

AN ACT

relating to the authority of a city to take certain actions with regard to certain pipelines.

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

SECTION 1. Subsection (a), Section 117.101, Natural Resources Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, this [~~This~~] chapter may not be construed to reduce, limit, or impair the authority provided by law to any city.

SECTION 2. Subchapter D, Chapter 117, Natural Resources Code, is amended by adding Section 117.102 to read as follows:

Sec. 117.102. AUTHORITY OF CITY TO ASSESS CHARGES.

(a) Except as otherwise provided by this section, a city may not assess a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a hazardous liquid or carbon dioxide pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

(b) A city may:

(1) assess a reasonable annual charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal by an owner or operator of a hazardous liquid or carbon dioxide pipeline facility on, along, or across the public roads, highways, streets, alleys, streams,

1 canals, or other public ways located within the city and maintained
2 by the city; and

3 (2) recover the reasonable cost of repairing damage to
4 a public road, highway, street, alley, stream, canal, or other
5 public way located within the city and maintained by the city that
6 is caused by the placement, construction, maintenance, repair,
7 replacement, operation, use, relocation, or removal of a hazardous
8 liquid or carbon dioxide pipeline facility if the owner or operator
9 of the facility does not repair the damage in accordance with
10 generally applicable paving standards or other applicable
11 standards in the city.

12 (c) A charge authorized by Subsection (b)(1) may not exceed
13 the cost to the city of administering, supervising, inspecting, and
14 otherwise regulating the location of the pipeline facility,
15 including maintaining records and maps of the location of the
16 pipeline facility.

17 (d) The owner or operator of a pipeline facility may appeal
18 the assessment of a charge under Subsection (b)(1) to the
19 commission. The commission shall hear the appeal de novo. Unless
20 the city that assessed the charge establishes that the charge is
21 authorized by this section, the commission shall declare the charge
22 invalid or reduce the charge to an amount authorized by this
23 section. The commission has exclusive jurisdiction to determine
24 whether a charge under Subsection (b)(1) is authorized by this
25 section. The owner or operator of the pipeline facility and the
26 city shall share equally the costs incurred by the commission in
27 connection with the appeal.

1 (e) A city must file suit to collect a charge authorized by
2 Subsection (b)(1) not later than the fourth anniversary of the date
3 the charge becomes due. The running of the limitations period under
4 this subsection is tolled on the filing of an appeal of the charge
5 under Subsection (d) and begins running again on the date the appeal
6 is determined.

7 (f) This section may not be construed to prevent a city
8 from:

9 (1) recovering the reasonable cost of repairing damage
10 to a city facility, other than a public way, caused by acts of the
11 owner or operator of a pipeline facility; or

12 (2) requiring the owner or operator of a pipeline
13 facility to relocate the pipeline facility, at the owner's or
14 operator's expense, to permit the construction, maintenance,
15 modification, or alteration of a city facility.

16 (g) Notwithstanding Subsection (f)(2), the city shall pay
17 the cost of relocating a pipeline facility if the pipeline facility
18 is authorized by a property right that has priority over the city's
19 right to use the public way for the city facility.

20 SECTION 3. Subsection (b), Section 121.202, Utilities Code,
21 is amended to read as follows:

22 (b) Except as provided by Subsection (a) and by Section
23 121.2025, this subchapter does not reduce, limit, or impair:

24 (1) a power vested by law in:

25 (A) a county in relation to a county road; or

26 (B) a municipality; or

27 (2) the ability of a municipality to:

1 (A) adopt an ordinance that establishes
2 conditions for mapping, inventorying, locating [~~installing~~], or
3 relocating pipelines over, under, along, or across a public street
4 or alley or private residential area in the boundaries of the
5 municipality; or

6 (B) establish conditions for mapping or taking an
7 inventory in an area in a municipality's extraterritorial
8 jurisdiction.

9 SECTION 4. Subchapter E, Chapter 121, Utilities Code, is
10 amended by adding Section 121.2025 to read as follows:

11 Sec. 121.2025. AUTHORITY OF MUNICIPALITY TO ASSESS CHARGES.

12 (a) Except as otherwise provided by this section or Section
13 182.025, Tax Code, a municipality may not assess a charge for the
14 placement, construction, maintenance, repair, replacement,
15 operation, use, relocation, or removal of a gas pipeline facility
16 on, along, or across a public road, highway, street, alley, stream,
17 canal, or other public way.

18 (b) A municipality may:

19 (1) assess a reasonable annual charge for the
20 placement, construction, maintenance, repair, replacement,
21 operation, use, relocation, or removal by an owner or operator of a
22 gas pipeline facility on, along, or across the public roads,
23 highways, streets, alleys, streams, canals, or other public ways
24 located within the municipality and maintained by the municipality;
25 and

26 (2) recover the reasonable cost of repairing damage to
27 a public road, highway, street, alley, stream, canal, or other

1 public way located within the municipality and maintained by the
2 municipality that is caused by the placement, construction,
3 maintenance, repair, replacement, operation, use, relocation, or
4 removal of a gas pipeline facility if the owner or operator of the
5 facility does not repair the damage in accordance with generally
6 applicable paving standards or other applicable standards in the
7 municipality.

