

SENATE BILL REPORT

E2SHB 2420

As Reported By Senate Committee On:
Environmental Quality & Water Resources, February 25, 2000

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

Brief Description: Providing for oil and gas pipeline safety.

Sponsors: 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: Environmental Quality & Water Resources: 2/17/2000, 2/25/2000 [DPA].

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen, McAuliffe, Morton and Swecker.

Staff: Richard Rodger (786-7461)

Background: 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 the Hanna and Whatcom Creeks in Whatcom Falls Park in Bellingham. 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. Two children and a young man lost their lives as a result of the accident. Significant property and environmental damage also occurred.

As a result of the tragedy in Bellingham, Governor Locke convened a Fuel Accident Prevention and Response Task Force. The task force issued a set of recommendations in December 1999.

The federal Pipeline Safety Act preempts states from adopting safety or environmental standards. The act does allow states to seek and accept designation as federal agents for the purpose of enforcing existing federal requirements on interstate hazardous liquid pipelines. To date, only four states have obtained this additional designation for hazardous liquid pipelines: Arizona, California, Minnesota, and New York. The federal Office of Pipeline Safety has not allowed additional states to obtain this designation since the mid-1990s.

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. The National Transportation Safety Board (NTSB), which is charged with investigating pipeline accidents, alleges that many of its recommendations to the Office of Pipeline Safety have not been adopted.

In 1996, the federal Pipeline Safety Act was amended by the Accountable Pipeline Safety and Partnership Act. In part, this law provides for: (1) the identification of the costs and benefits of minimum safety standards; and (2) establishment of risk management demonstration projects to allow owners and operators to be exempt from all or a portion of safety standards that would otherwise apply. This law is authorized until 2000.

The state of Washington through the Utilities and Transportation Committee (UTC) is presently certified to assume safety responsibilities related to intrastate hazardous liquid and natural gas pipelines, but not interstate pipelines.

Summary of Amended Bill: The Governor is encouraged to work with the state's congressional delegation to seek: (1) increased delegation of state authority over pipeline safety standards; (2) authority to administer and enforce federal pipeline laws; and (3) higher levels of funding for state and federal pipeline safety.

A hazardous liquid pipeline safety account is created for the receipt of state and federal funds dedicated to hazardous liquid pipeline safety. Funds received prior to June 30, 2001, are treated as unanticipated receipts and may be expanded by the agencies.

The current duties of the UTC covering hazardous liquid pipelines are transferred to the Department of Ecology. The UTC retains economic regulatory functions over hazardous liquid pipelines and all jurisdiction over natural gas pipelines. Ecology is given additional responsibilities, to the extent not expressly prohibited by federal law, for administering pipeline safety laws. The transfer of authority is facilitated through a memorandum of agreement between Ecology and the UTC.

Ecology must adopt rules regarding hazardous liquid pipelines safety standards; requirements related to detection and control of leaks; requirements related to training and certification of personnel who operate pipelines; and pipeline operations safety plans that are fit for service.–

The department may not prior to January 1, 2001, adopt rules for intrastate hazardous liquid pipelines that are more restrictive than the interstate pipeline standards, unless the state is granted additional authority prior to that date.

Ecology is also required to: (1) providing technical assistance; (2) evaluate any proposals related to pipeline testing; and (3) compile by 2006, with the UTC, accurate GIS maps of hazardous liquid pipelines and gas transmission pipelines.

The Municipal Research Council must develop, for the consideration of local governments: (a) a model ordinance related to setbacks and depth of new pipeline construction; and (b) a model franchise agreement.

Ecology and the UTC must seek federal designation of the department's inspectors as federal agents for the inspection of interstate pipelines. Ecology and the UTC must also seek federal authority to adopt safety standards related to the monitoring and testing of interstate pipelines.

Ecology and the UTC are authorized to inspect any documents that federal law requires pipeline companies to keep.

Operators of pipelines must develop curricula aimed at the prevention of third party excavation damage. The curricula must be approved by Ecology and the UTC.

A citizens advisory committee is established to advise Ecology, the Energy Facility Site Evaluation Council (EFSEC), and other agencies on matters relating to pipeline safety, routing, construction, and maintenance. The committee may create technical advisory committees representing industry, agencies, natural resources and environmental interests, or other parties.

The Washington State Patrol, through the Director of Fire Protection, must: (1) evaluate the preparedness of local first responders; (2) assess equipment and personnel needs of first responders; (3) develop curricula for training first responders; and (4) identify the need and means for achieving consistent application of the national interagency incident management system.

The UTC must establish, or caused to be established, a single statewide toll-free telephone number for referring excavators to a locator service and establish minimum standards and best management practices for the locator services. One-number locator services must be operated by nongovernmental agencies.

Whenever an excavator works within five feet of a hazardous liquid or gas transmission pipeline, the pipeline company that owns or operates the pipeline must be notified, and the company must have a representative on-site during the excavation. The pipeline company may require, at the excavator's expense, the pipe to be uncovered and inspected.

Pipeline companies must: (1) inspect their pipelines when they are notified of third party damage to a pipeline they own or operate and, if necessary, repair or replace the pipe; and (2) notify first responders and Ecology or the UTC in the event of a reportable or dangerous release.

