
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2435.1/01

ATTY/TYPIST: KB:ads

BRIEF DESCRIPTION:

2 **SSB 5182** - H COMM AMD **NOT ADOPTED 4/5/01**
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The intent of this act is to ensure a
8 sustainable, comprehensive, pipeline safety program, to protect the
9 health and safety of the citizens of the state of Washington, and
10 maintain the quality of the state's environment. The legislature finds
11 that public safety and the environment are best protected by securing
12 permanent funding for this program through establishment of a
13 regulatory fee imposed on hazardous liquids and gas pipelines.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.24 RCW
15 to read as follows:

16 (1)(a) Every gas company and every interstate gas pipeline company
17 subject to inspection or enforcement by the commission shall pay an
18 annual pipeline safety fee to the commission. The pipeline safety fees
19 received by the commission shall be deposited in the pipeline safety
20 account created in RCW 81.88.050.

21 (b) The aggregate amount of fees set shall be sufficient to recover
22 the reasonable costs of administering the pipeline safety program,
23 taking into account federal funds used to offset the costs. The fees
24 established under this section shall be designed to generate revenue
25 not exceeding appropriated levels of funding for the current fiscal
26 year. At a minimum, the fees established under this section shall be
27 sufficient to adequately fund pipeline inspection personnel, the timely
28 review of pipeline safety and integrity plans, the timely development
29 of spill response plans, the timely development of accurate maps of
30 pipeline locations, participation in federal pipeline safety efforts to
31 the extent allowed by law, and the staffing of the citizens committee
32 on pipeline safety.

33 (c) Increases in the aggregate amount of fees over the immediately
34 preceding fiscal year are subject to the requirements of RCW
35 43.135.055.

1 (2) The commission shall by rule establish the methodology it will
2 use to set the appropriate fee for each entity subject to this section.
3 The methodology shall provide for an equitable distribution of program
4 costs among all entities subject to the fee. The fee methodology shall
5 provide for:

6 (a) Direct assignment of average costs associated with annual
7 standard inspections, including the average number of inspection days
8 per year. In establishing these directly assignable costs, the
9 commission shall consider the requirements and guidelines of the
10 federal government, state safety standards, and good engineering
11 practice; and

12 (b) A uniform and equitable means of estimating and allocating
13 costs of other duties relating to inspecting pipelines for safety that
14 are not directly assignable, including but not limited to design review
15 and construction inspections, specialized inspections, incident
16 investigations, geographic mapping system design and maintenance, and
17 administrative support.

18 (3) The commission shall require reports from those entities
19 subject to this section in the form and at such time as necessary to
20 set the fees. After considering the reports supplied by the entities,
21 the commission shall set the amount of the fee payable by each entity
22 by general order entered before July 1st of each year.

23 (4) For companies subject to RCW 80.24.010, the commission shall
24 collect the pipeline safety fee as part of the fee specified in RCW
25 80.24.010. The commission shall allocate the moneys collected under
26 RCW 80.24.010 between the pipeline safety program and for other
27 regulatory purposes. The commission shall adopt rules that assure that
28 fee moneys related to the pipeline safety program are maintained
29 separately from other moneys collected by the commission under this
30 chapter.

31 (5) Any payment of the fee imposed by this section made after its
32 due date must include a late fee of two percent of the amount due.
33 Delinquent fees accrue interest at the rate of one percent per month.

34 (6) The commission shall keep accurate records of the costs
35 incurred in administering its gas pipeline safety program, and the
36 records are open to inspection by interested parties. The records and
37 data upon which the commission's determination is made shall be prima
38 facie correct in any proceeding to challenge the reasonableness or

1 correctness of any order of the commission fixing fees and distributing
2 regulatory expenses.

3 (7) If any entity seeks to contest the imposition of a fee imposed
4 under this section, that entity shall pay the fee and request a refund
5 within six months of the due date for the payment by filing a petition
6 for a refund with the commission. The commission shall establish by
7 rule procedures for handling refund petitions and may delegate the
8 decisions on refund petitions to the secretary of the commission.

