

BILL ANALYSIS

S.B. 1295
By: Hegar
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Texas law has no specific reclamation success standards for previously mined lands that are impacted by permitted coal operations and do not allow issuance of a permit for coal operations on previously mined land if the applicant has any outstanding violations.

S.B. 1295 would amend the Texas Surface Coal Mining and Reclamation Act to include reclamation success performance standards for mining or previously mined areas and also allow issuance of a permit for mining operations on land if any outstanding violation resulted from an unanticipated event or condition. The bill would also include a definition of "previously mined area" in Section 134.004, Natural Resources Code.

These changes will allow the Texas Surface Coal Mining and Reclamation Act to be no less effective than the federal Act with regard to issuing permits on lands eligible for re-mining, as required by Sections 134.002(3) and (4), Natural Resources Code.

As proposed, S.B. 1295 amends current law relating to the mining and reclamation of certain land previously affected by surface coal mining operations.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Section 134.004, Natural Resources Code, by adding Subdivision (15-a) to define "previously mined land."

SECTION 2. Amends Section 134.069, Natural Resources Code, by adding Subsection (c), as follows:

(c) Prohibits the Railroad Commission of Texas (railroad commission), notwithstanding Subsections (a) (relating to prohibiting the railroad commission under certain conditions from issuing a permit until the applicant submits proof) and (b) (relating to prohibiting the railroad commission from issuing a permit if the applicant has demonstrated a pattern of willful violations), from denying an applicant's permit application based on a previous violation by the applicant that occurred in connection with a surface coal mining operation conducted on previously mined land if the violation resulted from an event or condition that was not contemplated in the permit for the surface coal mining operation.

SECTION 3. Amends Section 134.092(a), Natural Resources Code, as follows:

(a) Requires that performance standards for surface coal mining and reclamation operations require an operator to perform certain tasks, including assuming responsibility for successful revegetation as required by Subdivision (19) (relating to establishing diverse, effective and permanent vegetative cover) for five years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with that subdivision, if the land is not previously mined land, or two years after the last

year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with that subdivision, if the land is previously mined land.

SECTION 4. Amends Section 134.104, Natural Resources Code, as follows:

Sec. 134.104. RESPONSIBILITY FOR REVEGETATION: AREA OF LOW PRECIPITATION. Provides that, notwithstanding Section 134.092(a)(20), in areas or regions of the state where the annual average precipitation is 26 inches or less, an operator's assumption of responsibility and liability extends for 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is not previously mined land; or five years after the last year of augmented seeding, fertilizing, irrigation, or other work, if the land is previously mined land.

SECTION 5. Amends Section 134.105(a), Natural Resources Code, as follows:

(a) Provides that the applicable period of responsibility for revegetation begins on the date of initial planting for long-term intensive agricultural postmining land use if the commission approves a long-term intensive agricultural postmining land use. Deletes existing text providing that the applicable period of responsibility for revegetation is five years or 10 years.

SECTION 6. Provides that Section 134.069(c), Natural Resources Code, as added by this Act, applies to a permit application that is filed with the railroad commission on or after the effective date of this Act or is pending as of the effective date of this Act.

SECTION 7. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.