

## **BILL ANALYSIS**

Senate Research Center

S.B. 900  
By: Fraser  
Natural Resources  
7/23/2013  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The administrative, civil, and criminal penalty amounts for violations of the state's pipeline safety statutes and rules have not changed since 1983. Annual federal audits of the Railroad Commission's pipeline safety program take into account whether the state's penalty amounts match those imposed under federal law.

Due to the enactment of the federal Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, the federal penalty amounts now are \$200,000 per violation, with each day a violation continues being a separate violation, whereas the current Texas penalty amounts are \$10,000 per violation per day.

S.B. 900 brings statutory penalties for pipelines in Texas into line with federal law.

S.B. 900 amends current law relating to the amounts of the administrative, civil, and criminal penalties for violating certain statutes under the jurisdiction of, rules or orders adopted by, or licenses, permits, or certificates issued by the Railroad Commission of Texas.

### **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 Section 81.0531, Natural Resources Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Prohibits the penalty from exceeding:

- (1) \$10,000, a day for each violation that is not related to pipeline safety; or
- (2) \$200,000 a day for each violation that is related to pipeline safety.

(b-1) Creates this subsection from existing text. Authorizes each day a violation continues to be considered a separate violation for purposes of penalty assessments, provided that the maximum penalty authorized to be assessed for any related series of violations related to pipeline safety is prohibited from exceeding \$2 million.

SECTION 2. Amends Section 117.051, Natural Resources Code, as follows:

Sec. 117.051. CIVIL PENALTY. Provides that a person who violates this chapter or a rule adopted by the Railroad Commission of Texas (railroad commission) under this chapter is subject to a civil penalty of not more than \$200,000, rather than not less than \$50 nor more than \$25,000, for each act of violation and for each day of violation, provided that the maximum civil penalty authorized to be assessed for any related series of violations is prohibited from exceeding \$2 million, rather than \$500,000.

SECTION 3. Amends Section 117.053, Natural Resources Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that an offense under this section is punishable by a fine of not more than \$2 million, rather than \$25,000, confinement in the Texas Department of Criminal Justice (TDCJ) for a term of not more than five years, or both such fine and imprisonment.

(c) Provides that, in the prosecution of a defendant for multiple offenses under this section, all of the offenses are considered to be part of the same criminal episode, and as required by Section 3.03 (Sentences for Offenses Arising Out of Same Criminal Episode), Penal Code, the sentences of confinement are required to run concurrently. Prohibits the cumulative total of fines imposed under this section from exceeding the maximum amount imposed on conviction of a single offense under this section.

SECTION 4. Amends Section 117.054, Natural Resources Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that an offense under this section is punishable by a fine of not more than \$2 million, rather than \$25,000, confinement in TDCJ for a term of not more than five years, rather than not more than 15 years, or both such fine and imprisonment.

(c) Provides that in the prosecution of a defendant for multiple offenses under this section all of the offenses are considered to be part of the same criminal episode, and requires that the sentences of confinement, as required by Section 3.03, Penal Code, run concurrently. Prohibits the cumulative total of fines imposed under this section from exceeding the maximum amount imposed on conviction of a single offense under this section.

SECTION 5. Amends Section 121.007, Utilities Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that a person who owns or operates, rather than a person operating, a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility is not a gas utility if the person certifies to the railroad commission that the person uses the pipeline or underground storage facility solely to deliver natural gas or liquefied natural gas or the constituents of natural gas or liquefied natural gas:

- (1) to a liquefied natural gas marine terminal;
- (2) from a liquefied natural gas marine terminal to the owner of the gas or another person on behalf of the owner of the gas;
- (3) that is acquired, liquefied, or sold by the person as necessary for the operation or maintenance of its facility that is excluded as a gas utility under this section; or
- (4) that has been stored for export.

(c) Provides that this section does not create an exception to the applicability of a pipeline safety requirement provided under this chapter or a penalty for a violation of such a requirement.

SECTION 6. Amends Section 121.204, Utilities Code, to provide that each day of a violation of a safety standard adopted under this subchapter is subject to a civil penalty of not more than \$200,000, rather than \$25,000, except that the maximum penalty that is authorized to be assessed for any related series of violations is prohibited from exceeding \$2 million, rather than \$500,000.

SECTION 7. Amends Section 121.206(b), Utilities Code, as follows:

(b) Prohibits the penalty for each violation from exceeding \$200,000, rather than \$10,000. Authorizes each day a violation continues to be considered a separate violation

for the purpose of penalty assessment, provided that the maximum penalty authorized to be assessed for any related series of violations is prohibited from exceeding \$2 million.

SECTION 8. Amends Section 121.302, Utilities Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Creates Subsection (a-1) from existing text of this subsection.

(a-1) Requires that a penalty under this section be payable to the state and be:

(1) not less than \$100 and not more than \$1,000 for each violation or failure that is not related to pipeline safety; or

(2) not more than \$200,000 for each violation or failure that is related to pipeline safety, provided that the maximum penalty that may be assessed for any related series of violations related to pipeline safety is prohibited from exceeding \$ 2 million.

SECTION 9. Amends Section 121.304(b), Utilities Code, as follows:

(b) Prohibits the penalty for each violation or failure that is not related to pipeline safety from exceeding \$10,000 a day. Prohibits the penalty for each violation or failure that is related to pipeline safety from exceeding \$200,000 a day. Authorizes each day a violation continues to be considered a separate violation for purposes of penalty assessment, provided that the maximum penalty authorized to be assessed for any related series of violations related to pipeline safety is prohibited from exceeding \$2 million.

SECTION 10. Amends Section 121.310, Utilities Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that an offense under this section that is not related to pipeline safety is punishable by a fine of not less than \$50 and not more than \$1,000. Provides that an offense under this section that is related to pipeline safety is punishable by a fine of not more than \$2 million. Authorizes the offense, in addition to the fine, to be punishable by confinement in jail for not less than 10 days nor more than six months.

(c) Provides that in the prosecution of a defendant for multiple offenses under this section, all of the offenses related to pipeline safety are considered to be part of the same criminal episode, and as required by Section 3.03, Penal Code, the sentences of confinement are required to run concurrently. Prohibits the cumulative total of fines imposed under this section for offenses related to pipeline safety from exceeding the maximum amount imposed on conviction of a single offense under this section.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2013.