

BILL ANALYSIS

Senate Research Center
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S.B. 291
By: Nelson
Natural Resources
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As Filed

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.

As proposed, S.B. 291 amends current law relating to notice requirements for gas utilities and municipally owned 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 or a municipally owned utility that has an easement in or a right-of-way over or through real property to give written notice to the owner or person in possession of the property before a member, agent, or employee of the gas utility or municipally owned utility may enter the property for utility business.

(b) Requires a gas utility or a municipally owned 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 a regularly scheduled service reading or examination.

(d) 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.

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

(f) 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.

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

(h) 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.