

BILL ANALYSIS

C.S.H.B. 1920
By: Keffer
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In Texas, there has been an increasingly common practice of natural gas gatherers, pipelines and processors requiring natural gas producers to accept burdensome deductions for lost and unaccounted for gas. Many Texas producers are faced with contracts anticipating between 5% and 15% line loss, and in some reported cases as high as 20%. These deductions are often unexplained and unsubstantiated.

This bill will create a process by which natural gas producers can obtain information from gatherers to determine what happened to the natural gas while the natural gas was in the custody of the gatherer. In particular, they would receive the information to determine what caused the loss of the natural gas and whether some portion of any unaccounted for gas belongs to the producer. Every cubic foot of gas that they are able to recover means additional severance tax and royalty will be paid. This bill will give producers an additional incentive to use the informal complaint process.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill amends the Natural Resources Code by adding a section entitled "Informal Complaint Process Regarding Loss of or Inability to Account for Natural Gas Gathered or Transported." This bill provides that a producer may submit a written request to a person who gathers or transports gas for the producer for an explanation of any loss of or inability to account for the gas tendered to the person by the producer. This bill sets out the parameters of what the request may ask, and how and when the response should be made and what the response must include.

This bill sets the parameters for how and when a producer may file with the Railroad Commission of Texas (commission) an informal complaint against the person. The bill also states what the informal complaint must include. This bill sets a timeline for when the person who gathered or transported the gas shall provide to the producer and the commission an accounting of the gas tendered to the person by the producer for gathering or transport during the production period covered by the complaint. The bill states how the accounting may be provided and what it must include. The bill further sets out a list of information that may be requested by the commission to resolve an informal complaint.

This bill states that the commission may grant an extension of time to the person who gathered or transported the gas to provide the accounting required, and how long that extension may be. This bill states that if the person who gathered or transported the gas does not have the information necessary to provide the accounting required, the person must provide to the producer and to the commission a written explanation of the reason the person does not have the information. This bill further states that if the person who gathered or transported the gas fails to provide the accounting required, or the explanation required, the informal complaint filed by the producer is considered to be valid.

This bill states that if the complaint is considered to be valid or the commission determines that the person who gathered or transported the gas committed waste, the commission may take any

action it considers appropriate, including issuing an order in a formal proceeding to prevent waste by the person who gathered or transported the gas.

This bill clarifies that this Act applies only to a producer and a person who gathers or transports gas for the producer under a contract between the producer and that person that is entered into or renewed on or after September 1, 2007. This bill states that by submitting written request, the producer is entitled to audit the books and records of the person that pertain to the contract between the producer and the person. The bill further states the purpose of this audit, and states that a producer is only entitled to one audit annually.

This bill states that this Act applies only to the loss of or inability to account for natural gas that is tendered by a producer to a gatherer or transporter of gas on or after the effective date of this Act. This bill further states that the loss of or inability to account for natural gas that is tendered by a producer to a gatherer or transporter of gas before the effective date of this Act is governed by the law in effect on the date the gas is tendered, and the former law remains in effect for that purpose.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes the caption of the bill. The original caption read "relating to a limitation on the amount of natural gas that a gatherer or transporter of gas may lose or be unable to account for." The substitute caption reads "relating to the remedies available in connection with certain disputes between producers of natural gas and persons who gather or transport gas."

The original bill was not a Legislative Council draft, and the substitute is. Therefore, there were certain technical or conforming changes made by Legislative Council which have been incorporated throughout the substitute.

The substitute removes a subsection from the original which stated that a gatherer or transporter may not lose or be unable to account for more than five percent. The substitute also removes a subsection from the original which stated that the commission may approve a contractual provision between the producer and the person who gathers or transports gas if the person loses more than five percent.

In the section dealing with the informal complaint process, the substitute adds the following language "The request may ask the person to provide any or all of the information that would be required to be included in an accounting under Subsection (c)." In that same section the substitute further adds the following language "The response must include any relevant information requested by the producer that is available to the person and that would be required to be included in an accounting under Subsection (c)."

The substitute adds that an informal complaint may not be filed before the 30th day after the end of the production period covered by the complaint and adds a list of what an informal complaint must provide.

The substitute changes the date which a person who gathered or transported the gas must respond to the written request of the producer from not later than the 15th day to not later than the 14th day.

The substitute changes the way an accounting may be provided. The original stated that "the accounting shall show on the basis of the heating value of the substance as stated in terms of million British thermal units." The substitute states that "the accounting may be provided on a thousand cubic feet or a million British thermal unit basis, as applicable."

The substitute makes changes to the list of accounting information the commission may request to resolve an informal complaint.

The substitute adds a subsection which allows the commission to grant an extension of time to provide the accounting information.

The substitute adds a subsection which allows the person who gathers or transports to provide explanation to the producer and commission of the reason why the person does not have the information.

The substitute adds a subsection which states that if the person fails to provide the information or state why the person does not have the information the informal complaint is considered valid.

The substitute adds a subsection which states that if a complaint is considered valid or if the commission determines that waste has occurred, the commission may take any action it considers appropriate to prevent waste.

The substitute adds that this applies only to contracts entered into or renewed on or after September 1, 2007. The substitute further adds that the audit by the producer pertains to the contract between the producer and the person for the purpose of verifying whether gas has been lost or unaccounted for.

The substitute adds the words "the loss of or inability to account for" in two places in Section 2 of the substitute.