

MAR 4 2005
Place On Calendar

HOUSE FILE 581
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 160)

Passed House, Date 3-14-05 Passed Senate, Date 4-11-05
Vote: Ayes 98 Nays 0 Vote: Ayes 45 Nays 4
Approved 4-15-05

A BILL FOR

1 An Act relating to interstate natural gas pipelines including
2 requirements regarding construction, operation, and
3 maintenance, applicable penalties and resultant damages, and
4 easements.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 581

1 Section 1. Section 306A.3, unnumbered paragraph 2, Code
2 2005, is amended to read as follows:

3 The department shall adopt rules, pursuant to chapter 17A,
4 embodying a utility accommodation policy which imposes
5 reasonable restrictions on placements occurring on or after
6 the effective date of the rules, on primary road rights-of-
7 way. The rules may require utilities to give notice to the
8 department prior to installation of a utility system on a
9 primary road right-of-way and obtain prior permission from the
10 department for the proposed installation. The rules shall
11 recognize emergency situations and the need for immediate
12 installation of service extensions subject to the standards
13 adopted by the department and the utilities board. The rules
14 shall be no less stringent than the standards adopted by the
15 utilities board pursuant to chapters 478, 479, 479A, and 479B.
16 This paragraph shall not be construed as granting the
17 department authority which has been expressly granted to the
18 utilities board to determine the route of utility
19 installations. If the department requires a utility company
20 permit, the department shall be required to act upon the
21 permit application within thirty days of its filing. In cases
22 of federal-aid highway projects on nonprimary highways, the
23 local authority with jurisdiction over the highway and the
24 department shall comply with all federal regulations and
25 statutes regarding utility accommodation.

26 Sec. 2. Section 479A.1, Code 2005, is amended to read as
27 follows:

28 479A.1 PURPOSE.

29 It is the purpose of the general assembly in enacting this
30 law to confer upon the utilities board the power and authority
31 ~~to implement certain controls over the transportation of~~
32 ~~natural gas to protect landowners and tenants from~~
33 ~~environmental or economic damages which may result from the~~
34 ~~construction, operation, or maintenance of a pipeline within~~
35 ~~the state.---It is also the purpose of the general assembly in~~

1 ~~enacting-this-law-to-provide-for-the-board~~ to act as an agent
2 for the federal government in determining pipeline company
3 compliance with the standards of the federal government for
4 pipelines within the boundaries of the state.

5 Sec. 3. Sections 479A.3, 479A.5, 479A.6, 479A.8, 479A.10,
6 479A.12 through 479A.17, and 479A.19 through 479A.28, Code
7 2005, are repealed.

8 EXPLANATION

9 This bill concerns the regulation of interstate pipelines,
10 pipeline companies, and the underground storage of gas by the
11 utilities division of the department of commerce.

12 The bill strikes from the purpose of Code chapter 479A
13 conferring upon the utilities board authority over the
14 interstate transportation of natural gas and the protection of
15 landowners and tenants from the construction, operation, or
16 maintenance of a pipeline in this state.

17 The bill repeals a provision restricting the construction
18 of pipelines along highways, waters, and streams, a provision
19 requiring notice to the board prior to the construction of a
20 pipeline, a provision requiring a pipeline company to pay
21 certain inspection costs, a provision granting authority to
22 the utilities board to collect inspection fees and assess
23 civil penalties for failure to pay inspection fees, a
24 provision granting the utilities board the authority to adopt
25 rules for the enforcement of Code chapter 479A, and a
26 provision requiring pipeline companies to post a bond prior to
27 construction of a pipeline.

28 The bill also repeals a provision requiring filing of a
29 surety before construction begins, a provision granting
30 jurisdiction to the district court of any county for cases
31 arising under Code chapter 479A, a provision granting
32 authority to the utilities board to adopt rules establishing
33 standards for the restoration of agricultural land after
34 pipeline construction, a provision permitting a pipeline
35 company to enter private land for land surveys, and a

1 provision providing for civil penalties and judicial review.

