

HOUSE BILL REPORT

E2SHB 2420

As Amended by the Senate

Title: An act relating to oil and gas pipeline safety.

Brief Description: Providing for oil and gas pipeline safety.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Linville, G. Chandler, Morris, Ericksen, Quall, Kastama, Santos, Grant, Stensen, Keiser, Poulsen, Wensman, Scott, Rockefeller, Reardon, Kenney, Cody, Lovick, Cooper, Koster, Haigh, McDonald, Van Luven, Lantz, Wood, Regala, Edmonds, Hurst, Dunshee, Constantine, Dickerson, Wolfe, Ogden, Ruderman and McIntire).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/20/00, 2/4/00 [DPS];
Appropriations: 2/7/00, 2/8/00 [DP2S(w/o sub AGECE)].

Floor Activity:

Passed House: 2/14/00, 95-0.
Senate Amended.
Passed Senate: 3/2/00, 46-0.

Brief Summary of Second Substitute Bill

- Transferring responsibilities for hazardous liquid pipeline safety from the Utilities and Transportation Commission to the Department of Ecology (DOE);
- Requiring DOE to develop a hazardous liquid pipeline safety program.
- Requiring additional safety measures when excavation work takes place near pipelines.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Koster, Republican Vice Chair; Anderson; B. Chandler; Delvin; Fortunato; Grant; Reardon; Stensen and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schoesler and Sump.

Staff: Carole Richmond (786-7114).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

Staff: Jeff Olsen (786-7157).

Background:

Regulation of Pipeline Safety

The Federal Pipeline Safety Act provides the statutory basis for the federal and state oil and gas pipeline safety programs. This law provides for exclusive federal authority over the regulation of interstate pipeline facilities, and federal delegation to the states for all or part of the responsibility for intrastate pipeline facilities under annual certification or agreement. Chapter 601 authorizes grants to states for up to 50 percent of a state's pipeline safety program. The federal Office of Pipeline Safety (OPS) within the U.S. Department of Transportation is responsible for administering the act.

The Federal Pipeline Safety Act preempts states from adopting safety or environmental standards more stringent than federal standards. The act allows states, however, to seek and accept designation as federal agents for the purpose of enforcing existing federal requirements on interstate hazardous liquid pipelines. Only four states have obtained this designation for hazardous liquid pipelines: Arizona, California, Minnesota, and New York. Three other states have obtained this

designation for natural gas pipelines. The OPS has not delegated authority to states since the mid-1990s.

The state of Washington is certified to assume safety responsibilities related to intrastate pipelines. The state's program is carried out within the Utilities and Transportation Commission (UTC).

Criticism of the Federal Pipeline Safety Act falls into two areas: (1) it does not allow states to develop more stringent requirements, and (2) the existing requirements are viewed by some as inadequate. One of the critics of the current law is the National Transportation Safety Board (NTSB), which is charged with investigating pipeline accidents. The NTSB alleges that many of its recommendations to OPS have not been adopted.

Hazardous Liquid Pipeline Accidents

On June 10, 1999, a 16-inch diameter pipeline owned by the Olympic Pipe Line Company ruptured and leaked approximately 277,000 gallons of gasoline into creeks in Whatcom Falls Park in Bellingham, Washington. About an hour and half later, the gasoline ignited and caused a fireball that traveled approximately one and a half miles downstream from the pipeline failure location. As a result, three young people lost their lives. Significant property and environmental damage also occurred. This is not the only pipeline spill to have occurred in Washington, but it is the only one to have resulted in fatalities. Since 1964 spills in Washington have totaled 905,000 gallons for pipelines, 1.3 million gallons for facilities such as refineries and terminals, and 4.6 million gallons for vessels.

Governor's Fuel Accident Prevention and Response Task Force

As a result of the tragedy in Bellingham, Governor Gary Locke convened a fuel accident prevention and response task force. The task force met six times between July and December 1999 and issued a set of recommendations. The Governor's principal priorities are to seek reauthorization of the Federal Pipeline Safety Act that allows for provision of additional authority for states to set standards, as well as additional funding for the state's pipeline safety activities.

Summary of Bill:

It is the intent of the Legislature that the Governor work with the congressional delegation in seeking elimination of federal preemption or the delegation of authority for pipeline safety when the Federal Pipeline Safety Act is reauthorized.

A "reportable release" is defined as one barrel, or 42 gallons of hazardous liquid.

A Pipeline Safety Account is created in the state treasury. All receipts from the federal Office of Pipeline Safety and any other state or federal funds provided for hazardous liquid pipeline safety must be deposited in the account. An appropriation is required for expenditures.

