

1-1 By: Capelo, et al. (Senate Sponsor - Williams) H.B. No. 1931
1-2 (In the Senate - Received from the House May 2, 2003;
1-3 May 6, 2003, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 1;
1-6 May 23, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1931 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to pipeline safety emergency response plans and the
1-11 requirements governing notification of pipeline construction and
1-12 operation.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 117.012, Natural Resources Code, is
1-15 amended by amending Subsections (h), (i), and (k) and adding
1-16 Subsections (l) and (m) to read as follows:

1-17 (h) The commission shall require operators or their
1-18 designated representatives to communicate and conduct liaison
1-19 activities with fire, police, and other appropriate public
1-20 emergency response officials. The liaison activities must be
1-21 conducted by meetings in person except as provided by this section.
1-22 An operator or the operator's representative may conduct required
1-23 community liaison activities as provided by Subsection (i) only if
1-24 the operator or the operator's representative has made an effort,
1-25 by one of the following methods, [~~the following efforts~~] to conduct
1-26 a community liaison meeting in person with the officials:

1-27 (1) mailing a written request for a meeting in person
1-28 to the appropriate officials by certified mail, return receipt
1-29 requested;

1-30 (2) sending a request for a meeting in person to the
1-31 appropriate officials by facsimile transmission; or [~~and~~]

1-32 (3) making one or more telephone calls or e-mail
1-33 message transmissions to the appropriate officials to request a
1-34 meeting in person.

1-35 (i) If the operator or operator's representative cannot
1-36 arrange a meeting in person after complying with Subsection (h),
1-37 the operator or the operator's representative shall make an effort,
1-38 by one of the following methods, [~~the following efforts~~] to conduct
1-39 community liaison activities by means of a telephone conference
1-40 call with the officials:

1-41 (1) mailing a written request for a telephone
1-42 conference to the appropriate officials by certified mail, return
1-43 receipt requested;

1-44 (2) sending a request for a telephone conference to
1-45 the appropriate officials by facsimile transmission; or [~~and~~]

1-46 (3) making one or more telephone calls or e-mail
1-47 message transmissions to the appropriate officials to request a
1-48 telephone conference.

1-49 (k) The commission by rule shall require the owner or
1-50 operator of each [~~interstate or~~] intrastate hazardous liquid or
1-51 carbon dioxide pipeline facility any part of which is located
1-52 within 1,000 feet of a public school building containing
1-53 classrooms, or within 1,000 feet of another public school facility
1-54 where students congregate, to:

1-55 (1) on written request from the school district,
1-56 provide in writing the following parts of a pipeline emergency
1-57 response plan that are relevant to the school:

1-58 (A) a description and map of the pipeline
1-59 facilities that are within 1,000 feet of the school building or
1-60 facility;

1-61 (B) a list of any product transported in the
1-62 segment of the pipeline that is within 1,000 feet of the school
1-63 facility;

2-1 (C) the designated emergency number for the
2-2 pipeline facility operator;

2-3 (D) information on the state's excavation
2-4 one-call system; and

2-5 (E) information on how to recognize, report, and
2-6 respond to a product release [develop an emergency response plan in
2-7 consultation with the fire department in whose jurisdiction the
2-8 school is located or another local emergency response entity]; and

2-9 (2) mail a copy of the requested items by certified
2-10 mail, return receipt requested, to the superintendent of the school
2-11 district in which the school building or facility is located
2-12 [present the plan.

2-13 [(A) at the first annual budget meeting of the
2-14 board of trustees of the school district in which the school is
2-15 located after the plan is developed; and

2-16 [(B) at subsequent annual budget meetings of the
2-17 board of trustees of the school district on the request of the
2-18 board].

2-19 (1) A pipeline operator or the operator's representative
2-20 shall appear at a regularly scheduled meeting of the school board to
2-21 explain the items listed in Subsection (k) if requested by the
2-22 school board or school district.

2-23 (m) The commission may not require the release of parts of
2-24 an emergency response plan that include security sensitive
2-25 information including maps or data. Security sensitive information
2-26 shall be made available for review by but not provided to the school
2-27 board.

2-28 SECTION 2. (a) Chapter 756, Health and Safety Code, is
2-29 amended by adding Subchapter G to read as follows:

2-30 SUBCHAPTER G. CONSTRUCTION AFFECTING PIPELINE EASEMENTS AND
2-31 RIGHTS-OF-WAY

2-32 Sec. 756.101. DEFINITIONS. In this subchapter:

2-33 (1) "Construction" means a building, structure,
2-34 driveway, roadway, or other construction any part of which is
2-35 physically located on, across, over, or under the easement or
2-36 right-of-way of a pipeline facility or that physically impacts or
2-37 creates a risk to a pipeline facility.

2-38 (2) "Constructor" means a person that builds,
2-39 operates, repairs, replaces, or maintains a construction or causes
2-40 a construction to be built, operated, repaired, maintained, or
2-41 replaced.

2-42 (3) "Pipeline facility" means a pipeline used to
2-43 transmit or distribute natural gas or to gather or transmit oil,
2-44 gas, or the products of oil or gas.

2-45 Sec. 756.102. APPLICABILITY. This subchapter applies to a
2-46 construction or the repair, replacement, or maintenance of a
2-47 construction unless there is a written agreement, including a Texas
2-48 Department of Transportation right-of-way agreement, to the
2-49 contrary between the owner or operator of the affected pipeline
2-50 facility and the person that places or causes a construction to be
2-51 placed on the easement or right-of-way of a pipeline facility.

2-52 Sec. 756.103. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE.
2-53 A person may not build, repair, replace, or maintain a construction
2-54 on, across, over, or under the easement or right-of-way for a
2-55 pipeline facility unless notice of the construction is given the
2-56 operator of the pipeline facility and:

2-57 (1) the operator of the pipeline facility determines
2-58 that the construction will not increase a risk to the public or
2-59 increase a risk of a break, leak, rupture, or other damage to the
2-60 pipeline facility;

2-61 (2) if the operator of the pipeline facility
2-62 determines that the construction will increase risk to the public
2-63 or the pipeline facility, the constructor pays the cost of the
2-64 additional fortifications, barriers, conduits, or other changes or
2-65 improvements necessary to protect the public or pipeline facility
2-66 from that risk before proceeding with the construction;

2-67 (3) the building, repair, replacement, or maintenance
2-68 is conducted under an existing written agreement; or

2-69 (4) the building, repair, replacement, or maintenance

3-1 is required to be done promptly by a regulated utility company
3-2 because of the effects of a natural disaster.

3-3 (b) The change in law made by Subchapter G, Chapter 756,
3-4 Health and Safety Code, as added by this section, applies only to an
3-5 activity described by Section 756.103, Health and Safety Code, as
3-6 added by this section, that is initiated on or after the effective
3-7 date of this Act.

3-8 SECTION 3. Section 81.056, Natural Resources Code, is
3-9 repealed.

3-10 SECTION 4. This Act applies to a permit application that is
3-11 pending with the Railroad Commission of Texas on the effective date
3-12 of this Act or that is filed with the commission on or after that
3-13 date.

3-14 SECTION 5. This Act takes effect immediately if it receives
3-15 a vote of two-thirds of all the members elected to each house, as
3-16 provided by Section 39, Article III, Texas Constitution. If this
3-17 Act does not receive the vote necessary for immediate effect, this
3-18 Act takes effect September 1, 2003.

3-19 * * * * *