

Committee: SB 201 A Conference Committee

Wednesday, March 06, 2024 9:00 AM

Roll Call

Present: Rep. Lesmeister, Rep. Moore, Rep. Mortenson, Sen. Johnson, Sen. Wheeler,
and Sen. Crabtree

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Crabtree

SB 201 : provide new statutory requirements for regulating linear transmission facilities, to allow counties to impose a surcharge on certain pipeline companies.

MOTION: AMEND SB 201

201M

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert ", and "

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert "to establish a "

On page 1, line 3, of the House Commerce and Energy Engrossed bill, after "companies" insert "landowner bill of rights"

On page 1, line 9, of the House Commerce and Energy Engrossed bill, after "per" insert "linear"

On page 1, line 9, of the House Commerce and Energy Engrossed bill, after "of" delete "linear"

On page 1, line 10, of the House Commerce and Energy Engrossed bill, after "county" insert the comma

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "For each county where a"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "carbon dioxide pipeline company"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "has installed a pipeline, the company"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "shall"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "report "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "to the county "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "the linear footage of carbon dioxide pipeline installed in the county.
"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "A carbon dioxide pipeline company shall remit the"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "pipeline surcharge to "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "each applicable"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert " county in the same manner as provided for the payment of property taxes in chapter 10-21. The revenue derived from the pipeline surcharge must be distributed as follows:

(1) At least fifty percent as tax relief for property in the county where the carbon dioxide pipeline is located pro rat"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert a latin small letter a

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert " on a per foot basis"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "to "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "each "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "property "

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "in the county upon which the pipeline is installed"

On page 1, line 11, of the House Commerce and Energy Engrossed bill, after "2024)." insert "; and

(2) The remaining revenue to be allocated as determined by the county."

On page 2, line 21, of the House Commerce and Energy Engrossed bill, after "year." delete "Section 4. That § 10-37-9 be AMENDED:"

On page 2, line 22, of the House Commerce and Energy Engrossed bill, after "AMENDED:" delete "10-37-9. "

On page 2, line 22, of the House Commerce and Energy Engrossed bill, after "10-37-9. " delete "The Department of Revenue shall on the fifth day of July of each year determine the linear footage of carbon dioxide pipeline installed in each county, if any, and determine the true and actual value of pipeline property located in each taxing district of the state, and in fixing said value shall take into consideration the structures, equipment, pumping stations, etc. , located in said taxing district, and shall transmit to the county auditor of each such county through and into which any pipeline may extend, a statement showing the assessed value of said property in each of the taxing districts of said county. The said property shall then be taxed in said county and lesser taxing districts, based upon the valuation so certified, in the same manner as other property is taxed. Any pipeline surcharge shall be remitted to the county."

On page 2, line 32, of the House Commerce and Energy Engrossed bill, after "county." delete "Section 5. That § 10-37-15 be AMENDED:"

On page 3, line 1, of the House Commerce and Energy Engrossed bill, after "AMENDED:" delete "10-37-15. "

On page 3, line 1, of the House Commerce and Energy Engrossed bill, after "10-37-15. " delete "All laws relating to the enforcement of the payment of delinquent taxes or any pipeline surcharge shall be applicable to all taxes levied under the provisions of this chapter. When any tax levied under the provisions of this chapter shall become delinquent, the county treasurer having control of such delinquent taxes may proceed to collect the same in the manner as now provided for the collection of other taxes and with the same right and power of the sheriff under execution, except that no process shall be necessary to authorize him to sell any property belonging to any pipeline company for the collection of such taxes. The additional remedy provided for in § 10-38-10 by action in the circuit court shall also be available to the county treasurer."

On page 3, line 11, of the House Commerce and Energy Engrossed bill, after "development" delete " and material transmission"

On page 3, line 12, of the House Commerce and Energy Engrossed bill, delete " the Northern Great Plains significantly" and insert " surrounding states"

On page 3, line 14, of the House Commerce and Energy Engrossed bill, delete " the" and insert " agricultural and"

On page 3, line 15, of the House Commerce and Energy Engrossed bill, after "these" delete " permitted"

On page 3, line 16, of the House Commerce and Energy Engrossed bill, after "are" insert " permitted and"

On page 3, line 16, of the House Commerce and Energy Engrossed bill, remove the overstrikes from " so that the energy"

On page 3, line 16, of the House Commerce and Energy Engrossed bill, after "energy" insert ", commerce, and transmission"

On page 3, line 16, of the House Commerce and Energy Engrossed bill, remove the overstrikes from " requirements of the people of the state are fulfilled"

On page 3, line 19, of the House Commerce and Energy Engrossed bill, after "that" insert " the permitting or siting of a facility is determined by the commission and"

On page 3, after line 20, of the House Commerce and Energy Engrossed bill, insert: "

Section 5. That § 49-41B-19 be AMENDED:

49-41B-19. The Public Utilities Commission shall also hear and receive evidence presented by any state department, agency, or units of local government relative to the environmental, social, and economic conditions and projected changes therein elements in § 49-41B-22, and any applicable ordinance, resolution, or building code."

