

Relating to the rights of an owner of the surface estate in land in connection with mineral exploration and production operations.

Remarks: Surface Owner Rights Bill

I. Notices

Requires a mineral developer to give "each surface owner" written notice of his intent to begin surveying or to begin constructing improvements not later than the 14th day before the date that surveying or construction begins. Allows for shorter notice than 14 days if the mineral lease will terminate in less than 14 days.

Requires the notice to be given to each surface owner at the address shown on the records of the county clerk or county tax assessor-collector.

Requires numerous details to be included in the notice including a statement advising the surface owner of his rights under this chapter.

Creates a new cause of action for damages, court costs, and attorney's fees for failure to properly provide the notice.

Requires the mineral developer to give written notice to be given to each surface owner within 24 hours of damage to an improvement.

Requires the mineral developer to give written notice of risk to each surface owner if a well, pipeline, or any other equipment installed by the mineral developer ceases to comply with RRC rules and presents a risk of harm to the surface.

II. Damages

Provides that all surface owners are entitled to damages caused by mineral exploration and production.

Requires a mineral developer to pay each surface owner an amount equal to the amount of anticipated and foreseeable damages to be sustained by the surface owner caused by mineral exploration and production for the following:

- (1) loss of income derived from agricultural use of the land;
- (2) reduction in the value of the land;
- (3) reduction in value of improvements to the land;
- (4) loss of access to the surface of the land; and
- (5) loss of the use of the surface of the land.

Prohibits the mineral developer from entering the land with heavy

equipment until each surface owner enters into a written agreement with the mineral developer for the payment of damages

If no agreement can be reached, allows the mineral owner to bring a lawsuit to compel a judgment regarding the amount of compensation.

III. Restrictions on Use of Land

Requires the mineral developer to remove all equipment, structures, materials, supplies, and pipelines from the land within one year after the mineral developer ceases to use the property.

Contains numerous prohibitions and restrictions on many items normally reserved for negotiation and agreement in the mineral lease and surface use agreement.

IV. Administrative and criminal Penalties

Creates an administrative penalty (enforceable by the RRC) and a criminal penalty (Class C misdemeanor) for violations of this chapter.

HB 3241 Lewis

Relating to the regulation of the location of oil and gas wells by a county in certain areas.

Remarks: Applies to counties with a population between 115,000 and 150,000 and which have at least one census designated place, which is not an incorporated municipality, with a population of at least 200 (presumably, Ector County).

Allows the Commissioners court of such a county to regulate by permit the drilling of an oil or gas well within 400 feet of a residence in the census-designated place. Prohibits the drilling of an oil or gas well in such a location without the county permit.

HB 3749 Oliveira

Relating to establishing certain rights of an owner of the surface estate in land who does not own any interest in the mineral estate in the land in connection with the exploration for and production of the minerals.

Remarks: Surface Owner Rights Bill

I. Notice

Requires the mineral interest user to mail to "each" surface tract

owner at the surface tract owner's "last known mailing address" (undefined) notice of the mineral interest user's intent to enter the surface for exploration and production purposes at least 20 days prior to entering the surface.

II. Damages

Requires the mineral interest user and each surface tract owner to attempt to reach an agreement for a one-time payment of damages to each surface tract owner plus an annual surface use fee to each surface tract owner.

If no agreement can be reached, creates a procedure for the RRC to determine the damages and surface use fee.

Allows the mineral interest user to enter the surface only following either:

- (1) the payment of agreed damages and the surface use fee; or
- (2) the filing of an application with the RRC to determine the amount of damages and the surface use fee.

Allows any surface tract owner to prohibit the mineral interest user from using the surface if payment of damages or the use fee has not been made within ten days of the RRC order.

III. Land Use Restrictions

Prohibits the use of groundwater or surface water by the mineral interest user without written consent by each surface tract owner.

Requires the mineral interest user to remove "all" mineral development improvements and restore the land within 30 days of cessation of mineral interest development operations.

If the mineral interest user fails to comply with equipment removal and restoration requirements, allows any surface tract owner to remove the equipment and restore the land and compel payment from the mineral interest user for such removal and restoration costs.

