

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2572** by Gonzalez Toureilles (Relating to the authority of a gas corporation to use a public right-of-way.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would permit a gas corporation to lay and maintain lines under a municipal street or alley with the consent of the governing body of a municipality. The right would be subject to a pipeline's compliance with all safety regulations adopted by the Railroad Commission and all federal regulations relating to pipeline facilities and all rules adopted by the Texas Department of Transportation (TxDOT) or the Railroad Commission of Texas and all federal regulations regarding the accommodation of utility facilities on a right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline. Further, the bill would require the owner or operator of the pipeline must ensure that the public right-of-way and any associated facility is promptly restored to its former condition of usefulness after the installation or maintenance of the pipeline. The bill would also provide that, in determining the route of a pipeline within a municipality, a gas corporation must consider using existing easements and public rights-of-way, including streets, roads, highways, and utility rights-of-way. In deciding whether to use a public easement or right-of-way, the gas corporation must consider whether the use is economically practicable; whether adequate space exists; and whether the use will violate, or cause the violation of any pipeline safety regulations. In addition, the bill would allow TxDOT to require the owner or operator of a pipeline to relocate the pipeline at the expense of the owner or operator of the pipeline, if the pipeline is located on a right-of-way of the state highway system; at the expense of the state, if the pipeline is located on property in which the owner or operator of the pipeline has a private interest; or in accordance with Transportation Code, Section 203.092, at the expense of the state, if the pipeline is owned or operated by a utility as defined by Utilities Code, Section 181.021, or a common carrier as defined by Natural Resources Code, Chapter 111.

The Railroad Commission reports that passage of the bill may make it much more difficult to inspect gas pipelines compliance with pipeline safety regulations. However, the agency reports that the bill's passage is not expected to have a significant fiscal impact on the agency. TxDOT reports that because the bill grants a gas corporation the right to lay all gas lines along a state right of way would increase the number of lines on state rights of way and the relocation cost on interstate highways and toll roads. TxDOT reports that this would result in increased administrative and inspection costs to the agency. However, this estimate assumes that such additional costs could be absorbed by TxDOT.

#### Local Government Impact

Travis County reported that under a license agreement, a gas corporation must post a bond or provide a line of credit to Travis County in order for them to obtain a public right-of-way of a county road. Travis County also requires the corporation to indemnify the county from any future liability that might be caused by the corporation's gas line.

Tarrant County reported that a gas corporation can only access a public right-of-way in Tarrant County by laying its pipe lines underneath a county road, and any expenses incurred are paid by the gas corporation.

The fiscal impact to a municipality to implement the provisions of the bill would vary; however, those costs are not anticipated to be significant.

**Source Agencies:** 455 Railroad Commission, 601 Department of Transportation, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, SD, TL, TP