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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1949

03/02/2017 Authored by Sundin; Johnson, C.; Wagenius; Clark; Becker-Finn and others
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act
1.2 relating to pipelines; providing owners of certain types of land the option to require
1.3 a pipeline proposing to locate on that land to purchase any amount of the owner's
1.4 contiguous land; modifying fees and penalties; providing for the disposition of
1.5 abandoned pipelines; requiring a report; requiring a change in rules; amending
1.6 Minnesota Statutes 2016, sections 216G.07, subdivisions 6, 7, 10, by adding a
1.7 subdivision; 216G.09; proposing coding for new law in Minnesota Statutes, chapter
1.8 216G.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2016, section 216G.07, is amended by adding a subdivision
1.11 to read:

1.12 Subd. 5a. Contiguous land. (a) For purposes of this subdivision:

1.13 (1) "landowner" means the fee owner or, when applicable, the fee owner with the written
1.14 consent of the contract for deed vendee or the contract for deed vendee with the written
1.15 consent of the fee owner;

1.16 (2) "pipeline" means a pipeline located in this state that transports to a distribution center
1.17 or storage facility located within or outside the state:

1.18 (i) natural or synthetic gas, or any other type of gas, at a pressure greater than 275 pounds
1.19 per square inch;

1.20 (ii) crude petroleum, petroleum fuels, oil, or their derivatives;

1.21 (iii) coal, anhydrous ammonia, or any mineral slurry; or

1.22 (iv) hazardous liquids, except hazardous liquids transported within a refining, storage,
1.23 or manufacturing facility.

2.1 (b) When private real property is proposed to be acquired for the construction of a site
2.2 or route for a pipeline by eminent domain proceedings, the landowner has the option to
2.3 require the pipeline owner to condemn a fee interest in any amount of contiguous,
2.4 commercially viable land the landowner wholly owns in undivided fee and elects in writing
2.5 to transfer to the pipeline owner within 60 days after receipt of the notice of the objects of
2.6 the petition filed pursuant to section 117.055. Commercial viability must be determined
2.7 without regard to the presence of the pipeline route or site. The presence of an existing
2.8 pipeline on the land where the pipeline construction is proposed in no way inhibits the rights
2.9 of the landowner under this subdivision. Within 60 days after receipt by the pipeline owner
2.10 of a landowner's election to exercise the option under this paragraph, the pipeline owner
2.11 must provide written notice to the landowner of any objection the pipeline has to the
2.12 landowner's election, and if no objection is made within that time, any objection is deemed
2.13 waived. Within 120 days of the service of an objection by the pipeline owner, the district
2.14 court having jurisdiction over the eminent domain proceeding must hold a hearing to
2.15 determine whether the pipeline owner's objection is upheld or rejected. The pipeline owner
2.16 has the burden of proof to prove by a preponderance of the evidence that the property elected
2.17 by the landowner is not commercially viable. The landowner has only one such option and
2.18 may not expand or otherwise modify an election without the consent of the pipeline owner.
2.19 The required acquisition of land under this subdivision is considered an acquisition for a
2.20 public purpose and for use in the pipeline's business for purposes of chapter 117 and section
2.21 500.24, provided that a pipeline owner divests itself completely of all lands used for farming
2.22 or capable of being used for farming not later than the time it can receive the market value
2.23 paid at the time of acquisition of lands, less any diminution in value by reason of the presence
2.24 of the pipeline. Upon the landowner's election made under this subdivision, the easement
2.25 interest over and adjacent to the lands designated by the landowner to be acquired in fee
2.26 and sought in the condemnation petition for a right-of-way for a pipeline, automatically
2.27 converts into a fee taking.

2.28 (c) All rights and protections provided to an owner under chapter 117 apply to acquisition
2.29 of land or an interest in land under this subdivision.

2.30 (d) Within 120 days of a landowner's election under this subdivision to require the
2.31 pipeline owner to acquire land, or 120 days after a district court decision overruling a pipeline
2.32 owner's objection to an election made under paragraph (b), the pipeline owner must make
2.33 a written offer to acquire the land and amend its condemnation petition to include the
2.34 additional land.

