

- SUBJECT:** Additional RRC authority regarding pipeline safety standards
- COMMITTEE:** Energy Resources —favorable, without amendment
- VOTE:** 4 ayes — West, Farabee, Crownover, Howard  
0 nays  
3 absent — Corte, Crabb, Gonzalez Toureilles
- WITNESSES:** For — James Mann, Texas Pipeline Association; Charles Yarbrough, Atmos Energy Corporation; (*Registered, but did not testify:* Marty Allday, Copano Energy, Embridge Energy; Jayme Cox, Shell Oil; Delbert Fore, Enterprise Products; Kinnan Golemon, Devon Energy; Rick Grundman, Texas Gas Service Co.; Julie Moore, Occidental Petroleum Corporation; William Nikolis, Texas Eastern Products Pipeline Company; Patrick Nugent, Texas Pipeline Association; Steve Perry, ChevronTexaco; Lindsay Sander, Texas Pipeline Safety Coalition; Ben Sebree, Texas Oil and Gas Association; Tom Sellers, ConocoPhillips; Shayne Woodard, Duke Energy, Sunoco, Inc.)  
  
Against — None
- BACKGROUND:** The Office of Pipeline Safety, a division of the federal Department of Transportation, regulates the safety of the nation’s natural gas and hazardous liquid pipelines. The Natural Gas Pipeline Safety Act and the Hazardous Liquids Pipeline Safety Act, along with provisions in the Texas Utilities Code and Natural Resources Code, authorizes the Texas Railroad Commission (RRC) to adopt safety standards for the transportation of gas through the more than 150,000 miles of intrastate pipelines and gas pipeline facilities used to transport natural gas and hazardous liquid across the state.  
  
Under Utilities Code, sec. 121.206, the RRC has the ability to assess an administrative penalty against a person who violates RRC safety standards or rules relating to the transportation of gas or hazardous liquid.

DIGEST:

HB 2161 would authorize the RRC by rule to prescribe or adopt safety standards, including safety standards related to the prevention of damage to a gas pipeline facility, a hazardous liquid facility, or a carbon monoxide facility resulting from the movement of earth by a person in the vicinity of the facility.

The bill specifies that the RRC would have exclusive control over safety standards and practices applicable to the intrastate transportation of gas and gas pipeline facilities to the maximum degree permissible under federal law.

The bill would take effect September 1, 2005, and would apply only to a violation committed on or after the effective date.

SUPPORTERS  
SAY:

HB 2161 would affirm that the RRC has exclusive control over safety standards in Texas, as well as the authority to assess administrative penalties for violating a safety standard or rule adopted by the RRC for activities on and around pipeline rights-of-way that could endanger these facilities.

Most pipeline accidents are caused by third parties working on earth-moving projects, such as construction, in the vicinity of the pipeline. Such accidents pose a significant risk for property damage and personal injury to those involved. The RRC already has jurisdiction over regulating the safety of natural gas and hazardous liquid pipelines. This bill simply would clarify this authority as it relates to earth-moving activities within the vicinity of pipelines, which should result in a reduction of third-party damage to pipeline facilities.

Other bills proposed this session address only the need to notify the RRC if work was commenced around the vicinity of a pipeline. HB 2161 would go further by dealing with excavation activity and the actual use of earth-moving equipment after the lines are located. It would allow the administration of penalties against parties that did not comply with the safety requirements.

The RRC would not attempt to regulate smaller projects, such as cultivation, that might occur near the vicinity of a pipeline facility. Under the bill, the RRC would have discretion and continue to use reasonable judgment in establishing what kinds of activities applied to the rules and standards.

OPPONENTS  
SAY:

Third parties that would be affected by this bill, such as construction companies, normally do not deal with the RRC. This bill could provide for confusion and a lack of compliance by these parties who are not familiar with the standards. Third parties should have to be properly informed and aware of the standards.

NOTES:

A related bill, HB 951 by West, which would assign liability to a party who violated laws regulating construction near pipelines, passed the House on March 30. HB 1370 by Van Arsdale, which would assign liability to excavators who damaged certain underground facilities, was left pending in the Regulated Industries Committee on April 19.