

SENATE FILE NO. SF0085

Natural gas pipeline authority.

Sponsored by: Senator(s) Hawks and Representative(s) Law

A BILL

for

1 AN ACT relating to the natural gas pipeline authority;
 2 modifying powers of the authority; granting additional
 3 bonding authority and otherwise modifying bonding
 4 authority; modifying legislative findings; repealing
 5 certain restrictions on powers of the authority; making
 6 conforming amendments; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 37-5-107 is created to read:

11

12 **37-5-107. Definitions.**

13

14 (a) As used in this act:

15

16 (i) "Associated natural resource" means any
 17 substance, element or compound, either gaseous, liquid or

1 solid, associated with the production, refining or
2 processing of crude oil or natural gas. The term includes,
3 but is not limited to, propane, butanes, ethane, methane,
4 carbon dioxide, sulphur, helium, nitrogen and natural gas
5 liquids;

6

7 (ii) "Natural gas" means hydrocarbons or
8 nonhydrocarbons which at atmospheric conditions of
9 temperature and pressure are in a gaseous phase;

10

11 (iii) "This act" means 37-5-101 through
12 37-5-107.

13

14 **Section 2.** W.S. 37-5-101(b), 37-5-102,
15 37-5-103(a)(iv) and by creating new paragraphs (x) through
16 (xii) and by renumbering (x) as (xiii), 37-5-104(c) through
17 (e), (j) and by creating a new subsection (k), 37-5-105,
18 37-5-201(a)(i) through (iii), 37-5-202(a)(iv) by creating
19 new paragraphs (v) and (vi) and by renumbering (v) as
20 (vii), 37-5-203(a) through (e), (h) and by creating a new
21 subsection (n), 37-5-204(a) and by creating a new
22 subsection (d), 37-5-206 and 37-5-208(a) are amended to
23 read:

24

1 **37-5-101. Wyoming natural gas pipeline authority.**

2

3 (b) The authority shall be governed by a board
4 composed of five (5) members appointed by the governor,
5 with the advice and consent of the senate. The members of
6 the initial board shall be appointed for staggered terms,
7 two (2) members for terms of one (1) year each and the
8 other members for terms of two (2), three (3) and four (4)
9 years, respectively, as designated at the time of
10 appointment. Thereafter all members shall be appointed for
11 four (4) year terms. The governor may remove any member as
12 provided in W.S. 9-1-202. Vacancies shall be filled by
13 appointment by the governor in accordance with W.S.
14 28-12-101. The members shall elect from the membership a
15 chairman, vice-chairman and secretary. Persons appointed
16 as members shall be qualified voters of the state of
17 Wyoming with special knowledge, as evidenced by college
18 degrees or courses, or with at least five (5) years
19 experience in managerial positions, in the field of natural
20 gas or associated natural resource production,
21 transportation, marketing or industrial consumption.
22 Members of the board may receive the same per diem,
23 expenses and travel allowance as members of the legislature
24 while in actual attendance at meetings of the board and the

1 performance of their duties relative thereto. The attorney
2 general shall serve as attorney for the authority.

3

4 **37-5-102. Purposes.**

5

6 (a) The purpose for which the authority is created is
7 to plan, finance, construct, develop, acquire, maintain and
8 operate a ~~natural gas~~ pipeline system or systems within or
9 without the state of Wyoming to facilitate the production,
10 transportation, distribution and delivery of natural gas
11 and ~~hydrocarbons, in the gaseous phase and~~ associated
12 natural resources produced in this state, including natural
13 gas and ~~hydrocarbons in the gaseous phase~~ associated
14 natural resources received as royalties "in kind" pursuant
15 to mineral leases by the state, its agencies and political
16 subdivisions, which authorize the lessor to receive
17 royalties, or received as royalties from the federal
18 government. In order to provide for the financing,
19 construction, development, maintenance and operation of the
20 pipeline system, the authority may lease or rent facilities
21 constructed pursuant to the authority conferred herein, and
22 all facilities, structures and properties incidental and
23 necessary thereto, to facilitate the production,
24 transportation, distribution and delivery of natural gas

1 and ~~hydrocarbons in the gaseous phase from point of~~
2 ~~production~~ associated natural resources to point of
3 consumption or to the point of distribution for
4 consumption.

