



Senate

General Assembly

File No. 282

January Session, 2021

Substitute Senate Bill No. 858

Senate, April 6, 2021

The Committee on Energy and Technology reported through SEN. NEEDLEMAN of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND CERTAIN MODIFICATIONS TO GAS PIPELINES PROCESSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-356 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 Any person, public agency or public utility which the Public Utilities
4 Regulatory Authority determines, after notice and opportunity for a
5 hearing as provided in section 16-41, as amended by this act, to have
6 failed to comply with any provision of this chapter or any regulation
7 adopted under section 16-357 shall forfeit and pay to the state a civil
8 penalty of not more than forty thousand dollars, provided any violation
9 involving the failure of a public utility to mark any approximate location
10 of an underground utility facility correctly or within the time frames
11 prescribed by regulation, which violation did not result in any property
12 damage or personal injury and was not the result of an act of gross

13 negligence on the part of the public utility, shall not result in a civil
14 penalty of more than one thousand dollars. Any civil penalty assessed
15 for any violation involving the failure of a public utility, other than an
16 owner or operator of a municipal utility, to properly or timely mark any
17 approximate location of an underground facility shall be paid by such
18 public utility to whom the notice is addressed. If any such public utility
19 recovers any portion of the penalty from any person, the authority may
20 direct such public utility to forfeit such recovered penalty, as provided
21 in such notice. Notwithstanding the provisions contained in subsection
22 (d) of section 16-41, as amended by this act, the person, public agency or
23 public utility receiving a notice of violation pursuant to subsection (c) of
24 section 16-41, as amended by this act, shall have thirty days from the
25 date of receipt of the notice in which to deliver to the authority a written
26 application for a hearing.

27 Sec. 2. Section 16-7 of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective July 1, 2021*):

29 The utility commissioners of the Public Utilities Regulatory
30 Authority, or their designees, while engaged in the performance of their
31 duties may, at all reasonable times, enter any premises, buildings, cars,
32 plant or other places belonging to or controlled by any public service
33 company, [or] electric supplier or person involved in the transportation
34 of gas, as such terms are defined in section 16-280a, and any person
35 obstructing or in any way causing to be obstructed or hindered any
36 utility commissioner of the Public Utilities Regulatory Authority or
37 employee of the Public Utilities Regulatory Authority in the
38 performance of his or her duties shall be fined not more than [two
39 hundred] ten thousand dollars or imprisoned not more than six months,
40 or both.

41 Sec. 3. Section 16-8 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective July 1, 2021*):

43 (a) The Public Utilities Regulatory Authority may, in its discretion,
44 delegate its powers, in specific cases, to one or more of its directors or to
45 a hearing officer to ascertain the facts and report thereon to the

46 authority. The authority, or any director thereof, in the performance of
47 its duties or in connection with any hearing, or at the request of any
48 person, corporation, company, town, borough or association, may
49 summon and examine, under oath, such witnesses, and may direct the
50 production of, and examine or cause to be produced and examined, such
51 books, records, vouchers, memoranda, documents, letters, contracts or
52 other papers in relation to the affairs of any public service company or
53 person involved in the transportation of gas, as such terms are defined
54 in section 16-280a as it may find advisable, and shall have the same
55 powers in reference thereto as are vested in magistrates taking
56 depositions. If any witness objects to testifying or to producing any book
57 or paper on the ground that such testimony, book or paper may tend to
58 incriminate him, and the authority directs such witness to testify or to
59 produce such book or paper, and he complies, or if he is compelled so
60 to do by order of court, he shall not be prosecuted for any matter
61 concerning which he or she has so testified. The fees of witnesses
62 summoned by the authority to appear before it under the provisions of
63 this section, and the fees for summoning witnesses shall be the same as
64 in the Superior Court. All such fees, together with any other expenses
65 authorized by statute, the method of payment of which is not otherwise
66 provided, shall, when taxed by the authority, be paid by the state,
67 through the business office of the authority, in the same manner as court
68 expenses. The authority may designate in specific cases a hearing officer
69 who may be a member of its technical staff or a member of the
70 Connecticut Bar engaged for that purpose under a contract approved by
71 the Secretary of the Office of Policy and Management to hold a hearing
72 and make report thereon to the authority. A hearing officer so
73 designated shall have the same powers as the authority, or any director
74 thereof, to conduct a hearing, except that only a director of the authority
75 shall have the power to grant immunity from prosecution to any witness
76 who objects to testifying or to producing any book or paper on the
77 ground that such testimony, book or paper may tend to incriminate him
78 or her.

