Senate File 268 - Introduced

SENATE FILE 268
BY KLIMESH

A BILL FOR

An Act relating to oil and gas production, including filing requirements, the authority of the department of natural resources, confidential information, and pooling orders.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 458A.2, Code 2025, is amended by adding the following new subsections:

NEW SUBSECTION. 01. *"Casing"* means the practice of providing structural integrity, stability for unstable geologic formations, and formation isolation, allowing for pressure control via blowout preventer equipment, and allowing for flowback if applicable.

NEW SUBSECTION. 2A. *"Correlative rights"* means the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, a just and equitable share of the oil or gas, or both, in the pool.

NEW SUBSECTION. 5A. *"Exploratory well"* means a well drilled beyond the known producing limits of a pool.

NEW SUBSECTION. 20A. *"Well log"* means a record of geologic formations penetrated by the borehole with respect to both time and depth during drilling operations.

Sec. 2. Section 458A.4, subsection 1, Code 2025, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* Every person acting as a principal or agent for another or independently engaged in the production, storage, transportation, except by railroad, refining, reclaiming, treating, marketing, or processing of oil or gas, or engaged in the exploration for or production of metallic minerals to file the following with the department on or before April 1 of each year:

(1) The name under which the business is being operated.

(2) The name and contact information of the person, business, or businesses engaged in the activity.

(3) The plan of organization.

(4) For a corporation, the following filings apply:

(a) The law under which the corporation is chartered.

(b) The names and contact information for any person acting as a trustee.

(c) The names of the manager, agent, or executive.

(d) The names and contact information of all officers.

(5) The names and contact information of all owners if the business is conducted under an assumed name.

Sec. 3. Section 458A.4, subsection 1, paragraph b, Code 2025, is amended to read as follows:

b. The making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling, and production, and the filing free of charge of samples and core chips and of complete cores less tested sections when requested in the department within six months after the completion or abandonment of the well, unless otherwise extended pursuant to section 458A.6A;

Sec. 4. Section 458A.4, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. To allow for variances to any of the department's rules, regulations, or orders. A variance shall be granted in writing by the director without a hearing upon written request of an owner or applicant. The owner or the applicant requesting the variance shall demonstrate that it has made a good faith effort to comply or is unable to comply with the specific requirements contained in the rules, regulations, or orders from which it seeks a variance, and that the requested variance will not violate the basic intent of this chapter. Upon proper submission to the director, the director shall approve or deny the variance request within fourteen days of receipt. The director shall report any variance granted at the subsequent hearing or otherwise make public any variance granted.

Sec. 5. NEW SECTION. **458A.6A Confidential information.**

If an owner seeks to submit information that is listed as confidential, the owner will confer with the department prior to submitting the information to verify it qualifies as confidential pursuant to the department's rules or otherwise under law. If the information is determined to be confidential, the owner will submit hard copies of the information in nonredacted form but labeled confidential in a conspicuous location on the document.

Confidential information shall be maintained as confidential and held without public access for a period of five years, unless otherwise extended by the director for good cause. Confidential information may include the following:

1. Monetary amounts, payment terms, drilling obligations, or personal information listed on surface use agreements, oil and gas leases, or rights-of-way agreements.

2. Information concerning ongoing commercial negotiations regarding potential or planned routing and location of off-lease midstream gathering systems or infrastructure.

3. Confidential geological or geophysical well records pertaining to exploratory wells.

4. Information about a proposed transfer of permits and assets.

5. Proprietary stimulation or completion chemicals that qualify as trade secrets.

6. Personal medical information.

7. Commercial information that, if disclosed, would be likely to cause substantial harm to the competitive position of the person providing the information.

Sec. 6. Section 458A.7, subsections 3 and 4, Code 2025, are amended to read as follows:

3. An order establishing spacing units for a pool shall specify the size and shape of each unit and the location and number of the permitted ~~well thereon~~ wells in accordance with a reasonably uniform spacing plan. Upon application, if the director finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the director is authorized to enter an order permitting ~~the~~ a well to be drilled at a location other than that prescribed by such spacing order; however, the director shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool.

4. An order establishing units for a pool shall cover all lands determined or believed to be underlaid by the pool, and may be modified by the director from time to time to include additional areas determined to be underlaid by the pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the director to increase the size of spacing units in the pool or any zone of the pool, or to permit the drilling of additional wells within a spacing unit on a reasonable uniform plan in the pool, or any zone of the pool. Orders of the director may be appealed to the department within thirty days.

