformed or altered unit.

Whenever any one (1) operator has filed for alternate charges on two (2) drilling units, which units are direct, partially direct or diagonal offsets one to the other, such operator may not file a petition for alternate charges, as distinguished from the charges provided by subsection (1)(b), as to any additional units which are direct, partially direct or diagonal offsets to the said first two (2) units of that operator until said operator has drilled, tested and completed the first two (2) such wells, as wells capable of production or completed as dry holes or either,



220 and has filed completion reports on said first two (2) wells with
221 the board, or the permits for such well or wells have expired if
222 one or both of them be not drilled.

223 The pooling order if issued shall provide that each
224 nonconsenting owner shall be afforded the opportunity to
225 participate in the development and operation of the well in the
226 pooled unit as to all or any part of said owner's interest on the
227 same costs basis as the consenting owners by agreeing in writing
228 to pay that part of the costs of such development and operation
229 chargeable to said nonconsenting owner's interest, or to enter
230 into such other written agreement with the operator as the parties
231 may contract, provided such acceptance in writing is filed with
232 the board within twenty (20) days after the pooling order is filed
233 for record with the board.

234 The pooling order shall provide that the well be drilled on a
235 competitive contract, arms length, basis; provided, however, that
236 the operator may employ its own tools or those of affiliates, but
237 charges therefor shall not exceed the prevailing rates in the
238 area.

239 (h) Within sixty (60) days after the completion of any
240 operation on which alternate charges have been ordered, the
241 operator shall furnish any nonconsenting owner who may request
242 same an inventory of the equipment in and connected to the well,
243 and an itemized statement of the cost of drilling, deepening,
244 plugging back, testing, completing and equipping the well for



245 production; or, at its option, the operator, in lieu of an
246 itemized statement of such costs of operation, may submit detailed
247 monthly statements of said costs. Each month thereafter, during
248 the time the operator and/or consenting parties are being
249 reimbursed, the operator shall furnish any nonconsenting owner who
250 may request same with an itemized statement of all costs and
251 liabilities incurred in the operation of the well, together with a
252 statement of the quantity of oil and gas produced from it and the
253 amount of proceeds realized from the sale of the well's production
254 during the preceding month. Any amount realized from the sale or
255 other disposition of equipment acquired in connection with any
256 such operation which would have been owned by a nonconsenting
257 owner had it participated therein as to its nonconsenting interest
258 shall be credited against the total unreturned costs of the work
259 done and of the equipment purchased in determining when the
260 interest of such nonconsenting owner shall be owned by said
261 nonconsenting owner as above provided; and if there is a credit
262 balance, it shall be paid to such nonconsenting owner. From the
263 point in time provided for in paragraph (g) of this subsection
264 (2), each nonconsenting owner shall own the same interest in such
265 well, the material and equipment in or pertaining thereto, and the
266 production therefrom as such nonconsenting owner would have been
267 entitled to had it participated in the drilling, reworking,
268 deepening and/or plugging back of said well. Thereafter, except
269 as otherwise provided in this section, the operator shall be



entitled to charge each nonconsenting owner such nonconsenting owner's proportionate part of all reasonable costs incurred by the operator in operating the unit well and the unit, including a reasonable charge for supervision, and in the event such nonconsenting owner fails to pay such proportionate share of such costs within thirty (30) days after receipt by the nonconsenting owner of a valid invoice, the operator shall be entitled to receive such nonconsenting owner's share of production until such time as such unpaid share of costs shall have been recovered by the operator.

(i) In the event that a leased interest is subject to an order of pooling and integration, and the operator and/or the appropriate consenting owners are entitled to alternate charges as provided by paragraph (g) of this subsection (2), and if there be no reasonable question as to good and merchantable title to the royalty interest, the lessor of said lease shall be paid, by the operator or purchaser of production, the proceeds attributable to said lessor's contracted royalty, not to exceed an amount of * * * one-third (1/3) of the proceeds attributable to the nonconsenting owner's proportionate share of production. Nothing herein contained shall affect or diminish in any way the responsibility of the nonconsenting owner to account for the payment of any royalty or other payment, not paid as herein provided, which may burden or be attributable to the interest owned by such nonconsenting owner.



295 (3) When production of oil or gas is not secured in paying
296 quantities as a result of such integration or pooling of
297 interests, there shall be no charge payable by the nonconsenting
298 owner or owners as to such owner's nonconsenting interest.

299 (4) In the event of any dispute relative to costs, the board
300 shall determine the proper costs, after due notice to all
301 interested parties and a hearing thereon. Appeals may be taken
302 from such determination as from any other order of the board.

303 (5) The State Oil and Gas Board shall in all instances where
304 a unit has been formed out of lands or areas of more than one (1)
305 ownership, require the operator when so requested by an owner, to
306 deliver to such owner or his assigns his proportionate share of
307 the production from the well common to such drilling unit; but
308 where necessary, such owner receiving same shall provide at his
309 own expense proper receptacles for the receipt or storage of such
310 oil, gas or distillate.

311 (6) Should the persons owning the drilling or other rights
312 in separate tracts embraced within a drilling unit fail to agree
313 upon the integration of the tracts and the drilling of a well on
314 the unit, and should it be established that the board is without
315 authority to require integration as provided in this section,
316 then, subject to all other applicable provisions of this chapter,
317 and of Chapter 1 of this title, the owner of each tract embraced
318 within the drilling unit may drill on his tract; but the allowable
319 production from such tract shall be such proportion of the



allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

(7) The State Oil and Gas Board in order to prevent waste and avoid the drilling of unnecessary wells may permit (i) the cycling of gas in any pool or portion thereof or (ii) the introduction of gas or other substance into an oil or gas reservoir for the purpose of repressuring such reservoir, maintaining pressure or carrying on secondary recovery operations. The board shall permit the pooling or integration of separate tracts or separately owned interests when reasonably necessary in connection with such operations.

(8) Agreements made in the interests of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the board, are hereby authorized and shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies or contracts and combinations in restraint of trade.



345 **SECTION 2.** This act shall take effect and be in force from
346 and after July 1, 2018.

