

BILL ANALYSIS

Senate Research Center

S.B. 686
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Transportation & Homeland Security
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State law currently requires cities to allow the installation of natural gas pipelines in their rights-of-way, but allows the Texas Transportation Commission (TTC) to deny pipeline companies the ability to install their pipelines beneath controlled access highways. As a result, natural gas pipeline companies undertaking drilling activities in cities such as Fort Worth have been installing their pipelines in residential neighborhoods when those same pipelines could have been installed in nearby highway rights-of-way. This has occurred even though pipeline companies operating in Fort Worth have expressed a preference to install their pipelines in highway rights-of-way rather than disrupting the lives of families and quiet neighborhoods. Texas Department of Transportation (TxDOT) staff members have informed Fort Worth officials that TxDOT will not permit the longitudinal installation of these pipelines in any portion of the highway rights-of-way adjacent to those neighborhoods. Although the Transportation Code and related regulations of TxDOT do not contain a blanket prohibition on the installation of all gas pipeline facilities, the permissive nature of the current law has allowed it to be interpreted this way over time.

S.B. 686 relates to the installation, maintenance, or operation of natural gas pipelines on state highways and highway and county road rights-of-way.

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 E, Chapter 203, Transportation Code, by adding Section 203.096, as follows:

Sec. 203.096. NATURAL GAS PIPELINE IN RIGHT-OF-WAY. (a) Defines "gas utility."

(b) Provides that this section applies only to a natural gas pipeline located or proposed to be located in a certain county or in the corporate limits of a municipality.

(c) Entitles a gas utility to lay, maintain, and operate a natural gas pipeline through, under, along, or across a controlled access highway, as defined by Section 203.001(1) only if, the pipeline is subject to the jurisdiction, control, and regulation of the Railroad Commission of Texas and subject to safety standard requirements pertaining to gas pipeline facilities and transmission lines for the transportation of gas; the pipeline complies with all applicable state rules consistent with this section and all applicable federal regulations on the accommodation of utility facilities on the highway or right-of-way, including rules and regulations relating to the horizontal and vertical location of the pipeline; and the highway and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline, as applicable, is complete.

(d) Authorizes the Texas Department of Transportation, subject to Section 203.092 (Reimbursement for Relocation of Utility Facilities), to require a gas

utility to relocate a facility at the cost of the gas utility to accommodate construction or expansion of the highway or for any other public work unless the gas utility has a property interest in the land occupied by the facility to be relocated.

(e) Prohibits this section from being construed to limit the authority of a gas utility to use a public right-of-way under any other law; or affect the authority of a municipality to regulate the use of a public right-of-way by a gas utility under any other law; or require payment of any applicable charge under Section 121.2025 (Authority of a Municipality to Assess Charges), Utilities Code, and Sections 182.025 (Charges by a City) and 182.026 (Subchapter Not Applicable), Tax Code.

SECTION 2. Amends Subchapter A, Chapter 251, Transportation Code, by adding Section 251.018, as follows:

Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) Requires a county to allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way. Authorizes the county to regulate the horizontal or vertical location of the water line within the right-of-way.

(b) Prohibits a county from adopting or enforcing an ordinance or regulation that establishes or conflicts with a safety standard or practice applicable to a temporary water line that is regulated under state or federal law.

SECTION 3. Effective date: upon passage or September 1, 2009.