Sec. 7. Section 458A.7, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If the department is unable to determine the existence of a pool and the appropriate acreage to be embraced within a spacing unit and the shape thereof based on the evidence introduced at hearing, the department may establish an exploratory spacing unit for the purpose of drilling one or more exploratory wells in order to establish the existence of a pool and the appropriate size and shape of the spacing unit to be applied for future development of the pool. In establishing the size and shape of the exploratory spacing unit, the department may consider the size and shape of spacing units established by the department for the same pool or formation in other areas, the size and shape of units for similar development in other basins, reservoir modeling or other preliminary data on the pool or formation, and any other information the department deems relevant.

Sec. 8. Section 458A.8, Code 2025, is amended to read as follows:

458A.8 Integration of fractional tracts.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners

and royalty owners of the tracts may pool their interests for the development and operation of the spacing unit. ~~In the absence of voluntary pooling, the department, upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations of the unit. Each pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the drilling unit by the several owners of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from the tract by a well drilled on it.~~

~~2. Each pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost of the well by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of any dispute as to such costs, the department shall determine the proper costs. If an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner so drilling or operating shall, upon complying with the terms of section 458A.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of a proportionate share of the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by the lien as provided for in section 458A.10.~~

2. In the absence of voluntary pooling pursuant to subsection 1, the director, upon the application of any interested person,

shall enter an order pooling all interests in a spacing unit for the development and operation thereof. Any such pooling order may authorize cost recovery and risk penalties against nonconsenting owners for a specific well. Each such pooling order shall be made after notice and hearing and with terms and conditions that are just and reasonable. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. When produced, that portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall be deemed for all purposes to have been produced from such tract by a well drilled thereon.

3. Each pooling order shall provide for the drilling and operation of a well in the spacing unit, and for the payment of the cost thereof, as provided in this subsection. The director is specifically authorized to provide that the producer shall be entitled to all production from the well that would be received by the owner or owners, for whose benefit the well was drilled or operated, after payment of royalty as provided in the lease, if any, applicable to each tract or interest or after payment of the royalty if required under subsection 4, and obligations payable out of production, until the producers have been paid the amount due under the terms of the pooling order or order settling the dispute. In the event of any disputed cost, the director shall determine the proper cost. The pooling order shall determine the interest of each owner in the unit, and may provide that each owner who agrees with the producer for the payment by the owner of the owner's share of the costs, unless the owner has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the nonconsenting owner. Each owner who does not agree shall be entitled to receive from the producer the owner's share of the production applicable to the owner's

interest after the producer has recovered the following, subject to the provisions of subsection 4:

a. One hundred percent of the nonconsenting owner's share of the cost of any newly acquired surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, or pumping equipment and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operating the well commencing with first production and continuing until the nonconsenting owner's relinquished interest reverts under other provisions in this section.

b. Up to two hundred percent of that portion of the costs and expenses of drilling, reworking, deepening or plugging back, testing, and completing, after deducting any cash contributions received, and up to two hundred percent of that portion of the cost of newly acquired equipment in the well, up to and including the wellhead connections, which would have been chargeable to the nonconsenting owner if the owner had participated therein, if the nonconsenting owner's tract or interest is subject to a lease or other contract for oil and gas development.

4. During the time the producer is recovering costs from a nonconsenting owner as authorized in a pooling order issued pursuant to subsection 2, a nonconsenting owner of a tract or interest in a spacing unit that is not subject to a lease or other contract for oil and gas development shall be entitled to a cost-free royalty interest equal to twelve and one-half percent.

5. Upon full payment of the recoverable costs as specified in subsection 3, the following shall occur:

a. Within thirty days the producer shall notify the nonconsenting owner to offer to the nonconsenting owner the opportunity to participate under the pooling order as a working interest owner. The notice shall state that the nonconsenting owner may elect to participate in the pooling order or may elect to continue receiving the royalty specified in subsection 4.

b. Within sixty days after receiving notice, the nonconsenting owner shall inform the producer whether the nonconsenting owner wishes to make an election to participate under the pooling order as a working interest owner or continue receiving the royalty specified in subsection 4.

c. If the nonconsenting owner fails to respond to the notice within the time specified in paragraph "*b*", the nonconsenting owner shall be deemed to elect to continue receiving the royalty specified in subsection 4.

d. Within five business days after receiving notice of election from a nonconsenting owner or upon expiration of the time specified in paragraph "*b*", the producer shall notify the director regarding the nonconsenting owner's election or lack thereof.

