Senate File 129 - Introduced

SENATE FILE 129 BY HOGG

A BILL FOR

- 1 An Act requiring proof of financial assurance relating to
- 2 accidental hazardous pipeline discharge damage claims, and
- 3 including effective and applicability date provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 479B.2, Code 2015, is amended by adding
- 2 the following new subsection:
- 3 NEW SUBSECTION. 1A. "Financial assurance instrument"
- 4 means an instrument submitted by an applicant to ensure the
- 5 applicant's financial capability to respond as provided in
- 6 section 479B.13A, in the form of one or more of the following:
- 7 a. The establishment of a secured trust fund.
- 8 b. The use of a cash or surety bond.
- 9 c. The obtaining of insurance.
- 10 d. The satisfaction of a corporate financial test.
- 11 e. The satisfaction of a local government financial test.
- 12 f. The obtaining of a corporate guarantee.
- 13 g. The obtaining of a local government quarantee.
- 14 h. The use of a local government dedicated fund.
- 15 i. The obtaining of an irrevocable letter of credit.
- Sec. 2. Section 479B.13, Code 2015, is amended to read as
- 17 follows:
- 18 479B.13 Financial condition of permittee construction,
- 19 maintenance, or operation damages bond.
- 20 Before a permit is granted under this chapter the applicant
- 21 must satisfy the board that the applicant has property within
- 22 this state other than pipelines or underground storage
- 23 facilities, subject to execution of a value in excess of two
- 24 hundred fifty thousand dollars, or the applicant must file
- 25 and maintain with the board a surety bond in the penal sum
- 26 of two hundred fifty thousand dollars with surety approved
- 27 by the board, conditioned that the applicant will pay any
- 28 and all damages legally recovered against it growing out of
- 29 the construction, maintenance, or operation of its pipeline
- 30 or underground storage facilities in this state. When the
- 31 pipeline company deposits with the board security satisfactory
- 32 to the board as a guaranty for the payment of the damages, or
- 33 furnishes to the board satisfactory proofs of its solvency and
- 34 financial ability to pay the damages, the pipeline company is
- 35 relieved of the provisions requiring bond.

- 1 Sec. 3. <u>NEW SECTION</u>. **479B.13A** Financial condition of 2 permittee damages for discharge.
- 3 1. Before a permit is granted under this chapter for a
- 4 pipeline to be constructed on or after January 1, 2015, and in
- 5 addition to the requirements of section 479B.13, an applicant
- 6 must provide to the board a financial assurance instrument
- 7 verifying that the applicant has the financial capability to
- 8 provide reasonable and necessary remedial response and to
- 9 respond in damages for claims arising from the accidental
- 10 discharge of hazardous liquid. The financial assurance
- 11 instrument shall meet all requirements adopted by rule by the
- 12 board, and shall not be issued, canceled, revoked, disbursed,
- 13 released, or allowed to terminate without board approval.
- 2. For the first calendar year during which hazardous liquid
- 15 is shipped, the amount of financial assurance required pursuant
- 16 to this section shall be two hundred fifty thousand dollars
- 17 per mile of pipeline. For the second calendar year during
- 18 which hazardous liquid is shipped, and every calendar year
- 19 thereafter, the amount of financial assurance required shall
- 20 be the greater of one dollar per barrel of hazardous liquid
- 21 shipped per calendar year by the applicant based on the most
- 22 recent calendar year for which such information is available
- 23 to the applicant, or two hundred fifty thousand dollars per
- 24 mile of pipeline. In no event shall the amount of financial
- 25 assurance required pursuant to this section in any calendar
- 26 year be less than two hundred fifty thousand dollars.
- 27 Sec. 4. Section 479B.14, unnumbered paragraph 6, Code 2015,
- 28 is amended to read as follows:
- 29 A pipeline company may petition the board for an extension
- 30 of a permit granted under this section by filing a petition
- 31 containing the information required by section 479B.5,
- 32 subsections 1 through 5, and meeting the requirements of
- 33 section sections 479B.13 and 479B.13A.
- 34 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
- 35 immediate importance, takes effect upon enactment.

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1 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies 2 retroactively to January 1, 2015.
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- 3 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 6 This bill requires the submission of proof of financial
- 7 assurance prior to issuance of a permit to construct, maintain,
- 8 and operate a hazardous liquid pipeline by the Iowa utilities
- 9 board.
- 10 Current provisions contained in Code section 479B.13
- 11 require an applicant to satisfy the board that the applicant
- 12 has property within Iowa other than pipelines or underground
- 13 storage facilities subject to execution of a value in excess
- 14 of \$250,000, or requires the applicant to file and maintain a
- 15 surety bond in that amount. These provisions relate to damages
- 16 attributable to the construction, maintenance, or operation of
- 17 the pipeline or underground storage facility.
- 18 The bill creates a new Code section 479B.13A which
- 19 requires that before a permit is granted for a pipeline to be
- 20 constructed on or after January 1, 2015, and in addition to
- 21 the requirements of Code section 479B.13, an applicant must
- 22 provide to the board a financial assurance instrument verifying
- 23 that the applicant has the financial capability to provide
- 24 reasonable and necessary remedial response and to respond in
- 25 damages for claims arising from the accidental discharge of
- 26 hazardous liquid. The bill states that the financial assurance
- 27 instrument shall meet all requirements adopted by rule by the
- 28 board, and shall not be issued, canceled, revoked, disbursed,
- 29 released, or allowed to terminate without board approval.
- 30 The bill defines a "financial assurance instrument" to mean
- 31 one or a combination of establishing a secured trust fund,
- 32 using a cash or surety bond, obtaining insurance, satisfying
- 33 a corporate or local government financial test, obtaining
- 34 a corporate or local government guarantee, using a local
- 35 government dedicated fund, or obtaining an irrevocable letter

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- 1 of credit.
- 2 The bill provides that the amount of financial assurance
- 3 required for accidental hazardous liquid discharge liability
- 4 for the first calendar year during which hazardous liquid is
- 5 shipped, and shall be \$250,000 per mile of pipeline. For
- 6 the second calendar year during which hazardous liquid is
- 7 shipped, and every calendar year thereafter, the amount of
- 8 financial assurance required shall be the greater of \$1 per
- 9 barrel of hazardous liquid shipped per calendar year by the
- 10 applicant based on the most recent calendar year for which such
- 11 information is available to the applicant, or \$250,000 per mile
- 12 of pipeline. The bill states that in no event shall the amount
- 13 of financial assurance required in any calendar year be less
- 14 than \$250,000.
- 15 The bill takes effect upon enactment and is retroactively
- 16 applicable to January 1, 2015.