

SUBJECT: Annual fees for coal mining and reclamation operations

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 5 ayes — West, Farabee, Corte, Crownover, Howard

0 nays

2 absent — Crabb, Gonzalez Toureilles

WITNESSES: For — Steve Smith, Texas Mining & Reclamation Association;
(*Registered but did not testify* – Sid Stroud, TXU Power).

Against — None

On — Melvin Hodgkiss, Railroad Commission

BACKGROUND: Under Natural Resources Code, art. 134.054, surface mining operators must pay an application fee set by the Railroad Commission (RRC) to obtain, renew, or revise a mining permit. No annual fees are assessed on the permits.

Article 134.055 requires a mining operator to pay an annual fee to the RRC based on each acre of land in a permit area from which coal or lignite has been extracted during the calendar year. The fee may not be less than \$120 an acre and is due no later than March 15 of the year following the year of the removal operations.

DIGEST: HB 472 would require surface mining permit holders to pay two more annual fees to the RRC. Permit holders would pay:

- 1) a fee for each acre of land in the bonded permit area on December 31 of the year; and
- 2) a fee for the permit if the permit was in effect on December 31 of the year.

The annual fees would apply to all permit holders, regardless of whether active mining operations continue or have ceased.

HB 472 would authorize the RRC to determine the amount of each fee without limitation. This would include the mined acreage annual fee already assessed and would eliminate the \$120 minimum fee limitation now in place on that fee. The bill would revise the due date of the fees to no later than March 15 of the year following the year for which the fee was imposed.

The bill would take effect September 1, 2005, and would apply to fees imposed for the calendar year beginning January 1, 2006.

**SUPPORTERS
SAY:**

HB 472 would allow for a more equitable distribution of fees assessed on surface mining operations. Adding the two new annual fees would allow fees to be reallocated to all permitted operations based on their bonded acreage and active mining profiles.

Under the current structure, the annual fees from mined acreage are used to cover the RRC costs of regulating both active and inactive mining operations. Once active mining operations cease, permits can remain valid for as long as 10 or 15 years until the mined land has been reclaimed and the operators are released from their mandatory reclamation bonds. During that time, the RRC continues to regulate the land through inspection, monitoring, processing of bond applications, and handling of reclamation plan revisions. The bill would help mitigate the costs to the RRC because inactive mining operations now would have to contribute annually until released from their reclamation bonds.

HB 472 would provide for reallocation of fees without a significant increase in the total amount of fees. The mined acreage fee would be decreased and the two new fees would make up the difference. Although some active mining operators would have to pay more in annual fees because of the new structure, others would see a reduction in fees based on the amounts set by the RRC.

**OPPONENTS
SAY:**

HB 472 not only would result in inactive mining operations having to pay annual fees on permits and acreage no longer in use, but the bill could result in an unfair distribution of total fees assessed on some surface mining operators, depending on the fees implemented by the RRC. A mining operator with a significant amount of acreage in a bonded permit area, but not much mined acreage, could be responsible for more in fees than an operator with an insignificant amount of acreage and a larger percentage of mined land – or vice versa.

OTHER
OPPONENTS
SAY:

Mining operators who no longer extract coal or lignite from their permitted land should not have to pay the proposed annual fees. Active mining operators should be responsible for covering RRC costs because presumably they are producing income from mining, unlike inactive mining operators whose land no longer is used.