

SUBJECT: Requiring TRC approval before construction of a sour gas pipeline

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 7 ayes — Holzheuser, Hawley, Davis, Driver, Merritt, Moffat, Torres

0 nays

2 absent — Smithee, Wilson

WITNESSES: For — Robert Anderson, “Caution” Incorporated

Against — None

On — Larry Buch and Mary McDaniel; Texas Railroad Commission;
Patrick Nugent; Texas Natural Gas Pipeline Association

BACKGROUND : “Sour gas” is hydrogen sulfide gas, a byproduct of oil and gas wells. Sour gas is gathered from a well location, piped to a facility where the hydrogen sulfide is filtered out, and subsequently sold as natural gas.

Under current Texas Railroad Commission (TRC) rules, permission is not required to build a pipeline to gather sour gas in a rural area, but permission is required to operate it. In most urban areas, prior approval is required before construction.

DIGEST: CSHB 3194 would provide that a sour gas pipeline facility could not be constructed without a permit from the TRC. Applicants for a pipeline permit would be required to publish notice in a newspaper in every county the pipeline would cross and provide a copy of the application to every county clerk along the proposed route. “Construction” would not include surveying, acquiring or clearing right-of-way.

If the TRC found by order that the materials, construction and operation of a facility was in compliance with TRC rules and safety standards, it could approve an application for a permit by order.

An order could be issued by TRC without a hearing unless an affected party filed a written protest with the commission within 30 days after notice of the application was published. If a written protest were filed, the TRC would be required to hold a hearing within 60 days and issue an order either approving or denying the permit and stating reasons for the denial.

Certain projects would be exempted from bill's requirements, including extensions of existing sour gas pipelines that could meet certain criteria and certain interstate gas pipeline facilities.

The bill would define a "sour gas pipeline facility" as a facility containing a concentration of 100 parts per million or more of hydrogen sulfide, and an "affected party" as the owner or occupants of land within a radius of exposure to the pipeline facility as determined by the commission.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 3194 would ensure that proper materials and construction methods are used to construct sour gas pipelines, providing a measure of safety to those who live in rural areas near proposed pipeline projects. Sour gas pipelines should not be constructed without prior approval from the TRC to ensure that materials used for the pipeline would comply with state safety standards. If sour gas facilities are improperly constructed, they can leak poisonous hydrogen sulfide gas into neighborhoods. This is an unacceptable risk for those Texans who live near pipelines. At a concentration of 100 parts per million, as the gas is defined in the bill, hydrogen sulfide can make people sick; at a concentration over 500 parts per million, the gas can be fatal.

Requiring approval of the TRC before a company could begin construction would save residents of areas where pipelines are being built from the nuisance of enduring pipeline construction by a company whose operating permit may eventually be denied. It would also give residents a chance to protest a facility before construction began. Prior approval would also give pipeline companies a measure of financial security against the huge losses that can occur when a permit is denied after a project has begun construction or condemnation proceedings.

If an operating permit is denied by TRC, a company that has already begun construction can argue in court that the permit should be granted in part because millions of dollars have already been spent on a project. HB 3194 would establish from the start whether a proposed pipeline can be safely constructed.

**OPPONENTS
SAY:**

There is no reason to require pre-approval of pipeline construction. Under current rules, if the TRC finds that a project would be unsafe, it will not grant the company permission to operate. No company would risk the expense of constructing substandard pipelines since their operating permit could be denied in the future.

NOTES:

The committee substitute removed a provision in the original version of the bill that would have required TRC approval before eminent domain could be used to acquire property for a pipeline facility and added provisions specifying that a person must obtain a permit before beginning construction of a pipeline, outlining notice and hearing requirements, describing the conditions for the commission to approve an application and describing the procedure to be followed if a written protest is filed.