

BILL ANALYSIS

Senate Research Center

C.S.S.B. 291
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Natural Resources
3/7/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to ensure that residents stay informed about gas utilities' activities that may affect or damage their property. Specifically the bill requires a gas utility to notify residents in writing five days before accessing its right-of-way on residents' property.

C.S.S.B. 291 amends current law relating to notice requirements for gas utilities entering certain real property, and provides an administrative penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 104, Utilities Code, by adding Section 104.259, as follows:

Sec. 104.259. NOTICE OF ENTRY TO PROPERTY OWNER; ADMINISTRATIVE PENALTY. (a) Requires a gas utility that has an easement in or a right-of-way over or through real property to give written notice, sent to the property's address, to the owner or person in possession of the property before a member, agent, or employee of the gas utility may enter the property for utility business.

(b) Requires a gas utility to give the notice required by this section not later than the fifth day before the date of entry.

(c) Provides that this section does not apply to an entry to respond to an emergency that endangers life, health, or property; an entry to reestablish interrupted service or to conduct surveillance, inspection, repair, and maintenance activities or to gain access to a different property; a regularly scheduled service reading or examination; an entry to locate underground facilities in response to a one-call locate request; or an entry to attempt to collect on an unpaid utility bill.

(d) Requires that the written notice required by Subsection (a) be presumed to have been timely given if the gas utility provides an affidavit stating that the notice was deposited in the U.S. Mail, postage prepaid, first class, at least eight days before the date of entry.

(e) Authorizes the Railroad Commission of Texas (railroad commission) to impose an administrative penalty on a person who fails to give the notice required by this section.

(f) Provides that the amount of the penalty is \$200 for each entry made without giving the notice required by this section.

(g) Authorizes the enforcement of the penalty to be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the

court or files a supersedeas bond with the court in the amount of the penalty. Authorizes a person who cannot afford to pay the penalty or file the bond to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the railroad commission to contest the affidavit as provided by those rules.

(h) Authorizes the attorney general to sue to collect the penalty.

(i) Provides that a proceeding to impose the penalty is considered to be a contested case under Chapter 2001 (Administrative Procedure), Government Code.

SECTION 2. Amends Section 105.023, Utilities Code, by adding Subsection (e) to provide that this section (Civil Penalty Against Gas Utility or Affiliate) does not apply to a violation of Section 104.259.

SECTION 3. Amends Section 105.024, Utilities Code, by adding Subsection (c) to provide that this section (Offense) does not apply to a violation of Section 104.259.

SECTION 4. Makes application of this Act prospective to October 1, 2013.

SECTION 5. Effective date: September 1, 2013.