6. An application for pooling shall provide at least the following:

a. A certificate of service containing all persons that have a royalty interest or are owners inside the drilling and spacing unit.

b. The applicant's interest type in the drilling and spacing unit.

c. The legal description of the lands and the department docket number establishing the drilling and spacing unit sought to be pooled.

d. A statement that two or more separately owned tracts or separately owned interests in the drilling and spacing unit have not voluntarily pooled their interests and any valid pooling order for the drilling and spacing unit.

e. The American petroleum institute well number of the well subject to the application, if requesting cost recovery or risk penalties.

f. A list of all nonconsenting owners in the well that the applicant is seeking cost recovery and risk penalties against at the time of filing the application.

g. The cost recovery and risk penalties the applicant is requesting, if any.

7. An applicant shall provide at hearing at least the

following:

a. A copy of the election letter, well proposal, and authorization for expenditure sent to the owners in the drilling and spacing unit.

b. The names and interests of all nonconsenting owners and unleased nonconsenting owners in the well.

c. Evidence to justify the application of a risk penalty.

Sec. 9. REPEAL. Section 458A.6, Code 2025, is repealed.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to oil and gas production, including filing requirements, the authority of the department of natural resources (department), confidential information, and pooling orders.

The bill provides the director of the department the authority to require yearly filings from every person acting as a principal or agent for another or independently engaged in the production, storage, transportation, except by railroad, refining, reclaiming, treating, marketing, or processing of oil or gas, or engaged in the exploration for or production of metallic minerals that includes names, contact information, and certain organizational details.

The bill grants the director the authority to issue variances to any of the department's rules, regulations, or orders. A variance may be granted without a hearing. The application for a variance must demonstrate a good faith effort or inability to comply with specific requirements. A variance request must be approved within 14 days and shall be made public.

The bill allows an owner to make information submitted to the department confidential for five years, unless otherwise extended by the director for good cause. The bill provides procedures to make information confidential and includes examples of types of information that may be determined confidential.

The bill allows the department to establish an exploratory spacing unit to drill one or more exploratory wells to establish the existence of a pool and the appropriate size and shape of the spacing unit if it is unable to determine the existence of a pool and the appropriate acreage and shape to be embraced within a spacing unit based on the evidence introduced at hearing.

The bill requires each pooling order to provide for the drilling and operation of a well in the spacing unit and for payment of the cost incurred. The bill authorizes the director to ensure the producers are entitled to all production from the well after payment of royalties and other obligations. The bill requires the director to determine costs if there is a dispute. The bill provides that the pooling order must determine the interest of each owner in the unit, including the owner's share of cost, unless otherwise agreed, and entitles the owners the share of production of the well applicable to the tract of the nonconsenting owner, subject to royalties and other obligations. Owners who do not agree to the pooling order are entitled to a share of the production applicable to the owner's interest after the producer has recovered a certain amount specified in the bill, which includes costs attributed to newly acquired surface equipment beyond the wellhead connections, operation, drilling, reworking, deepening or plugging back, testing, and completing, and newly acquired equipment in the well, up to and including the wellhead connections.

The bill provides that a nonconsenting owner of a tract or interest in a spacing unit that is not subject to a lease or other contract for oil and gas development shall be entitled to a cost-free royalty interest equal to 12.5 percent during the time of drilling or operating a well pursuant to the pooling order.

After the producer has fully recovered costs as described in the bill, the producer must send a notice within 30 days to any nonconsenting owner to offer participation as a working interest owner under the pooling order. The nonparticipating owner has 60 days after receipt of the notice to accept the offer or may elect to continue receiving the default royalty. If the nonparticipating owner does not respond, the nonparticipating owner will be deemed to have elected to continue receiving the default royalty. The producer must inform the director of the nonparticipating owner’s decision within five business days of receiving an answer or the expiration of time allowed to respond.

The bill provides minimum requirements for an application for compulsory pooling and any associated hearing.

Under current law, the department has the authority to determine market demand for oil and gas for each marketing district and to regulate the amount of production. The bill eliminates this authority from the department.