

ASSEMBLY, No. 1712

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

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District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Deems dispute between local government and pipeline operator concerning danger posed by certain natural gas pipelines as contested case.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/19/2016)

1 AN ACT concerning the construction of certain intrastate natural gas
2 pipelines and amending P.L.1962, c.198.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 34 of P.L.1962, c.198 (C.48:2-32.2) is amended to
8 read as follows:

9 a. **【Every】** A municipality may intervene alone or jointly with
10 another municipality **【or municipalities】** in any hearing or
11 investigation held by the board, which involves public utility rates,
12 fares or charges, service or facilities, affecting the municipality **【or**
13 **municipalities】**, or the public within the municipality **【or**
14 **municipalities】**, and may employ **【such】** legal counsel, experts, and
15 assistants as may be necessary to protect the interest of the
16 municipality **【or municipalities】**, or the public within the
17 municipality **【or municipalities】**. **【Such】** A municipality **【or**
18 **municipalities】** may by emergency resolution raise and appropriate
19 the funds necessary to provide reasonable compensation and
20 expenses of **【such】** legal counsel, experts, and assistants for that
21 purpose.

22 b. The governing body of any county shall have all the rights of
23 intervention, alone or jointly with any municipality **【or**
24 **municipalities】**, or with the governing body of any other county,
25 which are conferred upon municipalities by subsection a. of this
26 section, and may use all of the means provided for the effectuation
27 of **【said】** the rights which are permitted to municipalities under
28 subsection a. of this section.

29 c. (1) If a hearing or investigation **【to which this amendatory**
30 **and supplementary act applies】** is held under the provisions of this
31 section pursuant to a petition by a public utility, that public utility
32 shall serve written notice of the petition on the clerk of each
33 affected municipality, the clerk to the board of chosen freeholders
34 of each affected county and, where appropriate, the executive
35 officer of each affected county, not less than 20 days prior to the
36 date of the hearing or investigation, or the date of the first in a
37 scheduled series thereof, as appropriate. The public utility shall
38 furnish the board with proof of service of notice not later than 10
39 days prior to the date of the hearing.

40 The board shall, not later than 10 days prior to the date of the
41 hearing or investigation, serve written notice on the clerk of each
42 affected municipality, the clerk to the board of chosen freeholders
43 of each affected county and, where appropriate, the executive
44 officer of each affected county, of the hour, date, and place of the

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 hearing or investigation. If this information is available at the time
2 of the notice by the public utility, the board may require the public
3 utility to include the information in that notice, in lieu of notice by
4 the board. In the case of a scheduled series of hearings or
5 investigations, the board may serve one notice encompassing the
6 entire schedule, in lieu of serving a separate notice for each
7 individual hearing or investigation. This notice shall be served not
8 later than 10 days prior to the date of the first scheduled hearing or
9 investigation. The board shall serve notice of any change in the
10 hour, date, or place of a scheduled hearing or investigation not less
11 than 10 days prior to the original or new date of that hearing, as
12 appropriate.

13 (2) If a hearing or investigation **【to which this amendatory and**
14 **supplementary act applies】** is initiated by the board pursuant to this
15 section, the board shall serve written notice on the clerk of each
16 affected municipality, the clerk to the board of chosen freeholders
17 of each affected county and, where appropriate, the executive
18 officer of each affected county as to the subject matter of the
19 hearing or of any investigatory function in which the county or
20 municipality may intervene. This notice shall be served not less
21 than 20 days prior to the date of the hearing or investigatory
22 function, or the date of the first in a scheduled series thereof, as
23 appropriate. Not less than 10 days before the date of the hearing or
24 investigatory function, the board shall serve written notice on the
25 clerk of each affected municipality, the clerk to the board of chosen
26 freeholders of each affected county and, where appropriate, the
27 executive officer of each affected county, as to the hour, date, and
28 place of that hearing or investigating function; except that this
29 notice may be given at the same time as notice of the subject matter
30 of the hearing or investigating function. In the case of a scheduled
31 series of hearings or investigating functions, the board may serve
32 one notice encompassing the entire schedule, in lieu of serving a
33 separate notice for each individual hearing or investigating
34 function. This notice shall be served not later than 10 days prior to
35 the date of the first scheduled hearing or investigating function, as
36 appropriate. The board shall serve notice of any change in the hour,
37 date, or place of a scheduled hearing or investigating function not
38 less than 10 days prior to the original or new date of that hearing or
39 investigating function, as appropriate.

