

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5182

Chapter 238, Laws of 2001

57th Legislature
2001 Regular Session

PIPELINE SAFETY--FUNDING

EFFECTIVE DATE: 7/1/01

Passed by the Senate April 16, 2001
YEAS 47 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 5, 2001
YEAS 97 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 11, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5182** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 11, 2001 - 9:06 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5182

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

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)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to funding hazardous liquid and gas pipeline
2 safety; amending RCW 19.122.055, 81.88.010, 81.88.050, 80.01.080,
3 81.88.060, 81.88.090, and 81.88.140; adding a new section to chapter
4 80.24 RCW; adding a new section to chapter 81.24 RCW; adding a new
5 section to chapter 81.88 RCW; creating a new section; repealing RCW
6 81.88.130; providing an effective date; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

17 (1)(a) Every gas company and every interstate gas pipeline company
18 subject to inspection or enforcement by the commission shall pay an

1 annual pipeline safety fee to the commission. The pipeline safety fees
2 received by the commission shall be deposited in the pipeline safety
3 account created in RCW 81.88.050.

4 (b) The aggregate amount of fees set shall be sufficient to recover
5 the reasonable costs of administering the pipeline safety program,
6 taking into account federal funds used to offset the costs. The fees
7 established under this section shall be designed to generate revenue
8 not exceeding appropriated levels of funding for the current fiscal
9 year. At a minimum, the fees established under this section shall be
10 sufficient to adequately fund pipeline inspection personnel, the timely
11 review of pipeline safety and integrity plans, the timely development
12 of spill response plans, the timely development of accurate maps of
13 pipeline locations, participation in federal pipeline safety efforts to
14 the extent allowed by law, and the staffing of the citizens committee
15 on pipeline safety.

16 (c) Increases in the aggregate amount of fees over the immediately
17 preceding fiscal year are subject to the requirements of RCW
18 43.135.055.

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

24 (a) Direct assignment of average costs associated with annual
25 standard inspections, including the average number of inspection days
26 per year. In establishing these directly assignable costs, the
27 commission shall consider the requirements and guidelines of the
28 federal government, state safety standards, and good engineering
29 practice; and

30 (b) A uniform and equitable means of estimating and allocating
31 costs of other duties relating to inspecting pipelines for safety that
32 are not directly assignable, including but not limited to design review
33 and construction inspections, specialized inspections, incident
34 investigations, geographic mapping system design and maintenance, and
35 administrative support.

36 (3) The commission shall require reports from those entities
37 subject to this section in the form and at such time as necessary to
38 set the fees. After considering the reports supplied by the entities,

1 the commission shall set the amount of the fee payable by each entity
2 by general order entered before July 1st of each year.

3 (4) For companies subject to RCW 80.24.010, the commission shall
4 collect the pipeline safety fee as part of the fee specified in RCW
5 80.24.010. The commission shall allocate the moneys collected under
6 RCW 80.24.010 between the pipeline safety program and for other
7 regulatory purposes. The commission shall adopt rules that assure that
8 fee moneys related to the pipeline safety program are maintained
9 separately from other moneys collected by the commission under this
10 chapter.

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

14 (6) The commission shall keep accurate records of the costs
15 incurred in administering its gas pipeline safety program, and the
16 records are open to inspection by interested parties. The records and
17 data upon which the commission's determination is made shall be prima
18 facie correct in any proceeding to challenge the reasonableness or
19 correctness of any order of the commission fixing fees and distributing
20 regulatory expenses.

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

27 (8) After establishing the fee methodology by rule as required in
28 subsection (2) of this section, the commission shall create a
29 regulatory incentive program for pipeline safety programs in
30 collaboration with the citizens committee on pipeline safety. The
31 regulatory incentive program created by the commission shall not shift
32 costs among companies paying pipeline safety fees and shall not
33 decrease revenue to pipeline safety programs. The regulatory incentive
34 program shall not be implemented until after the review conducted
35 according to section 4 of this act.

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

1 (1)(a) Every hazardous liquid pipeline company as defined in RCW
2 81.88.010 shall pay an annual pipeline safety fee to the commission.
3 The pipeline safety fees received by the commission shall be deposited
4 in the pipeline safety account created in RCW 81.88.050.