79 (b) (1) The authority may employ professional personnel to perform
80 management audits. The authority shall promptly establish such

81 procedures as it deems necessary or desirable to provide for
82 management audits to be performed on a regular or irregular schedule
83 on all or any portion of the operating procedures and any other internal
84 workings of any public service company or person involved in the
85 transportation of gas, as such terms are defined in section 16-280a,
86 including the relationship between any public service company or
87 person involved in the transportation of gas, as such terms are defined
88 in section 16-280a and a related holding company or subsidiary,
89 consistent with the provisions of section 16-8c, provided no such audit
90 shall be performed on a community antenna television company, except
91 with regard to any noncable communications services which the
92 company may provide, or when (A) such an audit is necessary for the
93 authority to perform its regulatory functions under the
94 Communications Act of 1934, 47 USC 151, et seq., as amended from time
95 to time, other federal law or state law, (B) the cost of such an audit is
96 warranted by a reasonably foreseeable financial, safety or service benefit
97 to subscribers of the company which is the subject of such an audit, and
98 (C) such an audit is restricted to examination of the operating
99 procedures that affect operations within the state.

100 (2) In any case where the authority determines that an audit is
101 necessary or desirable, it may (A) order the audit to be performed by
102 one of the management audit teams, (B) require the affected company
103 to perform the audit utilizing the company's own internal management
104 audit staff as supervised by designated members of the authority's staff,
105 or (C) require that the audit be performed under the supervision of
106 designated members of the authority's staff by an independent
107 management consulting firm selected by the authority, in consultation
108 with the affected company. If the affected company has more than
109 seventy-five thousand customers, such independent management
110 consulting firm shall be of nationally recognized stature. All reasonable
111 and proper expenses of the audits, including, but not limited to, the costs
112 associated with the audit firm's testimony at a public hearing or other
113 proceeding, shall be borne by the affected companies and shall be paid
114 by such companies at such times and in such manner as the authority
115 directs.

116 (3) For purposes of this section, a complete audit shall consist of (A)
117 a diagnostic review of all functions of the audited company, which shall
118 include, but not be limited to, documentation of the operations of the
119 company, assessment of the company's system of internal controls, and
120 identification of any areas of the company which may require
121 subsequent audits, and (B) the performance of subsequent focused
122 audits identified in the diagnostic review and determined necessary by
123 the authority. All audits performed pursuant to this section shall be
124 performed in accordance with generally accepted management audit
125 standards. The authority shall adopt regulations in accordance with the
126 provisions of chapter 54 setting forth such generally accepted
127 management audit standards. Each audit of a community antenna
128 television company shall be consistent with the provisions of the
129 Communications Act of 1934, 47 USC 151, et seq., as amended from time
130 to time, and of any other applicable federal law. The authority shall
131 certify whether a portion of an audit conforms to the provisions of this
132 section and constitutes a portion of a complete audit.

133 (4) A complete audit of each portion of each gas company or electric
134 distribution company having more than seventy-five thousand
135 customers shall begin no less frequently than every six years, so that a
136 complete audit of such a company's operations shall be performed every
137 six years. Such an audit of each such company having more than
138 seventy-five thousand customers shall be updated as required by the
139 authority.

140 (5) The results of an audit performed pursuant to this section shall be
141 filed with the authority and shall be open to public inspection. Upon
142 completion and review of the audit, if the person or firm performing or
143 supervising the audit determines that any of the operating procedures
144 or any other internal workings of the affected public service company
145 or person involved in the transportation of gas, as such terms are
146 defined in section 16-280a are inefficient, improvident, unreasonable,
147 negligent or in abuse of discretion, the authority may, after notice and
148 opportunity for a hearing, order the affected public service company or
149 person involved in the transportation of gas, as such terms are defined

150 in section 16-280a to adopt such new or altered practices and procedures
151 as the authority shall find necessary to promote efficient and adequate
152 service to meet the public convenience and necessity. The authority shall
153 annually submit a report of audits performed pursuant to this section to
154 the joint standing committee of the General Assembly having
155 cognizance of matters relating to public utilities which report shall
156 include the status of audits begun but not yet completed and a summary
157 of the results of audits completed. Any such report may be submitted
158 electronically.

159 (6) All reasonable and proper costs and expenses, as determined by
160 the authority, of complying with any order of the authority pursuant to
161 this subsection shall be recognized by the authority for all purposes as
162 proper business expenses of the affected company.

163 (7) After notice and hearing, the authority may modify the scope and
164 schedule of a management audit of a telephone company which is
165 subject to an alternative form of regulation so that such audit is
166 consistent with that alternative form of regulation.

167 (c) Nothing in this section shall be deemed to interfere or conflict with
168 any powers of the authority or its staff provided elsewhere in the
169 general statutes, including, but not limited to, the provisions of this
170 section and sections 16-7, as amended by this act, 16-28 and 16-32, to
171 conduct an audit, investigation or review of the books, records, plant
172 and equipment of any regulated public service company or person
173 involved in the transportation of gas, as such terms are defined in
174 section 16-280a.

175 Sec. 4. Section 16-8a of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective July 1, 2021*):

177 (a) No public service company, as defined in section 16-1, holding
178 company, as defined in section 16-47, person involved in the
179 transportation of gas, as such terms are defined in section 16-280a, or
180 Nuclear Regulatory Commission licensee operating a nuclear power
181 generating facility in this state, or person, firm, corporation, contractor

182 or subcontractor directly or indirectly providing goods or services to
183 such public service company, holding company, person involved in the
184 transportation of gas or licensee, may take or threaten to take any
185 retaliatory action against an employee for the employee's disclosure of
186 (1) any matter involving the substantial misfeasance, malfeasance or
187 nonfeasance in the management of such public service company,
188 holding company, person involved in the transportation of gas or
189 licensee, or (2) information pursuant to section 31-51m. Any employee
190 found to have knowingly made a false disclosure shall be subject to
191 disciplinary action by the employee's employer, up to and including
192 dismissal.

