

**SUBJECT:** Timely production of audit billing documents from those leasing state land

**COMMITTEE:** Energy Resources — committee substitute recommended

**VOTE:** 10 ayes — Keffer, Crownover, Canales, Craddick, Dale, P. King, Lozano, Paddie, R. Sheffield, Wu

0 nays

1 absent — Burnam

**WITNESSES:** For — (*Registered, but did not testify:* Rita Beving; Teddy Carter, Texas Independent Producers and Royalty Owners Association; Karen Hadden, SEED Coalition; Adam Haynes, Chesapeake Energy; Clay McKelvy, Public Citizen; Tom Sellers, ConocoPhillips)

Against — none

On — Mari Ruckel, Texas Oil and Gas Association; Bill Stevens, Texas Alliance of Energy Producers; Dale Sump, General Land Office.  
(*Registered, but did not testify:* Mark Havens, General Land Office)

**BACKGROUND:** Natural Resources Code, sec. 52.135 gives the commissioner of the General Land Office, the attorney general, and the governor the authority to inspect and examine the books and accounts, receipts, and discharges of all lines, tanks, pools, and meters and all contracts and other records relating to the production, transportation, sale, and marketing of oil and gas from those leasing public land for oil and gas production.

**DIGEST:** CSHB 2571 would require lessees to produce within 60 days information or documents requested by the commissioner, attorney general, or governor.

If unable to provide the requested information within 60 days, the lessee would have to provide a written response within 30 days explaining why it was unable to do so. The requestor could then extend the deadline for receiving the information for 60 days or deny the request. If the requestor chose not to extend the deadline, the lessee would have five days after receiving notice to produce the information.

A lessee who chose to withhold requested information on a good faith legal basis would have to give the requestor a detailed explanation of the reason for withholding the information no later than 60 days after receiving the request.

The General Land Office commissioner could assess a penalty against a lessee who intentionally withheld information past the deadline. The maximum penalty would be \$100 a day after the deadline to produce the information for the first 60 days and \$1,000 a day for each day after. The commissioner could not assess a penalty for withholding information on a good faith legal basis until the commissioner determined that the requestor was entitled to the information.

The bill would take effect on September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 2571 would give state regulators the authority to obtain in a timely manner information and documents the state is entitled to receive from people who lease state land for oil and gas production.

Responsible lessees would be able to produce in 60 days the sort of basic information that the General Land Office routinely requests in regard to an audit billing. There are numerous examples of unresponsiveness to information requests and a pattern of excuses for noncompliance from a few bad actors. This bill simply would provide reasonable deadlines and penalties for the production of records related to the production, sale, and marketing of oil and gas on publicly owned state lands. The deadlines would not cause undue harm to responsible companies that make up most of the state's land lessees.

Those concerned that the bill would place burdens on lessees should note that the bill would not give the GLO authority to request additional information, but only would provide a time frame for lessees to produce information that is already clearly spelled out in the Natural Resources Code. A provision in the committee substitute would allow lessees to request an extension if they could not meet a deadline.

**OPPONENTS  
SAY:**

CSHB 2571 would give the General Land Office too much authority and would leave lessees with little recourse to challenge requests that could be burdensome, time-consuming, and expensive.

The GLO could request a broad range of information from lessees. Depending on the information it requests, 60 days could be an insufficient amount of time. In some instances, the GLO has requested records going back decades. Researching documents can be an expensive process for companies, requiring many hours and thousands of dollars in legal fees. CSHB 2571 could end up giving the GLO authority to make onerous requests on lessees.

NOTES:

The committee substitute differs from the bill as filed by:

- requiring a lessee to state the reason for the "inability to provide the information in the time required," rather than the "unavailability of the information";
- requiring the information requestor to notify a lessee of a deadline extension in writing and explaining the lessee's obligation to provide the information if the extension request were rejected;
- requiring a lessee to provide an explanation within 60 days of an information request for withholding information on a good faith legal basis; and
- requiring the commissioner to determine that a lessee was intentionally withholding information to which the land office was legally entitled to assess a penalty.