

## **BILL ANALYSIS**

Senate Research Center

S.B. 1259  
By: Birdwell  
Natural Resources & Economic Development  
5/26/2021  
Enrolled

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

Historically when an oil and gas company learned of competing claims to ownership of a royalty interest, the company would suspend payments until the title issue was resolved. This ensured that the rightful royalty or mineral interest owner was paid for what he or she owned.

In 2018, this long-standing practice was found by the Texas Supreme Court to be subject to claims for breach of contract and other common law causes of action. In *ConocoPhillips v. Koopman* the court held that the statute did not protect companies that suspend royalties in compliance with Natural Resources Code Section 91.402(b) from a breach of contract cause of action.

S.B. 1259 simply states that a payee does not have a common law cause of action for breach of contract against a payor for withholding royalty payments under the Natural Resources Code unless, for a dispute concerning the title, the contract requiring payment specifies otherwise.

The bill states that it only applies to a legal action filed on or after the effective date of the bill. It also explicitly states that it only applies to agreements entered into after the effective date.

(Original Author's / Sponsor's Statement of Intent)

S.B. 1259 amends current law relating to causes of action for withholding payments of the proceeds from the sale of oil and gas production.

### **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 91.402, Natural Resources Code, by adding Subsection (b-1), to provide that a payee does not have a common law cause of action for breach of contract against a payor for withholding payments under Subsection (b) (relating to payments being withheld without interest beyond time limits) unless, for a dispute concerning the title, the contract requiring payment specifies otherwise.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2021.