193 (b) Any employee of such a public service company, holding
194 company, person involved in the transportation of gas or licensee, or of
195 any person, firm, corporation, contractor or subcontractor directly or
196 indirectly providing goods or services to such a public service company,
197 holding company, person involved in the transportation of gas or
198 licensee, having knowledge of any of the following may transmit all
199 facts and information in the employee's possession to the Public Utilities
200 Regulatory Authority: (1) Any matter involving substantial
201 misfeasance, malfeasance or nonfeasance in the management of such
202 public service company, holding company, person involved in the
203 transportation of gas or licensee; or (2) any matter involving retaliatory
204 action or the threat of retaliatory action taken against an employee who
205 has reported the misfeasance, malfeasance or nonfeasance, in the
206 management of such public service company, holding company, person
207 involved in the transportation of gas or licensee. With regard to any
208 matter described in subdivision (1) of this subsection, the authority shall
209 investigate such matter in accordance with the provisions of section 16-
210 8, as amended by this act, and shall not disclose the identity of such
211 employee without the employee's consent unless it determines that such
212 disclosure is unavoidable during the course of the investigation. With
213 regard to any matter described in subdivision (2) of this subsection, the
214 matter shall be handled in accordance with the procedures set forth in
215 subsections (c) and (d) of this section.

216 (c) (1) Not more than ninety business days after receipt of a written
217 complaint, in a form prescribed by the authority, by an employee
218 alleging the employee's employer has retaliated against an employee in
219 violation of subsection (a) of this section, the authority shall make a
220 preliminary finding in accordance with this subsection.

221 (2) Not more than five business days after receiving a written
222 complaint, in a form prescribed by the authority, the authority shall
223 notify the employer by certified mail. Such notification shall include a
224 description of the nature of the charges and the substance of any
225 relevant supporting evidence. The employer may submit a written
226 response and both the employer and the employee may present rebuttal
227 statements in the form of affidavits from witnesses and supporting
228 documents and may meet with the authority informally to respond
229 verbally about the nature of the employee's charges. The authority shall
230 consider in making its preliminary finding as provided in subdivision
231 (3) of this subsection any such written and verbal responses, including
232 affidavits and supporting documents, received by the authority not
233 more than twenty business days after the employer receives such notice.
234 Any such response received after twenty business days shall be
235 considered by the authority only upon a showing of good cause and at
236 the discretion of the authority. The authority shall make its preliminary
237 finding as provided in subdivision (3) of this subsection based on
238 information described in this subdivision, without a public hearing.

239 (3) Unless the authority finds by clear and convincing evidence that
240 the adverse employment action was taken for a reason unconnected
241 with the employee's report of substantial misfeasance, malfeasance or
242 nonfeasance, there shall be a rebuttable presumption that an employee
243 was retaliated against in violation of subsection (a) of this section if the
244 authority finds that: (A) The employee had reported substantial
245 misfeasance, malfeasance or nonfeasance in the management of the
246 public service company, holding company, person involved in the
247 transportation of gas or licensee; (B) the employee was subsequently
248 discharged, suspended, demoted or otherwise penalized by having the
249 employee's status of employment changed by the employee's employer;

250 and (C) the subsequent discharge, suspension, demotion or other
251 penalty followed the employee's report closely in time.

252 (4) If such findings are made, the authority shall issue an order
253 requiring the employer to immediately return the employee to the
254 employee's previous position of employment or an equivalent position
255 pending the completion of the authority's full investigatory proceeding
256 pursuant to subsection (d) of this section.

257 (d) Not later than thirty days after making a preliminary finding in
258 accordance with the provisions of subsection (c) of this section, the
259 authority shall initiate a full investigatory proceeding in accordance
260 with the provisions of section 16-8, as amended by this act, at which time
261 the employer shall have the opportunity to rebut the presumption. The
262 authority may issue orders, impose civil penalties, order payment of
263 back pay or award attorneys' fees in a manner that conforms with the
264 notice and hearing provisions in section 16-41, as amended by this act,
265 against a public service company, holding company, person involved in
266 the transportation of gas or licensee or a person, firm, corporation,
267 contractor or subcontractor directly or indirectly providing goods or
268 services to such public service company, holding company, person
269 involved in the transportation of gas or licensee, in order to enforce the
270 provisions of this section.