5
6 (b) The system ~~shall~~ may be inclusive of pipelines,
7 pumps, storage and all other facilities, structures and
8 properties incidental and necessary or useful in the
9 production, transportation, distribution and delivery of
10 natural gas and ~~hydrocarbons in the gaseous phase from any~~
11 ~~and all points of production~~ associated natural resources
12 to points of sale, consumption or to the point or points of
13 distribution for consumption.

14
15 (c) The authority shall establish and collect fees,
16 schedule of fees, rentals and other charges for the use of
17 the facilities of the authority, including capacity
18 procured by the authority pursuant to subsection (e) of
19 this section, as the board may determine, and may borrow
20 funds for the execution of the purposes of the authority,
21 and mortgage and pledge any lease or leases granted,
22 assigned or subleased by the authority.

23

1 (d) ~~Anything in this act to the contrary~~
2 ~~notwithstanding~~ Except as provided in this section, the
3 authority shall not exercise any of the rights or powers
4 granted to it in this section, if private persons, firms,
5 or corporations are performing the acts, constructing or
6 have constructed the facilities, or are providing the
7 services contemplated by the authority. Prior to exercising
8 any rights or powers granted to it in this section, the
9 authority shall publish in a newspaper of general
10 circulation in Cheyenne, and in a newspaper in the area
11 where the facilities or services are contemplated, in the
12 manner prescribed by law, a notice describing the acts,
13 facilities, or services contemplated by the authority, and
14 private persons, firms or corporations wishing to perform
15 the acts, construct the facilities or provide the services
16 described in the notice shall have a period of thirty (30)
17 days from the date of last publication of the notice within
18 which to notify the authority of intention to perform the
19 acts, construct the facilities, or provide the services
20 described in the notice. In the absence of notification by
21 a private person, firm or corporation, or if a person, firm
22 or corporation, having given notice of intention to perform
23 the acts, construct the facilities, or provide the services
24 contemplated by the authority, fails to commence same

1 within ninety (90) days from the date of notification of
2 the authority of its intention, the authority may proceed
3 to perform the acts, construct the facilities, or provide
4 the services originally contemplated. At any time a
5 private person, firm or corporation is performing the acts,
6 constructing the facilities or providing the services
7 contemplated by the authority, the authority may conduct
8 hearings or meetings with such person, firm or corporation
9 to obtain information to assess the progress toward
10 completion of the intended acts to be performed, the
11 facilities to be constructed or the services to be
12 provided. If the authority determines that progress or
13 completion of any or all of the intended acts will be
14 delayed for one (1) year or more, the authority may proceed
15 to perform the acts, construct the facilities, or provide
16 the services originally contemplated.

17

18 (e) The authority may acquire, purchase, hold, use,
19 lease, license, sell, transfer and dispose of the right to
20 capacity in any pipeline system or systems within or
21 without the state of Wyoming in order to facilitate the
22 production, transportation, distribution or delivery of
23 natural gas and associated natural resources produced in
24 this state. The provisions of subsection (d) of this

1 section shall not apply to the authority in exercising any
2 power pursuant to this subsection.

3

4 **37-5-103. Powers of the authority.**

5

6 (a) In exercising the rights and powers granted to
7 it, the authority shall be vested with authority to:

8

9 (iv) Plan, finance, construct, develop, acquire,
10 maintain and operate within or without the state of
11 Wyoming, pipelines, pumps, storage and other attendant
12 facilities and equipment necessary therefor and all other
13 property, structures, equipment, facilities and works of
14 public improvement necessary or useful for the
15 accomplishment of the purposes for which the authority was
16 created;

17

18 (x) Conduct hearings, gather and develop
19 relevant data consistent with duties and the powers of the
20 authority;

21

22 (xi) Identify markets for natural gas and
23 associated natural resource and facilitate the aggregation
24 of supply for those markets;

1

2

(xii) Advocate new pipeline capacity before the
Federal Energy Regulatory Commission;

4

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~~(x)~~ (xiii) Do any and all things necessary or
proper for the development, regulation and accomplishment
of the purposes of the authority within the limitations of
authority granted by this act.

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37-5-104. Bonds.

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(c) The bonds or other obligations issued under
authority of this section ~~shall~~ may be sold by the
authority, ~~the bonds or other obligations to be sold to the
highest bidder on sealed proposals at public sale at not
less than par and accrued interest, after publication of
notice of sale at least seven (7) days in advance of the
date of sale in newspapers or financial journals published
at places the authority may determine, reserving to the
authority the right to reject any and all bids~~ at, above or
below par value, at public or private sale, in a manner and
from time to time as determined by the authority.