The DOE is charged with administration and enforcement of all laws related to hazardous liquid pipeline safety. By December 1, 2000, the department is charged with developing, for the review of the Legislature, a program of pipeline safety that promotes protection of public health and the environment. The program must include elements related to pipeline testing and inspection of all components and systems of a hazardous liquid pipeline. The program must also include elements related to training and certification of pipeline operators and measures aimed at the prevention of third party excavation damage through the use of a one-call system.

Prior to presenting this program to the Legislature for review during the 2001 session, the department must determine whether federal authority exists for each element or must be obtained. Upon exercising delegated or direct authority to regulate interstate pipeline safety, the department is required to hold interstate and intrastate hazardous liquid pipelines to the same standard of safety. After the state has received authority, the program elements must be implemented through operations safety plans to be submitted to the department by pipeline companies. The department deems the plans "fit for service" when they provide protection of public safety and the environment.

The department and the UTC are directed to support the Governor in seeking delegation of federal authority to inspect interstate pipelines and enforce state and federal pipeline safety requirements. Elements of a delegation of authority are provided. The authority to collect fees is not provided.

A pipeline safety committee is established to advise the department and other agencies on matters relating to hazardous liquid and gas safety. The committee must not exceed 15 members, excluding non-voting state agency representatives. Members include citizens, city and county elected officials, and pipeline industry representatives. The committee must review and comment on proposed rules and the operation of the pipeline safety program.

The UTC is required to establish a single statewide telephone number to be used for referring excavators to the appropriate one-call center. The UTC is required to consult with the Washington Utilities Coordinating Council to establish minimum standards and best management practices for one-call centers consistent with the recommendations of the Governor's fuel accident prevention and response task force.

Existing law on underground utilities is amended to create special requirements for pipelines. The UTC is required to establish, or cause to be established, a single

statewide telephone number so that anyone wishing to excavate only needs to call a single number to contact all of the utilities in the area proposed to be excavated.

Pipeline companies and excavators are each provided with new requirements for responding to information about damaged pipelines. Pipeline companies must ensure that any pipeline that is uncovered in the course of excavation is examined for damage prior to being reburied. In the event a pipeline is damaged, pipeline companies must visually inspect the pipeline and determine whether flow through the pipeline should be terminated, and must assess damage. In the event of a reportable release, pipeline companies must terminate the flow of hazardous liquid and gas through a pipeline and must notify emergency responders.

A system of graduated penalties is provided for excavators who fail to notify the one-number locator service, beginning with \$1,000 per violation. The maximum penalty possible is \$10,000 per violation for a history of violations. The department is required to develop penalties by rule after it has received delegated or direct authority for interstate pipeline safety.

EFFECT OF SENATE AMENDMENT(S): Responsibilities for regulation of hazardous liquid pipeline safety is retained by the Utilities and Transportation Commission, instead of transferring to the Department of Ecology. Upon receiving delegation of authority or removal of pre-emption, the hazardous liquid pipeline safety program is transferred to the Department of Ecology. The definition of "pipeline" does not include gas. The definition of "pipeline company" includes local distribution companies. Federal funds received before June 30, 2001 are to be treated as unanticipated funds.

The Commission is directed to develop a comprehensive program of hazardous liquid pipeline safety, including the development of rules that require various safety measures and the submission by pipeline companies of operations safety plans once every five years. Elements of a pipeline operations safety plan are identified. The commission is required to develop a curriculum aimed at prevention of third-party excavation damage to pipelines. The commission is directed to require pipeline companies to submit maps of their pipeline facilities and to consolidate those maps into a state-wide geographic information system (GIS). The commission is to develop a plan for funding the GIS and to report its recommendations to the legislature by December 15, 2000.

The Municipal Research Council is directed to develop by June 30,2001 a model ordinance that establishes setback and depth requirements for new pipeline construction, and a model franchise agreement.

The commission and department are directed to seek delegation of federal authority for enforcement of interstate hazardous liquid pipeline safety requirements. Upon delegation, the department is directed to adopt rules that are no less stringent than the state's laws and rules for intrastate hazardous liquid pipelines. The commission is directed to seek delegation of federal authority for enforcement of interstate gas pipeline safety requirements. Upon delegation, the commission is directed to adopt rules that are no less stringent than the state's laws and rules for intrastate gas pipelines.

The citizens pipeline safety committee is comprised of 13 members, including nine voting members representing the public and local government, and four non-voting members representing the pipeline industry.

