

- SUBJECT:** Prohibiting construction in pipeline right-of-way without notice to operator
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 5 ayes — West, Canales, Crabb, E. Jones, B. Keffer
- 0 nays
- 2 absent — Farabee, Delisi
- WITNESSES:** For — James Mann, Texas Pipeline Association; Ben Sebree, Texas Oil and Gas Association; Alan D. Wurtz, Enterprise; (*Registered, but did not testify:*) Marty Allday, Copano Energy and Enbridge Energy; Kinnan Goleman, Devon Energy and Shell Oil; William Nikolis, TEPPCO; Patrick Nugent, Texas Pipeline Association; Shayne Woodard, Duke Energy and Sunoco Inc.
- Against — None
- DIGEST:** CSHB 1843 would prohibit construction on, across, over, or under the easement or right-of-way for a pipeline facility unless notice of the construction was given to the operator. In addition:
- the operator would have to determine that construction would not increase risk to the public or to the pipeline and, if there was a risk, the constructor would have to pay for any necessary improvements to protect the public or pipeline;
  - the construction would have to be conducted under an existing written agreement; or
  - the construction was necessitated by a natural disaster and would have to be conducted promptly by a regulated utility.
- The bill would apply to a construction or the repair, replacement, or maintenance of a construction unless there was a written agreement between the pipeline owner and operator and the person initiating the construction. Construction would be defined as a building, structure, driveway, roadway, or other construction. A pipeline would include one used to transmit or distribute natural gas or to gather or transmit oil, gas, or oil and gas products.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSHB 1843 would establish pipeline safety provisions for construction in a pipeline right-of-way, an important step toward protecting the public from pipeline accidents. A operator should be made aware of construction planned near a pipeline, since the operator would have specific knowledge about the potential hazards of construction. The bill prudently would give an operator the final say in any construction that could damage a pipeline's integrity or threaten Texas citizens.

Recently adopted federal pipeline safety regulations require operators to maintain increased surveillance of construction activities taking place near pipelines, and these operators need to receive notice on construction planned in a pipeline's right-of-way. If construction would not affect pipeline safety, an operator would not interfere with the activity. CSHB 1843 simply would enable operators to be aware of construction planned in a right-of-way and determine whether the construction was problematic.

If a construction project was potentially harmful, CSHB 1843 would require the constructor to pay for improvements needed to address those hazards. It is sensible for the individual planning the construction to cover the cost of making that construction safe.

**OPPONENTS  
SAY:**

CSHB 1843 would grant too much authority to a pipeline operator in determining whether construction in a right-of-way could commence. The bill could lead to abuse by operators who did not want construction near their pipelines even when the public would not be threatened.

**NOTES:**

The bill as introduced would not have provided that construction in a pipeline right-of-way could occur in response to a natural disaster.