2.35 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 2. Minnesota Statutes 2016, section 216G.07, subdivision 6, is amended to read:

3.2 Subd. 6. **Inspection fee.** Before beginning construction a person proposing to construct
 3.3 a pipeline shall pay an inspection fee to the treasurer of each county through which the
 3.4 pipeline will be constructed. The fee ~~shall be in the amount of \$500~~ is \$1,625 for each mile
 3.5 or fraction of a mile of pipeline that will be constructed in the county, and must be adjusted
 3.6 annually by an amount equal to the annual percentage change in the Consumer Price Index
 3.7 calculated by the Bureau of Labor Statistics in the United States Department of Labor.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.9 Sec. 3. Minnesota Statutes 2016, section 216G.07, subdivision 7, is amended to read:

3.10 Subd. 7. **County inspector.** The county board of each county through which a pipeline
 3.11 will be constructed shall designate an inspector who shall conduct on-site inspections of
 3.12 the construction to determine whether the pipeline is constructed in compliance with the
 3.13 provisions of this section and ordinances or resolutions adopted pursuant to this section.
 3.14 The inspector shall promptly report to the county board any failure or refusal to comply
 3.15 with the provisions of this section or ordinances or resolutions adopted pursuant to this
 3.16 section and shall issue a written notice to the person constructing the pipeline specifying
 3.17 the violation and the action to be taken in order to comply.

3.18 During on-site inspection the inspector shall maintain a written log which shall include
 3.19 a record of comments and complaints concerning the pipeline construction made by owners
 3.20 and lessees of land crossed by the pipeline and by local officials. The log shall note in
 3.21 particular any complaints concerning failure to settle damage claims filed by any owner or
 3.22 lessee or failure to comply with the terms of an easement agreement. The log, reports and
 3.23 other records of the inspector shall be preserved by the county board and shall be provided
 3.24 to the county attorney for inclusion in any civil or criminal actions taken against the pipeline
 3.25 owner.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.27 Sec. 4. Minnesota Statutes 2016, section 216G.07, subdivision 10, is amended to read:

3.28 Subd. 10. **Civil penalty.** When the court finds that any person has violated the provisions
 3.29 of subdivision 1 or any ordinance or resolution adopted pursuant to subdivisions 3 and 5 or
 3.30 has violated any court order issued under subdivision 8 the court may impose a civil penalty
 3.31 of not more than ~~\$5,000~~ \$15,000 for each violation. These penalties shall be paid to the
 3.32 county in which the violation occurred.

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.2 Sec. 5. Minnesota Statutes 2016, section 216G.09, is amended to read:

4.3 **216G.09 REVERSION OF EASEMENTS.**

4.4 Notwithstanding any law to the contrary, all easement interests acquired after May 26,
4.5 1979 for the purpose of constructing and operating a pipeline shall revert to the then fee
4.6 owner if the pipeline ceases operation for a ~~period of five~~ consecutive years.

4.7 Sec. 6. **[216G.095] PIPELINE ABANDONMENT; RESPONSIBILITIES.**

4.8 Subdivision 1. **Removal of abandoned pipeline.** (a) Except as provided in subdivision
4.9 3, a pipeline owner whose easement interests have reverted to the landowner under section
4.10 216G.09, or who has otherwise ceased operations of the pipeline and notified the landowner
4.11 of the cessation, is responsible for removing any and all abandoned property from the
4.12 landowner's property, including pipelines, pumping, metering or compressor stations, and
4.13 all other infrastructure and ancillary equipment remaining on the landowner's property. The
4.14 pipeline owner bears the financial responsibility for the removal and is liable for any
4.15 environmental cleanup and remediation costs required under chapter 115B.

4.16 (b) A landowner who wants a pipeline or other ancillary infrastructure and equipment
4.17 removed from the landowner's land must submit a notarized written removal request to the
4.18 pipeline owner, stipulating the specific infrastructure and equipment to be removed. The
4.19 landowner must submit a copy of the request to the Public Utilities Commission, the Pollution
4.20 Control Agency, the Department of Natural Resources, the Board of Soil and Water
4.21 Resources, and the appropriate county recorder and soil and water conservation district.

4.22 (c) Within 60 days of receiving a request to remove an abandoned pipeline under
4.23 paragraph (b), a pipeline owner must purge the pipeline of all materials transported by the
4.24 pipeline. The pipeline owner must certify the pipeline has been purged in a written notice
4.25 sent to the landowner and the agencies listed in paragraph (b).

4.26 (d) A pipeline owner must begin removal of an abandoned pipeline and other
4.27 infrastructure the landowner requested to be removed within 30 days of the date of the
4.28 certification notice. The pipeline owner must complete removal within 90 days of the date
4.29 of the certification notice.

4.30 (e) A pipeline owner is liable for any releases or damages that result from removal of
4.31 an abandoned pipeline or other infrastructure and equipment.

5.1 Subd. 2. **Land restoration.** The pipeline owner is responsible for all reasonable costs
5.2 associated with the restoration of the land on which pipeline operations were conducted.

