

## **BILL ANALYSIS**

Senate Research Center  
87R21658 JAM-F

C.S.S.B. 1259  
By: Birdwell  
Natural Resources & Economic Development  
4/22/2021  
Committee Report (Substituted)

### **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.

C.S.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), as follows:

(b-1) Provides that a payee does not have a common law cause of action for breach of contract against a payor for withholding royalty 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. Provides that the change in law made by this Act applies only to an action filed on or after the effective date of this Act. Provides that an action filed before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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