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Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 1045
Economic Matters

(Delegate Cardin, *et al.*)

Public Safety - Gas Pipelines - Best Available Technology Requirement

This bill requires the Public Service Commission (PSC) to adopt regulations that establish safety standards and practices applicable to the design, construction, operation, and maintenance of gas pipelines. PSC must adopt federal safety standards as minimum standards. PSC must also adopt regulations that require a gas transmission company to use best available technology, including in-line inspection devices, to monitor the condition and safety of each gas pipeline owned or operated by the gas transmission company.

Fiscal Summary

State Effect: PSC experiences a significant operational burden but indicates that it may be able to meet the bill's requirements with existing budgeted resources. Special fund expenditures for PSC increase to the extent that PSC requires additional staff and/or consulting resources to implement the bill. Special fund revenues increase correspondingly from assessments imposed on all public service companies.

Local Effect: Minimal.

Small Business Effect: None.

Analysis

Bill Summary: For purposes of the bill, "gas" means natural gas, flammable gas, or toxic or corrosive gas, and a "gas pipeline" means an *intrastate* transmission line or any portion of an interstate transmission line located within the State that (1) transports gas from a gathering line or storage facility to a distribution center, storage facility, or

large-volume customer that is not downstream from a distribution center; (2) operates at a specified hoop stress; or (3) transports gas within a storage field. A “gas transmission company” means a person who owns or operates a gas pipeline regulated under the bill, and does not include a person that is primarily in the business of local gas distribution.

PSC has jurisdiction over the bill and any regulations adopted under it to the same extent that it has over any provision of its own law, Division I of the Public Utilities Article.

Current Law: PSC regulates gas, electric, telephone, water, sewage disposal, and certain passenger transportation companies doing business in Maryland. PSC is authorized to hear and decide matters relating to (1) rate adjustments; (2) applications to exercise or abandon franchises; (3) approval of issuance of securities; (4) adoption of new rules and regulations; and (5) quality of utility and common carrier service. PSC sets utility rates, collects and maintains records and reports of public service companies, reviews plans for service, inspects equipment, audits financial records, handles consumer complaints, and adopts and enforces rules and regulations.

PSC currently does not issue permits for the siting or construction of natural gas transmission pipelines. The Federal Energy Regulatory Commission (FERC) is responsible for issuing certificates of public convenience and necessity to prospective companies providing energy services or constructing and operating interstate pipelines and storage facilities.

Gas Pipeline Safety

The Federal Natural Gas Pipeline Safety Act of 1968 requires the Secretary of the U.S. Department of Transportation to establish minimum federal safety standards for the transportation of gas and for pipeline facilities.

The Secretary’s authority to prescribe and enforce gas pipeline safety standards does not apply to *intrastate* pipeline transportation if a state agency regulates the safety standards and practices applicable to *intrastate* pipeline transportation and submits certification to the Secretary each year meeting specified criteria. PSC has adopted the applicable federal safety standards established under the Act and has established the required inspection, documentation, and enforcement program outlined in the Act.

The Act requires the establishment of minimum federal safety standards and provides that any state agency may adopt additional or more stringent regulations that are not incompatible with the minimum federal standards. Those standards may affect the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation,

construction, initial inspection, and initial testing do not apply to preexisting pipeline facilities.

PSC, under certification from U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA), assumes safety responsibility with respect to *intrastate* gas facilities, and has statutory authority to establish and enforce safety standards for *intrastate* gas facilities. PSC regulations regarding gas safety require each gas company to exercise reasonable care to reduce the hazards of gas distribution and transmission.

Each gas company must adopt and execute a safety program, odorize the gas, and bury pipe according to specified standards. The gas company must also respond promptly to all reports of gas leaks and investigate the reports in accordance with the Gas Piping and Technology Committee standards. For additional information related to the federal and state regulation of pipeline safety, see the **Appendix – Pipeline Regulation and Safety**.