9 (8) After establishing the fee methodology by rule as required in
10 subsection (2) of this section, the commission shall create a
11 regulatory incentive program for pipeline safety programs in
12 collaboration with the citizens committee on pipeline safety. The
13 regulatory incentive program created by the commission shall not shift
14 costs among companies paying pipeline safety fees and shall not
15 decrease revenue to pipeline safety programs. The regulatory incentive
16 program shall not be implemented until after the review conducted
17 according to section 4 of this act.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.24 RCW
19 to read as follows:

20 (1)(a) Every hazardous liquid pipeline company as defined in RCW
21 81.88.010 shall pay an annual pipeline safety fee to the commission.
22 The pipeline safety fees received by the commission shall be deposited
23 in the pipeline safety account created in RCW 81.88.050.

24 (b) The aggregate amount of fees set shall be sufficient to recover
25 the reasonable costs of administering the pipeline safety program,
26 taking into account federal funds used to offset the costs. The fees
27 established under this section shall be designed to generate revenue
28 not exceeding appropriated levels of funding for the current fiscal
29 year. At a minimum, the fees established under this section shall be
30 sufficient to adequately fund pipeline inspection personnel, the timely
31 review of pipeline safety and integrity plans, the timely development
32 of spill response plans, the timely development of accurate maps of
33 pipeline locations, participation in federal pipeline safety efforts to
34 the extent allowed by law, and the staffing of the citizens committee
35 on pipeline safety.

36 (c) Increases in the aggregate amount of fees over the immediately
37 preceding fiscal year are subject to the requirements of RCW
38 43.135.055.

1 (2) The commission shall by rule establish the methodology it will
2 use to set the appropriate fee for each entity subject to this section.
3 The methodology shall provide for an equitable distribution of program
4 costs among all entities subject to the fee. The fee methodology shall
5 provide for:

6 (a) Direct assignment of average costs associated with annual
7 standard inspections, including the average number of inspection days
8 per year. In establishing these directly assignable costs, the
9 commission shall consider the requirements and guidelines of the
10 federal government, state safety standards, and good engineering
11 practice; and

12 (b) A uniform and equitable means of estimating and allocating
13 costs of other duties relating to inspecting pipelines for safety that
14 are not directly assignable, including but not limited to design review
15 and construction inspections, specialized inspections, incident
16 investigations, geographic mapping system design and maintenance, and
17 administrative support.

18 (3) The commission shall require reports from those entities
19 subject to this section in the form and at such time as necessary to
20 set the fees. After considering the reports supplied by the entities,
21 the commission shall set the amount of the fee payable by each entity
22 by general order entered before July 1st of each year.

23 (4) For companies subject to RCW 81.24.010, the commission shall
24 collect the pipeline safety fee as part of the fee specified in RCW
25 81.24.010. The commission shall allocate the moneys collected under
26 RCW 81.24.010 between the pipeline safety program and for other
27 regulatory purposes. The commission shall adopt rules that assure that
28 fee moneys related to the pipeline safety program are maintained
29 separately from other moneys collected by the commission under this
30 chapter.

31 (5) Any payment of the fee imposed by this section made after its
32 due date must include a late fee of two percent of the amount due.
33 Delinquent fees accrue interest at the rate of one percent per month.

34 (6) The commission shall keep accurate records of the costs
35 incurred in administering its hazardous liquid pipeline safety program,
36 and the records are open to inspection by interested parties. The
37 records and data upon which the commission's determination is made
38 shall be prima facie correct in any proceeding to challenge the

1 reasonableness or correctness of any order of the commission fixing
2 fees and distributing regulatory expenses.

3 (7) If any entity seeks to contest the imposition of a fee imposed
4 under this section, that entity shall pay the fee and request a refund
5 within six months of the due date for the payment by filing a petition
6 for a refund with the commission. The commission shall establish by
7 rule procedures for handling refund petitions and may delegate the
8 decisions on refund petitions to the secretary of the commission.

9 (8) After establishing the fee methodology by rule as required in
10 subsection (2) of this section, the commission shall create a
11 regulatory incentive program for pipeline safety programs in
12 collaboration with the citizens committee on pipeline safety. The
13 regulatory incentive program created by the commission shall not shift
14 costs among companies paying pipeline safety fees and shall not
15 decrease revenue to pipeline safety programs. The regulatory incentive
16 program shall not be implemented until after the review conducted
17 according to section 4 of this act.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.88 RCW
19 to read as follows:

20 The joint legislative audit and review committee shall review staff
21 use, inspection activity, fee methodology, and costs of the hazardous
22 liquid and gas pipeline safety programs and report to the appropriate
23 legislative committees by July 1, 2003. The report shall include a
24 comparison of interstate and intrastate programs, including but not
25 limited to the number and complexity of regular and specialized
26 inspections, mapping requirements for each program, and allocation of
27 administrative costs to each program.

28 **Sec. 5.** RCW 19.122.055 and 2000 c 191 s 24 are each amended to
29 read as follows:

30 (1) Any person who fails to notify the one-number locator service
31 and causes damage to a hazardous liquid or gas pipeline is subject to
32 a civil penalty of not more than ten thousand dollars for each
33 violation.

34 (2) All civil penalties recovered under this section (~~relating to~~
35 ~~hazardous liquid pipelines~~) shall be deposited into the (~~hazardous~~
36 ~~liquid~~) pipeline safety account created in RCW 81.88.050. (~~All civil~~
37 ~~penalties recovered under this section relating to gas pipelines shall~~

1 ~~be deposited in the general fund and expended for the purpose of~~
2 ~~enforcement of gas pipeline safety laws.))~~

3 **Sec. 6.** RCW 81.88.010 and 2000 c 191 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Commission" means the utilities and transportation commission.

8 (2) (~~"Department" means the department of ecology.~~

9 ~~(3))~~ "Failsafe" means a design feature that will maintain or
10 result in a safe condition in the event of malfunction or failure of a
11 power supply, component, or control device.

12 (~~(4))~~ (3) "Gas" means natural gas, flammable gas, or toxic or
13 corrosive gas.

14 (~~(5))~~ (4) "Gas pipeline" means all parts of a pipeline facility
15 through which gas moves in transportation, including, but not limited
16 to, line pipe, valves, and other appurtenances connected to line pipe,
17 pumping units, fabricated assemblies associated with pumping units,
18 metering and delivery stations and fabricated assemblies therein, and
19 breakout tanks. "Gas pipeline" does not include process or transfer
20 pipelines.

21 (~~(6))~~ (5) "Gas pipeline company" means a person or entity
22 constructing, owning, or operating a gas pipeline for transporting gas.
23 A "gas pipeline company" does not include: (a) Distribution systems
24 owned and operated under franchise for the sale, delivery, or
25 distribution of natural gas at retail; or (b) excavation contractors or
26 other contractors that contract with a gas pipeline company.

27 (~~(7))~~ (6) "Hazardous liquid" means: (a) Petroleum, petroleum
28 products, or anhydrous ammonia as those terms are defined in 49 C.F.R.
29 Part 195 in effect March 1, 1998; and (b) carbon dioxide.

30 (~~(8))~~ (7) "Local government" means a political subdivision of the
31 state or a city or town.

32 (~~(9))~~ (8) "Person" means an individual, partnership, franchise
33 holder, association, corporation, a state, a city, a county, or any
34 political subdivision or instrumentality of a state, and its employees,
35 agents, or legal representatives.

36 (~~(10))~~ (9) "Pipeline," "pipeline system," or "hazardous liquid
37 pipeline" means all parts of a pipeline facility through which a
38 hazardous liquid moves in transportation, including, but not limited

1 to, line pipe, valves, and other appurtenances connected to line pipe,
2 pumping units, fabricated assemblies associated with pumping units,
3 metering and delivery stations and fabricated assemblies therein, and
4 breakout tanks. "Pipeline" or "pipeline system" does not include
5 process or transfer pipelines.

6 ((+11+)) (10) "Pipeline company" or "hazardous liquid pipeline
7 company" means a person or entity constructing, owning, or operating a
8 pipeline for transporting hazardous liquid. A "pipeline company" does
9 not include: (a) Distribution systems owned and operated under
10 franchise for the sale, delivery, or distribution of natural gas at
11 retail; or (b) excavation contractors or other contractors that
12 contract with a pipeline company.

13 ((+12+)) (11) "Reportable release" means a spilling, leaking,
14 pouring, emitting, discharging, or any other uncontrolled escape of a
15 hazardous liquid in excess of one barrel, or forty-two gallons.

16 ((+13+)) (12) "Safety management systems" means management systems
17 that include coordinated and interdisciplinary evaluations of the
18 effect of significant changes to a pipeline system before such changes
19 are implemented.

20 ((+14+)) (13) "Transfer pipeline" means a buried or aboveground
21 pipeline used to carry oil between a tank vessel or transmission
22 pipeline and the first valve inside secondary containment at the
23 facility provided that any discharge on the facility side of that first
24 valve will not directly impact waters of the state. A transfer
25 pipeline includes valves, and other appurtenances connected to the
26 pipeline, pumping units, and fabricated assemblies associated with
27 pumping units. A transfer pipeline does not include process pipelines,
28 pipelines carrying ballast or bilge water, transmission pipelines, or
29 tank vessel or storage tanks.

30 ((+15+)) (14) "Transmission pipeline" means a gas pipeline that
31 transports gas within a storage field, or transports gas from an
32 interstate pipeline or storage facility to a distribution main or a
33 large volume gas user, or operates at a hoop stress of twenty percent
34 or more of the specified minimum yield strength.

35 **Sec. 7.** RCW 81.88.050 and 2000 c 191 s 4 are each amended to read
36 as follows:

37 (1) The ((hazardous liquid)) pipeline safety account is created in
38 the custody of the state treasurer. All fees received by the

1 commission for the pipeline safety program according to sections 2 and
2 3 of this act and all receipts from the federal office of pipeline
3 safety and any other state or federal funds provided for ((hazardous
4 liquid)) pipeline safety ((must)) shall be deposited in the account,
5 except as provided in subsection (2) of this section. Any fines
6 collected under this chapter, or otherwise designated to this account
7 must be deposited in the account. Moneys in the account may be spent
8 only after appropriation. Expenditures from the account may be used
9 only for funding pipeline safety.

10 (2) Federal funds received before June 30, 2001, shall be treated
11 as receipt of unanticipated funds and expended, without appropriation,
12 for the designated purposes.

13 **Sec. 8.** RCW 81.88.060 and 2000 c 191 s 5 are each amended to read
14 as follows:

15 (1) A comprehensive program of hazardous liquid pipeline safety is
16 authorized by RCW 81.88.010, 81.88.040, 81.88.050, 81.88.090,
17 81.88.100, ~~((81.88.130,))~~ 48.48.160, and this section to be developed
18 and implemented consistent with federal law. ~~((Except as provided in~~
19 ~~subsection (6) of this section,))~~ The commission shall administer and
20 enforce all laws related to hazardous liquid pipeline safety.

21 (2) The commission shall adopt rules for pipeline safety standards
22 for hazardous liquid pipeline transportation that:

23 (a) Require pipeline companies to design, construct, operate, and
24 maintain their pipeline facilities so they are safe and efficient;

25 (b) Require pipeline companies to rapidly locate and isolate all
26 reportable releases from pipelines, that may include:

27 (i) Installation of remote control shut-off valves; and

28 (ii) Installation of remotely monitored pressure gauges and meters;

29 (c) Require the training and certification of personnel who operate
30 pipelines and the associated systems;

31 (d) Require reporting of emergency situations, including emergency
32 shutdowns and material defects or physical damage that impair the
33 serviceability of a pipeline; and

34 (e) Require pipeline companies to submit operations safety plans to
35 the commission once every five years, as well as any amendments to the
36 plan made necessary by changes to the pipeline system or its operation.
37 The safety plan shall include emergency response procedures.

