

HOUSE BILL REPORT

SSB 5182

As Reported by House Committee On:
Agriculture & Ecology

Title: An act relating to funding hazardous liquid and gas pipeline safety.

Brief Description: Ensuring a sustainable, comprehensive pipeline safety program in the state.

Sponsors: By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Spanel, McDonald, Fraser, Morton, Eide, McAuliffe and Kohl-Welles; by request of Utilities & Transportation Commission).

Brief History:

Committee Activity:

Agriculture & Ecology: 3/23/01, 3/29/01[DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Establishes an annual pipeline safety fee payable by natural gas and hazardous liquid pipeline company governed by the Utilities and Transportation Commission (UTC).
- Requires the UTC to establish: (1) the fee methodology; (2) procedures for fee refunds; (3) separate maintenance of program fees from other fees collected; and (4) a regulatory incentive program to be implemented after formal program review.
- Specifies pipeline safety fees, federal program funds, and civil penalties are to be deposited into the pipeline safety account.
- Requires the Joint Legislative Audit and Review Committee (JLARC) to report on specified elements of the pipeline safety program by July 1, 2003.
- Includes provisions regarding the role and activities of the Citizens Committee on Pipeline Safety.
- Repeals provisions transferring powers, duties, and functions related to hazardous liquid pipeline safety from the UTC to the Department of Ecology (DOE).

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 13 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Mielke, Republican Vice Chair; B. Chandler, Delvin, Dunshee, Grant, Hunt, Quall, Roach, Schoesler and Sump.

Staff: Caroleen Dineen (786-7156).

Background:

The United States Department of Transportation (USDOT) has authority under federal law to regulate pipeline transportation of natural gas and hazardous liquids. The federal Office of Pipeline Safety (OPS) administers the federal pipeline safety program. Federal pipeline safety regulations address, among other issues, the design, construction, inspection, operation, and maintenance of pipeline facilities and the administration of the pipeline safety program.

The OPS may certify a state to assume the federal regulatory, inspection, and enforcement responsibilities for intrastate natural gas and hazardous liquid pipelines. The OPS also may enter into agreements with states not meeting the intrastate certification criteria to assume certain aspects of the federal intrastate pipeline safety program. Washington participates in both gas and liquid intrastate programs, with the state program administered by the Washington Utilities and Transportation Commission (UTC).

The OPS also may authorize a state to act as its agent for inspection of interstate pipelines. However, the OPS retains enforcement authority in all states, including those with authorized agents. The OPS has authority to reimburse a state up to 50 percent of the actual costs of its pipeline safety program. Last year the UTC received authorization to inspect interstate natural gas and hazardous liquid pipelines during construction, operation, and after incidents.

The Washington State Pipeline Safety Act of 2000 required the UTC to develop and implement a comprehensive hazardous liquid pipeline safety program consistent with federal law. In addition to other requirements, the 2000 legislation:

- Required the UTC and the Department of Ecology (DOE) to seek federal authority to act as federal agents to inspect and enforce federal law and to seek authority to adopt safety standards over interstate hazardous liquid pipelines;
- Required the UTC to transfer all powers and duties related to hazardous liquid pipelines to the DOE if either the federal interstate pipeline preemption was lifted or the interstate pipeline authority was granted to the DOE;
- Allowed the UTC to collect fees after obtaining authority to act as a federal agent;

- Created a new hazardous liquid pipeline safety account for use by the DOE in performing pipeline inspections; and
- Established the Citizens Committee on Pipeline Safety, a 13-member committee to advise state agencies and appropriate federal and local agencies on matters relating to hazardous liquid and natural gas pipeline safety, routing, construction, operation, and maintenance.

Summary of Amended Bill:

An annual pipeline safety fee is established. The fee is payable by every gas company and hazardous liquid pipeline company subject to inspection and enforcement by the Washington Utilities and Transportation Commission (UTC) and must be established by the UTC before July 1 each year. Any fee paid after the due date must include a late fee of 2 percent of the amount due, with delinquent fees accruing interest at the rate of 1 percent per month. Increases in the aggregate amount of fees over the preceding fiscal year are subject to the fiscal growth factor restrictions.

The UTC is required to establish by rule the methodology for setting fees for various entities. The fee methodology must provide for an equitable distribution of program costs among fee-paying entities. 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.

The aggregate amount of pipeline safety program fees must be sufficient to cover the administrative costs of the pipeline safety program, considering any federal funds received to offset these costs. The fees must be designed to generate revenue not exceeding appropriated levels for the current fiscal year. At a minimum, the fees established must be sufficient to adequately fund: (1) pipeline inspection personnel; (2) timely review of pipeline safety and integrity plans; (3) timely development of spill response plans; (4) timely development of accurate maps of pipeline locations; (5) participation in federal pipeline safety efforts to the extent allowed by law; and (6) staffing of the Citizens Committee on Pipeline Safety (Committee).

