

BILL ANALYSIS

C.S.H.B. 1843
By: West, George “Buddy”
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Health and Safety Code contains provisions dealing with the duties and responsibilities of those whose activities may create a safety risk to the public. HB 1843 adds Subchapter G to Chapter 756 to include activities involving on construction on, over or under pipelines and pipeline routes which is similar to the existing provisions in Chapter 752 dealing with activities around high voltage power lines.

The bill requires notice to be given to the pipeline facility operator prior to construction and that the person responsible for construction activities pay for any required safety measures caused by the construction.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Chapter 756, Health and Safety Code, is amended by adding Subchapter G.

SUBCHAPTER G. CONSTRUCTION AFFECTING PIPELINE EASEMENTS AND RIGHTS OF WAY.

Section 756.101 DEFINITIONS.

(1) Defines “Construction” as a building, structure, driveway, roadway, or other construction any part of which is physically located on, across, over, or under the easement or right-of-way of a pipeline facility or that physically impacts or creates a risk to a pipeline facility.

(2) Defines “Constructor” as a person that builds, operates, repairs, replaces, or maintains a construction or causes a construction to be built, operated, maintained, or replaced.

(3) Defines “Pipeline facility” as a pipeline used to transmit or distribute natural gas or to gather or transmit oil, gas, or products of oil and gas.

Section 756.102. APPLICABILITY.

This subchapter applies to a construction or the repair, replacement, or maintenance of a construction unless there is a written agreement, including a Texas Department of Transportation right-of-way agreement, to the contrary between the owner or operator of the affected pipeline facility and the person that places or causes a construction to be placed on the easement or right-of-way of a pipeline facility.

Section 756.103. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE.

Section 756.103. A person may not build, repair, replace, or maintain a construction on, across, over, or under the easement or right-of-way for a pipeline facility unless notice of the construction is given the

operator of the pipeline facility and:

(1) the operator of the pipeline facility determines that the construction will not increase a risk to the public or increase a risk of a break, leak, rupture, or other damage to the pipeline facility;

(2) if the operator of the pipeline facility determines that the construction will increase the risk to the public or the pipeline facility, the constructor pays the cost of the additional fortifications, barriers, conduits, or other changes or improvements necessary to protect the public or pipeline facility from that risk before proceeding with the construction;

(3) the building, repair, replacement, or maintenance is conducted under an existing written agreement; or

(4) the building, repair, replacement, or maintenance is required to be done promptly by a regulated utility company because of the effects of a natural disaster.

SECTION 2.

(a) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

(b) The change in law made by Subchapter G, Chapter 756, Health and Safety Code, as added by this Act, applies only to an activity described by Section 756.103, Health and Safety Code, as added by this Act, that is initiated on or after the effective date of this Act.

EFFECTIVE DATE

(a) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

(b) The change in law made by Subchapter G, Chapter 756, Health and Safety Code, as added by this Act, applies only to an activity described by Section 756.103, Health and Safety Code, as added by this Act, that is initiated on or after the effective date of this Act.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. Chapter 756, Health and Safety Code, SUBCHAPTER E. CONSTRUCTION AFFECTING PIPELINE EASEMENTS AND RIGHTS OF WAY is removed from the substitute and replaced with SECTION 1. Chapter 756, Health and Safety Code, SUBCHAPTER G. CONSTRUCTION AFFECTING PIPELINE EASEMENTS AND RIGHT-OF WAY.

Section 756.101 DEFINITIONS

(1) Deletes “in whole or part” and adds “any part of” on line 12, page 1. Deletes the word “any” and adds the word “a”. Deletes “as defined herein”.

(2) Deletes “any” and adds “a”. Deletes “or entity which” and “as defined herein”. Deletes the word “such” and replaces with “a”.

(3) Deletes “any” and adds “a”. Deletes “for the transmission or distribution of” and adds “to transmit or distribute”. Deletes “for the gathering or transmission of oil, gas or the products thereof” and adds “to gather or transmit oil, gas, or the products of oil or gas”.

CSHB 1843 removes Section 756.051 (a) and (b). APPLICABILITY and places it in Section 756.102. APPLICABILITY of the substitute. Section 756.051 (a) and (b) are combined into one subsection of the substitute.

Section 756.102 deletes the word “Section” and adds “subchapter”. CSHB 1843 replaces (a) and (b) with the following new language: “to a construction or the repair, replacement, or maintenance of a construction unless there is a written agreement, including a Texas Department of Transportation right-of-way agreement, to the contrary between the owner or operator of the affected pipeline facility and the person that places or causes a construction to be placed on the easement or right-of -way of a pipeline facility.

CSHB 1843 removes Section 756.053 and places it in Section 756.103. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE.

CSHB 1843 removes Section 756.051 (a) and (b). APPLICABILITY and places it in Section 756.102. APPLICABILITY of the substitute. Section 756.051 (a) and (b) are combined into one subsection of the substitute.

CSHB 1843 Section 756.103 deletes “No” and adds “A”. It deletes “or entity”. It adds “not” and “a construction”.

The language in Section 756.103 (1) is from 756.053(2) of the original bill. The word “not” is added to this subsection in the substitute.

The language in Section 756.103 (2) is from 756.053(3) of the original bill. The substitute adds “pays the cost” and “before proceeding with that construction”.

CSHB 1843 adds Subsection (3) of Section 756.103 to include the following language: “the building, repair, replacement, or maintenance is conducted under an existing written agreement”.

CSHB 1843 adds Subsection (4) of Section 756.103 to include the following language: “the building, repair, replacement, or maintenance is required to be done promptly by a regulated utility company because of the effects of a natural disaster.

CSHB 1843 adds new language to Subsection (b) of SECTION 2 which affects the effective date by adding subsection (b) to read as follows:

The change in law made by Subchapter G, chapter 756, Health and Safety Code, as added by this Act, applies only to an activity described by Section 756.103, Health and Safety Code, as added by this Act, that is initiated on or after the effective date of this Act.