

AN ACT

relating to the authority of a gas corporation to use a public right-of-way.

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

SECTION 1. Section 121.2025(a), Utilities Code, is amended to read as follows:

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

SECTION 2. Section 181.005, Utilities Code, is amended to read as follows:

Sec. 181.005. AUTHORITY TO LAY AND MAINTAIN LINES. (a) A gas corporation has the right to lay and maintain lines over, along, under, and across a public road, a railroad, railroad right-of-way, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley only if:

(1) the pipeline complies with:

(A) all safety regulations adopted by the Railroad Commission of Texas and all federal regulations relating to pipeline facilities and pipelines; and

(B) all rules adopted by the Texas Department of

1 Transportation or the Railroad Commission of Texas and all federal
2 regulations regarding the accommodation of utility facilities on a
3 right-of-way, including regulations relating to the horizontal or
4 vertical placement of the pipeline; and

5 (2) the owner or operator of the pipeline ensures that
6 the public right-of-way and any associated facility are promptly
7 restored to their former condition of usefulness after the
8 installation or maintenance of the pipeline.

9 (b) The right granted by Subsection (a) relating to the use
10 of a municipal street or alley is subject to the payment of charges
11 in accordance with Section 121.2025 of this code and Sections
12 182.025 and 182.026, Tax Code.

13 (c) In determining the route of a pipeline within a
14 municipality, a gas corporation shall consider using existing
15 easements and public rights-of-way, including streets, roads,
16 highways, and utility rights-of-way. In deciding whether to use a
17 public easement or right-of-way, the gas corporation shall consider
18 whether:

19 (1) the use is economically practicable;

20 (2) adequate space exists; and

21 (3) the use will violate, or cause the violation of any
22 pipeline safety regulations.

23 (d) The Texas Department of Transportation may require the
24 owner or operator of a pipeline to relocate the pipeline:

25 (1) at the expense of the owner or operator of the
26 pipeline, if the pipeline is located on a right-of-way of the state
27 highway system;

1 (2) at the expense of this state, if the pipeline is
2 located on property in which the owner or operator of the pipeline
3 has a private interest; or

4 (3) in accordance with Section 203.092,
5 Transportation Code, at the expense of this state, if the pipeline
6 is owned or operated by a gas utility as defined by Section 181.021
7 of this code or a common carrier as defined by Chapter 111, Natural
8 Resources Code.

9 (e) Rules adopted by the Texas Department of Transportation
10 regarding horizontal and vertical placement of pipelines must be
11 reasonable and, for rights-of-way of the state highway system, must
12 provide an appeals process through the Texas Department of
13 Transportation.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 2572 was passed by the House on April 28, 2009, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2572 on May 25, 2009, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2572 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor