

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5.30.09

Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 686 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wendy Davis

Sen. Davis

J. Correa

Sen. Correa

Phil Nichols

Sen. Nichols

Shapiro

Sen. Shapiro

Tim Watson

On the part of the Senate

Sen. Watson

Rob Orr

Rep. Orr

Rep. Asher

Rep. Asher

Rep. Turner

Rep. Turner

Rep. Pearson

Rep. Pearson

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

**CONFERENCE
COMMITTEE REPORT**

3rd Printing

S.B. No. 686

A BILL TO BE ENTITLED

AN ACT

relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway rights-of-way.

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

SECTION 1. Subchapter E, Chapter 203, Transportation Code, is amended by adding Section 203.096 to read as follows:

Sec. 203.096. NATURAL GAS PIPELINE IN RIGHT-OF-WAY. (a)

In this section, "gas utility" means:

(1) a gas utility as defined by Section 121.001 or 181.021, Utilities Code; or

(2) a person that:

(A) is a common carrier under Section 111.002, Natural Resources Code;

(B) is a common purchaser under Section 111.081, Natural Resources Code; or

(C) owns, manages, operates, leases, or controls a gas pipeline facility that is subject to Section 121.201, Utilities Code.

(b) This section applies only to a natural gas pipeline located or proposed to be located in:

(1) a county in which a part of the Barnett Shale natural gas field is known to be located;

(2) a county that is located in the boundaries of a metropolitan planning organization; or

(3) the corporate limits of a municipality.

1 (c) A gas utility is entitled to lay, maintain, and
2 operate a natural gas pipeline through, under, along, or across
3 a controlled access highway, as defined by Section 203.001(1),
4 only if:

5 (1) the pipeline is subject to the jurisdiction,
6 control, and regulation of the Railroad Commission of Texas and
7 subject to safety standard requirements pertaining to gas
8 pipeline facilities and transmission lines for the
9 transportation of gas;

10 (2) the pipeline complies with all applicable state
11 rules consistent with this section and all applicable federal
12 regulations on the accommodation of utility facilities on the
13 highway or right-of-way, including rules and regulations
14 relating to the horizontal and vertical location of the
15 pipeline; and

16 (3) the highway and associated facilities are
17 promptly restored to their former condition of usefulness after
18 the installation or maintenance of the pipeline, as applicable,
19 is complete.

20 (d) Subject to Section 203.092, the department may require
21 a gas utility to relocate a facility at the cost of the gas
22 utility to accommodate construction or expansion of the highway
23 or for any other public work unless the gas utility has a
24 property interest in the land occupied by the facility to be
25 relocated.

26 (e) This section may not be construed to:

27 (1) limit the authority of a gas utility to use a
28 public right-of-way under any other law; or

29 (2) affect the authority of a municipality to:

30 (A) regulate the use of a public right-of-way by
31 a gas utility under any other law; or

32 (B) require payment of any applicable charge

1 under Section 121.2025, utilities Code, and Sections 182.025 and
2 182.026, Tax Code.

3 SECTION 2. Subchapter A, Chapter 251, Transportation Code,
4 is amended by adding Section 251.018 to read as follows:

5 Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) A
6 county shall allow subsurface access to a county road right-of-
7 way for the installation of a temporary water line that does not
8 interfere with existing utilities located in the right-of-way.
9 The county may regulate the horizontal or vertical location of
10 the water line within the right-of-way.

11 (b) A county may not adopt or enforce an ordinance or
12 regulation that establishes or conflicts with a safety standard
13 or practice applicable to a temporary water line that is
14 regulated under state or federal law.

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

Senate Bill 686
House Amendments
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subchapter E, Chapter 203, Transportation Code, is amended by adding Section 203.096 to read as follows:

Sec. 203.096. NATURAL GAS PIPELINE IN RIGHT-OF-WAY. (a) Defines "gas utility" to mean a gas utility as defined by Section 121.001 or 181.021, Utilities Code; or a person that is a common carrier under Section 111.002, Natural Resources Code; is a common purchaser under Section 111.081, Natural Resources Code; or owns, manages or operates, leases, or controls a *gas* pipeline facility that is subject to Section 121.201, Utilities Code.

(b) Makes this section applicable only to a natural gas pipeline located or proposed to be located in a county in which a part of the Barnett Shale natural gas field is known to be located; a county that is located in the boundaries of a metropolitan planning organization; or the corporate limits of a municipality.

(c) Entitles a gas utility to lay, maintain, and operate a natural gas pipeline through, under, along, or across a state highway, including a controlled access highway under certain conditions.

(d) Subject to Section 203.092, authorizes the *commission* to require a gas utility to relocate a facility at the cost of the gas utility to accommodate construction

HOUSE VERSION

SECTION 1. Subchapter E, Chapter 203, Transportation Code, is amended by adding Section 203.096 to read as follows:

Sec. 203.096. (a) Same as Senate version , except applies that definition to the term "pipeline": rather than to "gas utility" and includes a person that owns, manages, operates, leases, or controls a pipeline facility that is subject to Section 121.201, Utilities Code *or Section 117.012 Natural Resource Code.*

(b) Same as Senate version.

(c) Same as Senate version.

(d) Same as Senate version, except authorizes the *department* rather than the *commission*.

CONFERENCE

SECTION 1. Same as Senate version.

Section 203.096 (a) Same as Senate version.

(b) Same as Senate version.

(c) Similar to House version, except "state highway" is removed, and "a controlled access highway, as defined by Section 203.001 (1), only if" was added in its place.

(d) Same as House version.

Senate Bill 686
House Amendments
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

or expansion of the highway or for any other public work unless the gas utility has a property interest in the land occupied by the facility to be relocated.

(e) Provides that this section may not be construed to limit the authority of a gas utility to use a public right-of-way.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

(e) Requires a gas utility that lays, maintains, or operates a natural gas pipeline under this section in a municipality to: (1) comply with any applicable municipal ordinance relating to the excavation and restoration of a public right-of-way, if the ordinance does not conflict with a state or federal safety regulation; and (2) pay any applicable charge under Section 121.2025, Utilities Code, and Sections 182.025 and 182.026, Tax Code.

SECTION 2. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Section 251.018 SUBSURFACE ACCESS IN RIGHT-OF-WAY.

(a) Provides that a county shall allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the horizontal or vertical location of the water line within the right-of-way.

(b) Provides a county may not adopt or enforce an ordinance or regulation that establishes or conflicts with

(e) Similar to House and Senate version (e) states, this section may not be construed to: (1) limit the authority of a gas utility to use a public right-of-way under any other law; or (2) affect the authority of a municipality to: (A) regulate the use of a public right-of-way by a gas utility under any other law; or (B) require payment of any applicable charge under Section 121.2025, Utilities Code, and Sections 182.025 and 182.026, Tax Code.

Same as House version.

Same as House version.

Same as House version.

Same as House version.

Senate Bill 686
House Amendments
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SENATE VERSION

HOUSE VERSION

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a safety standard or practice applicable to a temporary
water line that is regulated under state or federal law.

SECTION 2. Effective Date

Same as Senate version.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: SB686 by Davis, Wendy (Relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway rights-of-way.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to allow a gas utility to lay, maintain, and operate a natural gas pipeline through, under, along, or across a controlled access highway in areas of the state specified by the bill only if the pipeline is subject to the regulation of the Texas Railroad Commission and safety standard requirements; the pipeline complies with all applicable state rules and federal regulations on the accommodation of utility facilities on highway right-of-way; and the highway and associated facilities are promptly restored after the installation or maintenance of the pipeline is complete. The bill would authorize the Texas Department of Transportation (TxDOT) to require a gas utility to relocate a facility at the cost of the utility to accommodate a highway project unless the gas utility has a property interest in the land occupied by the facility to be relocated.

The bill would require a county to permit access below a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities. The bill would allow a county to regulate the horizontal or vertical location within the right-of-way.

Based on the analysis of the Texas Department of Transportation, it is assumed any additional costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

Tarrant County reported the provisions of the bill would not have a significant fiscal impact on their county. Tarrant County stated that as long as the proper permits are completed by the drilling contractors, the county does not have a problem with the installation of a temporary water line along their county roads; usually these temporary water lines are installed for only a period of 4 to 5 weeks and there is no charge for filling out a permit.

The fiscal impact to some counties for repairing roads could be significant, but would vary depending on the amount of damage and the number of temporary water lines that are installed.

Source Agencies:

LBB Staff: JOB, KJG, TG