5 (b) The aggregate amount of fees set shall be sufficient to recover
6 the reasonable costs of administering the pipeline safety program,
7 taking into account federal funds used to offset the costs. The fees
8 established under this section shall be designed to generate revenue
9 not exceeding appropriated levels of funding for the current fiscal
10 year. At a minimum, the fees established under this section shall be
11 sufficient to adequately fund pipeline inspection personnel, the timely
12 review of pipeline safety and integrity plans, the timely development
13 of spill response plans, the timely development of accurate maps of
14 pipeline locations, participation in federal pipeline safety efforts to
15 the extent allowed by law, and the staffing of the citizens committee
16 on pipeline safety.

17 (c) Increases in the aggregate amount of fees over the immediately
18 preceding fiscal year are subject to the requirements of RCW
19 43.135.055.

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

25 (a) Direct assignment of average costs associated with annual
26 standard inspections, including the average number of inspection days
27 per year. In establishing these directly assignable costs, the
28 commission shall consider the requirements and guidelines of the
29 federal government, state safety standards, and good engineering
30 practice; and

31 (b) A uniform and equitable means of estimating and allocating
32 costs of other duties relating to inspecting pipelines for safety that
33 are not directly assignable, including but not limited to design review
34 and construction inspections, specialized inspections, incident
35 investigations, geographic mapping system design and maintenance, and
36 administrative support.

37 (3) The commission shall require reports from those entities
38 subject to this section in the form and at such time as necessary to
39 set the fees. After considering the reports supplied by the entities,

1 the commission shall set the amount of the fee payable by each entity
2 by general order entered before July 1st of each year.

3 (4) For companies subject to RCW 81.24.010, the commission shall
4 collect the pipeline safety fee as part of the fee specified in RCW
5 81.24.010. The commission shall allocate the moneys collected under
6 RCW 81.24.010 between the pipeline safety program and for other
7 regulatory purposes. The commission shall adopt rules that assure that
8 fee moneys related to the pipeline safety program are maintained
9 separately from other moneys collected by the commission under this
10 chapter.

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

14 (6) The commission shall keep accurate records of the costs
15 incurred in administering its hazardous liquid pipeline safety program,
16 and the records are open to inspection by interested parties. The
17 records and data upon which the commission's determination is made
18 shall be prima facie correct in any proceeding to challenge the
19 reasonableness or correctness of any order of the commission fixing
20 fees and distributing regulatory expenses.

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

27 (8) After establishing the fee methodology by rule as required in
28 subsection (2) of this section, the commission shall create a
29 regulatory incentive program for pipeline safety programs in
30 collaboration with the citizens committee on pipeline safety. The
31 regulatory incentive program created by the commission shall not shift
32 costs among companies paying pipeline safety fees and shall not
33 decrease revenue to pipeline safety programs. The regulatory incentive
34 program shall not be implemented until after the review conducted
35 according to section 4 of this act.

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

1 The joint legislative audit and review committee shall review staff
2 use, inspection activity, fee methodology, and costs of the hazardous
3 liquid and gas pipeline safety programs and report to the appropriate
4 legislative committees by July 1, 2003. The report shall include a
5 comparison of interstate and intrastate programs, including but not
6 limited to the number and complexity of regular and specialized
7 inspections, mapping requirements for each program, and allocation of
8 administrative costs to each program.

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

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

15 (2) All civil penalties recovered under this section (~~((relating to~~
16 ~~hazardous liquid pipelines))~~) shall be deposited into the (~~((hazardous~~
17 ~~liquid))~~) pipeline safety account created in RCW 81.88.050. (~~((All civil~~
18 ~~penalties recovered under this section relating to gas pipelines shall~~
19 ~~be deposited in the general fund and expended for the purpose of~~
20 ~~enforcement of gas pipeline safety laws.))~~)

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

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

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

30 (~~((4))~~) (3) "Gas" means natural gas, flammable gas, or toxic or
31 corrosive gas.

32 (~~((5))~~) (4) "Gas pipeline" means all parts of a pipeline facility
33 through which gas moves in transportation, including, but not limited
34 to, line pipe, valves, and other appurtenances connected to line pipe,
35 pumping units, fabricated assemblies associated with pumping units,
36 metering and delivery stations and fabricated assemblies therein, and

1 breakout tanks. "Gas pipeline" does not include process or transfer
2 pipelines.

