

Environment & Energy

Local Pipeline Protections Stymied by Bill Passed in Tennessee

By Zach Bright

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- Governor expected to sign it into law
 - Follows Memphis fight against Byhalia Pipeline
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A Tennessee bill that would cut the ability of cities and towns to stop oil and gas pipelines is headed to the desk of Gov. Bill Lee (R), who is expected to sign it.

The bill, S.B. 2077/H.B. 2246, would make local governments surrender considerable authority to the state over pipelines. Environmental advocates and some local officials said they fear the legislation could permit fossil fuel companies to build in disregard of certain regional rules.

The state House voted 68-25 Monday evening, following an earlier Senate vote of 22-7.

The Tennessee pipeline preemption bill followed the cancellation of the Byhalia Connection Pipeline, which was intended to transport oil from Memphis to Mississippi. Valero Energy Corp. and Plains All American Pipeline jointly proposed the 49-mile-long project, drawing environmentalists' opposition, but it was canceled last year.

Industry Victory

The Tennessee bill's advance is a win for the Tennessee Fuel and Convenience Store Association and state's Chamber of Commerce, who backed the bill to overcome ordinances that restricted development and permitting for pipelines and gas stations.

Bill opponents including the Southern Environmental Law Center said while they couldn't block the bill, they secured amendments to narrow the initial draft's scope and preserve some local power.

But some attorneys and environmental activists said other states could move as swiftly as Tennessee to pass bills preempting local fossil fuel law. They added it could exacerbate environmental injustice issues and hamper municipal plans to lower greenhouse gas emissions and tackle climate change.

"Is there a fear that this could slip through another state?" said George Nolan, senior attorney from the Southern Environmental Law Center. "There should be."

Needs at Risk

Rep. Kevin Vaughan (R), the bill's sponsor, said the legislation was needed because infrastructure—including pipelines, terminals, and pump stations—"extends well beyond the boundaries of any single local government" and "a complex patchwork of local government regulations" puts transportation, manufacturing, and energy needs at risk.

The Southern Environmental Law Center and other opponents said they won amendments to protect local groundwater regulations, retain aquifer and wellhead zone safeguards, and remove vague language, weakening the original bill that would have prevented any local zoning laws from affecting pipeline siting and development.

Even so, pipeline companies could use the bill to override certain local rules and prohibitions, Nolan said.

"The state's putting its thumb on the scale in favor of fossil fuels and against the idea of local control," he said.

Local Hands Tied?

Memphis City Councilor Jeff Warren, who sponsored and passed ordinances to protect the city from pipeline development, said that a "pattern" of preemption from the state legislature has tied the hands of local elected officials like himself.

"I think if you look at this nationwide, this is a problem in every red state that we have," Warren said.

And it could extend beyond pipelines—to any fossil fuel development—and beyond Tennessee, observers said.

"Every state, every county, every municipality needs to be looking out for this because it could easily happen to them," Climate Reality Project Organizer Duffy-Marie Arnoult said.

In 2021, the governors of Texas, Florida, Georgia, Ohio, and Missouri signed laws that preempted local regulations that prohibited natural gas hookups for new construction. With their signatures, 19 states in total have passed laws preempting those kinds of regulations.

Preemption can also be important to states looking to act on climate change. For instance, Washington state's 2021 Climate Commitment Act employs preemption to avoid a patchwork of local laws and streamline the process to meet climate goals.

Byhalia Pipeline

On the Byhalia Pipeline, Valero and Plains All American Pipeline sought to use eminent domain to acquire property from several predominantly Black neighborhoods in southwest Memphis.

Southwest Memphis communities like Boxtown are air pollution hotspots. Southwest Memphis' cumulative cancer risk, which was calculated to be four times higher than the national average, according to a 2013 article in the journal Atmospheric Environment.

"These projects don't go through white and wealthy parts of town," said Peter Conroy, senior writer for the Climate Reality Project.

Environmental groups protested and filed a suit to block the pipeline, which was dropped after the companies ultimately canceled the project.

To contact the reporter on this story: Zach Bright at zbright@bloombergindustry.com

To contact the editor responsible for this story: Renee Schoof at rschoof@bloombergindustry.com

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