

## **BILL ANALYSIS**

Senate Research Center

H.B. 951  
By: West, George "Buddy" (Seliger)  
Natural Resources  
5/1/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Current law states that anyone who wishes to build a structure on a pipeline right-of-way must notify the pipeline operator and give that operator a chance to determine if the construction will cause a safety hazard. However, at this time there is no penalty for violating the statute in the Health and Safety Code or any defined right to prevent construction that can cause a safety hazard.

H.B. 951 provides that the constructor who violates the statute is liable for any damage his actions cause and gives the county attorney, the attorney general, or the pipeline operator the right to seek an injunction to prevent the construction.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter G, Chapter 756, Health and Safety Code, as added by Chapter 1082, Acts of the 78th Legislature, Regular Session, 2003, by amending Section 756.103 and adding Sections 756.104 and 756.105, as follows:

Sec. 756.103. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE. Prohibits a person from building, repairing, replacing, or maintaining a construction on, across, over, or under the easement or right-of-way for a pipeline facility unless notice of the construction is given to the operator of the pipeline and if the operator of the pipeline facility determines that the construction will increase risk to the public or the pipeline facility, the constructor pays the reasonable, necessary, and documented cost of the additional fortifications, barriers, conduits, or other changes or improvements necessary to protect the public or pipeline facility from that risk before proceeding with the construction.

Sec. 756.104. CIVIL LIABILITY. Provides that a constructor who violates this subchapter is liable to the owner or operator of a pipeline facility for damages to the facility proximately caused by the violation, including any liability the owner or operator of the pipeline facility incurs as a result of the violation. Provides that this section does not affect the right of a surface owner to recover for any damages to the owner's property.

Sec. 756.105. INJUNCTIVE RELIEF. (a) Authorizes a suit for injunctive relief to prevent or abate the violation of this subchapter to be brought by the county attorney for the county in which the pipeline facility is located, by the attorney general, or by the owner or operator of the pipeline facility.

(b) Authorizes the court in which the suit is brought to grant any prohibitory or mandatory injunction the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction. Authorizes the court to grant the relief without requiring a bond or other undertaking.

SECTION 2. Amends Subchapter H, Chapter 756, Health and Safety Code, by amending Section 756.123 and adding Sections 756.124 and 756.125, as follows:

Sec. 756.123. PROHIBITION OF CONSTRUCTION WITHOUT NOTICE. Makes a conforming change.

Sec. 756.124. CIVIL LIABILITY. Provides that a constructor who violates this subchapter is liable to the owner or operator of a pipeline facility for damages to the facility proximately caused by the violation, including any liability the owner or operator of the pipeline facility incurs as a result of the violation. Provides that this section does not affect the right of a surface owner to recover for any damages to the owner's property.

Sec. 756.125. INJUNCTIVE RELIEF. (a) Authorizes a suit for injunctive relief to prevent or abate the violation of this subchapter to be brought by the county attorney for the county in which the pipeline facility is located, by the attorney general, or by the owner or operator of the pipeline facility.

(b) Authorizes the court in which the suit is brought to grant any prohibitory or mandatory injunction the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction. Authorizes the court to grant the relief without requiring a bond or other undertaking.

SECTION 3. Makes the application of Section 1 of this Act contingent upon the Act relating to nonsubstantive additions to and corrections in enacted codes not becoming law.

SECTION 4. Makes application of Section 2 of this Act contingent upon the passage of the Act relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: upon passage or September 1, 2005.