3 ~~((+6+))~~ (5) "Gas pipeline company" means a person or entity
4 constructing, owning, or operating a gas pipeline for transporting gas.
5 A "gas pipeline company" does not include: (a) Distribution systems
6 owned and operated under franchise for the sale, delivery, or
7 distribution of natural gas at retail; or (b) excavation contractors or
8 other contractors that contract with a gas pipeline company.

9 ~~((+7+))~~ (6) "Hazardous liquid" means: (a) Petroleum, petroleum
10 products, or anhydrous ammonia as those terms are defined in 49 C.F.R.
11 Part 195 in effect March 1, 1998; and (b) carbon dioxide.

12 ~~((+8+))~~ (7) "Local government" means a political subdivision of the
13 state or a city or town.

14 ~~((+9+))~~ (8) "Person" means an individual, partnership, franchise
15 holder, association, corporation, a state, a city, a county, or any
16 political subdivision or instrumentality of a state, and its employees,
17 agents, or legal representatives.

18 ~~((+10+))~~ (9) "Pipeline," "pipeline system," or "hazardous liquid
19 pipeline" means all parts of a pipeline facility through which a
20 hazardous liquid moves in transportation, including, but not limited
21 to, line pipe, valves, and other appurtenances connected to line pipe,
22 pumping units, fabricated assemblies associated with pumping units,
23 metering and delivery stations and fabricated assemblies therein, and
24 breakout tanks. "Pipeline" or "pipeline system" does not include
25 process or transfer pipelines.

26 ~~((+11+))~~ (10) "Pipeline company" or "hazardous liquid pipeline
27 company" means a person or entity constructing, owning, or operating a
28 pipeline for transporting hazardous liquid. A "pipeline company" does
29 not include: (a) Distribution systems owned and operated under
30 franchise for the sale, delivery, or distribution of natural gas at
31 retail; or (b) excavation contractors or other contractors that
32 contract with a pipeline company.

33 ~~((+12+))~~ (11) "Reportable release" means a spilling, leaking,
34 pouring, emitting, discharging, or any other uncontrolled escape of a
35 hazardous liquid in excess of one barrel, or forty-two gallons.

36 ~~((+13+))~~ (12) "Safety management systems" means management systems
37 that include coordinated and interdisciplinary evaluations of the
38 effect of significant changes to a pipeline system before such changes
39 are implemented.

1 (~~(14)~~) (13) "Transfer pipeline" means a buried or aboveground
2 pipeline used to carry oil between a tank vessel or transmission
3 pipeline and the first valve inside secondary containment at the
4 facility provided that any discharge on the facility side of that first
5 valve will not directly impact waters of the state. A transfer
6 pipeline includes valves, and other appurtenances connected to the
7 pipeline, pumping units, and fabricated assemblies associated with
8 pumping units. A transfer pipeline does not include process pipelines,
9 pipelines carrying ballast or bilge water, transmission pipelines, or
10 tank vessel or storage tanks.

11 (~~(15)~~) (14) "Transmission pipeline" means a gas pipeline that
12 transports gas within a storage field, or transports gas from an
13 interstate pipeline or storage facility to a distribution main or a
14 large volume gas user, or operates at a hoop stress of twenty percent
15 or more of the specified minimum yield strength.

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

18 (1) The (~~hazardous liquid~~) pipeline safety account is created in
19 the custody of the state treasurer. All fees received by the
20 commission for the pipeline safety program according to sections 2 and
21 3 of this act and all receipts from the federal office of pipeline
22 safety and any other state or federal funds provided for (~~hazardous~~
23 ~~liquid~~) pipeline safety (~~must~~) shall be deposited in the account,
24 except as provided in subsection (2) of this section. Any fines
25 collected under this chapter, or otherwise designated to this account
26 must be deposited in the account. Moneys in the account may be spent
27 only after appropriation. Expenditures from the account may be used
28 only for funding pipeline safety.

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

32 **Sec. 8.** RCW 80.01.080 and 1961 c 14 s 80.01.080 are each amended
33 to read as follows:

34 The transportation revolving fund and the public utilities
35 revolving fund are abolished as of April 1, 1949, and as of such date
36 there is created in the state treasury a "Public Service Revolving
37 Fund" to which shall be transferred all moneys which then remain on

1 hand to the credit of the transportation revolving fund and the public
2 utilities revolving fund, subject, however, to outstanding warrants and
3 other obligations chargeable to appropriations made from such funds.
4 From and after April 1, 1949, regulatory fees payable by all types of
5 public service companies shall be deposited to the credit of the public
6 service revolving fund. Except for expenses payable out of the
7 pipeline safety account, all expense of operation of the Washington
8 utilities and transportation commission shall be payable out of the
9 public service revolving fund.