1 (d) Except as provided by subsection (k) of this
2 section, any bonds issued hereunder shall be payable from
3 and be secured by the pledge of the revenues derived from
4 the operation of the pipeline system, as constructed,
5 acquired, extended or improved with the proceeds of the
6 bonds, subject only to prior payment of the reasonable and
7 necessary expenses of operating and maintaining the system.
8 Any bonds issued hereunder may also be payable from
9 unexpended bond proceeds. Any holder of the bonds or of
10 any of the coupons thereto attached may by appropriate
11 legal action compel performance of all duties required of
12 the authority in order to enforce payment of the bonds when
13 due. If any bond issued hereunder is permitted to go into
14 default as to principal or interest, any court of competent
15 jurisdiction may, pursuant to the application of the holder
16 of the bonds, appoint a receiver for the system, who shall
17 operate the system and collect and distribute the revenues
18 thereof pursuant to the provisions and requirements of the
19 resolution authorizing the bonds.

20

21 (e) If more than one series of bonds is issued
22 payable from the revenues of the system or bond proceeds,
23 priority of lien on the revenues shall ~~depend on the time~~
24 ~~of the delivery of the bonds, each series enjoying a lien~~

1 ~~prior and superior to that enjoyed by any series of bonds~~
2 ~~subsequently delivered, except that where provision is made~~
3 ~~in the proceedings authorizing any issue or series of bonds~~
4 ~~for the issuance of additional bonds in the future on a~~
5 ~~parity therewith pursuant to procedure or restrictions~~
6 ~~provided in such proceedings, additional bonds may be~~
7 ~~issued in the future on a parity with the issue or series~~
8 ~~in the manner so provided in such proceedings~~ be as
9 provided by the resolution authorizing the bonds.

10

11 (j) The board of the authority may authorize the
12 issuance of bonds for the purpose of refunding, extending
13 and unifying the whole or any part of the principal,
14 interest and redemption premiums on any outstanding bonds
15 issued under the authority of this act. The refunding bonds
16 may either be sold and the proceeds applied to or deposited
17 in escrow for the retirement of the outstanding bonds, or
18 may be delivered in exchange for the outstanding bonds. The
19 refunding bonds shall be authorized in all respects as
20 original bonds are herein required to be authorized. The
21 board of the authority in authorizing the refunding bonds,
22 shall provide for the security of the bonds, the sources
23 from which the bonds are to be paid and for the rights of
24 the holders thereof in all respects as herein provided for

1 other bonds issued under the authority of this act. The
2 board may also provide that the refunding bonds shall have
3 the same or different priority of lien on the revenues
4 pledged for their payment as was enjoyed by the bonds
5 refunded.

6
7 (k) The board of the authority may authorize the
8 issuance of bonds for the purpose of purchasing natural gas
9 pipeline capacity as authorized by W.S. 37-5-102(e). Any
10 bonds so issued shall be payable solely from and be secured
11 solely by the pledge of the revenues derived from the
12 subsequent sale, lease or other disposal of the capacity
13 purchased or from bond proceeds. Bonds issued pursuant to
14 this subsection shall be authorized in all respects as
15 other bonds of the authority are herein required to be
16 authorized. The board, in authorizing the bonds, shall
17 provide for the security of the bonds, the sources from
18 which the bonds are to be paid and for the rights of the
19 holders thereof.

20
21 **37-5-105. Use of net revenues.**

22
23 (a) The authority, acting alone or in cooperation
24 with any agency of the state of Wyoming shall use and

1 employ any net revenues derived from the pipeline system
2 herein authorized or from any other source, after providing
3 all cost of maintenance and operation of the pipeline
4 system and after making the required principal and interest
5 payments on any revenue bonds issued hereunder and any
6 other payments provided in any resolution or resolutions
7 authorizing the issuance and sale of revenue bonds and
8 obligations, in extending and improving the pipeline system
9 as the board of the authority may determine to be warranted
10 by the needs for additional intrastate transportation
11 facilities. ~~If the board determines that no need exists,~~
12 ~~the net revenues shall be paid to the state treasurer for~~
13 ~~credit to the state general fund.~~

14
15 (b) Revenues derived from the issuance of bonds for
16 the purpose of purchasing pipeline capacity as authorized
17 by W.S. 37-5-104(k) shall be used for such purchases and to
18 make principal and interest payments on such bonds as
19 provided by the authority in the resolution authorizing the
20 issuance of the revenue bonds.

