

BILL ANALYSIS

Senate Research Center
79R4079 SMH-F

S.B. 480
By: Hinojosa
Natural Resources
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Some municipalities have recently enacted ordinances that significantly increased the fees charged to pipeline companies to install, repair, or maintain facilities under, over, or along the public ways in municipalities. One pipeline operator estimates that under the new formula, a municipality would collect over \$100,000 per year from that operator alone.

The ability of a municipality to charge gas, water, and electric distribution companies has already been limited by Section 182.025, Tax Code. As proposed, S.B. 480 would cover other types of pipeline companies. This bill would also allow a municipality to recover costs for the repair of any damage to the streets and alleys and would allow municipalities a one-time fee to recover the cost of maintaining records of pipeline locations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 117, Natural Resources Code, by adding Section 117.102, as follows:

Sec. 117.102. **AUTHORITY OF CITY TO ASSESS CHARGES.** (a) Prohibits a city, except as otherwise provided by this section or Section 182.025 (Charges by a City), Tax Code, from assessing a charge for certain actions relating to a hazardous liquid or carbon dioxide pipeline facility on, along, or across a public way.

(b)(1) Authorizes a city to assess a reasonable one-time charge for the use by an owner or operator of a hazardous liquid or carbon dioxide pipeline facility of the public ways located within the city and maintained by the city if the city does not assess a charge for that use under Section 182.025, Tax Code.

(2) Authorizes a city to recover the reasonable cost of repairing damage to a public way located within the city and maintained by the city that is caused by certain actions relating to a hazardous liquid or carbon dioxide pipeline facility if the owner or operator of the facility does not repair the damage in accordance with certain standards.

(c) Prohibits the charge authorized by Subsection (b)(1) from exceeding the cost to the city of maintaining records of the location of the pipeline facility.

(d) Authorizes the owner or operator of a pipeline facility to appeal the assessment of a charge under Subsection (b)(1) to the Railroad Commission of Texas (commission). Requires the commission to hear the appeal de novo. Requires the commission to declare the charge invalid or reduce the charge to a reasonable amount unless the city that assessed the charge establishes that the charge is reasonable. Provides that the commission has exclusive jurisdiction to determine whether a charge under that subsection is reasonable.

(e) Requires a city to file suit to collect a charge authorized by Subsection (b)(1) not later than the fourth anniversary of the date the charge becomes due. Provides that the running of the limitations period under this subsection is tolled on the filing of an appeal of the charge under Subsection (d) and begins running again on the date the appeal is determined.

SECTION 2. Amends Section 121.202(b), Utilities Code, to delete the provision that, except as provided by Subsection (a) (prohibiting a municipality or county from adopting or enforcing certain ordinances), this subchapter does not reduce, limit, or impair the ability of a municipality to adopt an ordinance that establishes conditions for mapping, inventorying, installing, or relocating pipelines over, under, along, or across a public street or alley or private residential area in the boundaries of the municipality, or the ability of a municipality to establish conditions for mapping or taking an inventory in an area in a municipality's extraterritorial jurisdiction. Makes nonsubstantive changes.

SECTION 3. Amends Subchapter E, Chapter 121, Utilities Code, by adding Section 121.2025, as follows:

Sec. 121.2025. **AUTHORITY OF MUNICIPALITY TO ASSESS CHARGES.** (a) Prohibits a municipality, except as otherwise provided by this section or Section 182.025, Tax Code, from assessing a charge for certain actions relating to a gas pipeline facility on, along, or across a public way.

(b)(1) Authorizes a municipality to assess a reasonable one-time charge for the use by an owner or operator of a gas pipeline facility of the public ways located within the municipality and maintained by the municipality if the municipality does not assess a charge for that use under Section 182.025, Tax Code.

(2) Authorizes a municipality to recover the reasonable cost of repairing damage to a public way located within the municipality and maintained by the municipality that is caused by certain actions relating to a gas pipeline facility if the owner or operator of the facility does not repair the damage in accordance with certain standards.

(c) Prohibits the charge authorized by Subsection (b)(1) from exceeding the cost to the municipality of maintaining records of the location of the pipeline facility.

(d) Authorizes the owner or operator of a pipeline facility to appeal the assessment of a charge under Subsection (b)(1) to the commission. Requires the commission to hear the appeal de novo. Requires the commission to declare the charge invalid or reduce the charge to a reasonable amount unless the municipality that assessed the charge establishes that the charge is reasonable. Provides that the commission has exclusive jurisdiction to determine whether a charge under that subsection is reasonable.

(e) Requires a municipality to file suit to collect a charge authorized by Subsection (b)(1) not later than the fourth anniversary of the date the charge becomes due. Provides that the running of the limitations period under this subsection is tolled on the filing of an appeal of the charge under Subsection (d) and begins running again on the date the appeal is determined.

SECTION 4. Effective date: September 1, 2005.