Interstate Natural Gas Regulation

The Natural Gas Act (NGA) of 1938 gives FERC exclusive jurisdiction over the transportation of natural gas in interstate commerce, the sale in interstate commerce of natural gas for resale, and natural gas companies engaged in that transportation or sale. It also gives FERC the authority to grant certificates allowing construction and operation of facilities used in interstate gas transmission and authorizing the provision of services. A "certificate of public convenience and necessity" issued under NGA permits pipeline companies to charge customers for some of the expenses incurred in pipeline construction and operation. NGA also requires FERC approval prior to abandonment of any pipeline facility or services. NGA does not apply to the production, gathering, or local distribution of natural gas.

Background: The bill affects natural gas transmission pipelines – high-pressure pipes designed to move large volumes of natural gas across long distances. Natural gas transmission pipelines are a separate system from hazardous liquids pipelines. In general, natural gas is brought into the State through the interstate transmission system and then allocated as needed through the *intrastate* natural gas distribution systems of the State's gas companies for customer use. These interstate natural gas transmission pipelines are under the regulatory authority of PHMSA. However, three gas companies operate *intrastate* gas transmission systems that transport natural gas from the interstate transmission system to their franchised distribution systems: Baltimore Gas and Electric Company, Washington Gas Light Company, and Columbia Gas of Maryland.

PSC currently manages two pipeline safety programs, one for natural gas and the other for hazardous liquids pipelines. The natural gas pipeline safety program includes the

inspection of 77 jurisdictional natural gas and propane pipeline operators. The hazardous liquids pipeline safety program includes the inspection of one jurisdictional hazardous liquids pipeline operator.

State Fiscal Effect: PSC advises that adopting the regulations required under the bill requires a rulemaking of approximately one year and consumes a portion of the time of three attorneys, one pipeline safety engineer, the five commissioners, and possibly one outside consultant. Special fund expenditures for PSC increase to the extent that PSC requires additional staff and/or consulting resources to implement the bill. Special fund revenues increase accordingly from assessments imposed on all public service companies.

Additional Information

Prior Introductions: None.

Cross File: SB 602 (Senator Zirkin) - Finance.

Information Source(s): Public Service Commission, U.S. Department of Transportation, Federal Energy Regulatory Commission, Department of Legislative Services

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Appendix – Pipeline Regulation and Safety

The regulation of pipeline safety occurs at both the federal and state levels. The State’s Public Service Commission (PSC) regulates *intrastate* pipeline safety. PSC may enter and inspect, at reasonable times and in a reasonable manner, the pipeline facilities and the pipeline procedures of those involved with them and books, records, papers, and other documents relevant to determining compliance with regulations. Whenever PSC finds a particular facility to be hazardous to life or property, it is empowered to require the person operating such facility to take the steps necessary to remove such hazards.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) within the U.S. Department of Transportation is the primary federal agency responsible for ensuring that pipelines are safe, reliable, and environmentally sound. PHMSA oversees the development and implementation of regulations concerning pipeline construction, maintenance and operation, and shares these responsibilities with state regulators. PHMSA comprises two safety divisions, the Office of Pipeline Safety (OPS), and the Office of Hazardous Materials Safety. In overseeing approximately 2.3 million miles of natural gas and hazardous liquid pipelines, OPS:

- administers a national pipeline inspection and enforcement program;
- administers pipeline safety regulatory programs and establishes the regulatory agenda;
- oversees pipeline operator implementation of risk management and risk-based programs;
- develops regulatory policy options and initiatives, and researches, analyzes, and documents social, economic, technological, environmental, safety, and security impacts upon existing and proposed regulatory, legislative, or program activities involving pipeline safety;
- develops and maintains partnerships with other federal, state, and local agencies as well as other stakeholders to address threats to pipeline integrity, service, and reliability and to share responsibility for the safety of communities;
- provides technical and resource assistance for state pipeline safety programs to ensure oversight of *intrastate* pipeline systems at the local level; and
- supports the development and conduct of pipeline safety training programs for federal and state regulatory and compliance staff and the pipeline industry.

According to PHMSA, pipelines are by far the safest method for transporting energy products. However, when pipeline incidents occur, they can present significant risks to the public and the environment. There were 30 “significant incidents” in Maryland from 2002 through 2011, totaling \$12 million in property damage and causing one fatality and 16 injuries.