

SENATE AMENDMENTS

2nd Printing

By: Gonzalez Toureilles

H.B. No. 2572

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a gas corporation to use a public
3 right-of-way.

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

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

7 (a) Except as otherwise provided by this section or Section
8 182.025, Tax Code, a municipality may not assess a charge for the
9 placement, construction, maintenance, repair, replacement,
10 operation, use, relocation, or removal of a gas pipeline facility
11 on, along, under, or across a public road, highway, street, alley,
12 stream, canal, or other public way.

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

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

20 (b) The right granted by Subsection (a) relating to the use
21 of a municipal street or alley is subject to the payment of charges
22 in accordance with Section 121.2025 of this code and Sections
23 182.025 and 182.026, Tax Code.

24 (c) The proposed route of a pipeline and the proposed

1 location of pipeline related facilities must maximize, to the
2 extent practicable and economically reasonable, the use of existing
3 easements and public rights-of-way, including streets, roads,
4 highways, and utility rights-of-way, if adequate space exists and
5 the use will not violate, or cause the violation of, any applicable
6 pipeline safety regulations.


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

ADOPTED

MAY 19 2009

FLOOR AMENDMENT NO. 1

BY:


Secretary of the Senate

1 Amend H.B. No. 2572 (senate committee printing) as follows:

2 (1) In SECTION 2 of the bill, in amended Section
3 181.005(a), Utilities Code (page 1, line 25), between "alley"
4 and the period, insert the following:

5 only if:

6 (1) the pipeline complies with:

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

10 (B) all rules adopted by the Texas Department of
11 Transportation or the Railroad Commission of Texas and all
12 federal regulations regarding the accommodation of utility
13 facilities on a right-of-way, including regulations relating to
14 the horizontal or vertical placement of the pipeline; and

15 (2) the owner or operator of the pipeline ensures
16 that the public right-of-way and any associated facility is
17 promptly restored to its former condition of usefulness after
18 the installation or maintenance of the pipeline.

19 (2) In SECTION 2 of the bill, in amended Section 181.005,
20 Utilities Code (page 1, lines 30-36), strike proposed Subsection
21 (c) and substitute the following:

22 (c) In determining the route of a pipeline within a
23 municipality, a gas corporation shall consider using existing
24 easements and public rights-of-way, including streets, roads,
25 highways, and utility rights-of-way. In deciding whether to use
26 a public easement or right-of-way, the gas corporation shall
27 consider whether:

28 (1) the use is economically practicable;

29 (2) adequate space exists; and

30 (3) the use will violate, or cause the violation of

1 any pipeline safety regulations.

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

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

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

10 (3) in accordance with Section 203.092, Transportation
11 Code, at the expense of this state, if the pipeline is owned or
12 operated by a utility as defined by Section 203.091,
13 Transportation Code.

14 (e) Rules adopted by the Texas Department of
15 Transportation regarding horizontal and vertical placement of
16 pipelines must be reasonable and, for rights-of-way of the state
17 highway system, must provide an appeals process through the
18 Texas Department of Transportation.

3rd
Reading
ADOPTED

MAY 21 2009

Letay Spaw
Secretary of the Senate

BY: *Richard*

FLOOR AMENDMENT NO. 1

1 Amend Floor Amendment No. 1 by Jackson to H.B. 2572, ^{Second}~~third~~
2 reading, in item (2) of the amendment, in substituted Section
3 181.005(d), Utilities Code, by striking Subdivision (3) and
4 substituting the following:
5 (3) in accordance with Section 203.092,
6 Transportation Code, at the expense of this state, if the pipeline
7 is owned or operated by a gas utility as defined by Section 181.021
8 of this code or a common carrier as defined by Chapter 111, Natural
9 Resources Code.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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 Engrossed**

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. Under current law, a gas corporation has the right to lay and maintain lines over and across a municipal street or alley with the consent of the governing body of a municipality.

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.

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: 304 Comptroller of Public Accounts, 455 Railroad Commission

LBB Staff: JOB, SD, TL, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 8, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

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.), **Committee Report 1st House, Substituted**

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 for a compensation payment. Passage of the bill is not expected to result in fiscal implications to state agencies.

Local Government Impact

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 for a compensation payment as defined by Section 121.2025, Utilities Code, or Section 182.025, Tax Code.

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 depending on the amount of compensation payments received that would offset costs for the use of a municipal street or alley; however, those costs are not anticipated to be significant.

Source Agencies:

LBB Staff: JOB, SZ, TL, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

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 Introduced**

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. Under current law, a gas corporation has the right to lay and maintain lines over and across a municipal street or alley with the consent of the governing body of a municipality.

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.

Local Government Impact

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. Under current law, a gas corporation has the right to lay and maintain lines over and across a municipal street or alley with the consent of the governing body of a municipality.

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

LBB Staff: JOB, WK, TL, TP