

BILL ANALYSIS

Senate Research Center
79R18253 SMH-F

C.S.H.B. 2161
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Natural Resources
5/20/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas laws in the Utilities Code and the Natural Resources Code do not define pipeline safety standards for those performing work in a pipeline right-of-way. Texas does not meet current federal guidelines for pipeline safety prevention legislation or regulation, thus causing the state to lose the potential for annual federal pipeline safety grants. The leading cause of pipeline accidents in Texas is third-party damage.

C.S.H.B. 2161 authorizes the Railroad Commission of Texas to adopt certain standards and best practices outlined in the Pipeline Safety Act and grants it jurisdiction to enforce such standards and bring administrative penalties for violations of such acts.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Railroad Commission of Texas is modified in SECTION 1 (Section 121.201, Utilities Code), SECTION 2 (Section 121.206, Utilities Code) and SECTION 3 (Section 117.012, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 121.201, Utilities Code, by amending Subsections (a) and (b) and adding Subsection (d), (e), and (f) as follows:

(a) Authorizes the Railroad Commission of Texas (commission) to by rule, prescribe or adopt safety standards for the transportation of gas and for gas pipeline facilities, including safety standards related to the prevention of damage to such a facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches. Authorizes the commission to, by rule, require certain operators to provide certain information in a certain form, require record maintenance and reports, and take any other requisite action in accordance with 49 U.S.C. Section 60101 et seq., or a succeeding law. Authorizes the commission to inspect records and facilities to determine compliance with safety standards prescribed or adopted under Subdivision (1), and to make certifications and reports from time to time.

(b) Provides that the power granted in Subsection (a) is granted to provide exclusive state control over safety standards and practices applicable to the transportation of gas and gas pipeline facilities within the borders of this state to the maximum degree permissible under that law.

(d) Defines "telecommunications service" and "information service." Provides that notwithstanding Subsection (a), this title does not grant the commission jurisdiction or right-of-way management authority over a provider of telecommunications service or information service. Requires a provider of telecommunications service or information service to comply with all applicable safety standards, including those provided by Subchapter G, Chapter 756 (Miscellaneous Hazardous Conditions), Health and Safety Code.

(e) Provides that the power granted by Subsection (a) does not apply to surface mining operations or other specific entities or occupations.

(f) Prohibits the railroad commission from implementing rules adopted under Subsection (a) until September 1, 2007. Provides that this subsection expires September 1, 2008.

SECTION 2. Amends Sections 121.206(a) and (d), Utilities Code, as follows:

(a) Authorizes the commission to assess an administrative penalty against a person who violates Section 121.201(Safety Rules: Railroad Commission Power) or a safety standard or other rule prescribed or adopted under that section. Deletes existing reference to a person in violation of Subchapter I. Deletes existing text relating the transportation of gas and gas pipeline facilities.

(d) Requires the guidelines to take into account the person's history of previous violations of Section 121.201 or a safety standard or other rule prescribed or adopted under that section, including the number of previous violations. Makes a conforming change.

SECTION 3. Amends Section 117.012, Natural Resources Code, by amending Subsection (a) and adding Subsections (n), (o), and (p), as follows:

(a) Requires the commission to adopt rules that include safety standards related to the prevention of damage to a facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches.

(n) Defines "telecommunications service" and "information service." Provides that notwithstanding Subsection (a), this title does not grant the commission jurisdiction or right-of-way management authority over a provider of telecommunications service or information service. Requires a provider of telecommunications service or information service to comply with all applicable safety standards, including those provided by Subchapter G, Chapter 756 (Miscellaneous Hazardous Conditions), Health and Safety Code.

(o) Provides that the power granted by Subsection (a) does not apply to surface mining operations or other specific entities or occupations.

(p) Prohibits the commission from implementing rules adopted under Subsection (a) regulating the movement of earth by a person in the vicinity of a facility until September 1, 2007. Provides that this subsection expires September 1, 2008.

SECTION 4. Prohibits the commission from adopting safety standards under Section 121.201(a), Utilities Code, or Section 117.012(a), Natural Resources Code, as amended by this Act, until the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation adopts the rules published at 69 Fed. Reg. 35279 (2004) (to be codified at 49 C.F.R. Parts 192 and 195) (proposed June 3, 2004) or other rules pertaining to public education programs for hazardous liquid and gas pipeline operators.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2005.