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SECOND SUBSTITUTE HOUSE BILL 1452

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State of Washington

57th Legislature

2001 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Linville, G. Chandler, Ruderman, Cooper, Barlean, Ericksen, Quall, Marine, Conway, Rockefeller, Kenney, Pearson, Schual-Berke, Van Luven, Kagi, Keiser, Santos and Wood; by request of Utilities & Transportation Commission)

Read first time 03/08/2001. Referred to Committee on .

1 AN ACT Relating to funding hazardous liquid and gas pipeline  
2 safety; amending RCW 19.122.055, 81.88.010, 81.88.060, 81.88.090, and  
3 81.88.140; adding a new section to chapter 80.24 RCW; adding a new  
4 section to chapter 81.24 RCW; adding a new section to chapter 81.88  
5 RCW; creating a new section; repealing RCW 81.88.050 and 81.88.130;  
6 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) 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 aggregate amount of  
2 fees set shall be sufficient to recover the reasonable costs of  
3 administering the pipeline safety program, taking into account federal  
4 funds used to offset the costs. At a minimum, the fees established  
5 under this section shall be sufficient to adequately fund pipeline  
6 inspection personnel, the timely review of pipeline safety and  
7 integrity plans, the timely development of spill response plans, the  
8 timely development of accurate maps of pipeline locations,  
9 participation in federal pipeline safety efforts to the extent allowed  
10 by law as now or hereafter amended, and the staffing of the citizens  
11 committee on pipeline safety at levels the committee determines needed  
12 to provide oversight. Increases in the aggregate amount of fees over  
13 the immediately preceding fiscal year are subject to the requirements  
14 of RCW 43.135.055.

15 (2) The commission shall by rule establish the methodology it will  
16 use to set the appropriate fee for each entity subject to this section.  
17 The methodology shall provide for an equitable distribution of program  
18 costs among all entities subject to the fee. In establishing the  
19 methodology, the commission shall create an incentive program for  
20 allocating fees for pipeline safety in collaboration with the citizens  
21 committee. The fee methodology shall provide for:

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

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

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

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

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

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

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

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

26 (1) Every hazardous liquid pipeline company as defined in RCW  
27 81.88.010 shall pay an annual pipeline safety fee to the commission.  
28 The aggregate amount of fees set shall be sufficient to recover the  
29 reasonable costs of administering the pipeline safety program, taking  
30 into account federal funds used to offset the costs. At a minimum, the  
31 fees established under this section shall be sufficient to adequately  
32 fund pipeline inspection personnel, the timely review of pipeline  
33 safety and integrity plans, the timely development of spill response  
34 plans, the timely development of accurate maps of pipeline locations,  
35 participation in federal pipeline safety efforts to the extent allowed  
36 by law as now or hereafter amended, and the staffing of the citizens  
37 committee on pipeline safety at levels the committee determines needed  
38 to provide oversight. Increases in the aggregate amount of fees over

1 the immediately preceding fiscal year are subject to the requirements  
2 of RCW 43.135.055.

3 (2) The commission shall by rule establish the methodology it will  
4 use to set the appropriate fee for each entity subject to this section.  
5 The methodology shall provide for an equitable distribution of program  
6 costs among all entities subject to the fee. In establishing the  
7 methodology, the commission shall create an incentive program for  
8 allocating fees for pipeline safety in collaboration with the citizens  
9 committee. The fee methodology shall provide for:

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

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

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

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

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

37 (6) The commission shall keep accurate records of the costs  
38 incurred in administering its hazardous liquid pipeline safety program,  
39 and the records are open to inspection by interested parties. The

1 records and data upon which the commission's determination is made  
2 shall be prima facie correct in any proceeding to challenge the  
3 reasonableness or correctness of any order of the commission fixing  
4 fees and distributing regulatory expenses.

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

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

13 The commission shall review staff utilization, inspection activity,  
14 fee methodology, and costs of the interstate pipeline safety program  
15 and report to the appropriate legislative committees by November 15,  
16 2002.

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

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

23 (2) All civil penalties recovered under this section (~~relating to~~  
24 ~~hazardous liquid pipelines~~) shall be deposited into the (~~hazardous~~  
25 ~~liquid pipeline safety account created in RCW 81.88.050.~~ All civil  
26 ~~penalties recovered under this section relating to gas pipelines shall~~  
27 ~~be deposited in the general fund and expended for the purpose of~~  
28 ~~enforcement of gas pipeline safety laws~~) general fund.

