

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 412**

4 (By Senators Kirkendoll, Browning, Jenkins, Plymale, Klempa,
5 Wills and Stollings)

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7 [Originating in the Committee on Energy, Industry and Mining;
8 reported February 14, 2012.]
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11 A BILL to amend and reenact §24B-4-6 of the Code of West Virginia,
12 1931, as amended, relating to civil penalties that can be
13 imposed by the Public Service Commission for pipeline safety
14 violations.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §24B-4-6 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 4. HEARINGS; BURDEN OF PROOF; ENFORCEMENT.**

19 **§24B-4-6. Penalties.**

20 (a) Any person who violates any provision of this chapter or
21 any valid regulation or order issued thereunder, ~~shall be~~ is
22 subject to a civil penalty to be imposed by the commission not to
23 exceed ~~\$1,000~~ \$200,000 for each violation for each day the
24 violation persists: *Provided*, That the maximum civil penalty ~~shall~~
25 may not exceed ~~\$200,000~~ \$2 million for any related series of

1 violations.

2 (b) Any civil penalty may be compromised by the commission.
3 In determining the amount of penalty, or the amount agreed upon in
4 compromise, the appropriateness of the penalty to the size of the
5 business of the person charged, the gravity of the violation, and
6 the good faith of the person charged in attempting to achieve
7 compliance, after notification of the violation, shall be
8 considered. The amount of the penalty, when finally determined, or
9 the amount agreed upon in compromise, may be deducted from any sums
10 owing by the state to the person charged or may be recovered in a
11 civil action in the state courts.

12 (c) Civil penalties collected under this section shall be paid
13 into the State Treasury. There is hereby created a special revenue
14 account in the state treasury, designated as the "Pipeline
15 Rehabilitation Fund" which shall be an interest-bearing account and
16 may be invested in accordance with the provisions of article six,
17 chapter twelve of this code, with the interest income a proper
18 credit to the fund. Expenditures from the fund shall be used for
19 the replacement or repair of pipelines that present an imminent
20 safety threat and are subject to Public Service Commission safety
21 regulation. Funding shall be administered by the Commission which
22 shall promulgate rules relating to the funding process which must
23 first consider the exhaustion of insurance and financial ability of
24 the company to pay for repair and other available funds received to
25 replace or repair such pipelines, the size of the business and the
26 potential hazards to persons or property.

NOTE: The purpose of this bill is to raise the civil penalties that the Public Service Commission can impose for violations of Gas Pipeline Safety Act from the existing \$200,000.00 for each day the violation exists to a maximum of \$2 million for any related series of violations. This change would mirror the federal regulations.

This bill also creates a fund in the State Treasury known as the "Pipeline Rehabilitation Fund" and shall be used in the repair and/or replacement of pipeline.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.