271 (e) If an employee or former employee of such a public service
272 company, holding company, person involved in the transportation of
273 gas or licensee, or of a person, firm, corporation, contractor or
274 subcontractor directly or indirectly providing goods or services to such
275 a public service company, holding company, person involved in the
276 transportation of gas or licensee, having knowledge of any matter
277 involving the substantial misfeasance, malfeasance or nonfeasance in
278 the management of such public service company, holding company,
279 person involved in the transportation of gas or licensee, enters into an
280 agreement with the employee's employer that contains a provision
281 directly or indirectly discouraging the employee from presenting a
282 written complaint or testimony concerning such misfeasance,

283 malfeasance or nonfeasance in any legislative, administrative or judicial
284 proceeding, such provision shall be void as against public policy.

285 (f) The Public Utilities Regulatory Authority shall adopt regulations,
286 in accordance with chapter 54, to carry out the provisions of this section.
287 Such regulations shall include the following: (1) The procedures by
288 which a complaint may be brought pursuant to subsection (a) of this
289 section; (2) the time period in which such a complaint may be brought;
290 (3) the time period by which the authority shall render a decision
291 pursuant to subsection (d) of this section; (4) the form on which written
292 complaints shall be submitted to the authority by an employee pursuant
293 to subsection (c) of this section; and (5) the requirement that a notice be
294 posted in the workplace informing all employees of any public service
295 company, holding company, person involved in the transportation of
296 gas and licensee and of any person, firm, corporation, contractor or
297 subcontractor directly or indirectly providing goods or services to a
298 company or licensee, as defined in subsection (b) of this section, of their
299 rights under this section, including the right to be reinstated in
300 accordance with subsection (c) of this section.

301 Sec. 5. Section 16-11 of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective July 1, 2021*):

303 The Public Utilities Regulatory Authority shall, so far as is
304 practicable, keep fully informed as to the condition of the plant,
305 equipment and manner of operation of all public service companies and
306 persons involved in the transportation of gas, as such terms are defined
307 in section 16-280a, in respect to their adequacy and suitability to
308 accomplish the duties imposed upon such companies by law and in
309 respect to their relation to the safety of the public and of the employees
310 of such companies. The authority may order such reasonable
311 improvements, repairs or alterations in such plant or equipment, or such
312 changes in the manner of operation, as may be reasonably necessary in
313 the public interest. The general purposes of this section and sections 16-
314 19, 16-25, 16-43 and 16-47 are to assure to the state of Connecticut its full
315 powers to regulate its public service companies, to increase the powers

316 of the Public Utilities Regulatory Authority and to promote local control
317 of the public service companies of this state, and said sections shall be
318 so construed as to effectuate these purposes.

319 Sec. 6. Section 16-16 of the general statutes is repealed and the
320 following is substituted in lieu thereof (*Effective July 1, 2021*):

321 Each public service company, person involved in the transportation
322 of gas, as such terms are defined in section 16-280a and electric supplier
323 subject to regulation by the Public Utilities Regulatory Authority shall,
324 in the event of any accident attended with personal injury or involving
325 public safety, which was or may have been connected with or due to the
326 operation of its or his property, or caused by contact with the wires of
327 any public service company or electric supplier, notify the authority
328 thereof, by telephone or otherwise, as soon as may be reasonably
329 possible after the occurrence of such accident, unless such accident is a
330 minor accident, as defined by regulations of the authority. Each such
331 person, company or electric supplier shall report such minor accidents
332 to the authority in writing, in summary form, once each month. If notice
333 of such accident, other than a minor accident, is given otherwise than in
334 writing, it shall be confirmed in writing within five days after the
335 occurrence of such accident. Any person, company or electric supplier
336 failing to comply with the provisions of this section shall be fined not
337 more than five hundred dollars for each offense.

338 Sec. 7. Section 16-41 of the general statutes is repealed and the
339 following is substituted in lieu thereof (*Effective July 1, 2021*):

340 (a) Each (1) public service company and its officers, agents and
341 employees, (2) electric supplier or person providing electric generation
342 services without a license in violation of section 16-245, and its officers,
343 agents and employees, (3) certified telecommunications provider or
344 person providing telecommunications services without authorization
345 pursuant to sections 16-247f to 16-247h, inclusive, and its officers, agents
346 and employees, (4) person, public agency or public utility, as such terms
347 are defined in section 16-345, subject to the requirements of chapter 293,
348 (5) person subject to the registration requirements under section 16-