2 The bill repeals a provision allowing the cancellation of
3 an agreement granting an easement by the person seeking the
4 easement and a provision permitting a landowner or pipeline
5 company to petition a magistrate for an appointment of an
6 arbitrator. The bill also repeals a provision prohibiting a
7 pipeline company from installing a subsequent pipeline upon an
8 existing easement until pending damage claims are resolved,
9 and a provision prohibiting a pipeline company from installing
10 a pipeline unless a written statement regarding construction
11 damages is on file with the board.

12 The bill repeals a provision regarding the negotiation of
13 an annual fee for an easement, and a provision describing
14 compensable losses and claims for damages due to use of a
15 pipeline easement. The bill repeals a provision relating to a
16 county board of supervisors making a determination of the
17 amount of damages caused by a pipeline company when installing
18 a pipeline, and a provision regarding compensation for
19 additional costs of new tile construction caused by an
20 existing pipeline. The bill also repeals a provision
21 regarding the reversion of an easement due to nonuse and a
22 provision permitting a landowner or contractor to require the
23 presence of the pipeline company during farmland improvement
24 near a pipeline.

25 The bill provides that the utilities board should only act
26 as an agent for the federal government and not directly
27 regulate interstate pipelines. The board shall continue to
28 inspect the construction, maintenance, and condition of
29 pipelines and underground storage facilities and collect fees
30 for inspection.

31 The bill makes other conforming corrections.

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Wilderdyke, Ch.
Soderberg
Quirk ✓

Succeeded F
SF 581

HSB 160
COMMERCE, REGULATION & LABOR

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/UTILITIES
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

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13 adopted by the department and the utilities board. The rules
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15 utilities board pursuant to chapters 478, 479, 479A, and 479B.
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STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

Memo to: Iowa General Assembly

From: Iowa Utilities Board

Date: January 28, 2005

Subject: Interstate Pipeline Inspections

On August 11, 2004, a decision by the Eighth Circuit Court of Appeals entirely preempted Chapter 479A of the Iowa Code. This chapter, Interstate Natural Gas Pipelines, contained three major provisions: 1) inspection authority and cost recovery, 2) land owner rights, and 3) land restoration standards. The Court recognized that the provisions that allow the Board to act as an agent for the federal government is not preempted by federal law but did not attempt to separate the preempted provisions from the parts that were not preempted. This bill is intended to restore those parts of chapter 479A that are not preempted.

The relevant provisions of Chapter 479A gave Board authority to enter into an Interstate Agent agreement with the U.S. Department of Transportation, Office of Pipeline Safety to conduct inspections of interstate pipelines under federal authority. The Board has been an interstate agent since 1972. This provision is not believed essential in and of itself, as the Board performed these duties for many years without specific state legislation and could do so again. However, the reimbursement from the federal government does not cover the entire cost of performing these duties. Chapter 479A included a provision to make up this shortfall by charging the interstate natural gas pipelines an annual inspection fee of 50 cents per inch per mile of pipeline in Iowa. (Example – for a 4-inch pipeline the fee would be \$2 per mile.) Funds received from these fees total about \$56,000 per year.

HOUSE FILE 581

AN ACT

RELATING TO INTERSTATE NATURAL GAS PIPELINES INCLUDING
REQUIREMENTS REGARDING CONSTRUCTION, OPERATION, AND
MAINTENANCE, APPLICABLE PENALTIES AND RESULTANT DAMAGES,
AND EASEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 306A.3, unnumbered paragraph 2, Code
2005, is amended to read as follows:

The department shall adopt rules, pursuant to chapter 17A,
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for the federal government in determining pipeline company
compliance with the standards of the federal government for
pipelines within the boundaries of the state.

Sec. 3. Sections 479A.3, 479A.5, 479A.6, 479A.8, 479A.10, 479A.12 through 479A.17, and 479A.19 through 479A.28, Code 2005, are repealed.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 581, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/15, 2005

THOMAS J. VILSACK
Governor