



Testimony of
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Public Hearing on HB 1568
House Veterans Affairs and Emergency Preparedness Committee
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Good morning, Chairman Barrar, Chairman Sainato and members of the committee. My name is Jonathan Fleming, and I am the Acting Director of the PennDOT Bureau of Maintenance and Operations. On behalf of Secretary Leslie Richards, I appreciate the opportunity to comment on HB 1568 and the proposal to establish a Pipeline Safety and Communications Board and repeal the Public Utility Confidential Security Information Disclosure Protection Act of 2006.

Pipeline safety is very important to the infrastructure and energy concerns of the Commonwealth. PennDOT concurs there is a need to ensure safe and transparent operation of underground utilities and pipelines and commends Representative Comitta for her leadership on this issue. PennDOT's primary point of engagement on pipeline issues is through the Underground Utility Line Protection Law ("the Act"), Act 287 of 1974, as amended, which provided for what we know as the "One Call System" and PennDOT was included in the development of Act 50 of 2017, which amended the Act. PennDOT holds a permanent position on the Board of Directors of the Pennsylvania One Call System.

Pipelines crossing a state highway are regulated by PennDOT and authorized via a highway occupancy permit similar to the way driveways are regulated and authorized via a highway occupancy permit. Often the pipeline owner/operator needs access on either side of the state highway to continue construction of their pipeline cross-country. PennDOT regulates the location of the pipeline to ensure the facility is being placed at a location where it minimizes possible interference and impairment to the highway, its structures and highway traffic. The construction of the pipeline is regulated to ensure that traffic is not unduly impaired and proper traffic control is in place while under construction for the safety of the traveling public and contractor, as well as to ensure the disturbed highway is restored

properly. Without these controls, we jeopardize preserving the safe operation, maintenance, construction and integrity of the highway

The intent of HB 1568, as drafted, is to establish transparency in pipeline operations and location through an appointed Commonwealth Agency-led Pipeline Safety and Communications Board. The Board will be empowered to collect and disseminate information pertaining to the planning, construction, operation, maintenance, management, inspection and safety of and the emergency response procedures for pipelines. The Board will coordinate communications relating to pipeline activities with federal, state, and local government, regulatory authorities, and pipeline companies. The Board will be allowed to disseminate information pertaining to pipelines currently available to Commonwealth Agencies but that was not allowed to be released generally under the Public Utility Confidential Security Information Disclosure Protection Act, Act 156 of 2006. HB 1568 directs the Board to refer any Right to Know Law requests received for information it has received from a Commonwealth Agency back to that Agency for response. In addition, the bill would repeal Act 156 of 2006, entitled the Public Utility Confidential Security Information Disclosure Protection Act.

Currently, pipeline operators are exempt from providing critical information to state and local governments, citing their ability to withhold information deemed critical to the protection of their pipelines. Pipelines are the only underground utility for which PennDOT, the Pennsylvania Emergency Management Agency (PEMA), and local Emergency Management Agencies each receive separate information regarding the types of product carried and the depth and location of pipelines running under and parallel to our highway network.

Pennsylvania highways require regular maintenance and reconstruction and are pathways for conventional underground and aboveground utilities. The ground under and around our infrastructure is frequently disturbed with digging for a variety of activities. Pipeline companies are the only utility that is not required to provide information, mark or locate their infrastructure outside of interstate highway crossings. Even with interstate highway crossings, pipelines are not required to locate their crossings when the placement of markers is not practical and would not serve the purpose for which the markers are intended. This information is not only critical to PennDOT to protect our infrastructure from accidental line strikes, it is also critical for municipal and state officials planning for the safe evacuation of Pennsylvania citizens along our rural and non-interstate highway network during emergency events.

Thus, PennDOT supports the open and free exchange of Commonwealth information pertaining to pipelines afforded by HB 1568.

However, while PennDOT believes that government agencies with a vested interest in protecting and maintaining Commonwealth assets should have all necessary information regarding any utility that occupies that asset - including pipelines – PennDOT is also concerned with what could be a much wider dissemination of this information under the proposed bill. As drafted, the bill empowers the Board to “collect and disseminate to the public information of Commonwealth agencies relative to the planning, siting, construction, operation, maintenance, management, inspection and safety of and emergency response procedures for pipelines” while simultaneously removing the protections afforded to the pipeline utilities under the Public Utility Confidential Security Information Disclosure Protection Act. Under current law, when a utility provides Confidential Security Information to an agency, the Public Utility Confidential Security Information Disclosure Protection Act allows the utility to designate utility records maintained by the agency as confidential because the disclosure of that information “would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, public property or public utility facilities.” While the Board and PennDOT could likely protect the disclosure of properly designated information under a Right to Know Law request, the present bill seems to give the Board discretion to disseminate all utility information without regard to any stated safety or confidentiality concerns.

Additionally, PennDOT would ask the committee to consider whether there are points of overlap that might be clarified between the role of the PA One Call Board of Directors (PA One Call Board), which is already active and familiar with the operations, location and mapping of conventional underground utilities, and the Board that would be created under this bill. The PA One Call Board currently includes representatives from PEMA, PennDOT, PUC, local government and utility owners identified in HB 1568. The PA One Call Board meets quarterly and has established subcommittees working on specific issues such as compliance, education, mapping and technology, damage prevention, local government as well as organizational support committees. PennDOT believes that it would be helpful to clarify the types of pipelines covered by the bill to avoid overlap with the role of PA One Call, and also to clarify the communication and information sharing that the Board would be doing so that we are not duplicating efforts.

It is in the public interest to regulate the location and construction of utility facilities, and to regulate the location, design, construction, maintenance and drainage of access driveways within state highway right-of-way, for the purpose of security, insuring the structural integrity of the highway, economy of maintenance, preservation of proper drainage, safe and convenient passage of traffic, and safe and reasonable access. The primary focus is public safety.

Thank you for your time today.