

- SUBJECT:** Allowing liens to secure unpaid royalties on oil and gas leases of state land
- COMMITTEE:** Energy Resources — favorable without amendment
- VOTE:** 5 ayes — Keffer, Crownover, Crabb, Farabee, Hardcastle
0 nays
4 absent — Craddick, Gonzalez Toureilles, Rios Ybarra, Strama
- WITNESSES:** For — Adam Haynes, Texas Independent Producers and Royalty Owners Association
Against — None
On — Jerry Patterson, General Land Office; Bill Stevens, Texas Alliance of Energy Producers
- BACKGROUND:** The Permanent School Fund (PSF) is a constitutional fund, established to support public education. Oil and gas leases on PSF land are administered by the General Land Office (GLO). Under current law, when the lessee under an oil and gas lease becomes delinquent in their royalty payments, the GLO has several options, including invoking its statutory and contractual lien rights.

Once the GLO exercises its lien rights, the first purchaser of oil and gas from the lessee is required to remit 100 percent of the funds due the lessee to the GLO until the delinquent royalties, penalties, and interest are paid. This payment hold is only applicable to the specific lease with the delinquent royalty payments. If an operator with a number of state leases falls behind in payments on one or more leases, the GLO cannot use the proceeds of the operator's remaining leases to satisfy the operator's debt to the state.
- DIGEST:** HB 2087 would amend Natural Resources Code, sec. 52.136 to obligate a lessee to grant the state an express contractual lien on all proceeds which could accrue from the sale of the oil and gas extracted from the area covered by the lease, or from an area covered by any other lease of state land or minerals held by the lessee.

The land commissioner could suspend temporarily enforcement of a lien if extenuating circumstances beyond the control of the lessee prevented the lessee from receiving payment from the first purchaser of the oil and gas produced from the lease area.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

Current statute only allows the GLO to place a lien on a delinquent lease. This means that if a lessee has a number of state leases and gets behind in payments on one, he can ignore the delinquent royalties and continue to produce on his other leases without the GLO being able to collect from the proceeds of those leases. HB 2087 would allow the GLO to place a lien on all PSF lease production by a lessee, so that delinquent royalties could be collected from another lease. This would allow the GLO to collect any delinquent funds rightfully owed to the PSF.

**OPPONENTS
SAY:**

HB 2087 could result in the taking of someone's property for something for which they are not responsible. For example, a person may end up with a lien on their lease to cover a delinquency on another lease that a partner is involved in solely. If only one partner in the different lease is the same, the state would be taking someone else's property. A lien on other properties would work only if the delinquent lessee is the sole lessee on all properties.

NOTES:

The companion bill, SB 1823 by Seliger, passed the Senate by 30-0 on April 22 and was left pending in the House Energy Resources Committee on May 6.