

By: Chisum

H.B. No. 1329

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a city to take certain actions with regard to certain pipelines.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 117, Natural Resources Code, is amended by adding Section 117.102 to read as follows:

Sec. 117.102. AUTHORITY OF CITY TO ASSESS CHARGES. (a) Except as otherwise provided by this section or Section 182.025, Tax Code, a city may not assess a charge for the placement, construction, maintenance, repair, replacement, operation, use, or removal of a hazardous liquid or carbon dioxide pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

(b) A city may:

(1) 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 roads, highways, streets, alleys, streams, canals, or other 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; and

(2) recover the reasonable cost of repairing damage to a public road, highway, street, alley, stream, canal, or other public way located within the city and maintained by the city that is caused by the placement, construction, maintenance, repair,

1 replacement, operation, use, or removal of a hazardous liquid or  
2 carbon dioxide pipeline facility if the owner or operator of the  
3 facility does not repair the damage in accordance with generally  
4 applicable paving or other applicable standards in the city.

5 (c) A charge authorized by Subsection (b)(1) may not exceed  
6 the cost to the city of maintaining records of the location of the  
7 pipeline facility.

8 (d) The owner or operator of a pipeline facility may appeal  
9 the assessment of a charge under Subsection (b)(1) to the  
10 commission. The commission shall hear the appeal de novo. Unless  
11 the city that assessed the charge establishes that the charge is  
12 reasonable, the commission shall declare the charge invalid or  
13 reduce the charge to a reasonable amount. The commission has  
14 exclusive jurisdiction to determine whether a charge under that  
15 subsection is reasonable.

16 (e) A city must file suit to collect a charge authorized by  
17 Subsection (b)(1) not later than the fourth anniversary of the date  
18 the charge becomes due. The running of the limitations period under  
19 this subsection is tolled on the filing of an appeal of the charge  
20 under Subsection (d) and begins running again on the date the appeal  
21 is determined.

22 SECTION 2. Section 121.202(b), Utilities Code, is amended  
23 to read as follows:

24 (b) Except as provided by Subsection (a), this subchapter  
25 does not reduce, limit, or impair[+]

26 [~~1~~] a power vested by law in:

27 (1) [~~A~~] a county in relation to a county road; or

1           (2) [~~(B)~~] a municipality[~~, or~~

2           ~~[(2) the ability of a municipality to:~~

3                   ~~[(A) adopt an ordinance that establishes~~  
4 ~~conditions for mapping, inventorying, installing, or relocating~~  
5 ~~pipelines over, under, along, or across a public street or alley or~~  
6 ~~private residential area in the boundaries of the municipality; or~~

7                   ~~[(B) establish conditions for mapping or taking~~  
8 ~~an inventory in an area in a municipality's extraterritorial~~  
9 ~~jurisdiction].~~

10           SECTION 3. Subchapter E, Chapter 121, Utilities Code, is  
11 amended by adding Section 121.2025 to read as follows:

12           Sec. 121.2025. AUTHORITY OF MUNICIPALITY TO ASSESS CHARGES.

13 (a) Except as otherwise provided by this section or Section  
14 182.025, Tax Code, a municipality may not assess a charge for the  
15 placement, construction, maintenance, repair, replacement,  
16 operation, use, or removal of a gas pipeline facility on, along, or  
17 across a public road, highway, street, alley, stream, canal, or  
18 other public way.

19           (b) A municipality may:

20                   (1) assess a reasonable, one-time charge for the use  
21 by an owner or operator of a gas pipeline facility of the public  
22 roads, highways, streets, alleys, streams, canals, or other public  
23 ways located within the municipality and maintained by the  
24 municipality if the municipality does not assess a charge for that  
25 use under Section 182.025, Tax Code; and

26                   (2) recover the reasonable cost of repairing damage to  
27 a public road, highway, street, alley, stream, canal, or other

1 public way located within the municipality and maintained by the  
2 municipality that is caused by the placement, construction,  
3 maintenance, repair, replacement, operation, use, or removal of a  
4 gas pipeline facility if the owner or operator of the facility does  
5 not repair the damage in accordance with generally applicable  
6 paving or other applicable standards in the municipality.

7 (c) A charge authorized by Subsection (b)(1) may not exceed  
8 the cost to the municipality of maintaining records of the location  
9 of the pipeline facility.

10 (d) The owner or operator of a pipeline facility may appeal  
11 the assessment of a charge under Subsection (b)(1) to the  
12 commission. The commission shall hear the appeal de novo. Unless  
13 the municipality that assessed the charge establishes that the  
14 charge is reasonable, the commission shall declare the charge  
15 invalid or reduce the charge to a reasonable amount. The commission  
16 has exclusive jurisdiction to determine whether a charge under that  
17 subsection is reasonable.

18 (e) A municipality must file suit to collect a charge  
19 authorized by Subsection (b)(1) not later than the fourth  
20 anniversary of the date the charge becomes due. The running of the  
21 limitations period under this subsection is tolled on the filing of  
22 an appeal of the charge under Subsection (d) and begins running  
23 again on the date the appeal is determined.

24 SECTION 4. This Act takes effect September 1, 2005.