After locators have marked pipelines, excavators are required to notify the one-call locator service if digging will occur within five feet of a pipeline. If so, the one-call locator service must inform the pipeline company of the proposed excavation and request the presence of a company representative on-site prior to excavation. In case of a reportable release of hazardous liquid, a pipeline company is not required to terminate the flow prior to correcting the problem.

Penalties are provided for:

- willful damage or removal of a marking used to identify underground facilities;
- failure to notify the one-call locator service; and
- excavating within five feet without company representative on site

All penalties are deposited into the general fund.

Pipelines located wholly within a person's property are exempt from provisions of this chapter.

Appropriation: None.

Fiscal Note: Available (original bill).

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately; however, the bill is null and void unless funded in the budget.

Testimony For: (Agriculture & Ecology) The Governor's task force concluded that states need to adopt stronger regulations. The bill helps get us there. Leaks occur repeatedly. Federal enforcement is inadequate. Even without additional authority, a lot can be done: information to locals, locations of pipelines, and development of first responder capabilities. The industry always says third-party damage is the largest cause of failure, but it's the cumulative total of the other causes, that is the greatest problem. The bill goes a long way. The needs and training of local firefighters

should be addressed. Citizens in Bellingham want a citizen advisory committee. We support one-call, mapping of pipelines, penalties for third-party damage, and additional training for first responders. Experts agree on the need for certain methods of pipeline testing and corrosion control. This bill sends a clear message that Washington is well prepared to deal with issues. Prevention is most important. We recommend that persons not be allowed to build within pipeline right-of-ways. Ecology is the appropriate agency to be dealing with pipeline safety.

(In support with concerns) This Legislation would not affect interstate pipelines, but would affect intrastate pipelines. The responsibilities in the bill need to be further refined. The appropriate agency needs to be in charge of pipeline safety. The language is overly prescriptive. Definitions need to be consistent with federal definitions. State regulations should incorporate recommendations of the American Society of Mechanical Engineers. Pipeline safety does not happen by mandate alone. You need to have commitment of resources and public support. In Washington, the greatest cause of accident is earth movement. This is not addressed in the bill. Fuel gas installers need to be certified. The state needs to develop certification requirements.

Intrastate pipelines do not need additional regulation. They are already well regulated. This bill would only regulate intrastate pipelines, and create dual standards. One size doesn't fit all. You have to consider history, operating conditions, and complexity. Regulations cannot be prescriptive. Third-party excavation is the biggest threat to pipelines. The Utilities and Transportation Commission should be in charge of pipeline safety. Lines should not be exposed if possible. Gas must not be regulated in the same way as liquid fuels. We do not support delegation of authority to states to set standards, but states can implement those standards.

(Appropriations) The provision requiring the Department of Labor and Industries to assess pipefitters' skills and training cannot be supported from the plumbers program, a dedicated account. The department has not had time to conduct a detailed fiscal estimate; however, the cost to conduct the assessment will most likely not exceed \$50,000, and may be done for less. The fiscal impact of the substitute version of the bill closely matches the \$345,000 level requested in the Governor's supplemental budget. This funding would be transitional until the state is delegated authority to regulate interstate pipelines to support the state pipeline safety program. Funding transferred from the Utilities and Transportation Commission to the Department of Ecology includes a federal grant of approximately \$34,000, and the portion of the regulatory fee for program safety, for a total of \$59,700. The Utilities and Transportation Commission wants to ensure that the bill does not weaken the state's current authority to regulate hazardous liquid and gas pipeline safety.

Testimony Against: (Agriculture & Ecology)None.

(Appropriations) None.

Testified: (Agriculture & Ecology)(In support) Representative Jeff Morris; Dan Sexton, Washington Association of Plumbers and Pipefitters; Mark Asmundson, Mayor, city of Bellingham; Mark Brown, city of Vancouver; Julie Rodwell, city of Seattle; Michael Mann, representing U.S. Representative Jay Inslee; Parker Blackman, WashPIRG; Susan Harper; Greg Winter, Safe Bellingham; and Kenneth Meyer.

(In support with concerns) Brian Matsumaya, Cascade Natural Gas, Inc.; Bob Sluder, Williams Gas Pipelines West; Kristen Harte Sawin; Carol Jolly, Office of the Governor; Shari Jensen, Washington Utility Coordinating Council; and Cody Arledge, Washington State Council of Fire Fighters.

(Appropriations) Suzanne Mager, Labor & Industries; Joe Stohr, Department of Ecology; and Carol Washburn, Washington State Utilities and Transportation Commission.