

- SUBJECT:** Allowing natural gas pipelines in state highway rights-of-way
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 8 ayes — Pickett, Phillips, Callegari, Y. Davis, Guillen, Harper-Brown, T. Smith, W. Smith
- 0 nays
- 3 absent — Dunnam, McClendon, Merritt
- SENATE VOTE:** On final passage, April 21— 30–0
- WITNESSES:** (*On House companion bill, HB 876:*)
For — Pater Vaky, City of Fort Worth (*Registered, but did not testify:* Vaughn Aldredge, Preservation Texas; Gregory Brazaitis, Energy Transfer Company; Kinnan Golemon, Deron Energy, Shell Oil; Kelly McBeth, Prism Gas, Crosstex Energy; Patrick Nugent, Texas Pipeline Association; Donna Warndof, Texas Independent Producers and Royalty Owners Association)
- Against — None
- On — John Barton, Texas Department of Transportation
- BACKGROUND:** The federal Code of Federal Regulations, under 49 CFR 192, establishes minimum safety standards for natural gas and other pipelines. Additional regulatory safety standards for gas utilities are contained in administrative rules adopted by the Texas Railroad Commission through authority vested in Utility Code, ch. 121.
- Transportation Code, ch. 203, subch. E governs the relocation of utilities necessary as part of a state highway improvement project.
- DIGEST:** SB 686 would allow a gas utility to lay, maintain, and operate a natural gas pipeline through, across, under, or along a state highway if:

- the pipeline was subject to the jurisdiction of the Texas Railroad Commission and associated safety standards;
- the pipeline complied with all applicable state rules and federal regulations;
- the highway and associated facilities were promptly restored to their former condition after installation.

The bill would apply only to a natural gas pipeline located or proposed to be located in a county that contained part of the Barnett Shale natural gas field, in a county located in the boundaries of a metropolitan planning organization, within the corporate limits of a municipality.

The Texas Transportation Commission could require a gas utility to relocate a pipeline at a cost to the utility to accommodate construction or expansion of the highway or other public facility unless the utility had a property interest in land occupied by the relocated facility. The bill would not limit a gas utility's authority to use a public right-of-way.

The bill would define a "gas utility" as a utility defined or operated under current law in the Utility Code, or a common carrier or common purchaser under the Natural Resources Code.

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:**

SB 686 would end an unreasonable prohibition on laying certain natural gas pipelines in the rights-of-way of state highways. This current prohibition by the Texas Transportation Commission has forced gas utilities to rely on easements on private property, using the power of eminent domain to acquire necessary land for pipelines, and in some cases in Fort Worth has led to the installation of gas pipelines in residential neighborhoods. Much of this collateral impact on property owners surrounding major arterials could be reduced by allowing natural gas utilities to place pipelines in the rights-of-way of major thoroughfares, such as state highways. Providing this option on state highways would help alleviate the negative impact on property owners and would allow gas pipelines to be installed next to other utilities on existing rights-of-way, with no additional impact.

The bill would be bracketed to natural gas pipelines within certain counties and in municipal corporate limits. It would include ample safety provisions, ensuring utilities were subject to regulation by the Texas Railroad Commission and had to comply with all relevant state and federal safety regulations. Providing for the Texas Railroad Commission to oversee the installation and maintenance of gas pipelines would greatly reduce the risk of pipeline failure in the short and long term.

**OPPONENTS
SAY:**

SB 686 could result in a safety hazard for the travelling public, who would be in close proximity to natural gas pipelines along public rights-of-way. Existing Texas Transportation Commission policy prioritizes safety by prohibiting certain pipelines along state highways where they would be near the traveling public. State highways in municipalities and metropolitan counties, the scope included in the bill, often are very high-traffic, congested corridors. While natural gas pipeline explosions and failures are very rare, the repercussions of such an explosion could be devastating in proximity to a multitude of vehicles and businesses. Gas utilities have many options at their disposal for placing utilities outside of public rights-of-way. A reversal of current prohibitions on pipelines could pose unnecessary safety concerns for the public.

NOTES:

The House companion bill, HB 876 by Orr, was considered in a public hearing by the House Transportation Committee on April 7 and left pending.