

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 629

Introduced by Sullivan, 41; Dubas, 34; Haar, 21.

Read first time January 19, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to pipelines; to adopt the Hazardous Liquid
2 Pipeline Reclamation and Recovery Act; to provide
3 severability; and to declare an emergency.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and
2 may be cited as the Hazardous Liquid Pipeline Reclamation and
3 Recovery Act.

4 Sec. 2. For purposes of the Hazardous Liquid Pipeline
5 Reclamation and Recovery Act:

6 (1) Commission means the Public Service Commission;

7 (2) Hazardous liquid means petroleum, including crude oil
8 or any fraction of crude oil;

9 (3) Pipeline carrier means a person that engages in
10 owning, operating, or managing a pipeline or part of a pipeline for
11 the transportation of hazardous liquid;

12 (4) Reclamation means the restoration of the areas
13 through which the pipeline is constructed to the general condition
14 and contour that existed prior to the construction; and

15 (5) Recovery means any emergency response, containment,
16 cleanup, removal, treatment, and monitoring necessary as a result of
17 a discharge or leak of hazardous liquid from the pipeline.

18 Sec. 3. The purpose of the Hazardous Liquid Pipeline
19 Reclamation and Recovery Act is to ensure that no pipeline carrier is
20 allowed to construct or operate a pipeline through this state for the
21 transportation of hazardous liquid unless and until the commission
22 certifies that the pipeline carrier has provided proof of financial
23 responsibility pursuant to the act.

24 Sec. 4. (1) After the effective date of this act, a
25 pipeline carrier proposing to engage in owning, operating, or

1 managing a pipeline or part of a pipeline for the transportation of
2 hazardous liquid to be placed in operation in this state shall file
3 proof of financial responsibility with the commission. The applicant
4 shall file proof of financial responsibility prior to beginning
5 construction of the pipeline or any part of the pipeline within
6 Nebraska and shall also file a copy of the proof of financial
7 responsibility with the register of deeds in each county in which the
8 pipeline is to be constructed. The commission shall establish
9 reasonable standards and safeguards for the content of the proof of
10 financial responsibility.

11 (2) Proof of financial responsibility shall include any
12 of the following made payable to or held in trust for the benefit of
13 the State of Nebraska and approved by the commission:

14 (a) A surety bond executed by the pipeline carrier and a
15 corporate surety licensed to do business in this state in an amount
16 determined by the commission;

17 (b) A deposit of cash, negotiable bonds of the United
18 States or the State of Nebraska, negotiable certificates of deposit,
19 or an irrevocable letter of credit of any bank or other savings
20 institution organized or transacting business in the United States in
21 an amount or which has a market value equal to or greater than the
22 amount of the surety bond required by the commission; or

23 (c) An escrow account established in a financial
24 institution the deposits or accounts of which are insured by the
25 Federal Deposit Insurance Corporation in an amount determined by the

1 commission.

2 (3)(a) The commission shall hold a public hearing to
3 determine the amount of the bond, deposit, or escrow account. The
4 amount shall be reasonable and sufficient for the commission, if the
5 pipeline carrier is unable or unwilling to do so, to protect areas in
6 every county through which the pipeline is constructed from the
7 following:

8 (i) Failure by the pipeline carrier to provide
9 reclamation; and

10 (ii) Damages that arise out of or are caused by the
11 discharge or leaking of hazardous liquid from the pipeline, including
12 recovery costs and administrative costs.

13 (b) In determining the amount of the bond, deposit, or
14 escrow account, the commission shall consider any conditions
15 specified by the commission, including, but not limited to, the
16 topography, geology, and hydrology of the area through which the
17 pipeline is proposed to be constructed and the history of
18 environmental activities of the pipeline carrier.

19 (4) The proof of financial responsibility shall include
20 the following information:

21 (a) The name and address of the pipeline carrier;
22 (b) The name, address, title, and contact information of
23 the person who will manage the daily operations of the proposed
24 pipeline in Nebraska;

25 (c) A description of the nature and location or route of

1 the pipeline or any part of the pipeline;

2 (d) The hazardous liquid to be transported through the
3 pipeline; and

4 (e) Any other relevant information as determined by the
5 commission.

6 Sec. 5. (1) A pipeline carrier owning, operating, or
7 managing a pipeline or part of a pipeline for the transportation of a
8 hazardous liquid in this state shall be held liable for all damages
9 that arise out of or are caused by the discharge or leaking of any
10 hazardous liquid from the pipeline.

11 (2) A pipeline carrier is not liable for damages under
12 this section caused by intentional malfeasance or a criminal act.

13 (3) A pipeline carrier owning, operating, or managing a
14 pipeline or part of a pipeline for the transportation of a hazardous
15 liquid in this state shall be responsible for the immediate cleanup
16 of any discharge or leaking of any hazardous liquid from the
17 pipeline.

18 (4) Damages shall include recovery costs, injury to or
19 economic losses resulting from destruction of or injury to real or
20 personal property and natural resources, rehabilitation of habitat or
21 wildlife, administrative costs related to assessing and valuing the
22 injury, destruction, or other loss, and attorney's fees and other
23 costs for collecting such damages.

24 Sec. 6. Nothing in the Hazardous Liquid Pipeline
25 Reclamation and Recovery Act prohibits a county board, city council,

1 or village board from adopting regulations that are more stringent or
2 that require greater financial assurances than those imposed by the
3 commission, including, but not limited to, financial assurances for
4 the maintenance and repair of roads, bridges, or other infrastructure
5 related to the construction, maintenance, or operation of a pipeline
6 by a pipeline carrier who is subject to the act.

7 Sec. 7. The commission may adopt and promulgate rules and
8 regulations to carry out the Hazardous Liquid Pipeline Reclamation
9 and Recovery Act.

10 Sec. 8. The commission may contract for professional
11 services and expert assistance, including, but not limited to, the
12 services of accountants, attorneys, and economists, to assist in
13 reviewing filings of proof of financial responsibility under the
14 Hazardous Liquid Pipeline Reclamation and Recovery Act.

15 Sec. 9. If any section in this act or any part of any
16 section is declared invalid or unconstitutional, the declaration
17 shall not affect the validity or constitutionality of the remaining
18 portions.

19 Sec. 10. Since an emergency exists, this act takes effect
20 when passed and approved according to law.