

By: Nelson

S.B. No. 291

A BILL TO BE ENTITLED

AN ACT

relating to notice requirements for gas utilities and municipally owned utilities entering certain real property; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 104, Utilities Code, is amended by adding Section 104.259 to read as follows:

Sec. 104.259. NOTICE OF ENTRY TO PROPERTY OWNER; ADMINISTRATIVE PENALTY. (a) A gas utility or a municipally owned utility that has an easement in or a right-of-way over or through real property must 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) A gas utility or a municipally owned utility must give the notice required by this section not later than the fifth day before the date of entry.

(c) This section does not apply to:

(1) an entry to respond to an emergency that endangers life, health, or property;

(2) an entry to reestablish interrupted service; or

(3) a regularly scheduled service reading or examination.

(d) The railroad commission may impose an administrative

1 penalty on a person who fails to give the notice required by this
2 section.

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

5 (f) The enforcement of the penalty may be stayed during the
6 time the order is under judicial review if the person pays the
7 penalty to the clerk of the court or files a supersedeas bond with
8 the court in the amount of the penalty. A person who cannot afford
9 to pay the penalty or file the bond may stay the enforcement by
10 filing an affidavit in the manner required by the Texas Rules of
11 Civil Procedure for a party who cannot afford to file security for
12 costs, subject to the right of the railroad commission to contest
13 the affidavit as provided by those rules.

14 (g) The attorney general may sue to collect the penalty.

15 (h) A proceeding to impose the penalty is considered to be a
16 contested case under Chapter 2001, Government Code.

17 SECTION 2. Section 105.023, Utilities Code, is amended by
18 adding Subsection (e) to read as follows:

19 (e) This section does not apply to a violation of Section
20 104.259.

21 SECTION 3. Section 105.024, Utilities Code, is amended by
22 adding Subsection (c) to read as follows:

23 (c) This section does not apply to a violation of Section
24 104.259.

25 SECTION 4. The change in law made by this Act applies only
26 to a property entry described by Section 104.259, Utilities Code,
27 as added by this Act, that occurs on or after October 1, 2013. A

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1 property entry described by Section 104.259, Utilities Code, as
2 added by this Act, that occurs before October 1, 2013, is governed
3 by the law in effect before September 1, 2013, and the former law is
4 continued in effect for that purpose.

5 SECTION 5. This Act takes effect September 1, 2013.