349 258a, (6) cellular mobile telephone carrier, as described in section 16-
350 250b, (7) Connecticut electric efficiency partner, as defined in section 16-
351 243v, (8) company, as defined in section 16-49, [and] (9) entity approved
352 to submeter pursuant to section 16-19ff, and (10) person involved in the
353 transportation of gas, as such terms are defined in section 16-280a shall
354 obey, observe and comply with all applicable provisions of this title and
355 each applicable order made or applicable regulations adopted by the
356 Public Utilities Regulatory Authority by virtue of this title as long as the
357 same remains in force. Any such company, electric supplier, certified
358 telecommunications provider, cellular mobile telephone carrier,
359 Connecticut electric efficiency partner, entity approved to submeter,
360 person, any officer, agent or employee thereof, public agency or public
361 utility which the authority finds has failed to obey or comply with any
362 such provision of this title, order or regulation shall be fined, ordered to
363 pay restitution to customers or ordered to pay a combination of a fine
364 and restitution by order of the authority in accordance with the penalty
365 prescribed for the violated provision of this title or, if no penalty is
366 prescribed, not more than ten thousand dollars for each offense, except
367 that the penalty shall be a fine, restitution to customers or a combination
368 of a fine and restitution of not more than forty thousand dollars for
369 failure to comply with an order of the authority made in accordance
370 with the provisions of section 16-19 or 16-247k or within thirty days of
371 such order or within any specific time period for compliance specified
372 in such order. The authority may direct a portion of any fine levied
373 pursuant to this section to be paid to a nonprofit agency engaged in
374 energy assistance programs named by the authority in its decision or
375 notice of violation. Each distinct violation of any such provision of this
376 title, order or regulation shall be a separate offense and, in case of a
377 continued violation, each day thereof shall be deemed a separate
378 offense. Each such penalty and any interest charged pursuant to
379 subsection (g) or (h) of section 16-49 shall be excluded from operating
380 expenses for purposes of rate-making.

381 (b) Any regional water authority, any regional water district, any
382 municipal gas or electric plant established under chapter 101, any
383 municipal waterworks system established under chapter 102, or any

384 other municipality or department thereof owning, leasing, operating or
385 managing a plant for the supplying or furnishing of any public utility,
386 which the Public Utilities Regulatory Authority finds has failed to
387 comply with the procedures of section 16-29, shall be subject to a civil
388 penalty of not more than five thousand dollars for any annual report
389 which is not submitted or submitted late in violation of said section.

390 (c) If the authority has reason to believe that a violation has occurred
391 for which a civil penalty is authorized by subsection (a) or (b) of this
392 section, it shall notify the alleged violator by certified mail, return
393 receipt requested, or by personal service. The notice shall include:

394 (1) A reference to the sections of the title, regulation or order
395 involved;

396 (2) A short and plain statement of the matter asserted or charged;

397 (3) A statement of the prescribed civil penalty for the violation; and

398 (4) A statement of the person's right to a hearing.

399 (d) The person to whom the notice is addressed shall have twenty
400 days from the date of receipt of the notice in which to deliver to the
401 authority a written application for a hearing. If a hearing is requested,
402 then, after a hearing and upon a finding that a violation has occurred,
403 the authority may issue a final order assessing a civil penalty under this
404 section which shall not be greater than the maximum penalty [stated in
405 the notice] permitted by law. If a hearing is not requested, or if such a
406 request is later withdrawn, then the notice shall, on the first day after
407 the expiration of the twenty-day period or on the first day after the
408 withdrawal of the request for hearing, whichever is later, become a final
409 order of the authority and the matters asserted or charged in the notice
410 shall be deemed admitted, unless the notice is modified by a consent
411 order before it becomes a final order. A consent order shall be deemed
412 a final order.

413 (e) All hearings under this section shall be conducted under sections
414 4-176e to 4-184, inclusive. The final order of the authority assessing a

415 civil penalty shall be subject to appeal under section 4-183. No challenge
416 to any final order of the authority assessing a civil penalty shall be
417 allowed as to any issue which could have been raised by an appeal of
418 an earlier order of the authority. Any civil penalty authorized by this
419 section shall become due and payable (1) at the time of receipt of a final
420 order in the case of a civil penalty assessed in such order after a hearing,
421 (2) on the first day after the expiration of the period in which a hearing
422 may be requested if no hearing is requested, or (3) on the first day after
423 the withdrawal of a request for hearing.

424 (f) A civil penalty assessed in a final order of the authority under this
425 section may be enforced in the same manner as a judgment of the
426 Superior Court. The final order shall be delivered to the respondent by
427 personal service or by certified mail, return receipt requested. After
428 entry of such final order, the authority may file a transcript without the
429 payment of costs, in the office of the clerk of the superior court in the
430 judicial district in which the respondent resides, has a place of business,
431 owns real property, or in which any real property which is the subject
432 of the proceedings is located or, if the respondent is not a resident of the
433 state of Connecticut, in the judicial district of Hartford. Upon the filing,
434 the clerk shall docket the order in the same manner and with the same
435 effect as a judgment entered in the superior court within the judicial
436 district. Upon the docketing, the order may be enforced as a judgment
437 of the court.

438 Sec. 8. Section 16-280b of the general statutes is repealed and the
439 following is substituted in lieu thereof (*Effective July 1, 2021*):

440 (a) It shall be unlawful for any person who engages in the
441 transportation of gas or maintains pipeline facilities or owns any
442 pipeline facilities within the state to violate any of the safety standards
443 established by the Secretary of Transportation of the United States for
444 the transportation of gas and pipeline facilities pursuant to the
445 provisions of the federal act or any regulations adopted by the authority
446 pursuant to subsection (b) or (c) of this section.

447 (b) The Public Utilities Regulatory Authority may adopt regulations,

448 in accordance with chapter 54, establishing intrastate gas pipeline safety
449 standards, which may be more specific than federal standards where
450 appropriate in relation to local circumstances or conditions and
451 consistent with public safety, provided such standards recognize
452 alternative instrumentalities and methodologies for achieving federal
453 safety objectives and do not foreclose utilization of alternative
454 instrumentalities and methodologies that conform to national
455 engineering standards or industry practices.