21

22 **37-5-201. Legislative findings.**

23

24 (a) The legislature finds that:

1

2 (i) There are in Wyoming extensive reserves of
3 natural gas and associated natural resources and
4 insufficient pipeline facilities to allow for the efficient
5 marketing of or to warrant the development ~~and marketing~~ of
6 those reserves. Additional pipelines are necessary to
7 maximize the price received for natural gas and associated
8 natural resources produced in Wyoming;

9

10 (ii) Unless natural gas and associated natural
11 resource reserves are developed and marketed, ~~drilling~~
12 ~~activity and associated production operations will remain~~
13 ~~at the current low level for some years to come~~ employment
14 opportunities and revenue benefits accruing to the state
15 will suffer and an important national resource will not be
16 used;

17

18 (iii) ~~A lack of funds and incentives exists in~~
19 ~~The private sector to develop~~ has not developed sufficient
20 ~~new pipelines~~ pipeline capacity to transport the increased
21 natural gas ~~due to the present economy and existing~~
22 ~~depressed price for natural gas~~ production and associated
23 natural resources;

24

1 **37-5-202. Definitions.**

2

3 (a) As used in this act:

4

5 (iv) "Pipeline" means a ~~natural gas~~ pipeline and
6 related facilities constructed for the purpose of
7 transporting and treating natural gas and associated
8 natural resources;

9

10 (v) "Associated natural resource" means as
11 defined pursuant to W.S. 37-5-107(a)(i);

12

13 (vi) "Natural gas" means as defined in W.S.
14 37-5-107(a)(ii);

15

16 ~~(v)~~ (vii) "This act" means W.S. 37-5-201 through
17 37-5-208.

18

19 **37-5-203. Authority revenue bonds; issuance; amount.**

20

21 (a) The authority may issue bonds to finance pipeline
22 projects, which shall be located at least partially within
23 Wyoming, in an amount not to exceed ~~two hundred fifty~~
24 ~~million dollars (\$250,000,000.00) or fifty percent (50%) of~~

1 ~~the total cost of any single pipeline project, whichever is~~
2 ~~less~~ one billion dollars (\$1,000,000,000.00). The financing
3 of a pipeline project under this act, may include or
4 consist solely of the purchase of natural gas pipeline
5 capacity by the authority as authorized by subsection (n)
6 of this section. The authority is exempt from the
7 provisions of W.S. 37-5-102(d) to exercise the powers
8 granted by this act. The authority shall acquire no
9 ownership interest in any pipeline project financed
10 pursuant to this act, except to realize upon a security
11 interest. ~~The proceeds of the bonds shall not be made~~
12 ~~available to the pipeline owner until construction of the~~
13 ~~pipeline has been completed, and placed in service~~ or to
14 purchase capacity in the pipeline as authorized by
15 subsection (n) of this section.

16
17 (b) ~~When~~ The principal amount of any bonds ~~are issued~~
18 ~~under the authority of subsection (a) of this section, the~~
19 ~~total dollar principal amount on the face of the bonds~~
20 ~~shall be subtracted from the total authorization under~~
21 ~~subsection (a) of this section and may not again be~~
22 ~~reissued or reused even though the bonds have been retired,~~
23 ~~redeemed or refunded~~ which have been retired, redeemed,
24 defeased or refunded by the authority need not be taken

1 into account in computing compliance with the maximum
2 amounts of bonds authorized to be issued under subsection
3 (a) of this section.

4
5 (c) Subject to subsection (a) of this section, the
6 authority may issue bonds in principal amounts the
7 authority determines necessary to provide sufficient funds
8 for achieving its purposes under this act, including the
9 reduction of principal, the payment of interest, the
10 establishment of reserves, the costs of administration and
11 for the purpose of defraying all other associated costs.
12 All bonds issued under this act are negotiable instruments
13 under the laws of the state unless expressly provided to
14 the contrary on the face of the bonds. The authority may
15 enter into contracts to insure the payment of principal and
16 interest, for interest rate exchange contracts and for
17 financial guarantees or facilities to lower the cost of its
18 borrowing.