40 d. The notice requirements provided for in subsection c. of this
41 section may be waived upon consent of all involved parties, or in an
42 emergency situation which involves a condition **【or set of**
43 **conditions】** posing an immediate danger to the public health, safety,
44 or welfare. A petition for an adjustment of rates, fares, or charges
45 shall not constitute an emergency situation for the purposes of this
46 subsection.

47 e. (1) As used in this subsection:

1 “Contested case” shall have the same meaning as provided in
2 section 2 of P.L.1968, c.410 (C.52:14B-2).

3 “Natural gas pipeline utility” shall have the same meaning as
4 provided in section 2 of P.L.1952, c.166 (C.48:10-3).

5 “Natural gas pipeline” shall have the same meaning as “pipeline”
6 as provided in 49 C.F.R. s.192.3.

7 “Pipeline operator” means a person who owns, operates,
8 manages, or controls an intrastate natural gas pipeline, including a
9 gas public utility or a natural gas pipeline utility.

10 “Rate counsel” shall have the same meaning as provided in
11 section 2 of P.L.1991, c.428 (C.48:2-21.17).

12 (2) A municipality or county may intervene in a hearing or
13 investigation before the board pursuant to this section if a pipeline
14 operator petitions the board to install or operate an intrastate natural
15 gas pipeline with a maximum operating pressure in excess of 250
16 pounds per square inch gauge in that municipality or county on the
17 grounds that the intrastate natural gas pipeline poses a danger to
18 public health, safety, or welfare. The board shall adjudicate a
19 matter in which a municipality, county, or Rate Counsel has
20 intervened as a contested case pursuant to the “Administrative
21 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

22 (3) The board shall only permit de minimis exceptions under any
23 board rule or regulation that prohibits installing or operating a
24 natural gas pipeline in certain areas as to the distance between a
25 natural gas pipeline and a building intended for human occupancy
26 in a matter brought under this section in which a pipeline operator
27 petitions the board to install or operate a natural gas pipeline, as
28 described in paragraph (2) of this subsection, in a rural or suburban
29 area, as determined by the board.

30 (cf: P.L.1985, c.203, s.1)

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32 2. This act shall take effect immediately.

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35 STATEMENT

36

37 This bill provides that a municipality, county, or Rate Counsel
38 may intervene in a hearing or investigation before the New Jersey
39 Board of Public Utilities (board) if a pipeline operator petitions the
40 board to install or operate an intrastate natural gas pipeline
41 (pipeline) with a maximum operating pressure in excess of 250
42 pounds per square inch gauge in that municipality or county on the
43 grounds that the pipeline poses a danger to public health, safety, or
44 welfare. Under the bill, the board is to adjudicate a matter in which
45 a municipality, county, or Rate Counsel has intervened as a
46 contested case pursuant to the State’s “Administrative Procedure
47 Act.”

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1 Under the bill, the board is to only permit de minimis exceptions
2 under board rules and regulations as to the distance between a
3 pipeline and a building intended for human occupancy in a matter in
4 which a pipeline operator is petitioning the board to install or
5 operate a pipeline in a rural or suburban area. Board rules generally
6 prohibit a pipeline operator from installing or operating a pipeline
7 with a maximum operating pressure in excess of 250 pounds per
8 square inch gauge less than 100 feet from a building intended for
9 human occupancy.