456 (c) The authority may issue a waiver of any federal safety standards
457 or any regulations adopted by the authority pursuant to subsection (b)
458 of this section in individual cases where warranted by local
459 circumstances or conditions, consistent with public safety and
460 authorized under the federal act.

461 Sec. 9. Section 16-280c of the general statutes is repealed and the
462 following is substituted in lieu thereof (*Effective July 1, 2021*):

463 [Each] The federal safety [standard] standards applicable to [pipeline
464 facilities and] the transportation of gas established under the provisions
465 of the federal act, contained in 49 CFR 191 to 49 CFR 193, inclusive, and
466 49 CFR 199, as the same are, from time to time, made effective, or any
467 regulation adopted by the authority pursuant to subsection (b) or (c) of
468 section 16-280b, as amended by this act, shall be the standards of the
469 state.

470 Sec. 10. Section 16-280e of the general statutes is repealed and the
471 following is substituted in lieu thereof (*Effective July 1, 2021*):

472 (a) Any person that violates any provision of the federal act, any
473 regulation issued under the federal act, any provision of this chapter or
474 any regulation adopted by the authority pursuant to subsection (b) or
475 (c) of section 16-280b, as amended by this act, shall be subject to a civil
476 penalty not to exceed the higher of the maximum civil penalty provided
477 under 49 USC 60122(a), as amended, or 49 CFR 190.223(a), as amended
478 from time to time.

479 (b) Any such civil penalty may be compromised by the Public
480 Utilities Regulatory Authority. In determining the amount of such
481 penalty, or the amount agreed upon in compromise, the authority shall
482 consider the criteria set forth in 49 USC 60122(b), as amended.

483 (c) Nothing in this section shall be construed to limit the penalties
484 available under section 16-33.

485 Sec. 11. (NEW) (*Effective July 1, 2021*) The utility commissioners, as
486 defined in section 16-1 of the general statutes, or their designees, shall
487 have the authority to cause any work performed by any person involved
488 in the transportation of gas, as such terms are defined in section 16-280a
489 of the general statutes, to cease immediately if said work may endanger
490 any person.

491 Sec. 12. Section 16-354 of the general statutes is repealed and the
492 following is substituted in lieu thereof (*Effective July 1, 2021*):

493 A person, public agency or public utility responsible for excavating,
494 discharging explosives or demolition shall exercise reasonable care
495 when working in proximity to the underground facilities of any public
496 utility and shall comply with such safety standards and other
497 requirements as the authority shall prescribe by regulations adopted
498 pursuant to section 16-357. If the facilities are likely to be exposed, such
499 support shall be provided as may be reasonably necessary for protection
500 of the facilities. If excavation is within the approximate location of
501 facilities containing combustible or hazardous fluids or gases, only hand
502 digging or soft digging shall be employed. As used in this section, "soft
503 digging" means a nonmechanical and nondestructive process used to
504 excavate and evacuate soils at a controlled rate, using high pressure
505 water or air jet to break up the soil, often in conjunction with a high
506 power vacuum unit to extract the soil without damaging the facilities.
507 In the event that an immediate life-threatening hazard resulting from a
508 wilful violation of this chapter, or of such regulations adopted pursuant
509 to section 16-357, is identified, the utility commissioners, as defined in
510 section 16-1, or their designees, shall immediately notify the person,
511 public agency or public utility responsible for excavating, discharging

512 explosives or demolition of the hazard and violation. Upon receipt of
 513 such notification, the person, public agency or public utility responsible
 514 for excavating, discharging explosives or demolition shall promptly
 515 abate the hazard and violation. In the event that the hazard and
 516 violation is not abated in a reasonable time frame, the utility
 517 commissioners, or their designees, shall have the authority to cause the
 518 excavation, discharge of explosives or demolition to cease immediately
 519 until such hazard and violation are abated.

520 Sec. 13. Section 8-31c of the general statutes is repealed and the
 521 following is substituted in lieu thereof (*Effective October 1, 2021*):

522 (a) (1) Wherever the term "regional planning agency" is used in the
 523 following general statutes, the term "regional council of governments"
 524 shall be substituted in lieu thereof; and (2) wherever the term "regional
 525 planning agencies" is used in the following general statutes, the term
 526 "regional councils of governments" shall be substituted in lieu thereof:
 527 8-35b, 8-35c, 8-164, 8-166, 8-189, 8-336f, 8-384, 13b-38a, 13b-79ll, 16-32f,
 528 16-50l, [16-358,] 16a-28, 16a-35c, 22-26dd, 22a-102, 22a-118, 22a-137, 22a-
 529 207, 22a-352, 23-8, 25-33e to 25-33h, inclusive, 25-68d, 25-102qq and 25-
 530 233.

531 (b) The Legislative Commissioners' Office shall, in codifying the
 532 provisions of this section, make such technical, grammatical and
 533 punctuation changes as are necessary to carry out the purposes of this
 534 section.

