

BILL ANALYSIS

Senate Research Center
83R22171 JXC-D

C.S.S.B. 514
By: Davis
Natural Resources
4/24/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hydraulic fracture drilling (fracking) has revolutionized the oil and gas industry and led to a rapid and successful increase in energy production in Texas. Presently overweight trucks are the primary source for removing oil and gas waste from fracking production sites and transporting it to disposal injection wells. At the current rate of hydraulic fracture drilling, thousands of heavy truck loads are needed to dispose of the waste. The use of these trucks causes increased truck emissions in urban nonattainment areas as well as increased noise pollution and the possibility of a hazmat spill due to a truck accident. Furthermore, these trips cost the state, local government, and the industry millions of dollars in trucks, drivers, gas, and road repair and maintenance.

The expanded use of what are generally known as saltwater pipelines could alleviate these costs and minimize the need for overweight trucks. However, no state agency currently has the ability to set standards and provisions for saltwater pipelines to help guide the industry on how and where to use saltwater pipelines, nor is there a right-of-way provided in state law to the industry to place new saltwater pipelines.

C.S.S.B. 514 amends current law relating to the installation, maintenance, operation, and relocation of saltwater pipeline facilities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Transportation Commission is modified in SECTION 1 (Section 91.902, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 91, Natural Resources Code, by adding Subchapter T, as follows:

SUBCHAPTER T. SALTWATER PIPELINES

Sec. 91.901. DEFINITIONS. Defines "saltwater pipeline facility" and "saltwater pipeline operator" in this subchapter.

Sec. 91.902. PIPELINE ON PUBLIC ROAD. Provides that a saltwater pipeline operator is entitled to install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only if:

- (1) the pipeline facility complies with applicable rules adopted by the Texas Transportation Commission (TTC) and applicable county and municipal regulations regarding the accommodation of utility facilities on a public road or right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline facility;
- (2) the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete; and

(3) the saltwater pipeline operator leases the right-of-way or area in which the pipeline facility is installed and pays to the applicable governmental entity the fair market value of the operator's use of the right-of-way or area, unless the operator is authorized by other law to install, maintain, and operate the pipeline facility through, under, along, across, or over the public road.

Sec. 91.903. RELOCATION OF SALTWATER PIPELINE FACILITY FOR CERTAIN PURPOSES. (a) Authorizes TTC, the commissioners court of a county, or the governing body of a municipality, as applicable, except as provided by Section 203.092 (Reimbursement for Relocation of Utility Facilities), Transportation Code, to require a saltwater pipeline operator to relocate a saltwater pipeline facility at the cost of the saltwater pipeline operator to accommodate construction or expansion of a public road or for any other public work unless the saltwater pipeline operator has a property interest in the land occupied by the facility to be relocated.

(b) Requires TTC, the commissioners court of a county, or the governing body of a municipality, as applicable, to give to the saltwater pipeline operator 30 days' written notice of the requirement. Requires that the notice identify the pipeline facility to be relocated and indicate the approximate location on the new right-of-way where the saltwater pipeline operator is authorized to place the facility.

Sec. 91.904. CONSTRUCTION OF SUBCHAPTER. Prohibits this subchapter from being construed to:

(1) limit the authority of a saltwater pipeline facility to use a public right-of-way under any other law; or

(2) affect the authority of a municipality to regulate the use of a public right-of-way by a saltwater pipeline operator under any other law, or require payment of any applicable charge under Section 182.025 (Charges By A City), Tax Code.

Sec. 91.905. APPLICATION OF OTHER LAW. Provides that Section 212.153(e) (relating to prohibiting a municipality from enforcing a deed restriction which purports to regulate or restrict certain rights granted to public utilities), Local Government Code, and Sections 203.092 (Reimbursement for Relocation of Utility Facilities), 224.008 (Utility Relocation Costs), and 502.1981(c)(4) (relating to the relocation of utilities for road or highway purposes), Transportation Code, apply to saltwater pipeline operators and saltwater pipeline facilities in the same manner as they apply to utilities and utility facilities.

SECTION 2. Effective date: upon passage or September 1, 2013.