A pipeline carrying petroleum or petroleum products that is wholly located on the owner's property, and is not adjacent to the marine waters, is exempt from this chapter. The pipeline may not have outside connections, and its product must be for the owner's use.

Civil penalties are established: (1) failure to notify pipeline companies that excavation work will occur within 25 feet of a hazardous liquid pipeline or gas transmission pipeline is subject to penalties not more than \$1,000 per violation, or up to \$10,000 if damage occurred; (2) any pipeline company that fails to comply with any provision of the Pipeline Safety Act (this bill) is subject to civil penalties of not less than \$5,000, nor more than \$25,000; (3) failure to call the one number location service before excavating may result in a \$10,000 fine; and

(5) destruction or removal of pipeline locator signs may result in a \$1,000 fine. Civil penalties are deposited in the general fund for use in enforcing pipeline safety laws.

Amended Bill Compared to Second Substitute Bill: The provisions are removed requiring the Department of Ecology to develop a pipeline safety program for the consideration of the Legislature in the 2001 legislative session. The department is given immediate regulatory authority over hazardous liquid pipelines.

The Department of Ecology may adopt rules for intrastate hazardous liquid pipelines, and when federally-authorized, interstate pipelines. The department may not adopt stricter rules for intrastate pipelines prior to January 1, 2001, unless authority over interstate pipelines is granted prior to that date. Agencies may expend, without appropriation, unanticipated federal funds received prior to June 30, 2001.

Pipeline companies must provide maps of their pipelines to Ecology and the UTC. The agencies must develop, by January 1, 2006, a statewide GIS. Pipeline companies must develop curricula for prevention of third party damage. The curricula must be approved by Ecology and the UTC.

The Municipal Research Council must develop, for the consideration of local governments, a model ordinance and a model franchise agreement regarding hazardous liquid and gas pipelines.

The Pipeline Safety Committee may create one or more technical advisory committees representing industry, agencies, natural resource and environmental interests, or other interested parties.

Pipeline companies must have a representative on-site when excavation occurs within five feet of their hazardous liquid pipelines or gas transmission lines. Pipelines wholly located on the owner's property are, with certain limitations, exempt from the one-call system.

Additional penalties are created for damaging pipeline locator signs and for not having a representative on-site. Pipeline companies who violate the chapter may be fined between \$5,000 and \$25,000, the federal maximum. Other penalties are modified.

Appropriation: None.

Fiscal Note: Requested on February 15, 2000.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The state needs increased control over pipelines. The federal government is not doing enough to protect the public. The state does a better job of inspecting the intrastate pipelines than the federal government does inspecting the interstate pipelines. Pipeline safety is not a fleeting issue, it is a consistent problem. There have been several more spills in other states just within the last month.

The bill appropriately recognizes the differences between natural gas and hazardous liquid fuel. Natural gas local distribution companies are properly excluded from the bill. The

advisory committee should include the industry representatives. The mapping, one-call and training elements are all essential to a good prevention and response system.

Testimony Against: The bill should not delay implementation until the federal government acts. The state program must be set up now to show the federal government we are ready for additional grants of authority. The bill takes a step backwards by requiring the use of "federal standards" for our intrastate pipelines. The "citizen" advisory committee should not include an industry representative. The committee is intended to be an oversight body over both government and industry.

The bill should include a study of the certification of people who install or maintain hazardous liquid or gas pipelines. The bill should include natural gas local distribution companies. The bill should address siting issues for the 110 planned natural gas-fired plants.

The bill should not, as it does, weaken the state's regulatory authority over intrastate pipelines. The bill must have a section authorizing the collection of pipeline fees to support the regulatory program. The "tilling" exception to the one-call system should be eliminated. The "process and transfer" pipeline section should be reviewed. Notice should be given whenever there is environmental damage.

The bill should reaffirm the state's intent that public and private property owners may protect their property with franchise and easement agreements. The one-call and reporting requirements are very weak for the pipeline operators.

Testified: Representative Kelli Linville (prime sponsor); Collins Sprague, AVISTA Corp. (pro); Terry Oxley, Puget Sound Energy (pro); Kit Hawkins, Cascade Natural Gas, Inc. (pro); Calvin Hoggard, City of SeaTac (pro); David Spogen, Critical Issues Council (pro w/revisions); Rose Spogen, Critical Issues Council (pro); John Mudge, Critical Issues Council (pro w/changes); Mark Greenberg, One Call Concepts, Inc. (pro w/amendment); John Sexton, Washington State Association of Plumbers and Pipefitters (pro w/amendments); Mark Asmundson, Mayor of Bellingham (pro w/concerns); Dan Coyne, Williams Gas Pipelines (comments); Susan Harper, Cascade Columbia Alliance (support w/comments/concerns).

Other: Carol Jolly, Governor's Office (concerns); Connie Marshall, Deputy Mayor, City of Bellevue; Greg Hanon, Western States Petroleum Association (comments); Al Cobodi, U.S. Oil & Refinery (comments); David Bricklin, City of Bellingham (comments); Deanne Kopkas, Olympic Pipe Line Co. (comments); Kathleen Collins, Sheet Metal and Air Conditioning Contractors.