BILL ANALYSIS

C.S.H.B. 2915
By: McReynolds
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas owns mineral rights in navigable riverbeds, canals, streams, and rights-of-way for state highways, streets, and alleys. Through the School Land Board, Texas has authority to lease for production of oil or gas the riverbeds and channels on which the state owns mineral interests. Section 52.076, Natural Resources Code, authorizes the School Land Board to advertise for bids to lease riverbeds and channels for oil and gas development and to negotiate pooling agreements so that Texas can share in oil and gas production when state riverbeds or channels have been included in the boundaries of a proration unit for the production of oil or gas. However, Section 32.002(a)(4), Natural Resources Code, limits the leasing for oil and gas development of the minerals owned by the state in rights-of-way beneath highways, roads, streets, or alleys in producing areas unless the oil or gas is leased for the specific purpose of drilling a horizontal well. The state's authority to lease its mineral properties is further restricted by Section 32.002(b). This section defines a producing area to limit the state's ability to lease for oil and gas purposes to those locations where the state's mineral interest is within 2,500 feet of a well capable of producing oil or gas in paying quantities as of January 1, 1985.

As oil and gas development in urban areas has greatly increased over the past decade, the foregoing restrictions have greatly hindered the ability of the state to share in mineral production from wells drilled adjacent to state rights-of-way.

C.S.H.B. 2915 removes the limitation on the state's ability to lease highways, roads, streets, or alleys solely for the purpose of drilling a horizontal well. The bill removes the requirement that the state right-of-way be no more than 2,500 feet from a producing well and establishes that provisions relating to the authority of the School Land Board to advertise for certain bids apply to oil and gas under land owned by Texas that was acquired to construct or maintain a highway, road, street, or alley in the same manner as those provisions apply to oil and gas under a riverbed or channel.

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

C.S.H.B. 2915 amends the Natural Resources Code to remove from the items that are exempt from provisions governing the school land board oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well, and oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas Transportation Commission has determined that such a right-of-way is no longer needed for use by citizens as a road. The bill authorizes oil and gas underlying land that is owned by the state, was acquired to construct or maintain a highway, road, street, or alley, is located in a producing area, and is subject to an oil or gas lease to be pooled or unitized only prospectively and provides that such oil and gas is subject to certain provisions relating to the lease of highway lands. The bill makes applicable to such land the provision establishing that the land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities, and makes conforming changes. The bill establishes that its provisions do not authorize drilling or other operations on the surface of land during the period in which the land is used by Texas as a highway, road, street, or alley.

C.S.H.B. 2915 requires a compensatory royalty to be paid in the same portion that the acreage of the state lease has to the acreage of the state lease plus the acreage of a standard proration unit under statewide field rules or, if applicable, the special field rules adopted by the Railroad Commission of Texas for the field in which the well has been completed, rather then in the same proportion that the acreage of the state lease has to the acreage of the state lease plus the acreage of the proration unit surrounding the draining well. The bill removes as a condition for the state to be required to pay such a compensatory royalty to the Commissioner of the General Land Office each month within a specified period after the oil or gas is sold and delivered from the well that the well is causing the drainage or is located within 2,500 feet of the leased premises and completed in a producible reservoir under the state lease.

C.S.H.B. 2915 establishes that provisions relating to the authority of the board to advertise for certain bids apply to oil and gas under land owned by Texas that was acquired to construct or maintain a highway, road, street, or alley in the same manner as those provisions apply to oil and gas under a riverbed or channel.

C.S.H.B. 2915 establishes that its provisions do not authorize any person, including the state or a local government, to claim damages relating to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of the bill, or a state or local taxing authority to reallocate liability for severance or property taxes or increase the amount of those taxes imposed based on production from or the value attributable to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of the bill.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2915 differs from the original by removing from the items that are exempt from provisions governing the School Land Board oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas Transportation Commission has determined that such a right-of-way is no longer needed for use by citizens as a road. The substitute adds a provision not in the original authorizing oil and gas underlying land that is owned by the state, was acquired to construct or maintain a highway, road, street, or alley, is located in a producing area, and is subject to an oil or gas lease to be pooled or unitized only prospectively and provides that such oil and gas is subject to certain provisions relating to the lease of highway lands. The substitute differs from the original by making applicable to such land the provision establishing that the land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities. The substitute adds a provision not in the original establishing that the bill does not authorize drilling or other operations on the surface of land during the period in which the land is used by Texas as a highway, road, street, or alley.

C.S.H.B. 2915 provides the sale and delivery of oil or gas in paying quantities from a well located within 2,500 feet of the leased premises, rather than on a proration unit adjacent to the leased premises as in the original, as a condition for the state to be required to pay the compensatory royalty on any lease offered and granted under provisions for the preferential right to lease certain land by an adjoining mineral owner. The bill differs from the original by requiring a compensatory royalty to be paid in the same portion that the acreage of the state lease has to the acreage of the state lease plus the acreage of a standard proration unit under statewide field rules or, if applicable, the special field rules adopted by the Railroad Commission of Texas for the field in which the well has been completed, whereas the original requires the payment to be in the same proportion that the acreage of the state lease has to the acreage of the state lease plus the acreage of the standard proration unit surrounding the draining well. The substitute differs from the original by removing as a condition for the state to be required to pay such a compensatory royalty to the Commissioner of the General Land Office each month within a specified period after the oil or gas is sold and delivered from the well that the well is causing the drainage or is located within 2,500 feet of the leased premises and completed in a producible reservoir under the state lease, whereas the original specifies that the well is located on a proration unit adjacent to the leased premises.

C.S.H.B. 2915 omits a provision included in the original including highway, road, street, or alley rights-of-way to the items for which the board is authorized to advertise bids to lease for specified types of oil and gas development. The substitute adds a provision not in the original making provisions relating to the board's authority to advertise for certain bids applicable to oil and gas under land owned by Texas that was acquired to construct or maintain a highway, road, street, or alley in the same manner as such provisions apply to oil and gas under a riverbed or channel. The substitute adds a provision not in the original establishing that its provisions do not authorize any person, including the state or a local government, to claim damages relating to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of the bill or a state or local taxing authority to reallocate liability for severance or property taxes or increase the amount of those taxes imposed based on production from or the value attributable to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of the bill.