1 (3) The commission shall approve operations safety plans if they
2 have been deemed fit for service. A plan shall be deemed fit for
3 service when it provides for pipelines that are designed, developed,
4 constructed, operated, and periodically modified to provide for
5 protection of public safety and the environment. Pipeline operations
6 safety plans shall, at a minimum, include:

7 (a) A schedule of inspection and testing within the pipeline
8 distribution system of:

9 (i) All mechanical components;

10 (ii) All electronic components; and

11 (iii) The structural integrity of all pipelines as determined
12 through pressure testing, internal inspection tool surveys, or another
13 appropriate technique;

14 (b) Failsafe systems;

15 (c) Safety management systems; and

16 (d) Emergency management training for pipeline operators.

17 (4) The commission shall coordinate information related to pipeline
18 safety by providing technical assistance to local planning and siting
19 authorities.

20 (5) The commission shall evaluate, and consider adopting, proposals
21 developed by the federal office of pipeline safety, the national
22 transportation safety board, and other agencies and organizations
23 related to methods and technologies for testing the integrity of
24 pipeline structure, leak detection, and other elements of pipeline
25 operation.

26 ~~((6) The authorities of RCW 81.88.010, 81.88.040, 81.88.050,~~
27 ~~81.88.090, 81.88.100, 81.88.130, 48.48.160, and this section relating~~
28 ~~to hazardous liquid pipeline safety shall be transferred from the~~
29 ~~commission to the department pursuant to RCW 81.88.130 upon the~~
30 ~~occurrence of either:~~

31 ~~(a) Amendments to federal pipeline safety laws to eliminate~~
32 ~~preemption of state authority to regulate safety requirements for such~~
33 ~~pipelines; or~~

34 ~~(b) The granting of federal authority to the state to enforce or~~
35 ~~adopt any safety requirements for interstate hazardous liquid~~
36 ~~pipelines.))~~

37 **Sec. 9.** RCW 81.88.090 and 2000 c 191 s 9 are each amended to read
38 as follows:

1 (1) The commission (~~and the department~~) shall apply for federal
2 delegation for the state's program for the purposes of enforcement of
3 federal hazardous liquid pipeline safety requirements. If the
4 secretary of transportation delegates inspection authority to the state
5 as provided in this subsection, the (~~department~~) commission, at a
6 minimum, shall do the following:

7 (a) Inspect hazardous liquid pipelines periodically as specified in
8 the inspection program;

9 (b) Collect fees;

10 (c) Order and oversee the testing of hazardous liquid pipelines as
11 authorized by federal law and regulation; and

12 (d) File reports with the United States secretary of transportation
13 as required to maintain the delegated authority.

14 (2) The commission (~~and the department~~) shall also seek federal
15 authority to adopt safety standards related to the monitoring and
16 testing of interstate hazardous liquid pipelines.

17 (3) Upon delegation under subsection (1) of this section or under
18 a grant of authority under subsection (2) of this section, to the
19 extent authorized by federal law, the (~~department~~) commission shall
20 adopt rules for interstate pipelines that are no less stringent than
21 the state's laws and rules for intrastate hazardous liquid pipelines.

22 **Sec. 10.** RCW 81.88.140 and 2000 c 191 s 14 are each amended to
23 read as follows:

24 (1) The citizens committee on pipeline safety is established to
25 advise the state agencies and other appropriate federal and local
26 government agencies and officials on matters relating to hazardous
27 liquid and gas pipeline safety, routing, construction, operation, and
28 maintenance. The committee shall serve as an advisory committee for
29 the commission on matters relating to the commission's pipeline safety
30 programs and activities. The commission shall consult with and provide
31 periodic reports to the committee on matters related to the
32 commission's pipeline safety programs and activities, including but not
33 limited to the development and regular review of funding elements for
34 pipeline safety programs and activities.

