

SUBJECT: Authority of gas corporations to lay lines under public rights-of-way

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 8 ayes — Keffer, Crabb, Craddick, Farabee, Gonzalez Toureilles,
Hardcastle, Rios Ybarra, Strama

0 nays

1 absent — Crownover

WITNESSES: For — Charles Yarbrough, Atmos Energy; (*Registered, but did not testify:*
Marty Allday, Enbridge Energy; Kathy Deyoung, Copano Energy; Delbert
Fore, Enterprise Products; Mark Gipson, Devon Energy; Kinnan
Golemon, Shell Oil; Kelly Mcbeth, Martin Midstream, Prism Gas,
Crosstex Energy; Patrick Nugent, Texas Pipeline Association; Lindsay
Sander, Kinder Morgan)

Against — None

BACKGROUND: Under Utilities Code, sec. 181.005, a gas corporation has the right to lay
and maintain lines over and across a public road, a railroad, a canal or
stream, or a municipal street or alley.

Utilities Code, sec. 121.2025 authorizes cities to levy a reasonable charge
on gas utilities to cover administrative costs incurred by the city in dealing
with the utility. A city also may recover reasonable costs of repairing
damages to city infrastructure by a utility that the utility did not repair
itself. Tax Code, sec. 182.025 allows a city to levy on a gas utility a
reasonable charge of up to 2 percent of the gross receipts from the sale of
gas within the city.

DIGEST: CSHB 2572 would give a gas corporation the right to lay and maintain
lines under a public road, a railroad, a canal or stream, or a municipal
street or alley.

A gas corporation's right to lay and maintain lines over, under, and across
a municipal street or alley would be subject to payment of compensation
under Utilities Code, sec. 121.2025 or Tax Code, sec. 182.025.

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, 2009.

**SUPPORTERS
SAY:**

CSHB 2572 would make a technical correction that would help avoid disputes and litigation over of the rights of gas corporations to lay lines under public rights-of-way, which they have been doing for years. Natural gas pipelines generally are placed underground.

Common carrier pipelines of various commodities currently may lay their facilities under various public rights-of-way. This bill would make the rights of gas corporations consistent with past practice and with statutes that provide other entities the right to lay lines over, across, and under public rights of way.

**OPPONENTS
SAY:**

Natural gas pipelines generally are placed underground, but not under municipal streets. Although it would be preferable to avoid condemnation proceedings by placing gas pipelines under municipal streets, rather than under private property, this could pose a danger for the Texas Department of Transportation (TxDOT) when they do road work. This also could create additional administrative duties and procedures for TxDOT in having to deal with the pipelines.

NOTES:

The committee substitute differs from the bill as filed by providing compensation for municipalities.

The companion bill, SB 1749 by Jackson, is pending in the Senate Natural Resources Committee.