Vote No on CSHB 3557 (Paddie/Birdwell): Don’t criminalize protests

CSHB 3557 could “criminalize” certain protests by creating a third-degree felony for a person that, without the effective consent of the owner, enters or remains on or in a critical infrastructure facility and intentionally or knowingly destroys or damages the facility or impairs or interrupts the operation of the facility. The bill amends the definition of “Critical Infrastructure” to even include a pipeline under construction, meaning protests of future pipelines that in some ways “impairs” that construction could be facing two to 10 years in jail.

We have seen similar bills in other states be used in such a broad way as to even lead to journalists and peaceful protesters being charged with felony convictions, and potentially face jail time. In addition, the bill would create a state jail felony if they “intend” to destroy, damage or impair or interrupt such a facility, but are not successful. How any prosecutor would prove such an intent is unclear but we believe the bill could be used to chill protests.

The bill would also require a court, notwithstanding Section 12.51 (Authorized Punishment For Corporations and Associations), Penal Code, to sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed $500,000, while another provision of the bill could lead to additional liability for an organization.

The bill also would require that damages and court costs be assessed to a claimant who prevails in such a suit. While the Lone Star Chapter of the Sierra Club appreciates the changes that were made in the House that substantially reduced the potential fines and charges for those found guilty of these “crimes,” we still believe the bill is not needed and has the potential to criminalize peaceful protests, in particular because of the “impede” language.

To the extent the bill moves forward, we would ask for the following changes on the bill:

1. Lower the third degree felony to a state jail felony, which is similar to what destruction of private property would be in other cases:
2. Lower the potential fine for organizations from up to $500,000 to up to $50,000;
3. Create an affirmative defense for property owners “caught” up in this law who might knowingly or unknowingly impede or obstruct “critical” infrastructure.

For more information, please contact Cyrus Reed, Conservation Director, Lone Star Chapter, 512-740-4086, cyrus.reed@sierraclub.org