10 **Sec. 9.** RCW 81.88.060 and 2000 c 191 s 5 are each amended to read
11 as follows:

12 (1) A comprehensive program of hazardous liquid pipeline safety is
13 authorized by RCW 81.88.010, 81.88.040, 81.88.050, 81.88.090,
14 81.88.100, (~~81.88.130~~) 48.48.160, and this section to be developed
15 and implemented consistent with federal law. (~~Except as provided in~~
16 ~~subsection (6) of this section,~~) The commission shall administer and
17 enforce all laws related to hazardous liquid pipeline safety.

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

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

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

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

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

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

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

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

35 (3) The commission shall approve operations safety plans if they
36 have been deemed fit for service. A plan shall be deemed fit for
37 service when it provides for pipelines that are designed, developed,
38 constructed, operated, and periodically modified to provide for

1 protection of public safety and the environment. Pipeline operations
2 safety plans shall, at a minimum, include:

3 (a) A schedule of inspection and testing within the pipeline
4 distribution system of:

5 (i) All mechanical components;

6 (ii) All electronic components; and

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

10 (b) Failsafe systems;

11 (c) Safety management systems; and

12 (d) Emergency management training for pipeline operators.

13 (4) The commission shall coordinate information related to pipeline
14 safety by providing technical assistance to local planning and siting
15 authorities.

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

22 ~~((6) The authorities of RCW 81.88.010, 81.88.040, 81.88.050,~~
23 ~~81.88.090, 81.88.100, 81.88.130, 48.48.160, and this section relating~~
24 ~~to hazardous liquid pipeline safety shall be transferred from the~~
25 ~~commission to the department pursuant to RCW 81.88.130 upon the~~
26 ~~occurrence of either:~~

27 ~~(a) Amendments to federal pipeline safety laws to eliminate~~
28 ~~preemption of state authority to regulate safety requirements for such~~
29 ~~pipelines; or~~

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

33 **Sec. 10.** RCW 81.88.090 and 2000 c 191 s 9 are each amended to read
34 as follows:

35 (1) The commission ~~((and the department))~~ shall apply for federal
36 delegation for the state's program for the purposes of enforcement of
37 federal hazardous liquid pipeline safety requirements. If the
38 secretary of transportation delegates inspection authority to the state

1 as provided in this subsection, the (~~department~~) commission, at a
2 minimum, shall do the following:

3 (a) Inspect hazardous liquid pipelines periodically as specified in
4 the inspection program;

5 (b) Collect fees;

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

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

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

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

18 **Sec. 11.** RCW 81.88.140 and 2000 c 191 s 14 are each amended to
19 read as follows:

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

31 (2) The committee shall have thirteen total members who shall be
32 appointed by the governor to staggered three-year terms and shall
33 consist of: (a) Nine members representing local government, including
34 elected officials and the public; and (b) four nonvoting members,
35 representing owners and operators of hazardous liquid and gas
36 pipelines. All members of the committee, voting and nonvoting, may
37 participate fully in the committee's meetings, activities, and

1 deliberations and shall timely receive all notices and information
2 related to committee business and decisions.

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

5 ~~((2))~~ (4) The committee may create one or more technical advisory
6 committees comprised of gas and hazardous liquid pipeline owners or
7 operators, agency representatives, natural resource and environmental
8 interests, or other interested parties.

9 ~~((3))~~ (5) The committee established in ~~((subsection (1) of))~~ this
10 section constitutes a class one group under RCW 43.03.220. Expenses
11 for this group, as well as staff support, shall be provided by the
12 utilities and transportation commission ~~((and, if additional pipeline~~
13 ~~authority is transferred to it, the department of ecology))~~.

14 NEW SECTION. Sec. 12. RCW 81.88.130 (Transfer of powers, duties,
15 and functions of commission to department--Delegation of federal
16 authority--Determination by office of financial management) and 2000 c
17 191 s 13 are each repealed.

18 NEW SECTION. Sec. 13. This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 July 1, 2001.

Passed the Senate April 16, 2001.

Passed the House April 5, 2001.

Approved by the Governor May 11, 2001.

Filed in Office of Secretary of State May 11, 2001.