



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

March 29, 1954

Hon. Joe Pyle, Chairman  
Oil and Gas Committee  
Called Session, 53rd Legislature  
Austin, Texas

Letter Opinion No. MS-123

Re: Whether House Bill Nos. 12 and  
41 pertaining to minimum field  
prices for natural gas are with-  
in the Governor's call.

Dear Sir:

Your letter requesting our opinion on the above  
captioned matter reads in part as follows:

"H. B. 12 by Representatives Patten and  
Ford proposes to amend the statutory authority  
of the Railroad Commission of Texas, by adding  
to the Natural Gas Waste and Conservation statutes  
and establish a minimum field price of natural  
gas of 7¢ per thousand cubic feet (copy attached).

"H. B. 41, by Representative Bryan and others,  
is on the same subject and seeks to authorize and  
direct the Railroad Commission of Texas to hold  
hearings in the several gas producing areas of  
the State, to establish adequate and proper field  
prices for natural gas, so as to best conserve  
such natural resources and eliminate waste,  
including economic waste (copy attached)."

You request our opinion as to whether or not these  
bills are within the Governor's call and entitled to consider-  
ation under the Constitution at this Special Session.

Honorable Allan Shivers, in his proclamation call-  
ing a Special Session of the Fifty-Third Legislature, stated  
that it was called in part for the following purposes:

"1. To finance and make such appropriations as the Legislature may deem necessary to provide a new minimum salary schedule for public free school teachers.

"2. To finance and make such appropriations as the Legislature may deem necessary to adjust the salaries of employees of the State of Texas.

"3. To finance and make such appropriations as the Legislature may deem necessary for the construction of needed buildings at the following State institutions:

(a) Southwestern Medical School of the University of Texas at Dallas;

(b) The University of Texas Dental Branch at Houston;

(c) Texas School for the Deaf; and

(d) Eastham Unit of Texas Prison System."

The Governor, in his message to the joint session of the House and Senate on March 15, 1954, after suggesting a method of taxation on natural gas, concluded with the following statement:

"The dark clouds of the Federal Power Commission cast shadows on the Texas gas industry. If in the interest of conservation you feel that a minimum price law would be wise, the above rates could be reduced accordingly."

Webster's International Dictionary, Second Edition, defines the word "finance", in part, as follows:

"To conduct the finances of; to provide capital for."

And defines the term "Finance Bill", in part, as follows:

"...Finance Bill 2. Govt. A revenue bill; a legislative act to provide the necessary funds for the public treasury."

The Supreme Court of the United States in upholding the Oklahoma Natural Gas Price Fixing Order in Cities Service Company v. Peerless Company, 340 U. S. 179 (1950), stated:

"The Commission heard testimony to the effect that the field price of gas has a direct bearing on conservation. Witnesses testified that low prices make enforcement of conservation more difficult, retard exploration and development, and resulted in abandonment of wells long before all recoverable gas has been extracted..."

The Supreme Court set out the conclusion of the Oklahoma Commission that the taking of gas at the prevailing low prices resulted in both economic and physical waste of gas, loss to producers and royalty owners, and loss to the State in gross production taxes.

It is elementary that elimination of "loss to the State in gross production tax" will result in an increase of the revenue derived therefrom.

According to the above authority the bills in question will conserve our natural gas upon which a production tax is levied, and will thereby lengthen the tax life of the natural gas being produced in Texas; the bills will have the effect of substantially increasing the State revenue derived by its levy upon the production of gas, in that such tax is levied upon a percentage of the value.

In Long v. State, 127 S. W. 210, the court stated:

"The Constitution does not require the proclamation of the Governor to define the character or scope of legislation which may be enacted at a special session, but only in a general way to present the subject for legislation and thus confining the business to a particular field, which may be covered in such a way as the legislature may determine."

Hon. Joe Pyle, page 4 (MS-123)

The court in *Brown v. State* 22 S. W. 601 states:

"It was not the intention to require the Governor to define with precision, as to detail, the subjects of legislation, but only in a general way, by his call, to confine the business to the particular subjects.

"It was not necessary, nor would it have been proper, for the Governor, in his proclamation, to have suggested, in detail, the legislation desired. It was for the legislature to determine what the legislation should be."

It is, therefore, our opinion that a minimum gas price fixing bill or a bill that authorizes the Railroad Commission to fix minimum field prices for natural gas, which fixed price will be higher than one or more of the prevailing prices being paid for the gas, is clearly within the Governor's proclamation and the Governor's official message to the Legislature.

Yours very truly,

---

JOHN BEN SHEPPERD  
Attorney General

---

W. V. Geppert  
Assistant

WVG:bjb:mjs