5.3 Restoration includes, but is not limited to:

5.4 (1) restoration of land contour to control soil erosion, minimize adverse effects on water
5.5 quality, complement nearby terrain, and facilitate the prompt conversion of the land to the
5.6 use desired by the landowner;

5.7 (2) replacement of topsoil to a depth equal to or greater than the average depth of topsoil
5.8 on adjoining land of the landowner;

5.9 (3) establishment of a permanent vegetative cover that is self-sustaining and regenerating,
5.10 and that protects soil and water quality; and

5.11 (4) removal of invasive plant species listed by the Department of Natural Resources,
5.12 the Department of Agriculture, or the county weed inspector of the appropriate county. The
5.13 control of invasive plant species must be effective for five consecutive years, as determined
5.14 by inspection of the county weed inspector, after which the pipeline owner's responsibility
5.15 for controlling invasive plant species is terminated.

5.16 Subd. 3. **Abandoned pipeline left in place.** (a) A landowner may relieve a pipeline
5.17 owner of the requirement to remove an abandoned pipeline that is subject to section 216G.09
5.18 or has otherwise been abandoned by submitting a notarized written request to the pipeline
5.19 owner that the pipeline be left in place. The written request may also address the disposition
5.20 of other abandoned property, including pumping, metering or compressor stations, and other
5.21 infrastructure and ancillary equipment remaining on the landowner's property. A landowner
5.22 must submit a copy of the request to the Public Utilities Commission, the Pollution Control
5.23 Agency, the Department of Natural Resources, the Board of Soil and Water Resources, and
5.24 the appropriate county recorder and soil and water conservation district.

5.25 (b) A pipeline owner must comply with all federal regulations required of an abandoned
5.26 pipeline, including the requirement to purge the pipeline of all materials transported by the
5.27 pipeline. Within 90 days of receiving notice under paragraph (a), a pipeline owner must
5.28 submit written certification of compliance with federal regulations regarding abandoned
5.29 pipelines to the landowner and to the agencies listed in paragraph (a).

5.30 (c) A landowner who requests that the pipeline be left in place under this subdivision
5.31 assumes all future liabilities associated with the pipeline and any other infrastructure left
5.32 in place, including subsequent costs of pipeline and infrastructure removal, land restoration,
5.33 and environmental remediation under chapter 115B, except that a pipeline owner is

6.1 responsible for the costs of future monitoring and inspection of both the pipeline left in
6.2 place and its surrounding environment.

6.3 **Sec. 7. REPORT ON FINANCIAL ASSURANCE FOR PIPELINES.**

6.4 (a) By July 1, 2017, the commissioner of management and budget must convene a Task
6.5 Force on Pipeline Financial Assurance. The task force must consist of one representative
6.6 appointed by the executive officer of each of the following agencies: Department of
6.7 Commerce, Department of Natural Resources, Pollution Control Agency, Office of Pipeline
6.8 Safety, Board of Soil and Water Resources, and Office of the State Auditor.

6.9 (b) The Task Force on Pipeline Financial Assurance must establish specifications for
6.10 adequate financial safeguards required from owners of pipelines to be constructed in the
6.11 state to ensure that, during construction and the operating life of a pipeline, and until a
6.12 pipeline owner completes removal of abandoned pipeline infrastructure or is excused from
6.13 such removal by the landowner under Minnesota Statutes, section 216G.095, Minnesota's
6.14 citizens are adequately protected from financial liability for:

6.15 (1) remediating any release to the environment of material carried by pipelines;

6.16 (2) restoring the environmental quality of pipeline corridors in which a release occurs;

6.17 (3) long-term environmental monitoring of pipeline corridors where releases have
6.18 occurred; and

6.19 (4) removing pipeline infrastructure that is abandoned by the pipeline owner.

6.20 (c) The task force must:

6.21 (1) develop a sound and transparent method of calculating the amount of financial
6.22 assurance required of a pipeline owner;

6.23 (2) determine the form the financial assurance may take; and

6.24 (3) determine how the financial assurance will be preserved and protected for potential
6.25 future use.

6.26 (d) In preparing its report, the task force must examine and evaluate the policies regarding
6.27 financial assurance by pipeline owners in other states and jurisdictions, including Canada.

6.28 (e) By January 1, 2018, the task force must submit a report containing its findings and
6.29 recommendations to the governor and to the chairs and ranking minority members of the
6.30 senate and house of representatives committees with primary jurisdiction over energy policy
6.31 and environmental policy.

7.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.