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

31 The definitions in this section apply throughout this chapter  
32 unless the context clearly requires otherwise.

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

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

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

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

6       ~~((5))~~ (4) "Gas pipeline" means all parts of a pipeline facility  
7 through which gas moves in transportation, including, but not limited  
8 to, line pipe, valves, and other appurtenances connected to line pipe,  
9 pumping units, fabricated assemblies associated with pumping units,  
10 metering and delivery stations and fabricated assemblies therein, and  
11 breakout tanks. "Gas pipeline" does not include process or transfer  
12 pipelines.

13       ~~((6))~~ (5) "Gas pipeline company" means a person or entity  
14 constructing, owning, or operating a gas pipeline for transporting gas.  
15 A "gas pipeline company" does not include: (a) Distribution systems  
16 owned and operated under franchise for the sale, delivery, or  
17 distribution of natural gas at retail; or (b) excavation contractors or  
18 other contractors that contract with a gas pipeline company.

19       ~~((7))~~ (6) "Hazardous liquid" means: (a) Petroleum, petroleum  
20 products, or anhydrous ammonia as those terms are defined in 49 C.F.R.  
21 Part 195 in effect March 1, 1998; and (b) carbon dioxide.

22       ~~((8))~~ (7) "Local government" means a political subdivision of the  
23 state or a city or town.

24       ~~((9))~~ (8) "Person" means an individual, partnership, franchise  
25 holder, association, corporation, a state, a city, a county, or any  
26 political subdivision or instrumentality of a state, and its employees,  
27 agents, or legal representatives.

28       ~~((10))~~ (9) "Pipeline," "pipeline system," or "hazardous liquid  
29 pipeline" means all parts of a pipeline facility through which a  
30 hazardous liquid moves in transportation, including, but not limited  
31 to, line pipe, valves, and other appurtenances connected to line pipe,  
32 pumping units, fabricated assemblies associated with pumping units,  
33 metering and delivery stations and fabricated assemblies therein, and  
34 breakout tanks. "Pipeline" or "pipeline system" does not include  
35 process or transfer pipelines.

36       ~~((11))~~ (10) "Pipeline company" or "hazardous liquid pipeline  
37 company" means a person or entity constructing, owning, or operating a  
38 pipeline for transporting hazardous liquid. A "pipeline company" does  
39 not include: (a) Distribution systems owned and operated under

1 franchise for the sale, delivery, or distribution of natural gas at  
2 retail; or (b) excavation contractors or other contractors that  
3 contract with a pipeline company.

4 ~~((12))~~ (11) "Reportable release" means a spilling, leaking,  
5 pouring, emitting, discharging, or any other uncontrolled escape of a  
6 hazardous liquid in excess of one barrel, or forty-two gallons.

7 ~~((13))~~ (12) "Safety management systems" means management systems  
8 that include coordinated and interdisciplinary evaluations of the  
9 effect of significant changes to a pipeline system before such changes  
10 are implemented.

11 ~~((14))~~ (13) "Transfer pipeline" means a buried or aboveground  
12 pipeline used to carry oil between a tank vessel or transmission  
13 pipeline and the first valve inside secondary containment at the  
14 facility provided that any discharge on the facility side of that first  
15 valve will not directly impact waters of the state. A transfer  
16 pipeline includes valves, and other appurtenances connected to the  
17 pipeline, pumping units, and fabricated assemblies associated with  
18 pumping units. A transfer pipeline does not include process pipelines,  
19 pipelines carrying ballast or bilge water, transmission pipelines, or  
20 tank vessel or storage tanks.

21 ~~((15))~~ (14) "Transmission pipeline" means a gas pipeline that  
22 transports gas within a storage field, or transports gas from an  
23 interstate pipeline or storage facility to a distribution main or a  
24 large volume gas user, or operates at a hoop stress of twenty percent  
25 or more of the specified minimum yield strength.

