

AMENDMENTS TO LB 1161

Introduced by Smith

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 57-1101, Reissue Revised Statutes of
4 Nebraska, as amended by section 1, Legislative Bill 1, One Hundred
5 Second Legislature, First Special Session, 2011, is amended to
6 read:

7 57-1101 Any person engaged in, and any company,
8 corporation, or association formed or created for the purpose of,
9 transporting or conveying crude oil, petroleum, gases, or other
10 products thereof in interstate commerce through or across the
11 State of Nebraska or intrastate within the State of Nebraska, and
12 desiring or requiring a right-of-way or other interest in real
13 estate and being unable to agree with the owner or lessee of
14 any land, lot, right-of-way, or other property for the amount of
15 compensation for the use and occupancy of so much of any lot, land,
16 real estate, right-of-way, or other property as may be reasonably
17 necessary for the laying, relaying, operation, and maintenance
18 of any such pipeline or the location of any plant or equipment
19 necessary to operate such pipeline, shall have the right to acquire
20 the same for such purpose through the exercise of the power of
21 eminent domain, except that for any major oil pipeline as defined
22 in section 5 of this act to be placed in operation in the State of
23 Nebraska after the effective date of this act, any such person,

1 company, corporation, or association shall comply with section 3,
2 Legislative Bill 4, One Hundred Second Legislature, First Special
3 Session, 2011, and receive the approval of the Governor for the
4 route of the pipeline under such section, or beginning January
5 1, 2013, shall apply for and receive an order approving the
6 application under the Major Oil Pipeline Siting Act, prior to
7 having the rights provided under this section. The procedure to
8 condemn property shall be exercised in the manner set forth in
9 sections 76-704 to 76-724.

10 Sec. 2. Section 3, Legislative Bill 1, One Hundred Second
11 Legislature, First Special Session, 2011, is amended to read:

12 Sec. 3. (1) The purposes of the Major Oil Pipeline Siting
13 Act are to:

14 (a) Ensure the welfare of Nebraskans, including
15 protection of property rights, aesthetic values, and economic
16 interests;

17 (b) Consider the lawful protection of Nebraska's natural
18 resources in determining the location of routes of major oil
19 pipelines within Nebraska;

20 (c) Ensure that a major oil pipeline is not constructed
21 within Nebraska without receiving the approval of the commission
22 under section 9 of this act;

23 (d) Ensure that the location of routes for major oil
24 pipelines is in compliance with Nebraska law; and

25 (e) Ensure that a coordinated and efficient method for
26 the authorization of such construction is provided.

27 (2) Nothing in the Major Oil Pipeline Siting Act shall be

1 construed to regulate any safety issue with respect to any aspect
2 of any interstate oil pipeline. The Major Oil Pipeline Siting Act
3 is intended to deal solely with the issue of siting or choosing the
4 location of the route aside and apart from safety considerations.
5 The Legislature acknowledges and respects the exclusive federal
6 authority over safety issues established by the federal law, the
7 Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the
8 express preemption provision stated in that act. The Major Oil
9 Pipeline Siting Act is intended to exercise only the remaining
10 sovereign powers and purposes of Nebraska which are not included in
11 the category of safety regulation.

12 (3) The Major Oil Pipeline Siting Act shall not apply to
13 any major oil pipeline that has submitted an application to the
14 United States Department of State pursuant to Executive Order 13337
15 prior to ~~the effective date of this act.~~ January 1, 2013, or that
16 applies for or is granted international border crossing authority
17 prior to the effective date of this act, pursuant to any provision
18 established by federal legislation.

19 Sec. 3. Section 3, Legislative Bill 4, One Hundred Second
20 Legislature, First Special Session, 2011, is amended to read:

21 Sec. 3. (1) The department may (a) collaborate with
22 a federal agency or agencies in a review under the National
23 Environmental Policy Act involving a supplemental environmental
24 impact statement for oil pipeline projects within, through, or
25 across the state or (b) determine the route of an oil pipeline
26 within, through, or across the state to be included in an
27 application to a federal agency or agencies. Prior to entering

1 into ~~such shared jurisdiction and authority~~ any joint review with
2 a pipeline carrier or a federal agency or agencies, the department
3 shall enter into a memorandum of understanding with such federal
4 ~~agency or agencies that sets~~ set forth the responsibilities and
5 schedules that will lead to an effective and timely review ~~under~~
6 ~~the National Environmental Policy Act involving a supplemental~~
7 ~~environmental impact statement.~~ process.

8 (2) Since the objectives of the process are to ensure
9 adequate information gathering, full and careful agency and public
10 review, objective preparation of a supplemental environmental
11 impact statement, adherence to a defined schedule, and an
12 appropriate role for a pipeline carrier which avoids the appearance
13 of conflicts of interest, it is the intent of the Legislature that
14 the state fully fund the process of preparation of a supplemental
15 environmental impact statement or similar study or evaluation of
16 the route of an oil pipeline and that no fees will be required of
17 an applicant. The department may contract with outside vendors in
18 the process of preparation of a supplemental environmental impact
19 statement or similar study or evaluation of the route of an oil
20 pipeline. The department shall make every reasonable effort to
21 ensure that each vendor has no conflict of interest or relationship
22 to any pipeline carrier that applies for an oil pipeline permit.

23 (3) In order for the process to be efficient and
24 expeditious, the department's contracts with vendors pursuant to
25 this section for a supplemental environmental impact statement or
26 similar study or evaluation of the route of an oil pipeline shall
27 not be subject to the Nebraska Consultants' Competitive Negotiation

1 Act or sections 73-301 to 73-306 or 73-501 to 73-509.

2 (4) After the supplemental environmental impact statement
3 or similar study or evaluation of the route of an oil pipeline is
4 prepared, the department shall submit it to the Governor. Within
5 thirty days after receipt of the supplemental environmental impact
6 statement or similar study or evaluation of the route of an oil
7 pipeline from the department, the Governor shall indicate, in
8 writing, to the federal agency or agencies involved in the review
9 or any other appropriate federal agency or body as to whether he
10 or she approves any of the routes reviewed in the supplemental
11 environmental impact statement or similar study or evaluation of
12 the route of an oil pipeline.

13 Sec. 4. Original section 57-1101, Reissue Revised
14 Statutes of Nebraska, as amended by section 1, Legislative Bill
15 1, One Hundred Second Legislature, First Special Session, 2011,
16 section 3, Legislative Bill 1, One Hundred Second Legislature,
17 First Special Session, 2011, and section 3, Legislative Bill 4,
18 One Hundred Second Legislature, First Special Session, 2011, are
19 repealed.

20 Sec. 5. Since an emergency exists, this act takes effect
21 when passed and approved according to law.