COMMITTEE REPORT

February 10, 2016

**S. 1065**

Introduced by Senators Young, Massey, Setzler and Nicholson

S. Printed 2/10/16--S. [SEC 2/11/16 4:04 PM]

Read the first time February 4, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Joint Resolution (S. 1065) to clarify Section 58-7-10 of the 1976 Code of Laws does not apply to a private, for-profit pipeline company, including a publicly-traded for-profit company, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the joint resolution, as and if amended, by striking all after the joint resolution’s title, and inserting:

/ Whereas, petroleum and petroleum products are a national commodity, yet are commodities that may pose a threat to the property and health of South Carolinians if not properly transported or stored; and

Whereas, questions have recently arisen regarding petroleum pipeline siting in South Carolina, as well as questions regarding responsibility for monitoring and for inspecting these pipelines; and

Whereas, the General Assembly recognizes the importance of economic development in this state, yet recognizes there must be a balance between economic development and the protection of the health, safety, welfare, and property of this state’s citizens; and

Whereas, the General Assembly also recognizes the importance of, and intends to defend, the rights of private property owners within this State, rights which have been established within the South Carolina Constitution, the laws of this State, and case law; and

Whereas, the South Carolina Attorney General’s Office issued an opinion on July 1, 2015 which states there is “substantial doubt” that Section 58‑7‑10 intended to extend the public power of eminent domain to any private pipeline company pipeline that is not defined in, or otherwise outside of the regulatory scope of, Title 58 of the South Carolina Code of Laws; and

Whereas, the General Assembly does not find that a private, for‑profit pipeline company, which includes a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws could meet the current “public use” requirement for purposes of eminent domain; and

Whereas, the General Assembly finds that South Carolina Code Section 58‑7‑10 was not intended to confer the right of eminent domain to a private, for‑profit company, including a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws; and

Whereas, a recent pipeline leak of over 300,000 gallons of petroleum product near Belton, South Carolina, has demonstrated the risks inherent in pipeline transportation of refined petroleum products; and

Whereas, the cleanup of refined petroleum products from soil and groundwater is an expensive, imperfect, and time consuming process; and

Whereas, the financial and technical abilities of the party responsible for the cleanup of any refined petroleum products released from a pipeline are critical to ensure that the responsibility for the cleanup is not imposed upon the citizens of South Carolina. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) There is created the Petroleum Pipeline Study Committee to study matters related to the presence of petroleum pipelines in South Carolina, including, but not limited to:

(1) the various types of petroleum products and byproducts that are transported by a pipeline;

(2) the federal requirements for petroleum pipeline siting and monitoring;

(3) the state responsibilities as to the regulation of petroleum pipeline siting and monitoring;

(4) the possible environmental implications from a petroleum pipeline;

(5) the potential economic development implications for South Carolina resulting from a petroleum pipeline located in this State;

(6) whether other states permit petroleum pipeline companies to exercise eminent domain, and if so, under what circumstances;

(7) whether a bonding requirement can and should be imposed as a prerequisite for any private company seeking to install a petroleum pipeline in South Carolina.

(B) The study committee must be composed of:

(1) three members of the House of Representatives appointed by the Chairman of the House Labor, Commerce and Industry Committee; and

(2) three members of the Senate appointed by the Chairman of the Senate Judiciary Committee; and

(3) the director of the Department of Health and Environmental Control, or her designee.

The chairman of the House Labor, Commerce and Industry Committee and the chairman of the Senate Judiciary Committee shall provide appropriate staffing for this study committee.

(C) The study committee shall prepare a report for the General Assembly that sets forth findings and recommendations relevant to the study committee’s purposes, and provide its report to the General Assembly by January 31, 2017, at which time the study committee may dissolve. However, if the report contains findings or a recommendation that further work is needed, the study committee may continue its work until June 30, 2017, at which time the study committee must be dissolved.

SECTION 2. This joint resolution shall take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

TOM YOUNG, JR. for Committee.

