

SUBJECT: Increasing penalties assessed by the Railroad Commission

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 7 ayes — Keffer, Carter, Craddick, J. Davis, Lozano, Sheffield, Strama
1 nay — C. Howard
1 absent — Crownover

SENATE VOTE: On final passage, April 28 — 30-1 (Patrick)

WITNESSES: For — (*Registered, but did not testify:* TJ Patterson, City of Fort Worth; Cyrus Reed, Lone Star Chapter, Sierra Club)
Against — None
On — Lowell Williams, Railroad Commission of Texas

BACKGROUND: Natural Resources Code, sec. 81.0531 authorizes the Railroad Commission (RRC) to assess a civil penalty for safety or pollution violations. The penalty cannot exceed \$10,000 a day for each violation. In determining the amount of the penalty, the RRC is required to consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. The RRC is required to adopt by rule guidelines to be used in determining the amount of the penalty.
Natural Resources Code, sec. 91.143 prohibits false applications, reports, and documents filed with the RRC and also prohibits tampering with gauges. The RRC can impose an administrative penalty of up to \$1,000 for each violation.

DIGEST: SB 1294 would amend the Natural Resources Code to authorize the RRC to assess an administrative penalty for any violation of the portion of the Natural Resources Code regulating oil and gas. An administrative penalty also could be assessed for a violation of a rule, order, license, permit, or certificate. The penalty could not exceed \$25,000 a day. In determining

the amount of the penalty, the RRC would be required to consider the guidelines adopted by rule.

The bill also would increase the penalty for a false application, report, or document filed with the RRC or tampering with a gauge to up to \$25,000 for each violation.

The bill would take effect on September 1, 2011 and would apply to a violation that occurred on or after the effective date.

**SUPPORTERS
SAY:**

The RRC needs the authority to assess an administrative penalty for all violations of state law governing oil and gas, not simply violations related to safety or pollution. Increasing maximum penalties would deter violations of state law. The maximum penalties for safety and pollution violations have been in effect since the 1980s, and inflation has reduced the deterrent effect of assessing maximum penalties at the current level. Maximum penalties are used only rarely for egregious violations.

**OPPONENTS
SAY:**

SB 1294 would authorize massive increases in oil and gas penalties. Certain penalties would increase from \$1,000 to \$25,000 for each violation. These penalty increases would be too severe.