535 Sec. 14. Sections 16-358 and 16-359 of the general statutes are
 536 repealed. (*Effective October 1, 2021*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	16-356
Sec. 2	<i>July 1, 2021</i>	16-7
Sec. 3	<i>July 1, 2021</i>	16-8
Sec. 4	<i>July 1, 2021</i>	16-8a
Sec. 5	<i>July 1, 2021</i>	16-11

Sec. 6	<i>July 1, 2021</i>	16-16
Sec. 7	<i>July 1, 2021</i>	16-41
Sec. 8	<i>July 1, 2021</i>	16-280b
Sec. 9	<i>July 1, 2021</i>	16-280c
Sec. 10	<i>July 1, 2021</i>	16-280e
Sec. 11	<i>July 1, 2021</i>	New section
Sec. 12	<i>July 1, 2021</i>	16-354
Sec. 13	<i>October 1, 2021</i>	8-31c
Sec. 14	<i>October 1, 2021</i>	Repealer section

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill adds persons involved in the transportation of gas to numerous Public Utilities Regulatory Authority (PURA) regulations. To the extent that PURA's authority to collect civil penalties would extend to pipeline operators under the provisions of the bill, there is a potential revenue gain to the General Fund equal to any civil penalties as a result of such regulation.

The bill also requires that utilities pay civil penalties related to Call Before You Dig rules, rather than contracted third parties. It is not anticipated that this provision would increase the amount in civil penalties that PURA collects.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount of any civil penalties levied on those involved in the transportation of gas.

OLR Bill Analysis**sSB 858*****AN ACT CONCERNING CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND CERTAIN MODIFICATIONS TO GAS PIPELINES PROCESSES.*****SUMMARY**

This bill makes various changes in the laws related to gas pipelines and underground utility facilities. It requires that penalties for violations of the “Call Before You Dig” law’s marking requirements be directly paid by the entity being penalized by the Public Utilities Regulatory Authority (PURA), without recovering the penalty from a third party (e.g., a contractor working for the penalized entity). It also establishes a process by which the PURA commissioners can stop the work on a Call Before You Dig project if there is an immediate life-threatening hazard resulting from a willful violation of the law.

The bill expands PURA’s authority over certain gas transportation entities (e.g., propane systems and municipal gas distribution systems). Among other things, it (1) gives PURA access to these entities’ facilities, (2) brings them under PURA’s investigatory powers, (3) allows PURA to order them to make certain reasonable improvements or repairs, (4) requires them to notify PURA about certain accidents (5) allows PURA to impose certain penalties on them, and (6) provides whistleblower protections to their employees.

It aligns PURA’s authority over gas transportation entities with applicable federal standards by (1) explicitly citing the federal regulations that the state adopts as its safety standards for pipeline facilities and the transportation of gas and (2) capping the maximum penalties at the maximum amount allowed under federal regulations, rather than federal law.

Lastly, the bill repeals obsolete and duplicative laws that generally require gas utility companies to submit a biennial report to PURA on their underground facilities (§§ 13-14).

EFFECTIVE DATE: July 1, 2021, except that provisions repealing obsolete statutes are effective October 1, 2021.

§§ 1 & 12 — CALL BEFORE YOU DIG

Penalties (§ 1)

Existing law requires companies and individuals engaging in excavation, discharge of explosions, or demolition projects to comply with certain requirements (i.e., “Call Before You Dig”). Anyone who fails to comply with these requirements must pay a civil penalty up to \$40,000.

Under the bill, the penalty for a violation involving a public utility’s failure to properly or timely mark an underground facility’s approximate location must be paid by the public utility to whom the notice from PURA is addressed. However, the bill exempts an owner or operator of a municipal utility from this requirement. Additionally, if the penalized public utility recovers any portion of the penalty from a third party (e.g., a contractor that failed to make the markings), the bill also allows PURA to direct the public utility to forfeit the recovered amount, as provided in the notice.

Stop-Work Orders (§ 12)

If there is an immediate life-threatening hazard resulting from a willful violation of the Call Before You Dig laws or their related regulations, the bill requires PURA’s commissioners to immediately notify the entity responsible for the project about the hazard and violation. Upon receiving the notification, the responsible entity must promptly abate the hazard and violation. If it does not do so in a reasonable time frame, the bill authorizes the commissioners to stop the project immediately until the hazard and violation have been abated.

§§ 2-7 & 11 — pura jurisdiction over gas transportation

Current law gives PURA jurisdiction over public services companies, which includes investor-owned natural gas distribution companies (e.g., Eversource). The bill extends certain elements of this jurisdiction to “persons involved in the transportation of gas,” which, under the bill, includes a wider array of gas transporting entities, such as municipal gas distribution systems and propane systems.

Under the bill:

1. “persons” are any individual, firm, joint venture, partnership, corporation, limited liability company, association, municipality, or cooperative association, including any of their trustees, receivers, assignees, or personal representatives;
2. “gas” is natural gas, flammable gas, or toxic or corrosive gas; and
3. “transportation of gas” is the gathering, transmission, or distribution of gas by pipeline or its storage.

