

**COMPULSORY POOLING AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: Mike K. McKell

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**LONG TITLE**

**General Description:**

This bill modifies the procedure for a compulsory pooling order in a drilling unit.

**Highlighted Provisions:**

This bill:

▶ authorizes the Board of Oil, Gas, and Mining to assess against a nonconsenting owner in a compulsory pooling order up to 500% of the nonconsenting owner's share of:

- the costs of staking a location, preparing a wellsite, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing; and

- the cost of equipment in the well;

▶ modifies the royalties paid to an unleased nonconsenting owner in a compulsory pooling order; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 **40-6-6.5**, as last amended by Laws of Utah 2010, Chapter 324

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **40-6-6.5** is amended to read:

32 **40-6-6.5. Pooling of interests for the development and operation of a drilling unit**

33 **-- Board may order pooling of interests -- Payment of costs and royalty interests --**

34 **Monthly accounting.**

35 (1) Two or more owners within a drilling unit may bring together their interests for the  
36 development and operation of the drilling unit.

37 (2) (a) In the absence of a written agreement for pooling, the board may enter an order  
38 pooling all interests in the drilling unit for the development and operation of the drilling unit.

39 (b) The order shall be made upon terms and conditions that are just and reasonable.

40 (c) The board may adopt terms appearing in an operating agreement:

41 (i) for the drilling unit that is in effect between the consenting owners;

42 (ii) submitted by any party to the proceeding; or

43 (iii) submitted by its own motion.

44 (3) (a) Operations incident to the drilling of a well upon any portion of a drilling unit  
45 covered by a pooling order shall be deemed for all purposes to be the conduct of the operations  
46 upon each separately owned tract in the drilling unit by the several owners.

47 (b) The portion of the production allocated or applicable to a separately owned tract  
48 included in a drilling unit covered by a pooling order shall, when produced, be deemed for all  
49 purposes to have been produced from that tract by a well drilled on it.

50 (4) (a) (i) Each pooling order shall provide for the payment of just and reasonable costs  
51 incurred in the drilling and operating of the drilling unit, including~~[, but not limited to]:~~

52 (A) the costs of drilling, completing, equipping, producing, gathering, transporting,  
53 processing, marketing, and storage facilities;

54 (B) reasonable charges for the administration and supervision of operations; and

55 (C) other costs customarily incurred in the industry.

56 (ii) An owner is not liable under a pooling order for costs or losses resulting from the  
57 gross negligence or willful misconduct of the operator.

58 (b) Each pooling order shall provide for reimbursement to the consenting owners for

59 any nonconsenting owner's share of the costs out of production from the drilling unit  
60 attributable to ~~his~~ the nonconsenting owner's tract.

61 (c) Each pooling order shall provide that each consenting owner shall own and be  
62 entitled to receive, subject to royalty or similar obligations:

63 (i) the share of the production of the well applicable to ~~his~~ the consenting owner's  
64 interest in the drilling unit; and

65 (ii) unless ~~he~~ the consenting owner has agreed otherwise, ~~his~~ the consenting owner's  
66 proportionate part of the nonconsenting owner's share of the production until costs are  
67 recovered as provided in Subsection (4)(d).

68 (d) (i) Each pooling order shall provide that each nonconsenting owner shall be entitled  
69 to receive, subject to royalty or similar obligations, the share of the production of the well  
70 applicable to ~~his~~ the nonconsenting owner's interest in the drilling unit after the consenting  
71 owners have recovered from the nonconsenting owner's share of production the following  
72 amounts less any cash contributions made by the nonconsenting owner:

73 (A) 100% of the nonconsenting owner's share of the cost of surface equipment beyond  
74 the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and  
75 piping;

76 (B) 100% of the nonconsenting owner's share of the estimated cost to plug and  
77 abandon the well as determined by the board;

78 (C) 100% of the nonconsenting owner's share of the cost of operation of the well  
79 commencing with first production and continuing until the consenting owners have recovered  
80 all costs; and

81 (D) an amount to be determined by the board but not less than 150% nor greater than  
82 ~~300%~~ 500% of the nonconsenting owner's share of the costs of staking the location, wellsite  
83 preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or  
84 plugging back, testing, and completing, and the cost of equipment in the well to and including  
85 the wellhead connections.

86 (ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is  
87 that interest which would have been chargeable to the nonconsenting owner had ~~he~~ the  
88 nonconsenting owner initially agreed to pay ~~his~~ the nonconsenting owner's share of the costs  
89 of the well from commencement of the operation.

90 (iii) A reasonable interest charge may be included if the board finds it appropriate.

91 (e) If there is any dispute about costs, the board shall determine the proper costs.

92 (5) If a nonconsenting owner's tract in the drilling unit is subject to a lease or other  
93 contract for the development of oil and gas, the pooling order shall provide that the consenting  
94 owners shall pay any royalty interest or other interest in the tract not subject to the deduction of  
95 the costs of production from the production attributable to that tract.

96 (6) (a) If a nonconsenting owner's tract in the drilling unit is not subject to a lease or  
97 other contract for the development of oil and gas, the pooling order shall provide that the  
98 nonconsenting owner shall receive as a royalty:

99 (i) the acreage weighted average landowner's royalty [attributable to each] based on  
100 each leased fee and privately owned tract within the drilling unit, proportionately reduced by  
101 the percentage of the nonconsenting owner's interest in the drilling unit; or

102 (ii) if there is no leased fee or privately owned tract within the drilling unit other than  
103 the one owned by the nonconsenting owner, 16-2/3% proportionately reduced by the  
104 percentage of the nonconsenting owner's interest in the drilling unit.

105 (b) The royalty shall be:

106 (i) determined prior to the commencement of drilling; and

107 (ii) paid from production attributable to each tract until the consenting owners have  
108 recovered the costs specified in Subsection (4)(d).

109 (7) Once the consenting owners have recovered the costs, as described in Subsection  
110 (6)(b)(ii), the royalty shall be merged back into the nonconsenting owner's working interest and  
111 shall be terminated.

112 [~~7~~] (8) The operator of a well under a pooling order in which there [~~are~~] is a  
113 nonconsenting [~~owners~~] owner shall furnish the nonconsenting [~~owners~~] owner with monthly  
114 statements specifying:

115 (a) costs incurred;

116 (b) the quantity of oil or gas produced; and

117 (c) the amount of oil and gas proceeds realized from the sale of the production during  
118 the preceding month.

119 [~~8~~] (9) Each pooling order shall provide that when the consenting owners recover  
120 from a nonconsenting owner's relinquished interest the amounts provided for in Subsection

121 (4)(d):

122 (a) the relinquished interest of the nonconsenting owner shall automatically revert to  
123 him;

124 (b) the nonconsenting owner shall from that time:

125 (i) own the same interest in the well and the production from it; and

126 (ii) be liable for the further costs of the operation as if he had participated in the initial  
127 drilling and operation; and

128 (c) costs are payable out of production unless otherwise agreed between the  
129 nonconsenting owner and the operator.

130 [~~9~~] (10) Each pooling order shall provide that in any circumstance where the  
131 nonconsenting owner has relinquished his share of production to consenting owners or at any  
132 time fails to take his share of production in-kind when he is entitled to do so, the  
133 nonconsenting owner is entitled to:

134 (a) an accounting of the oil and gas proceeds applicable to his relinquished share of  
135 production; and

136 (b) payment of the oil and gas proceeds applicable to that share of production not taken  
137 in-kind, net of costs.

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**Legislative Review Note**  
as of 2-17-14 4:43 PM

**Office of Legislative Research and General Counsel**