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*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 166**

127th General Assembly  
(As Introduced)

**Sens. Goodman, Schaffer, Fedor, Carey, Stivers, Grendell, Kearney, Jacobson, Spada, Schuring, D. Miller, Faber, Buehrer, Coughlin, Clancy, Padgett, R. Miller, Mason, Sawyer, Gardner, Austria, Schuler, Cafaro, Mumper, Morano**

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### **BILL SUMMARY**

- Prohibits a person that holds an easement as part of an interstate gas pipeline facility from removing trees and structures from the easement without landowner approval and compensation if (1) the removal is not necessary to meet federal pipeline safety standards and (2) the easement holder has not cleared the easement for 21 years.

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### **CONTENT AND OPERATION**

#### **Background**

Pipelines that transport natural gas are generally buried underground on easements obtained from land owners via agreement or the exercise of eminent domain. (See 15 U.S.C. § 717f.) The persons holding the easements (pipeline operators) are required by federal law to maintain the pipelines safely, and pursuant to this requirement, clear the easements of obstruction. (See 49 U.S.C. § 60101, *et seq.* and 49 C.F.R. part 192.)

#### **Operation of the bill**

The bill prohibits a person holding an easement as part of an interstate gas pipeline facility from removing or causing the removal of trees or structures from any portion of the easement without first obtaining approval from the landowner and reimbursing the landowner for any losses incurred due to the removal if (1) the removal from the easement portion is not required by federal minimum safety standards and practices prescribed by federal law for interstate pipeline facilities or interstate pipeline transportation and (2) the easement holder has not cleared the easement portion for at least 21 years. (See **COMMENT.**)

Under the bill, an "interstate gas pipeline facility" has the same meaning as under federal law--a gas pipeline facility used in transporting gas and subject to FERC jurisdiction (49 U.S.C. § 60101(a)(6)). A facility transporting gas is subject to FERC jurisdiction if the gas is transported across state or country lines (15 U.S.C. § 717(b)). The pipeline easement or "right-of-way" is considered part of the facility.

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## COMMENT

Federal minimum pipeline safety standards and practices prescribed by federal law require the replacement, repair, or removal of unsafe pipelines and the prompt repair of hazardous leaks (49 C.F.R. § 192.703). Each pipeline operator is furthermore required to institute a patrolling program to observe surface conditions on and near a transmission line right-of-way for potential leaks, construction activity, and other factors impacting safety and operation. The frequency of patrolling transmission lines is determined by a set of factors, including the size of the line, operating pressures, class location, terrain, weather, and other relevant factors, but the patrols must occur at minimum prescribed intervals provided by law. (49 C.F.R. § 192.705.) The method of patrolling, however, may include walking, driving, flying, or other appropriate means as apparently determined by the operator. *Id.* Operators who choose to patrol by flying apparently practice clear cutting of trees and structures on their easements in order to conduct aerial patrolling.

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## HISTORY

ACTION	DATE
Introduced	05-15-07

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