Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 907 (Senator Zirkin)
Finance

Pipeline Safety and Community Protection Act

This bill requires the Public Service Commission (PSC) to implement specified "gas pipeline" safety standards. Gas transmission companies must submit various reports, plans, and information to applicable State agencies, local governments, and landowners. The bill prohibits a person from beginning construction of a gas transmission pipeline in the State unless the person first obtains a pipeline construction permit from PSC. The bill makes other changes related to gas transmission pipeline safety.

Fiscal Summary

State Effect: PSC special and federal fund expenditures increase by a total of $84,400 in FY 2014 for staff and related expenses to monitor plans and to conduct inspections under the bill. General fund expenditures for the Maryland Emergency Management Agency (MEMA) increase by $63,100 in FY 2014 to hire staff to establish emergency response standards and review plans. Future year expenditures reflect annualization. Special and federal fund revenues for PSC increase correspondingly from assessments imposed on public service companies, any fees assessed on gas transmission companies, and additional federal funds. The bill's penalty provisions are not expected to materially affect State finances.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	$33,800	$35,200	$36,700	$38,400	$40,100
FF Revenue	$50,700	$52,800	$55,100	$57,600	$60,100
GF Expenditure	$63,100	$81,300	$85,100	$89,100	$93,200
SF Expenditure	$33,800	$35,200	$36,700	$38,400	$40,100
FF Expenditure	$50,700	$52,800	$55,100	$57,600	$60,100
Net Effect	($63,100)	($81,300)	($85,100)	($89,100)	($93,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal.

Small Business Effect: Minimal.

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 *intra*state 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.

PSC, through certification or agreement with the U.S. Secretary of Transportation, must act for the Secretary to implement specified gas pipeline safety standards with respect to gas pipelines located within the State. PSC must make periodic certifications and reports to the U.S. Department of Transportation and take any other actions necessary to carry out its responsibilities under a certification or agreement with the Secretary under the bill. PSC may accept funding made available to the State to implement federal pipeline safety laws or other federal law.

PSC must 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 establish and adopt by regulation methods and best practices for gas pipelines and require introduction of these methods and best practices as soon as practicable. The regulations must include specified quantitative criteria and require that a gas transmission company use best available technology and odorize gas. PSC must require a gas transmission company to prepare, maintain, and carry out a written plan for the operation and maintenance of each gas pipeline owned or operated by the company.

A gas transmission company must immediately notify PSC and the National Response Center of the U.S. Coast Guard under specified circumstances. PSC must notify the center of any error and new information that PSC or an agent of PSC discovers while providing training for gas pipelines, developing methods or best practices under the bill, or inspecting a gas pipeline.

A gas transmission company must submit an annual report containing specified information on the state of its gas pipelines to PSC and to owners of real property close to or on which the gas pipeline is located. PSC must make the reports publicly available and post them on its website. At least once every five years, a gas transmission company must identify each owner of real property on which a gas pipeline is located, notify each owner of the presence of the gas pipeline, verify that each owner has received notice, and provide to PSC a current list of all property owners.

PSC is authorized to enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and property of a gas transmission company to determine if the company is acting in compliance with applicable laws and regulations. PSC must inspect each gas pipeline at least once each year. PSC may assess and collect from a gas transmission company an inspection fee that may be used by PSC for administering the regulatory program established under the bill.

PSC may bring an action for injunctive relief in a circuit court to enjoin a violation of the bill, enjoin the operation of a gas pipeline, or enforce a standard established by PSC under the bill.

Subject to specified conditions, PSC may impose on a person who violates the bill or a regulation adopted under the bill a civil penalty of up to the maximum penalty provided in federal gas pipeline safety standards.

PSC must adopt regulations to create three specified classes of natural gas leaks and to require a gas transmission company to remediate each class of leak within a specified timeframe. The regulations must also establish a penalty for failing to comply with the repair schedule and must establish additional requirements for inspection, maintenance, and related matters that PSC considers necessary to implement the bill. Gas transmission companies must respond to, initially investigate, and classify the leak, if applicable, within one hour of receiving a report of a suspected gas leak. After a lapse of the one-hour response period, PSC must impose a penalty of $100,000 for every 30 minutes of failure by the gas transmission company to respond to a report of a suspected leak. Penalties assessed by PSC under the bill's gas leak response provisions are in addition to any other penalties assessed by PSC. A gas transmission company may not pass on the cost of a penalty assessed under these provisions.

A person may not begin construction in the State on a gas pipeline unless the person first obtains a pipeline construction permit from PSC. An application for a permit must contain an environmental impact assessment, which must specify minimum requirements. PSC must notify the Board of Public Works (BPW) and forward a permit application to each appropriate unit of local government for review, evaluation, and comment. PSC must establish a specified process for public comment and public hearings on an application for a permit.