**A** **JOINT RESOLUTION**

TO CLARIFY SECTION 58-7-10 OF THE 1976 CODE OF LAWS DOES NOT APPLY TO A PRIVATE, FOR-PROFIT PIPELINE COMPANY, INCLUDING A PUBLICLY-TRADED FOR-PROFIT COMPANY, THAT IS NOT A PUBLIC UTILITY AS DEFINED BY TITLE 58 OF THE 1976 SOUTH CAROLINA CODE OF LAWS; AND TO CREATE THE PETROLEUM PIPELINE STUDY COMMITTEE TO STUDY MATTERS RELATED TO THE PRESENCE OF PETROLEUM PIPELINES IN SOUTH CAROLINA, AND FOR THE STUDY COMMITTEE TO PROVIDE A REPORT TO THE GENERAL ASSEMBLY BY JANUARY 31, 2017, AND TO CONTINUE ITS WORK UNTIL JUNE 30, 2017 IF THE JANUARY REPORT DETERMINES FURTHER WORK IS NEEDED.

Whereas petroleum and petroleum products are a national commodity, yet are commodities that may pose a threat to the property and health of South Carolinians if not properly transported or stored;

Whereas questions have recently arisen regarding petroleum pipeline siting in South Carolina, as well as questions regarding responsibility for monitoring and for inspecting of these pipelines;

Whereas the General Assembly recognizes the importance of economic development in this State, yet recognizes there must be a balance between economic development and the protection of the health, safety, welfare, and property of this State’s citizens;

Whereas, the General Assembly also recognizes the importance of, and intends to defend, the rights of private property owners within this State, rights which have been established within the South Carolina Constitution, the laws of this State, and case law;

Whereas the South Carolina Attorney General’s Office issued an opinion on July 1, 2015 which states there is “substantial doubt” that Section 58‑7‑10 intended to extend the public power of eminent domain to any private pipeline company pipeline that is not defined in, or otherwise outside of the regulatory scope of, Title 58 of the South Carolina Code of Laws;

Whereas, the General Assembly does not find that a private, for‑profit pipeline company, which includes a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws could meet the current “public use” requirement for purposes of eminent domain;

Whereas, the General Assembly finds that South Carolina Code Section 58‑7‑10 was not intended to confer the right of eminent domain to a private, for‑profit company, including a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws;

Whereas, a recent pipeline leak of over 300,000 gallons of petroleum product near Belton, South Carolina has demonstrated the risks inherent in pipeline transportation of refined petroleum products;

Whereas, the cleanup of refined petroleum products from soil and groundwater is an expensive, imperfect and time consuming process;

Whereas, the financial and technical abilities of the party responsible for the cleanup of any refined petroleum products released from a pipeline are critical to insure that the responsibility for the cleanup is not imposed upon the citizens of South Carolina.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The provisions of Section 58‑7‑10 do not apply to a private, for‑profit pipeline company, including a publicly traded for‑profit company, that is not a public utility as defined by Title 58 of the 1976 South Carolina Code of Laws.

SECTION 2. (A) There is created the Petroleum Pipeline Study Committee to study matters related to the presence of petroleum pipelines in South Carolina, including, but not limited to:

(1) the various types of petroleum products and byproducts that are transported by a pipeline;

(2) the federal requirements for petroleum pipeline siting and monitoring;

(3) the state responsibilities as to the regulation of petroleum pipeline siting and monitoring;

(4) the possible environmental implications from a petroleum pipeline;

(5) the potential economic development implications for South Carolina resulting from a petroleum pipeline located in this State;

(6) whether other states permit petroleum pipeline companies to exercise eminent domain, and if so, under what circumstances;

(7) whether a bonding requirement can and should be imposed as a prerequisite for any private company seeking to install a petroleum pipeline in South Carolina.

(B) The study committee must be composed of:

(1) three members of the House of Representatives appointed by the Chairman of the House Labor, Commerce and Industry Committee; and

(2) three members of the Senate appointed by the Chairman of the Senate Judiciary Committee; and

(3) the director of the Department of Health and Environmental Control, or her designee.

The chairman of the House Labor, Commerce and Industry Committee and the chairman of the Senate Judiciary Committee shall provide appropriate staffing for this study committee.

(C) The study committee shall prepare a report for the General Assembly that sets forth findings and recommendations relevant to the study committee’s purposes, and provide its report to the General Assembly by January 31, 2017, at which time the study committee may dissolve. However, if the report contains findings or a recommendation that further work is needed, the study committee may continue its work until June 30, 2017, at which time the study committee must be dissolved.

SECTION 3. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This joint resolution shall take effect upon approval by the Governor.

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