WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED

Committee Substitute for

SENATE BILL NO. 338

(By Mr. Boother)

PASSED March 8, 1984

In Effect seven days from Passage
AN ACT to amend and reenact sections one and two, article one, chapter twenty-four-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one and four, article two, of said chapter; and to amend and reenact sections one, two and three, article five, of said chapter, all relating to the authority of the public service commission to regulate pipeline safety; permitting the public service commission to regulate hazardous liquid pipelines in accordance with the provisions of the “Hazardous Liquid Pipeline Safety Act of 1979”; and limiting the commission to the regulation of hazardous liquid pipelines to the extent hazardous liquids are defined by regulations lawfully promulgated under such act of 1979.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article one, chapter twenty-four-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections one and four, article two of said chapter be amended and
reenacted; and that sections one, two and three, article five of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. PURPOSE AND DEFINITIONS.

§24B-1-1. Purpose.

1 It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to empower the public service commission of West Virginia, in addition to all other powers conferred and duties imposed upon it by law, to prescribe and enforce safety standards for pipeline facilities as hereinafter defined, and to regulate safety practices of persons engaged in the transportation of gas or hazardous liquids as hereinafter defined.


1 When used in this chapter:
2 (1) "Person" means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof;
3 (2) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive;
4 (3) "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage;
5 (4) "Hazardous liquid" means:
6 (a) Petroleum or any petroleum product; and
7 (b) Any substance or material which is in liquid state (excluding liquified natural gas) when transported by pipeline facilities and which, as determined by the commission, may pose an unreasonable risk to life or property when transported by pipeline facilities: Provided, That a hazardous liquid as herein defined shall not be construed so as to include or permit the regulation of any substance transported through pipeline or otherwise when used in the operation of coal mines, coal processing plants or coal slurry pipelines: Provided, however, That the commission shall not determine that any substance or material is a hazardous liquid under this section if the Secretary has not determined that the substance or material
is a hazardous liquid under regulations promulgated in accordance with Section 202(2) of the Hazardous Liquid Pipeline Safety Act of 1979.

(5) "Transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movements; except that it shall not include any such movement through gathering lines in rural locations or on shore production, refining or manufacturing facilities or storage or in-plant piping systems associated with any of such facilities;

(6) "Pipeline facilities" means without limitation, new and existing pipe, pipe rights-of-way and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation, or used in the transportation of hazardous liquid or the treatment of hazardous liquid during the course of transportation: but "rights-of-way" as used in this chapter does not authorize the commission to prescribe the location or routing of any pipeline facility;

(7) "Municipality" means a city, county, or any other political subdivision of the state;

(8) "Interstate transmission facilities" means facilities used in the transportation of gas which are subject to the jurisdiction of the federal power commission under the act of Congress known as the Natural Gas Act;

(9) "Interstate pipeline facilities" means the pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

(10) "Director" means the director of the gas pipeline safety section of the commission;

(11) "Commission" means the public service commission of West Virginia;

(12) "Secretary" means the United States secretary of transportation;

(13) "Pipeline company" means a person engaged in the operation of pipeline facilities or the transportation of gas or hazardous liquids subject to the provisions of this chapter;

(14) "Act of 1968" means the act of Congress known as the Natural Gas Pipeline Safety Act of 1968; and

(15) "Act of 1979" means the act of Congress known as the "Hazardous Liquid Pipeline Safety Act of 1979."
ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

§24B-2-1. Jurisdiction.

1. The commission shall have power and authority to prescribe and enforce safety standards for pipeline facilities, and to regulate safety practices of persons engaged in the transportation of gas or hazardous liquids, to the extent permitted by the "Act of 1968" and the "Act of 1979" and any amendments thereto. Such standards may apply to 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 shall not be applicable to pipeline facilities in existence on the date such standards are adopted.

Whenever the commission shall find a particular facility to be hazardous to life or property, it shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards. Such safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the commission shall consider:

(a) Relevant available pipeline safety data;
(b) Whether such standards are appropriate for the particular type of pipeline transportation;
(c) The reasonableness of any proposed standards; and
(d) The extent to which such standards will contribute to public safety.

§24B-2-4. Cooperation with the federal government.

1. The commission shall cooperate with the secretary and other agencies of the United States in the enforcement of this chapter and the "Act of 1968" and amendments thereto; and to this end, the commission shall take such steps as may be necessary to make annual certifications to the secretary under section five (a) of the "Act of 1968," and shall file such certificates with the secretary. The commission is hereby authorized and empowered (a) to act as the secretary's agent in the enforcement of the "Act of 1968" and amendments thereto with respect to interstate transmission facilities; and (b) to accept for the state of West Virginia, and to expend for the purpose designated,
any funds that may hereafter be made available to the commission out of the federal treasury by an act or acts of Congress and allocated to this state for the purpose of carrying out the provisions of this chapter and the "Act of 1968" and amendments thereto.
The commission shall further cooperate with the secretary and other agencies of the United States in the enforcement of the "Act of 1979" and amendments thereto; and to this end the commission shall take such steps as may be necessary to make annual certifications to the secretary under section two hundred five-a of the "Act of 1979" and shall file such certificates with the secretary. The commission is hereby authorized and empowered (a) to act as the secretary's agent in the enforcement of the "Act of 1979" and amendments thereto with respect to interstate pipeline facilities; and (b) to accept for the state of West Virginia and expend for the purpose designated, any funds that may hereafter be made available to the commission out of the federal treasury by an act or acts of Congress and allocated to this state for the purpose of carrying out the "Act of 1979" and amendments thereto.

ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.

§24B-5-1. Employees.

The commission shall appoint a director of the pipeline safety section of the public service commission and such employees as may be necessary to carry out the provisions of this chapter, and shall fix their respective salaries or compensation. The commission may designate such employees as it deems necessary to take evidence at any hearing held or required by the provisions of this chapter, which employees are hereby empowered to administer oaths in all parts of this state so far as the exercise of such power is properly incidental to the performance of their duties in connection with the provisions of this chapter.

§24B-5-2. Compensation to commissioners.

Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary
or compensation otherwise provided for by law, to be paid in monthly installments from the public service commission pipeline safety fund.

§24B-5-3. Funding; property and revenue license fees.

(a) Every pipeline company shall pay a special license fee in addition to those now required by law. The amount of such fees shall be fixed by the public service commission and levied by it upon each of such pipeline companies according to the number of three-inch equivalent pipeline miles included in its pipeline facilities, and shall be apportioned among such pipeline companies upon the basis of the pipeline companies' reports submitted to the commission in such form as the commission may prescribe, so as to produce a revenue of not more than three hundred thousand dollars per annum, which fees shall be paid on or before the first day of July in each year.

(b) Such sums collected under subsection (a) of this section shall be paid into the state treasury and kept as a special fund, designated "public service commission pipeline safety fund," to be appropriated as provided by law for the purpose of paying the salaries, compensation, costs and expenses of its employees. Any balance in said fund at the end of any fiscal year shall not revert to the treasury, but shall remain in said fund and may be appropriated as provided in this subsection. All funds which heretofore were in the "public service commission gas pipeline safety fund" shall be transferred to the "public service commission pipeline fund."
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .......... approved..........this the 32........


Governor