PSC may only take final action on an application after due consideration of local government recommendations and public comments and after BPW has approved the application. Subject to specified requirements, PSC may grant, deny, or conditionally grant a permit under the bill. PSC must adopt regulations with specified minimum requirements for the application process and the environmental impact assessment. PSC must develop guidelines for evaluating the suitability of proposed sites, subject to specified guidelines and requirements.

A person may not begin construction on a gas pipeline until all legal proceedings related to the construction become final, including: (1) permit and license applications; (2) condemnation proceedings; (3) easement negotiations; and (4) appeals to any judgments or determinations relating to the construction of the proposed gas pipeline.

PSC must require a gas transmission company to prepare and submit a valve location plan and a comprehensive pressure testing implementation plan for each gas pipeline the company owns or operates, subject to specified requirements for the content of the plans and PSC actions on the plans. MEMA must establish emergency response standards for gas transmission companies in consultation with PSC, the State Fire Marshal, and other members of the first responder community. MEMA must require a gas transmission company to develop and submit to both MEMA and PSC an emergency response plan that meets minimum federal standards. MEMA must review the plan and must require the company to amend or update the plan as necessary to protect public safety. A gas transmission company must meet annually with applicable local fire departments to discuss and review emergency response plans.

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 *intra*state pipeline transportation if a state agency regulates the safety standards and practices applicable to *intra*state 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 *intra*state gas facilities, and has statutory authority to establish and enforce safety standards for *intra*state 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, which include a system for classifying gas leaks similar to that proposed by the bill. 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.

Civil and Criminal Penalties

In addition to any other penalty authorized, PSC may impose a civil penalty of up to $25,000 against a person who violates specified provisions or an outstanding direction, order, rule, or regulation of PSC. Each day or part of a day the violation continues is a separate offense.

Public service companies that violate PSC provisions relating to safety are subject to a civil penalty of up to $25,000 per violation for each day that the violation persists. Civil penalties collected by PSC are paid into the general fund. An individual who knowingly aids or abets a public service company in violating PSC rules, orders, and regulations is guilty of a misdemeanor and unless a different punishment is specified, on conviction is subject to a fine of up to $1,000 for a first offense and up to $5,000 for a subsequent offense.

A gas company or gas master meter operator that violates any of PSC's standards of safe service or other regulations related to safety is subject to a civil penalty determined by PSC that does not exceed the maximum penalties specified in federal regulations (currently a maximum fine of $100,000 per day per violation, up to $1,000,000 for any related series of violations).

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 *intra*state 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 *intra*state 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.

MEMA is responsible for the overall statewide direction, development, implementation, and coordination of a number of emergency response activities. MEMA works in concert with local jurisdictions, State departments and agencies, federal departments and agencies, and private and volunteer organizations.

State Fiscal Effect:

Public Service Commission

PSC special and federal fund expenditures increase in total by $84,438 in fiscal 2014, which accounts for the bill's October 1, 2013, effective date. This estimate reflects the cost of hiring one pipeline safety engineer to monitor operation and maintenance plans of gas transmission companies and to conduct ongoing inspections. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, and vehicle costs.

Position	1
Salary and Fringe Benefits	$58,795
Vehicle Expenses	20,597
Other Operating Expenses	5,406
Total FY 2014 PSC Expenditures	**$84,438**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time costs. Special and federal fund revenues for PSC increase correspondingly from assessments imposed on public service companies, any inspection fees assessed on gas transmission companies, and additional federal revenue for PSC's pipeline safety program. This assumes a 60% federal reimbursement rate for pipeline safety staff and vehicle expenses.

PSC experiences a significant operational burden under the bill but indicates that it can likely meet the bill's other requirements with existing budgeted resources. Special fund revenues and expenditures increase further to the extent that PSC requires additional staff and/or consulting resources to implement the bill.

Maryland Emergency Management Agency

MEMA general fund expenditures increase by $63,125 in fiscal 2014, which accounts for the bill's October 1, 2013, effective date. This estimate reflects the cost of hiring one individual to establish emergency response standards and review gas transmission company emergency response plans. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$58,079
Other Operating Expenses	5,046
Total FY 2014 MEMA Expenditures	**$63,125**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time costs.

Additional Information

Prior Introductions: None.

Cross File: HB 953 (Delegate Morhaim, *et al.*) - Economic Matters.

Information Source(s): Public Service Commission, Maryland Department of Transportation, Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Maryland Emergency Management Agency, U.S. Department of Transportation, U.S. Energy Information Administration, Federal Energy Regulatory Commission, cities of Frederick and Havre de Grace, Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

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 *intra*state 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 *intra*state 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.