35 (2) The committee shall have thirteen total members who shall be
36 appointed by the governor to staggered three-year terms and shall
37 consist of: (a) Nine members representing local government, including
38 elected officials and the public; and (b) four nonvoting members,

1 representing owners and operators of hazardous liquid and gas
2 pipelines. All members of the committee, voting and nonvoting, may
3 participate fully in the committee's meetings, activities, and
4 deliberations and shall timely receive all notices and information
5 related to committee business and decisions.

6 (3) The committee shall review and comment on proposed rules and
7 the operation of the state pipeline safety programs.

8 ((+2)) (4) The committee may create one or more technical advisory
9 committees comprised of gas and hazardous liquid pipeline owners or
10 operators, agency representatives, natural resource and environmental
11 interests, or other interested parties.

12 ((+3)) (5) The committee established in ((subsection (1) of)) this
13 section constitutes a class one group under RCW 43.03.220. Expenses
14 for this group, as well as staff support, shall be provided by the
15 utilities and transportation commission ((and, if additional pipeline
16 authority is transferred to it, the department of ecology)).

17 NEW SECTION. Sec. 11. RCW 81.88.130 (Transfer of powers, duties,
18 and functions of commission to department--Delegation of federal
19 authority--Determination by office of financial management) and 2000 c
20 191 s 13 are each repealed.

21 NEW SECTION. Sec. 12. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 July 1, 2001."

25 Correct the title.

EFFECT: The amendment:

(1) Directs deposit of pipeline safety program fees into a pipeline safety account created in the state treasury for receipt of these fees and any federal pipeline safety funds.

(2) Specifies that pipeline safety fees generated must be designed not to exceed appropriated funding levels for the current fiscal year.

(3) Removes repeal of the hazardous liquid pipeline safety account, which is renamed the pipeline safety account.

(4) Specifies pipeline safety fees must be sufficient to adequately fund specific items, including pipeline inspection personnel, timely review of pipeline safety and integrity plans, timely development of spill response plans and accurate maps of pipeline locations, participation in federal pipeline safety efforts, and staffing of the citizens committee on pipeline safety.

(5) Requires the fee methodology rule developed by the Utilities and Transportation Commission (UTC) to provide for an equitable distribution of program costs among entities.

(6) Specifies the fee methodology must provide for: (a) Direct assignment of average inspection costs, considering specified factors; and (b) a uniform and equitable means of estimating and allocating costs for duties that are not directly assignable.

(7) Requires the UTC to include a regulatory incentive program for pipeline safety programs in collaboration with the citizens committee on pipeline safety.

(8) Specifies increases in the aggregate amount of fees over the preceding fiscal year are subject to the fiscal growth factor provisions in RCW 43.135.055.

(9) Specifies the pipeline safety fee is to be collected as part of the regulatory fees only for those pipeline companies subject to those fees.

(10) Specifies the UTC is required to develop a regulatory incentive program for pipeline safety programs in collaboration with the citizens committee on pipeline safety after the UTC establishes the pipeline safety fee methodology by rule.

(11) Specifies the regulatory incentive program may not shift costs among pipeline companies or decrease revenue to the safety programs.

(12) Provides the regulatory incentive program is to be implemented after the required review of pipeline safety programs.

(13) Requires the UTC to consult with and periodically report to the citizens committee on pipeline safety regarding matters related to the pipeline safety program, including the programs' funding elements.

(14) Specifies both voting and nonvoting members may fully participate in the committee and are entitled to timely notice of committee business and decisions.

(15) Eliminates provision regarding committee staffing by the Department of Ecology based on transfer of additional pipeline authority.

(16) Requires the Joint Legislative Audit and Review Committee (JLARC), not the UTC, to conduct the review of the pipeline safety programs.

(17) Extends the deadline for the report to the legislature from November 15, 2002, to July 1, 2003.

(18) Specifies the report must include a comparison of interstate and intrastate programs, including number and complexity of inspections, mapping requirements, and allocation of administrative costs.

--- END ---