On page 3, line 23, of the House Commerce and Energy Engrossed bill, delete " must supersede or preempt" and insert " supersedes and preempts"

On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "county" insert ", township,"

On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "county" delete " or"

On page 3, line 23, of the House Commerce and Energy Engrossed bill, after "municipal" insert ", or any other governmental unit"

On page 3, line 24, of the House Commerce and Energy Engrossed bill, remove the overstrikes from " or"

On page 3, line 24, of the House Commerce and Energy Engrossed bill, delete " rules, or safety standards, regulations" and insert " rule, regulation"

On page 3, line 24, of the House Commerce and Energy Engrossed bill, remove the overstrikes from " rules"

On page 3, line 24, of the House Commerce and Energy Engrossed bill, after "or" insert " ordinance. Any local land use, zoning, or building rule, regulation, or ordinance preempted or superseded under this section is not an applicable rule or law under subdivision 49-41B-22(1). A route or transmission facility permitted by the commission under this chapter is not subject to any local land use, zoning, or building rule, regulation, or ordinance, unless the commission requires compliance with any generally applicable rule, regulation, or ordinance as a condition of the permit issued. The enforcement of any county, municipal, township, or other governmental unit rule, regulation, or ordinance for a transmission facility permitted under this chapter must be done pursuant to the order of the commission granting the permit.

"

On page 3, line 24, of the House Commerce and Energy Engrossed bill, after "or" delete " ordinances upon a finding by the Public Utilities Commission that such rules, or regulation, or ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing technology, factors of cost, or economics, or needs of parties where located in or out of the county or municipality or such regulations or ordinances are preempted by federal

law. Without such a finding by the commission, no route shall be designated which violates local land-use zoning, or building rules, or regulations, or ordinances

An ordinance or regulation is preempted by federal law if:

- (1) The ordinance or regulation directly conflicts with any federal statute, regulation, standard, or common law pertaining to the same subject matter;
- (2) Any applicable federal statute expressly prohibits a state or political subdivision from enacting any ordinance, regulation, or standard pertaining to the same subject matter; or
- (3) Any applicable federal statute delegates to a federal agency sole authority to enact any regulation or standard pertaining to the same subject matter"

On page 4, line 15, of the House Commerce and Energy Engrossed bill, delete " 5" and insert " 2"

On page 5, line 27, of the House Commerce and Energy Engrossed bill, delete " model" and insert " analysis"

On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " model" and insert " analysis, or a portion of the dispersion analysis,"

On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " model" and insert " analysis, or a portion of the dispersion analysis,"

On page 5, line 29, of the House Commerce and Energy Engrossed bill, delete " shall" and insert " must"

On page 5, line 30, of the House Commerce and Energy Engrossed bill, after "record." insert "

The commission must make the dispersion analysis available, in relevant part, to each applicable county, emergency manager, and law enforcement agency. The commission shall make available a dispersion analysis report to the public."

On page 6, line 2, of the House Commerce and Energy Engrossed bill, delete " either" and insert " a pipeline facility employee,"

On page 6, line 3, of the House Commerce and Energy Engrossed bill, after "state" insert the comma

On page 6, after line 3, of the House Commerce and Energy Engrossed bill, insert: "

Section 14. That a NEW SECTION be added to title 43:

Sections 14 to 15, inclusively, of this Act may be cited as the Landowner Bill of Rights."

On page 6, after line 3, of the House Commerce and Energy Engrossed bill, insert: "

Section 15. That a NEW SECTION be added to title 43:

Any landowner granting a carbon pipeline easement has the following rights:

- (1) Each pipeline placed in a carbon pipeline easement must meet the minimum depth requirement in section 8 of this Act;
- (2) The entity holding rights in the carbon pipeline easement must repair any damage to drain tile as set forth in section 9 of this Act;
- (3) An operator of a pipeline facility carrying carbon dioxide is liable to a landowner for any leaks or repairs as provided in section 9 of this Act;
- (4) An operator of a pipeline facility carrying carbon dioxide must indemnify the owner as provided in section 10 of this Act;
- (5) Any applicant desiring to obtain a permit to operate a pipeline facility carrying carbon dioxide must file the plan as provided in section 11 of this Act;
- (6) Any applicant desiring to obtain a permit to operate a pipeline facility carrying carbon dioxide must file a disclosure of the dispersion analysis as provided in section 12 of this Act;

- (7) Any applicant desiring to obtain a permit to operate a carbon dioxide pipeline facility must engage a landowner as required by section 13 of this Act;
- (8) Each carbon pipeline easement agreement must include a statement disclosing the information in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (9) If the easement holder mortgages or otherwise encumbers to any party any part of the easement holder's rights and interests under the carbon pipeline easement, the mortgage or encumbrance is enforceable only as permitted in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (10) A carbon pipeline easement is not enforceable after the period of time set forth in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (11) An operator of a pipeline facility holding the right in the carbon pipeline easement must initiate business operations within the time period set forth in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (12) A carbon pipeline easement expires after the passing of a period of nonuse as set forth in HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (13) A carbon pipeline easement must be in writing as required by HB 1186, § 2, if enacted by the Ninety-Ninth Legislature;
- (14) A landowner granting a carbon pipeline easement has the examination and survey protection rights as set forth in § 21-35-31; and
- (15) To receive the one-time payment as provided in HB 1185, § 1, if enacted by the Ninety-Ninth Legislature."

Moved by: Mortenson
Second by: Wheeler
Action: Prevailed by voice vote

MOTION: TO RECOMMEND THE CONFERENCE COMMITTEE REPORT BE ADOPTED

Moved by: Mortenson
Second by: Wheeler
Action: Prevailed by Two-Thirds Majority (5-1-0-0)

Voting Yes: Lesmeister, Mortenson, Johnson, Wheeler, and Crabtree

Voting No: Moore

MOTION: ADJOURN

Moved by: Mortenson
Second by: Wheeler
Action: Prevailed by voice vote

Jean Denton, Committee Secretary

/s/ CASEY CRABTREE
Casey Crabtree, Chair

/s/ WILL MORTENSON
Will Mortenson, Chair