PURA Access to Facilities (§ 2)

Current law allows PURA, or its designees, to access a public utility company’s or retail electric supplier’s premises, buildings, or other places that they own or control. The bill expands this access to also include their “plants” and to those of persons involved in the transportation of gas. By law a company’s “plants” include all real estate, buildings, tracks, pipes, mains, poles, wires, and other fixed or stationary construction and equipment, wherever located, used in the conduct of the company’s business (CGS § 16-1).

The bill also increases the maximum fine that may be imposed on someone who obstructs or hinders PURA’s access from \$200 to \$10,000. Under existing law, unchanged by the bill, the offender may be imprisoned up to six months or both fined and imprisoned.

Investigatory Powers (§ 3)

Current law allows PURA to summon witnesses and require the production of various documents related to a public service company’s

affairs. The bill expands this authority to also cover the affairs of persons involved in the transportation of gas.

The bill similarly expands PURA's authority to have management audits performed on the operating procedures or other internal workings of a person involved in the transportation of gas, including the relationship between the person and a related holding company or subsidiary. Existing law already gives PURA this authority over public service companies.

As under the current law for auditing public service companies, if the audit finds that the operating procedures or internal workings of the person involved in the transportation of gas are inefficient, improvident, unreasonable, negligent, or in abuse of discretion, the bill allows PURA to order the person to adopt new or altered practices and procedures.

Whistleblower Protections (§ 4)

The bill extends PURA's whistleblower protections to employees of (1) persons involved in the transportation of gas and (2) entities that directly or indirectly provide goods to them. It does this by, among other things:

1. prohibiting these employers from taking any retaliatory actions against their employees for disclosing the substantial malfeasance of a person involved in the transportation of gas;
2. allowing their employees to inform PURA about any prohibited retaliatory actions or malfeasance in management;
3. allowing PURA to investigate and issue orders, impose civil penalties, award attorney's fees and order payment for back pay;
4. voiding any agreement between the employees and employers if it discourages the employee from presenting a written complaint or testifying about the malfeasance; and
5. requiring a notice to be posted in these employees' workplaces, in accordance with PURA's regulations, informing them about

the whistleblower protections.

PURA Authority to Order Improvements (§ 5)

Current law generally (1) requires PURA to keep fully informed about the conditions of a public service company's plant, equipment, and operations, in respect to its adequacy, suitability, and safety, and (2) authorizes PURA to order a company to make reasonable improvements, repairs, or alterations in its plants, equipment, or operations, that may be reasonably necessary for the public interest.

The bill extends this requirement and authority to include persons involved in the transportation of gas.

Accident Reporting (§ 6)

As current law requires for public service companies and retail electric suppliers, the bill requires persons involved in the transportations of gas to notify PURA, as soon as reasonably possible, about any accident, other than a minor accident, that (1) was, or may have been, connected with or due to the operation of their property and (2) involved personal injuries or public safety.

As under current law, if the notice is given in a nonwritten form, it must be confirmed in writing within five days after the accident. They must also submit a monthly written report on minor accidents to PURA. A failure to comply with these requirements is subject to a fine up to \$500 per offense.

Enforcement (§ 7)

Current law requires PURA-regulated entities to obey, observe, and comply with all applicable provisions of the laws for public service companies and PURA's applicable regulations and orders. It requires violators to be penalized, by PURA's order, under the applicable statutory penalty or, if no penalty is prescribed, with a fine up to \$10,000, restitution, or a combination of both for each offense. The bill expands these provisions to also cover persons involved with the transportation of gas.

The bill also specifies that the maximum civil penalty PURA may impose is the maximum allowed by law, not the penalty stated in the notice of violation.

Stop-work orders (§ 11)

The bill authorizes PURA's commissioners to order any work performed by a person involved in the transportation of gas to stop immediately if the work may endanger someone.

§§ 8-10 — FEDERAL STANDARDS & PURA REGULATIONS

PURA Waivers (§ 8)

Existing state law requires persons involved in the transportation of gas or the maintenance of gas pipelines to follow federal safety standards, but it also generally allows PURA to adopt regulations that are more specific than the federal standards under certain circumstances. Current law generally allows PURA to waive the federal standards in individual cases when warranted by local circumstances or conditions. The bill allows PURA to also do this for the regulations it adopts.

Federal Standards (§ 9)

Current law adopts the federal safety standards applicable to pipeline facilities and the transportation of gas. The bill limits their application to the transportation of gas and explicitly cites the applicable federal regulations for these standards (49 C.F.R. 191 to 49 C.F.R. 193).

Penalties (§ 10)

Under current law, violators of the federal law or regulations on natural gas pipeline safety (49 U.S.C. Chapter 601) or state law or regulations on natural gas pipelines are subject to a civil penalty up to the maximum allowed under the federal law. The bill instead allows the penalty to be up to the higher of the maximum allowed under (1) the federal law or (2) federal regulations on pipeline safety (49 C.F.R. 190.223(a)).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/18/2021)