

## **BILL ANALYSIS**

C.S.H.B. 2571  
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Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that there is a need to assess penalties for the failure of certain oil and gas lessees to produce requested documents in regard to an audit billing. C.S.H.B. 2571 seeks to address this issue.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of the General Land Office in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2571 amends the Natural Resources Code to require a lessee of state land or minerals to produce 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 requested by the Commissioner of the General Land Office (GLO), the attorney general, or the governor not later than the 60th day after the date of receipt of a request. The bill requires a lessee who is unable to produce the requested information in the required time to reply in writing to the requestor, not later than the 30th day after the date of receipt of a request for the information, and to state the reason for the inability to provide the information in the time required and when the information will be available. The bill authorizes a requestor who receives a reply to extend the deadline for the production of the requested information by written response to the lessee. The bill requires the lessee, if the requestor does not extend the deadline, to produce the information not later than the later of the fifth day after the date of receipt of a written response from the requestor rejecting the extension or the 60th day after the date of receipt of the original request. The bill requires a lessee who withholds requested information on a good faith legal basis to provide the requestor with a detailed explanation of the basis for withholding the information not later than the 60th day after the date of receipt of a request for the information.

C.S.H.B. 2571 authorizes the commissioner, except as otherwise provided, to assess an administrative penalty against a lessee who fails to produce requested information in the required time by intentionally withholding information to which the GLO is legally entitled and caps the penalty at \$100 a day for each day after the deadline that the lessee fails to produce the information until the 60th day after the deadline, and at \$1,000 a day for each day after the 60th day after the deadline that the lessee fails to produce the information. The bill prohibits the commissioner from assessing a penalty against a lessee who withholds information on a good faith legal basis until the commissioner determines that the requestor is entitled to the information. The bill provides a deadline by which a penalty must be paid or by which a request for a hearing to challenge the assessment of a penalty must be made, requires a statement of grounds to be submitted with the request for a hearing, and requires the hearing to be conducted in accordance with rules and procedures established by the commissioner.

## EFFECTIVE DATE

September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2571 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Section 52.135, Natural Resources Code, is amended by adding Subsections (a-1), (a-2), and (e) to read as follows:

(a-1) Not later than the 60th day after the date of receipt of a request from the commissioner, the attorney general, or the governor for information described by Subsection (a), a lessee shall produce the requested information.

(a-2) A lessee who is unable to produce requested information in the time required by Subsection (a-1) must, not later than the 30th day after the date of receipt of a request for the information, reply in writing to the requestor and state the reason for the unavailability of the information and when the information will be available. A requestor who receives a reply under this subsection may extend the deadline for the production of the requested information.

**No equivalent provision.**

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### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 52.135, Natural Resources Code, is amended by adding Subsections (a-1), (a-2), (a-3), (e), and (f) and amending Subsection (c) to read as follows:

(a-1) Not later than the 60th day after the date of receipt of a request from the commissioner, the attorney general, or the governor for information described by Subsection (a), a lessee shall produce the requested information.

(a-2) A lessee who is unable to produce requested information in the time required by Subsection (a-1) must, not later than the 30th day after the date of receipt of a request for the information, reply in writing to the requestor and state the reason for the inability to provide the information in the time required and when the information will be available. A requestor who receives a reply under this subsection may extend the deadline for the production of the requested information by written response to the lessee. If the requestor does not extend the deadline, the lessee shall produce the information not later than the later of:

(1) the fifth day after the date of receipt of a written response from the requestor rejecting the extension; or

(2) the 60th day after the date of receipt of the original request.

(a-3) A lessee who withholds requested information on a good faith legal basis must, not later than the 60th day after the date of receipt of a request for the information, provide the requestor with a detailed explanation of the basis for withholding the information.

(c) A [The] lessee shall have 30 days from the date of the receipt of an [such] audit billing notice under Subsection (b) or a

(e) The commissioner may assess an administrative penalty against a lessee who fails to produce requested information in the time required under Subsection (a-1) or (a-2). The penalty may not exceed:

- (1) \$100 a day for each day after the deadline for producing the information that the lessee fails to produce the information until the 60th day after the deadline; and
- (2) \$1,000 a day for each day after the 60th day after the deadline for producing the information that the lessee fails to produce the information.

**No equivalent provision.**

SECTION 2. Section 52.135, Natural Resources Code, as amended by this Act, applies only to a request for information made under that section on or after the effective date of this Act. A request for information made under that section before the effective date of this Act is governed by the law in effect on the date of the request, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

notice of a penalty assessment under Subsection (e) in which to pay the [such] audit deficiency assessment or penalty or to request a hearing before the commissioner or the commissioner's [his] representative for redetermination of the [such] assessment or to challenge the assessment of the penalty. A statement of grounds setting out in detail the lessee's reasons for disagreement with the [such] assessment or penalty and the factual and legal grounds on which the claim is based must be submitted by a lessee with its request for a hearing. The [Such] hearing shall be conducted in accordance with the rules and procedures established by the commissioner.

(e) Except as provided by Subsection (f), the commissioner may assess an administrative penalty against a lessee who fails to produce requested information in the time required under Subsection (a-1) or (a-2) by intentionally withholding information to which the land office is legally entitled. The penalty may not exceed:

- (1) \$100 a day for each day after the deadline for producing the information that the lessee fails to produce the information until the 60th day after the deadline; and
- (2) \$1,000 a day for each day after the 60th day after the deadline for producing the information that the lessee fails to produce the information.

(f) The commissioner may not assess a penalty against a lessee who withholds information under Subsection (a-3) until the commissioner determines that the requestor is entitled to the information.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.