The UTC must allocate monies collected between the pipeline safety program and for other regulatory purposes. For intrastate companies subject to UTC regulatory provisions, the UTC must collect the pipeline safety fee as part of the statutory fee already paid by these companies. The UTC must adopt rules to assure the pipeline safety fees are maintained separately from other fees.

The UTC must keep accurate records of the administration costs related to the natural gas pipeline safety program. The records must be open for public inspection. The UTC's

records and data are prima facie correct in any proceeding to challenge the reasonableness or correctness of any UTC order fixing fees and distributing regulatory expenses.

An entity seeking to contest a fee must pay the fee and request a refund within six months of the due date. The refund is requested by filing a refund petition with the UTC. The UTC must adopt rules to establish procedures for refund decisions. The UTC may delegate decisions on refund petitions to the secretary of the UTC.

A pipeline safety account replaces the hazardous liquid pipeline safety account in the state treasury. All pipeline safety fees and federal funding received for pipeline safety programs are to be deposited into the pipeline safety account. Civil penalties for failure to notify the one-number locator service and damaging pipelines also are to be deposited into the pipeline safety account.

By July 1, 2003, the Joint Legislative Audit and Review Committee (JLARC) must submit a report to the appropriate legislative committees regarding staff utilization, inspection activity, fee methodology, and costs of the hazardous liquid and gas pipeline safety programs. The JLARC report must include a comparison of interstate and intrastate programs, including the number and complexity of regular and specialized inspections, mapping requirements, and allocation of administrative costs.

After establishing the fee methodology, the UTC must create a regulatory incentive program for pipeline safety programs in collaboration with the Committee. The regulatory incentive program may not shift program costs among companies paying the fees or reduce revenue to the pipeline safety programs. The regulatory incentive may not be implemented until after the JLARC review of pipeline safety programs.

The Committee is to serve in an advisory role for the UTC. The UTC is required to consult with and provide periodic reports to the Committee on matters related to pipeline safety programs and activities, including development and regular review of funding elements. All members of the Committee may participate fully in the Committee's meetings, activities, and deliberations and must receive timely notice of and information related to Committee business and decisions.

Provisions transferring powers, duties, and functions related to hazardous liquid pipeline safety from the UTC to the Department of Ecology (DOE) upon federal delegation of authority are repealed. The provision regarding DOE staffing of the Committee upon transfer of additional pipeline authority is repealed.

Amended Bill Compared to Substitute Bill:

The striking amendment: (1) Specifies that pipeline safety fees must be designed not to exceed appropriated funding levels for the current fiscal year and makes these fees

subject to statutory fiscal growth factor restrictions; (2) specifies pipeline safety fees must be sufficient to adequately fund specific items; (3) requires the fee methodology to provide for an equitable distribution of program costs among entities, assign directly assignable costs, and development of a uniform and equitable method for allocating other costs; (4) specifies fees are to be collected as part of regulatory fees only for those pipeline companies subject to those fees; (5) directs deposit of pipeline safety program fees, federal funds, and civil penalties into a pipeline safety account and removes repeal of the hazardous liquid pipeline safety account, which is renamed; (6) requires the Joint Legislative Audit and Review Committee (JLARC), not the Utilities and Transportation Commission (UTC), to review pipeline safety programs, extends the report deadline to July 1, 2003, and specifies required components of the JLARC report; (7) requires the UTC to develop a regulatory incentive program to be implemented after the JLARC review; and (8) requires the UTC to consult with and periodically report to the Citizen's Committee on Pipeline Safety and includes provisions regarding participation by voting and nonvoting members.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: This bill contains an emergency clause and takes effect July 1, 2001.

Testimony For: The Bellingham explosion should never have happened. We now know that aging pipelines run through neighborhoods, near schools and near water supplies and that these pipelines are failing with alarming frequency. These leaks are dangerous and costly to address. Keeping the safety program records open to public inspection is a good idea.

The pipeline safety program should be staffed with a margin of safety to reestablish public confidence. The costs are reasonable. The two-year review will determine if staffing levels are appropriate. The proposed fees are a drop in the bucket to these companies.

(With concerns): Allocation of the projected program costs do not accurately reflect work loads or other factors associated with the intrastate and interstate programs. The work load model may only justify three inspectors and does not justify an equal division of costs between interstate and intrastate companies. The fee methodology language and the fiscal growth factor restrictions from the House version of this bill should be added. The two-year review should be done by a third party, such as the Joint Legislative Audit and Review Committee.

Testimony Against: None.

Testified: (In support) Marlene Robinson; Richard Kuprewicz; Richard Gilda; Collins Sprague, Avista Corporation; Carole Washburn, Washington Utilities and Transportation Commission; Carol Jolly, Office of the Governor; Mike Tracy, Puget Sound Energy; Chuck Mosher, Mayor of Bellevue and Chair of Citizens Committee on Pipeline Safety; Dan Clawson, Renton City Council; and Kit Hawkins, Cascade Natural Gas.

(In support with concerns) Greg Hanon, Western States Petroleum Association; and Dan Coyne, Williams Company.