26 **Sec. 7.** RCW 81.88.060 and 2000 c 191 s 5 are each amended to read  
27 as follows:

28 (1) A comprehensive program of hazardous liquid pipeline safety is  
29 authorized by RCW 81.88.010, 81.88.040, ~~((81.88.050,))~~ 81.88.090,  
30 81.88.100, ~~((81.88.130,))~~ 48.48.160, and this section to be developed  
31 and implemented consistent with federal law. ~~((Except as provided in  
32 subsection (6) of this section,))~~ The commission shall administer and  
33 enforce all laws related to hazardous liquid pipeline safety.

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

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

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

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

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

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

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

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

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

20 (a) A schedule of inspection and testing within the pipeline  
21 distribution system of:

22 (i) All mechanical components;

23 (ii) All electronic components; and

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

27 (b) Failsafe systems;

28 (c) Safety management systems; and

29 (d) Emergency management training for pipeline operators.

30 (4) The commission shall coordinate information related to pipeline  
31 safety by providing technical assistance to local planning and siting  
32 authorities.

33 (5) The commission shall evaluate, and consider adopting, proposals  
34 developed by the federal office of pipeline safety, the national  
35 transportation safety board, and other agencies and organizations  
36 related to methods and technologies for testing the integrity of  
37 pipeline structure, leak detection, and other elements of pipeline  
38 operation.



1       (~~(6) The authorities of RCW 81.88.010, 81.88.040, 81.88.050,~~  
2 ~~81.88.090, 81.88.100, 81.88.130, 48.48.160, and this section relating~~  
3 ~~to hazardous liquid pipeline safety shall be transferred from the~~  
4 ~~commission to the department pursuant to RCW 81.88.130 upon the~~  
5 ~~occurrence of either:~~

6       ~~(a) Amendments to federal pipeline safety laws to eliminate~~  
7 ~~preemption of state authority to regulate safety requirements for such~~  
8 ~~pipelines; or~~

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

12       **Sec. 8.** RCW 81.88.090 and 2000 c 191 s 9 are each amended to read  
13 as follows:

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

20       (a) Inspect hazardous liquid pipelines periodically as specified in  
21 the inspection program;

22       (b) Collect fees;

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

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

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

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

35       **Sec. 9.** RCW 81.88.140 and 2000 c 191 s 14 are each amended to read  
36 as follows:

1 (1) The citizens committee on pipeline safety is established to  
2 advise the state agencies and other appropriate federal and local  
3 government agencies and officials on matters relating to hazardous  
4 liquid and gas pipeline safety, routing, construction, operation, and  
5 maintenance. The committee shall serve as an advisory committee for  
6 the commission on matters relating to the commission's pipeline safety  
7 programs and activities. The commission shall consult with and provide  
8 periodic reports to the committee on matters related to the  
9 commission's pipeline safety programs and activities, including but not  
10 limited to the development and regular review of funding elements for  
11 pipeline safety programs and activities.

12 (2) The committee shall have thirteen total members who shall be  
13 appointed by the governor to staggered three-year terms and shall  
14 consist of: (a) Nine members representing local government, including  
15 elected officials and the public; and (b) four nonvoting members,  
16 representing owners and operators of hazardous liquid and gas  
17 pipelines. All members of the committee, voting and nonvoting, may  
18 participate fully in the committee's meetings, activities, and  
19 deliberations and shall timely receive all notices and information  
20 related to committee business and decisions.

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

23 ~~((+2+))~~ (4) The committee may create one or more technical advisory  
24 committees comprised of gas and hazardous liquid pipeline owners or  
25 operators, agency representatives, natural resource and environmental  
26 interests, or other interested parties.

27 ~~((+3+))~~ (5) The committee established in ~~((subsection (1) of))~~ this  
28 section constitutes a class one group under RCW 43.03.220. Expenses  
29 for this group, as well as staff support, shall be provided by the  
30 utilities and transportation commission ~~((and, if additional pipeline~~  
31 ~~authority is transferred to it, the department of ecology))~~.

32 NEW SECTION. Sec. 10. The following acts or parts of acts are  
33 each repealed:

34 (1) RCW 81.88.050 (Hazardous liquid pipeline safety account) and  
35 2000 c 191 s 4; and

36 (2) RCW 81.88.130 (Transfer of powers, duties, and functions of  
37 commission to department--Delegation of federal authority--  
38 Determination by office of financial management) and 2000 c 191 s 13.

1        NEW SECTION.    **Sec. 11.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    July 1, 2001.

--- END ---