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Bill Analysis
Legislative Service Commission

Sub. H.B. 342

123rd General Assembly
(As Passed by the House)

Reps. Amstutz, Maier, Krebs, Gardner, Opfer, Logan, Hartnett, Padgett, Grendell, Harris, Taylor, Bender, Roman, Verich, Hoops, Terwilleger, Schuring, Vesper, Gooding, Damschroder, Buchy, Buehrer, O'Brien, Willamowski

BILL SUMMARY

- Authorizes a board of county commissioners to require a performance bond or other cash surety to indemnify any governmental entity or person who repairs damage to septic systems or drainage tiles caused by excavation of land by a utility company that enters or appropriates land pursuant to statutory authority for the purpose of constructing certain new natural gas pipelines.
- Requires boards of health, for septic systems, and soil and water conservation districts, for drainage tiles, to determine whether any damage occurs from the installation of the covered types of new natural gas pipelines, and, if damage occurs and a utility company does not satisfactorily repair the damage, requires the applicable board of county commissioners to authorize repair of the damage with the proceeds of the previously mentioned performance bond or other cash surety.

CONTENT AND OPERATION

Current law

Current law permits certain *utility companies* to enter private land to *examine or survey for*, and to *appropriate* pursuant to the Appropriation of Property Law (R.C. secs. 163.01 to 163.22) land necessary for (1) the laying down or building of tubing, conduits, pipes, dams, poles, wires, reservoirs, plants, powerhouses, storage yards, wharves, bridges, and other structures and (2) the erection of tanks, reservoirs, and pumping stations related to the storage of water for transportation. The companies must make restitution or reimbursement for any actual damage resulting from the examinations or surveys to the land entered and

to real or personal property located in or near that land, and, if the parties are unable to agree to a settlement in this regard, the property owner or possessor can recover damages through a court action. (Sec. 1723.01--in the bill; secs. 163.03 and 1723.02--not in the bill.)¹

Changes proposed by the bill

Excavation-related performance bond or other cash surety

The bill prohibits those utility companies from *excavating* land entered or appropriated, as described above, for the purpose of constructing a *new* natural gas pipeline that carries gas at a pressure of over 125 pounds per square inch and that is of a size about 24 inches in diameter or larger unless the company has provided a performance bond or other cash surety when this is required by a board of county commissioners under the bill. The bill relatedly authorizes the board of county commissioners with jurisdiction over the land to require a performance bond or other cash surety before a company excavates the land in order to indemnify any governmental entity or person that, with the approval of the board of county commissioners, repairs damage that results to septic systems or drainage tiles from the excavation or related activities; this includes damage to septic systems or drainage tiles located on land where excavation or other activities *do not take place* but that sustain damage due to the excavation or other activities on other land. The bond or other surety must be of a type and in the sum that the board prescribes and approves, but the duration of the bond or other surety can be for no more than three years after the completion of the new pipeline project. (Secs. 307.271(A) and 1723.01(B).)

Damage determinations

Whenever the board of county commissioners does require a performance bond or other cash surety for a new natural gas pipeline project as described above, the *board of health* of the city or general health district having jurisdiction over the land that the company enters or appropriates for constructing that pipeline must determine whether any damage occurs to *a septic system*, and the *soil and water conservation district* having similar jurisdiction must determine whether any damage occurs to *drainage tiles*, from the installation of that pipeline and report its findings to the board of county commissioners of each county where the damage is

¹ Under the Appropriation of Property Law, the companies are one type of "private agency" or "agency" subject to that law and possess the privilege to enter lands for the purpose of making "necessary or proper" "surveys, soundings, drillings, appraisals, and examinations" after giving a specified advance notice of a proposed entry to the owner or possessor of the lands (secs. 163.01 and 163.03).

located. If the company does not satisfactorily repair damage found by the board of health or soil and water conservation district, the board of county commissioners must authorize the repair of the septic system or drainage tiles using the proceeds of the bond or other surety to pay for the expenses of the repair. (Sec. 307.271(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced Reported, H. Local Gov't & Townships	05-13-99	p. 663
Passed House (92-0)	10-27-99	p. 1324
	11-10-99	pp. 1349-1350

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