

BILL ANALYSIS

C.S.H.B. 2406
By: Wu
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that hydraulic fracture drilling has revolutionized the oil and gas industry and led to a rapid and successful increase in energy production in Texas. The parties further note that overweight trucks are the primary source for removing oil and gas waste from these production sites and transporting it to disposal injection wells and that, at the current rate of hydraulic fracture drilling, thousands of heavy truck loads are needed to dispose of the waste fluids. The interested parties contend that the use of these trucks causes increased air pollution in urban nonattainment areas as well as increased possibility of spills and traffic accidents and that the truck trips cost the state, local governments, and the industry millions of dollars in related expenses and in road repair and maintenance. The interested parties contend that the expanded use of what are generally known as saltwater pipelines could alleviate these costs and minimize the need for overweight trucks. The interested parties note, however, that there is insufficient state regulation regarding saltwater pipelines to help guide the industry on the use and location of these pipelines. C.S.H.B. 2406 seeks to address this issue by establishing provisions relating to the installation, maintenance, operation, and relocation of saltwater pipeline facilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2406 amends the Natural Resources Code to entitle a saltwater pipeline operator to install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only under the following conditions: the pipeline facility complies with applicable rules adopted by the Texas Transportation Commission and applicable county and municipal regulations regarding the accommodation of utility facilities on a public road or right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline facility; the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete; and the saltwater pipeline operator leases the right-of-way or area in which the pipeline facility is installed and pays to the applicable governmental entity the fair market value of the operator's use of the right-of-way or area, unless the operator is authorized by other law to install, maintain, and operate the pipeline facility through, under, along, across, or over the public road. The bill defines "saltwater pipeline facility" as a pipeline facility that conducts water containing salt and other substances produced during drilling or operating an oil, gas, or other type of well and specifies that the term includes a pipeline facility that conducts flowback and produced water from an oil or gas well on which a hydraulic fracturing treatment has been performed to an oil and gas waste disposal well for disposal. The bill defines "saltwater pipeline operator" as a person who owns, installs, manages, operates, leases, or controls a saltwater pipeline facility.

C.S.H.B. 2406 authorizes the Texas Transportation Commission, the commissioners court of a

county, or the governing body of a municipality, as applicable and except as provided by Transportation Code provisions relating to reimbursement by the state for a relocation of a utility facility, to require a saltwater pipeline operator to relocate a saltwater pipeline facility at the cost of the saltwater pipeline operator to accommodate construction or expansion of a public road or for any other public work unless the saltwater pipeline operator has a property interest in the land occupied by the facility to be relocated. The bill requires that 30 days' written notice of such a required relocation be given to the saltwater pipeline operator and sets out the requirements for this notice.

C.S.H.B. 2406 prohibits its provisions from being construed to limit the authority of a saltwater pipeline facility to use a public right-of-way under any other law or from being construed to affect the authority of a municipality to regulate the use of a public right-of-way by a saltwater pipeline operator under any other law or to require payment of certain applicable charges under the Tax Code.

C.S.H.B. 2406 makes a Local Government Code provision prohibiting a municipality from enforcing certain deed restrictions regarding a public utility and Transportation Code provisions relating to reimbursement by the state for a relocation of a utility facility, utility relocation costs, and certain use of money in a county road and bridge fund applicable to saltwater pipeline operators and saltwater pipeline facilities in the same manner as such provisions apply to utilities and utility facilities.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2406 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 91, Natural Resources Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. SALTWATER PIPELINES

Sec. 91.901. DEFINITIONS. In this subchapter:

(1) "Saltwater pipeline facility" means a pipeline facility that conducts water containing salt and other substances produced during drilling or operating natural gas and other types of wells.

(2) "Saltwater pipeline operator" means a person who owns, installs, manages, operates, leases, or controls a saltwater

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 91, Natural Resources Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. SALTWATER PIPELINES

Sec. 91.901. DEFINITIONS. In this subchapter:

(1) "Saltwater pipeline facility" means a pipeline facility that conducts water containing salt and other substances produced during drilling or operating an oil, gas, or other type of well. The term includes a pipeline facility that conducts flowback and produced water from an oil or gas well on which a hydraulic fracturing treatment has been performed to an oil and gas waste disposal well for disposal.

(2) "Saltwater pipeline operator" means a person who owns, installs, manages, operates, leases, or controls a saltwater

pipeline facility.

Sec. 91.902. PIPELINE ON PUBLIC ROAD. A saltwater pipeline operator is entitled to install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only if:

(1) the pipeline facility complies with applicable:

(A) saltwater safety regulations adopted by the commission relating to saltwater pipeline facilities;

(B) federal regulations relating to saltwater pipeline facilities; and

(C) rules adopted by the commission and the Texas Transportation Commission and applicable federal, county, and municipal regulations regarding the accommodation of utility facilities on a public road or right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline facility; and

(2) the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete.

Sec. 91.903. RELOCATION OF SALTWATER PIPELINE FACILITY FOR CERTAIN PURPOSES.

Sec. 91.904. CONSTRUCTION OF SUBCHAPTER.

Sec. 91.905. APPLICATION OF OTHER LAW.

Sec. 91.906. RULES. The commission shall adopt rules to implement this subchapter.

SECTION 2. This Act takes effect immediately if it receives a vote of two-

pipeline facility:

Sec. 91.902. PIPELINE ON PUBLIC ROAD. A saltwater pipeline operator is entitled to install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only if:

(1) the pipeline facility complies with applicable

rules adopted by the Texas Transportation Commission and applicable county and municipal regulations regarding the accommodation of utility facilities on a public road or right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline facility;

(2) the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete; and

(3) the saltwater pipeline operator leases the right-of-way or area in which the pipeline facility is installed and pays to the applicable governmental entity the fair market value of the operator's use of the right-of-way or area, unless the operator is authorized by other law to install, maintain, and operate the pipeline facility through, under, along, across, or over the public road.

Sec. 91.903. Substantially the same as introduced version.

Sec. 91.904. Same as introduced version.

Sec. 91.905. Same as introduced version.

No equivalent provision.

SECTION 2. Same as introduced version.

thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.