

BILL ANALYSIS

Senate Research Center

H.B. 2572
By: Gonzalez Toureilles (Jackson)
Natural Resources
5/7/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In recent years, there has been an increasing focus on how certain entities are allowed to utilize public rights-of-way. In some instances, an entity is granted the right to use public rights-of-way in several statutes that use different language to describe the entity's rights in the public rights-of-way. This leads to confusion and potential disputes and litigation.

Sections 181.005 (Authority to Lay and Maintain Lines) and 181.022 (Authority to Lay and Maintain Gas Facility), Utilities Code, are the two primary statutes governing the use of public rights-of-way by gas utilities and gas corporations. Section 181.022 specifically authorizes a gas utility to lay its pipelines under public rights-of-way while Section 181.005 only authorizes pipelines to be placed over and across public rights-of-way. Although pipelines are occasionally installed over and across streets, highways, and streams, they are most commonly installed under streets, highways, and streams. Sections 111.020 (Pipeline on Public Stream of Highway), 111.021 (Pipeline under Railroad, Street Railroad, or Canal), and 111.022 (Right to Use Street or Alley in City or Town), Natural Resources Code, authorize common carrier pipelines of various commodities to lay their facilities under a variety of public rights-of-way. Gas corporations should have the same clarity in the statutes as common carriers have.

H.B. 2572 provides that a gas corporation has the right to lay and maintain pipelines over, under, and across, certain roads, railroads, bodies of water, streets or alleys.

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 Section 121.2025(a), Utilities Code, to prohibit a municipality, except as otherwise provided by this section or Section 182.025 (Charges By a City), Tax Code, from assessing 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 public way.

SECTION 2. Amends Section 181.005, Utilities Code, as follows:

Sec. 181.005. **AUTHORITY TO LAY AND MAINTAIN LINES.** (a) Creates this subsection from existing text. Provides that 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.

(b) Provides that the right granted by Subsection (a) relating to the use of a municipal street or alley is subject to the payment of charges in accordance with Section 121.2025 of this code and Sections 182.025 and 182.026 (Subchapter Not Applicable), Tax Code.

(c) Requires that the proposed route of a pipeline and the proposed location of pipeline related facilities maximize, to the extent practicable and economically reasonable, the use of existing easements and public rights-of-way, including

streets, roads, highways, and utility rights-of-way, if adequate space exists and the use will not violate, or cause the violation of, any applicable pipeline safety regulations.

SECTION 3. Effective date: upon passage or September 1, 2009.