

By: Chisum

H.B. No. 1834

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 railroad
12 commission. The railroad commission shall hear the appeal de novo.
13 Unless the municipality that assessed the charge establishes that
14 the charge is reasonable, the railroad commission shall declare the
15 charge invalid or reduce the charge to a reasonable amount. The
16 railroad commission has exclusive jurisdiction to determine
17 whether a charge under that 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.