

**ASSEMBLY CONCURRENT
RESOLUTION No. 53**

**STATE OF NEW JERSEY
217th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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SYNOPSIS

Urges President and Congress to revise laws concerning interstate natural gas pipeline approvals to more fully address adverse impacts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/13/2016)

- 1 **A CONCURRENT RESOLUTION** respectfully urging the President and
2 Congress of the United States to change the laws concerning
3 approvals of interstate natural gas pipelines so they better
4 implement current energy policy considerations, require
5 consideration of the cumulative impacts of the overall
6 development of natural gas transmission infrastructure on a
7 region, and require deference to certain competing State policy
8 determinations.
9
- 10 **WHEREAS**, The regulatory regimes governing oil transportation and
11 gas transportation differ radically from each other; and
- 12 **WHEREAS**, Proposed interstate natural gas pipelines are reviewed and
13 permitted at the federal level by the Federal Energy Regulatory
14 Commission (“FERC”), while proposed interstate oil pipelines are
15 reviewed and permitted almost exclusively at the state level; and
- 16 **WHEREAS**, The differences in regulation of the transportation of oil
17 and gas arose in part because of the physical properties of each
18 resource but also because each regulatory system developed in
19 response to different political and economic times and remain in
20 place today largely as a vestige of those early days; and
- 21 **WHEREAS**, Congress enacted the Natural Gas Act of 1938 to place the
22 federal government in control of the siting of interstate natural gas
23 pipelines to level the playing field between competing energy
24 producing industries, and amended that act after World War II to
25 put natural gas companies on the same footing as other power
26 industries by providing natural gas pipeline companies with
27 eminent domain authority; and
- 28 **WHEREAS**, Federal law’s preferential treatment for the natural gas
29 pipeline industry may have been supported by public policy
30 considerations at an earlier time, when natural gas was a new,
31 cleaner source of energy, however, current policy considerations no
32 longer support the industry’s preferred status, and impede the
33 development of newer, cleaner sources of energy; and
- 34 **WHEREAS**, Recent technological innovations in the production of
35 natural gas through hydraulic fracturing and directional drilling has
36 resulted in a wave of applications to develop new interstate natural
37 gas transmission pipelines; and
- 38 **WHEREAS**, Reports presented to Congress by advocates for the natural
39 gas pipeline industry estimate the need to construct annually, every
40 year through 2035, 1,400 miles of gas transmission pipeline in the
41 United States and Canada; and
- 42 **WHEREAS**, The Marcellus and Utica shale fracking boom in the
43 Northeast United States has spurred the proposal and construction
44 of multiple pipelines to transport unconventional shale gas through
45 New Jersey; and
- 46 **WHEREAS**, In New Jersey, local units of government, property owners,
47 and other interested parties that are affected by proposed interstate
48 natural gas pipelines have raised significant questions about the

1 current processes for approving interstate natural gas pipelines, and
2 have asserted that the current FERC approval process does not
3 adequately balance competing policy considerations, adequately
4 protect the State of New Jersey's natural resources, or even
5 adequately consider compelling State and local policy
6 determinations; and

7 **WHEREAS**, New Jersey, which is among the most densely-populated
8 states, and among the first states facing "build-out," enacted laws
9 establishing open space preservation and farmland preservation
10 programs in order to dedicate land for those purposes in perpetuity,
11 and have expended taxpayer funds in furtherance of those purposes,
12 however, the FERC approval process allows for the location of
13 interstate natural gas pipelines through irreplaceable preserved
14 farms, forests, and environmentally sensitive areas, leading to the
15 destruction of fragile habitat and the erosion of the public trust in
16 these preservation programs; and

17 **WHEREAS**, Under the National Environmental Policy Act (NEPA),
18 prior to approving a proposed pipeline, FERC is required to
19 consider a wide range of potential environmental impacts, including
20 the "cumulative impacts" of a project, those that result from a
21 proposed pipeline project as well as past, present, and foreseeable
22 projects which may be minor individually but collectively are
23 significant, however, the United States Court of Appeals has held
24 that FERC violated NEPA by segmenting its environmental review
25 and failing to provide a meaningful analysis of the cumulative
26 impacts of pipeline projects; and

27 **WHEREAS**, Although NEPA requires FERC to consider cumulative
28 impacts of proposed natural gas pipelines, the FERC approval
29 process individually considers the impact of each pipeline project,
30 and at times, only a segment of a proposed pipeline, without
31 considering the cumulative impacts of the total projected
32 development of natural gas pipeline infrastructure, according to
33 natural gas industry estimates, within a region or a State; and

34 **WHEREAS**, Since FERC's current process of reviewing each proposed
35 interstate natural gas pipeline project individually does not allow
36 for a consideration of the true cumulative impacts of the
37 development of pipeline infrastructure throughout a region over
38 time, it is respectfully urged that Congress enact legislation
39 requiring FERC: to use comprehensive data and planning tools to
40 determine if new transmission capacity is needed; to develop and
41 undertake regional programmatic environmental impact statements
42 that consider a full range of alternatives and mitigation measures
43 and provide FERC information to evaluate potential cumulative
44 impacts of the reasonably foreseeable actions of pipelines that may
45 be proposed for development across a region; and to consider all
46 cumulative impacts and indirect effects of prospective pipeline
47 proposals on a region; and

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1 **WHEREAS**, Although Federal law currently provides that in order for
2 FERC to approve a proposed natural gas pipeline project, FERC
3 must find that the project is in the public interest, and that, overall,
4 the benefits of the project outweigh the adverse impacts,
5 unfortunately, the FERC approval process has become a rubber
6 stamp approval for the natural gas industry; and

7 **WHEREAS**, the General Assembly and the Senate of the State of New
8 Jersey express their dire concern that the current federal laws which
9 govern the approval of interstate natural gas pipelines have
10 devolved to an automatic approval process, aggrandizing the wealth
11 of those who wish to pump natural gas from the earth before
12 environmental costs are fully understood, and proper controls put
13 into place, and contrary to good public policy of federal, state, and
14 local entities, as well as those of private property owners; now,
15 therefore,

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17 **BE IT RESOLVED** by the General Assembly of the State of New
18 Jersey (the Senate concurring):

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20 1. The President and Congress of the United States are
21 respectfully urged to undertake a comprehensive reassessment of
22 the federal laws governing FERC approval of interstate natural gas
23 pipelines, and to amend or revise those laws, in order to ensure
24 they: are consistent with a national energy policy which includes an
25 increased emphasis on renewable energy; require consideration of
26 the cumulative impacts of the overall development of natural gas
27 transmission infrastructure on a region; and require deference to
28 certain competing state policy determinations, particularly, state
29 laws which require the preservation of property dedicated for open
30 space and agricultural purposes.

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32 2. Copies of this resolution, as filed with the Secretary of State,
33 shall be transmitted by the Clerk of the General Assembly or the
34 Secretary of the Senate to the President of the United States, the
35 President of the United States Senate, the Senate Majority Leader,
36 the Speaker of the United States House of Representatives, and each
37 member of Congress from the State of New Jersey.

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STATEMENT

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42 This concurrent resolution urges the President and the United
43 States Congress to revise the laws governing the approval of
44 interstate natural gas pipelines in order to better consider and
45 address adverse impacts associated with the development and
46 expansion of pipelines.