8 (c) A charge authorized by Subsection (b)(1) may not exceed
9 the cost to the municipality of administering, supervising,
10 inspecting, and otherwise regulating the location of the gas
11 pipeline facility, including maintaining records and maps of the
12 location of the pipeline facility.

13 (d) The owner or operator of a gas pipeline facility may
14 appeal the assessment of a charge under Subsection (b)(1) to the
15 railroad commission. The railroad commission shall hear the appeal
16 de novo. Unless the municipality that assessed the charge
17 establishes that the charge is authorized by this section, the
18 railroad commission shall declare the charge invalid or reduce the
19 charge to an amount authorized by this section. The railroad
20 commission has exclusive jurisdiction to determine whether a charge
21 under Subsection (b)(1) is authorized by this section. The owner or
22 operator of the gas pipeline facility and the municipality shall
23 share equally the costs incurred by the railroad commission in
24 connection with the appeal.

25 (e) A municipality must file suit to collect a charge
26 authorized by Subsection (b)(1) not later than the fourth
27 anniversary of the date the charge becomes due. The running of the

1 limitations period under this subsection is tolled on the filing of
2 an appeal of the charge under Subsection (d) and begins running
3 again on the date the appeal is determined.

4 (f) This section may not be construed to prevent a
5 municipality from:

6 (1) recovering the reasonable cost of repairing damage
7 to a municipal facility, other than a public way, caused by acts of
8 the owner or operator of a gas pipeline facility; or

9 (2) requiring the owner or operator of a gas pipeline
10 facility to relocate the pipeline facility, at the owner's or
11 operator's expense, to permit the construction, maintenance,
12 modification, or alteration of a municipal facility.

13 (g) Notwithstanding Subsection (f)(2), the municipality
14 shall pay the cost of relocating a gas pipeline facility if the
15 pipeline facility is authorized by a property right that has
16 priority over the municipality's right to use the public way for the
17 municipal facility.

18 SECTION 5. (a) This Act does not affect:

19 (1) the validity or enforceability of a contract
20 entered into before the effective date of this Act by a municipality
21 and the owner or operator of a hazardous liquid, carbon dioxide, or
22 gas pipeline; or

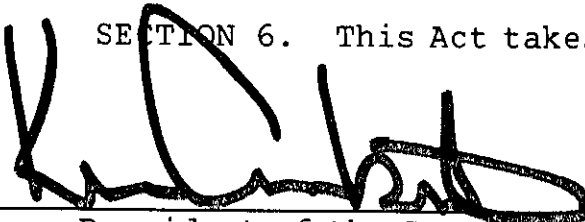
23 (2) the enforceability of a charge assessed by a
24 municipality before September 1, 2006, under an ordinance adopted
25 on or before September 1, 2004.

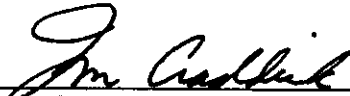
26 (b) This Act applies to a charge assessed by a municipality
27 on or after:

1 (1) the effective date of this Act under an ordinance
2 adopted after September 1, 2004; and

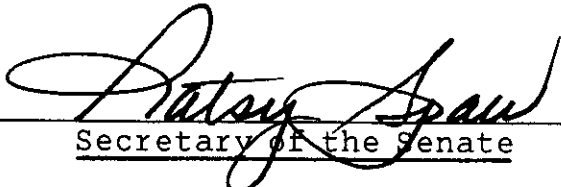
3 (2) September 1, 2006, under an ordinance regardless
4 of the date of adoption of the ordinance.

5 SECTION 6. This Act takes effect September 1, 2005.

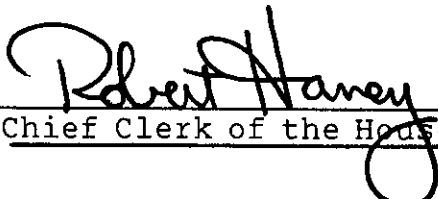

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 480 passed the Senate on
April 14, 2005, by the following vote: Yeas 31, Nays 0. _____

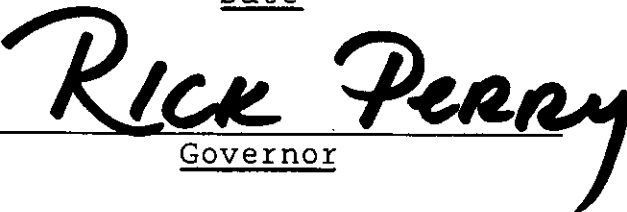

Secretary of the Senate

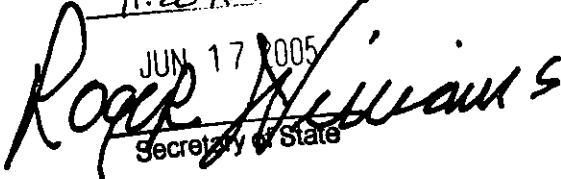
I hereby certify that S.B. No. 480 passed the House on
May 20, 2005, by a non-record vote. _____


Chief Clerk of the House

Approved:

17 JUNE '05
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM CLOCK
JUN 17 2005

Secretary of State