19
20 (d) All bonds issued by the authority are payable
21 solely out of special funds consisting of all or part of
22 its revenues, receipts, monies and assets, as designated in
23 the proceedings under which the bonds are authorized. The
24 bonds shall bear interest at ~~the~~ fixed or variable rates,

1 be executed and delivered at times and in denominations, be
2 of terms and maturities, be in bearer form or in registered
3 form as to principal and interest or principal alone, and
4 bear manual or facsimile signatures and seals as determined
5 by the authority. Bonds issued by the authority are not
6 general obligations of this state nor of any political
7 subdivision of this state. The bonds shall be solely the
8 obligation of the authority and shall recite on their face
9 that they do not constitute obligations of the state or any
10 political subdivisions of the state.

11

12 (e) Bonds may be payable in installments and may bear
13 maturities not exceeding ~~thirty (30)~~ fifty (50) years from
14 the date issued as determined by the authority.

15

16 (h) Any bonds ~~of the~~ issued under authority of this
17 section may be sold at, above or below par value, at public
18 or private sale, in a manner and from time to time as
19 determined by the authority. The authority may pay legal
20 fees, expenses, premiums and commissions which it finds
21 necessary or advantageous to this state in connection with
22 the issuance and sale.

23

1 (n) The authority may acquire, purchase, hold, use,
2 lease, license, sell, transfer and dispose of the right to
3 capacity in any pipeline system or systems within or
4 without the state of Wyoming in order to facilitate the
5 production, transportation, distribution or delivery of
6 natural gas and associated natural resources produced in
7 this state. The provisions of W.S. 37-5-102(d) shall not
8 apply to the authority in exercising any power pursuant to
9 this subsection.

10
11 **37-5-204. Authority revenue bonds; security; payments**
12 **after retirement.**

13
14 (a) Except as provided in subsection (d) of this
15 section, the principal and interest on any bonds issued by
16 the authority shall be secured by a pledge of revenues from
17 the operation of the pipeline financed and by a first
18 mortgage on the pipeline facilities and by such guarantees
19 and pledges of the entity owning the pipeline or of the
20 parent corporation owning said entity, if any, as the
21 pipeline owner or parent may extend to lenders of the
22 remaining debt financing. Such guarantees and pledges
23 shall be no less favorable to the authority than those
24 granted other lenders of the same class.

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37-5-206. Bonds as legal investments.

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(d) The board may authorize the issuance of bonds for the purpose of purchasing natural gas pipeline capacity as authorized by W.S. 37-5-203(n). Any bonds so issued shall be payable solely from and be secured solely by the pledge of the revenues derived from the subsequent sale, lease or other disposal of the capacity purchased or from bond proceeds. Bonds issued pursuant to this subsection shall be authorized in all respects as other bonds of the authority are herein required to be authorized. The board, in authorizing the bonds, shall provide for the security of the bonds, the sources from which the bonds are to be paid and for the rights of the holders thereof.

The bonds of the authority are legal investments which may be used as collateral for public funds of the state, insurance companies, banks, savings and loan associations, investment companies, trustees and other fiduciaries which may properly and legally invest funds in their control or belonging to them in bonds of the authority. With the written approval of the governor and the attorney general, the state treasurer ~~shall~~may invest monies from the

1 permanent Wyoming mineral trust fund in bonds of the
2 authority in an amount specified by the governor and the
3 attorney general but not to exceed the amount specified in
4 W.S. 37-5-203(a), and the interest payable on the bonds
5 invested in by the treasurer shall average over the
6 lifetime of the bonds to be at least four percent (4%) and
7 revenue under W.S. 37-5-204(b) shall be credited as
8 received to the state general fund.

9

10 **37-5-208. Powers; duties; limitations.**

11

12 (a) The authority has the powers granted by W.S.
13 37-5-101 through 37-5-106 as necessary to carry out the
14 purposes of this act including the power to hire technical
15 consultants, financial advisors and legal advisors and
16 specifically including the powers granted by W.S.
17 37-5-103(a) (ii). In addition to the powers otherwise
18 granted to the authority, in order to accomplish its
19 purposes, the authority shall have the power:

20

21 (i) To enter into loan agreements with respect
22 to one (1) or more projects upon the terms and conditions
23 the authority considers advisable;

24

1 (ii) Make and execute agreements, contracts, and
2 other instruments necessary or convenient in the exercise
3 of its powers and functions, including contracts, with any
4 individual, firm, corporation, governmental agency or other
5 entity.

6

7 **Section 3.** W.S. 37-5-203(k) and (m) and 37-5-208(e)
8 are repealed.

9

10 **Section 4.** This act is effective immediately upon
11 completion of all acts necessary for a bill to become law
12 as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

14

15

(END)