Allows any surface tract owner the ability to create a lien against the mineral interest lease and associated equipment and improvements to secure payment of the damages, the use fee, or costs for removal and/or restoration.

Proposing a constitutional amendment authorizing a county to regulate land development if approved by a majority vote in a countywide election.

Companions: SJR 40 Lucio (Identical)

3-22-11 S Introduced and referred to committee on
Senate International Relations and Trade

Remarks: Proposes a constitutional amendment to authorize a county to regulate land use development if approved by county voters.

Specifically includes land use compatibility.

Same as SJR 40/Lucio

SB 1633

Davis, Wendy

Relating to the adoption of rules by the Railroad Commission of Texas regulating the exploration for and production of natural gas in the unincorporated area of certain counties.

Remarks: Bracketed to Barnett Shale

Requires the RRC to adopt rules that promote gas production while securing the existing economic interests and quality of life in the unincorporated areas of the counties. Requires the RRC to adopt rules addressing subjective and intangible qualities regarding the location of oil and gas facilities in such counties.

HB 3106

Keffer

Relating to the abolition of the Railroad Commission of Texas, the creation of the Texas Oil and Gas Commission, and the transfer of the powers and duties of the railroad commission to the oil and gas commission.

Companions: SB 655 Hegar (Identical)

3- 8-11 S Introduced and referred to committee on
Senate Government Organization

Remarks: (RRC Sunset Bill)

I. Governance

Abolishes the Railroad Commission of Texas. Creates the Texas Oil and Gas Commission. Transfers powers and duties of the old RRC to the new TOGC. Schedules TOGC for sunset abolishment September 1, 2023.

Provides for one commissioner elected for a four-year term.

The date of transition from the RRC to the TOGC is September 1, 2011. Requires the Governor to appoint the initial Commissioner whose term will last until January 1, 2013. The primary and general elections in 2012 shall determine the next two-year term. Election for the office of commissioner would then sync with the regular four-year cycle of state-wide elected offices.

Eliminates the office of Executive Director.

Prohibits the commissioner and anyone running for the Commission from accepting a political contribution except:

(1) Beginning one-year before the next general election for the office of the commissioners; and

(2) Ending on the 30th day before the first day that the first legislative session starts during the commissioner's term following the election.

II. Funding, Oil and Gas Program, Oil-field Cleanup Program

Abolishes the Oil-Field Cleanup Fund. Creates the Oil and Gas Regulation and Cleanup Fund. Transfers any existing revenue from the old fund to the new fund. The OGRCF is created to pay for the Oil and Gas Program and the Oil Field Cleanup Program.

The new OGRCF consists of exactly the same revenue sources as the old Oil Field Cleanup Fund except:

(1) the new fund does not include penalties (re-directed to general revenue); and

(2) the new fund includes surcharges on fees levied by the Commission.

Grants the Commission the authority to levy surcharges on any or all of the fees in the new OGRCF in order to perform the functions of the oil and gas program and the oil-field cleanup program except it may not levy a surcharge on the oil-field cleanup regulatory fee on oil or gas production.

Through the legislative appropriations request process, requires the Commission to establish specific performance goals for the OGRCF including plugging of abandoned wells and remediation of abandoned sites. Requires detailed quarterly reports to the Legislative Budget Board.

Abolishes the Oil-Field Cleanup Fund Advisory Committee.

III. Contested Cases, SOAH

Requires all enforcement contested case hearings to be conducted

by the State Office of Administrative Hearings.

IV. Enforcement

Requires the Commission to adopt an enforcement policy to guide staff in evaluating and ranking oil and gas related violations.

Requires the Commission to adopt penalty guidelines in rules.

Requires the Commission to revamp its tracking of violations and enforcement actions regarding oil and gas production and to develop a consistent method for analyzing violations and trends.

Requires the Commission to publish confirmed investigated violations that have gone through the enforcement process.

V. Interstate Pipelines

Grants the Commission authority to enforce damage prevention requirements for interstate pipelines.

Track Name(s): Neutral But Monitor, E&P, Pipelines

Bill History: 03-10-11 H Filed