

SUBJECT: Repealing limitations to selling natural gas outside Texas

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 6 ayes — Holzheuser, Davis, Driver, Merritt, Moffat, Torres
0 nays
3 absent — Hawley, Smithee, Wilson

WITNESSES: For — Rob Looney, Texas Mid-Continent Oil & Gas Association
Against — None
On — Mary Ross McDonald, Texas Railroad Commission

BACKGROUND : In response to the energy crisis of the 1970s, the Texas Legislature in 1975 enacted a law (now secs. 52.291-52.294 and 52.296 of the Natural Resources Code) that natural gas or casinghead gas from public lands could not be sold outside of Texas unless the Railroad Commission found after notice and hearing that no person, agency, entity, private or public school, hospital, nursing home, facility of the state, county, municipality, or producer of foods and fiber required the gas to meet their needs.

The 1975 law also made it illegal for certain public officials, agencies and boards to execute an oil, gas or mineral lease on public land under their custody unless the lease contained a provision requiring this notice and hearing procedure. The commission may grant exceptions in cases of physical waste or when a lessee would be unreasonably denied an opportunity to economically produce gas.

DIGEST: HB 1743 would repeal the Natural Resource Code requirements for natural gas sales from public lands.

The bill would take effect September 1, 1997, and the terms of any oil and gas lease executed before the effective date imposing the repealed requirements would be null and void.

SUPPORTERS SAY: HB 1743 would remove an unnecessary regulatory burden on the interstate sale of Texas natural gas. Currently natural gas is abundant in Texas; requiring producers of state-leased lands to market within the state is inefficient and may mean that they have to sell gas at below-market prices, thereby reducing the royalty paid to the state.

The deregulated natural gas market relies on the free transfer of gas in interstate commerce to ensure that gas is available when and where needed. The regulatory burdens Texas now imposes on interstate commerce in gas may very well be unconstitutional.

Under current law, a provision must be included in leases giving certain entities first priority over natural gas produced on state-leased lands. HB 1743 would simply render any clause ineffective that imposed this burdensome requirement. The bill would raise no constitutional problem by nullifying terms of past contracts with the state; it would not repeal an entire contract, simply a state-mandated contract term, and both parties to the contract would benefit.

OPPONENTS SAY: No apparent opposition.

NOTES: The committee substitute would void the terms of any oil and gas lease executed before September 1, 1997, that imposed the 1975 restrictions on interstate sale of natural gas.

The companion bill, SB 1487 by Bivins, passed the Senate on April 18 and was reported favorably by the House Energy Resources Committee on April 22, making it eligible to be considered in lieu of HB 1743.