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Fiery pipeline debate a certainty

By Paul Hammel and Martha Stoddard

WORLD-HERALD BUREAU

LINCOLN — Nebraskans will get a full-fledged legislative debate on the controversial Keystone XL pipeline.

But whether that discussion results in any laws that might reroute the massive crude-oil project around the state's unique Sand Hills is far from certain.

A legislative committee on Wednesday voted 7-1 to advance a pipeline routing bill to all 49 lawmakers, even though four members of the Natural Resources Committee said they didn't support the proposal.

The vote was described as a way to allow a public debate during the Legislature's special session while sidestepping, for now, conflicting legal opinions about whether Nebraska can influence the routing of the \$7 billion, 1,700-mile pipeline after three years of federal review.

That will be slugged out beginning Monday, when first-round debate begins.

"The people of Nebraska are paying \$10,000 a day for us to be down here. They expect a debate," said State Sen. Mike Flood of Norfolk, speaker of the Legislature. "It's going to be a debate like we've never seen before."

The vote capped three long days of public hearings in which tears, passion and frustration surfaced frequently.

During the hearings, representatives of pipeline developer TransCanada argued that all pipeline bills introduced in the special session were "unconstitutional, unfair and unnecessary" and would leave Nebraska vulnerable to expensive legal damages.

Meanwhile, lawyers representing the Sierra Club of Nebraska and another environmental group, Bold Nebraska, said the state has the right to protect its natural resources and should do so now — before an anticipated end-of-the-year decision on the project by the State Department.

The special session was sparked by concerns that the 36-inch, high-pressure pipeline would leak and contaminate the lakes and shallow groundwater that is common in the Sand Hills, an ecologically fragile area of grass-covered sand dunes in north-central Nebraska.

Gov. Dave Heineman, who supports a route that bypasses the Sand Hills and does not threaten the underlying Ogallala Aquifer, called lawmakers back into session, saying there may be a narrow legal window for the state to pass routing legislation.

Under the bill advanced Wednesday night, Heineman would get a chance to order a new route.

Legislative Bill 4 would require a review of any pipeline route by a 12-member committee of state and county officials and landowners. Within 60 days, they would recommend whether to approve or reject a pipeline's path.

The governor would then have 30 days to issue a final ruling.

The process was described as streamlined, so as to avoid legal claims that state regulations would violate the U.S. Constitution's interstate commerce clause by placing an undue burden on pipeline companies.

The bill also clarifies that pipeline companies cannot use eminent domain until they get state approval.

Sen. Chris Langemeier of Schuyler, sponsor of the bill and chairman of the Natural Resources Committee, has said it makes sense to put the state's highest elected official in charge of such a decision.

"This is a good starting point," said Langemeier. "At the end of the day, we might all say we still can't thread that (legal) needle."

Sen. Jim Smith of Papillion was the only "no" vote on advancing the bill, saying he had legal concerns about passing routing legislation that affected the Keystone XL project and giving the decision to a governor who opposes the route.

It's an issue that has drawn more controversy in Nebraska than any other state being crossed by the pipeline, sparking a string of environmental protests in Washington, D.C.

"We have the eyes of everyone, not just Nebraska but the nation, looking at us," Sen. Ken Schilz of Ogallala said. "If we would kill the bill in committee, people would be able to question the integrity of this Legislature."

Flood said LB 4 faces a "steep burden" in gathering support from 33 lawmakers — the number needed to enact a law immediately.

For the first time during the special session, some landowners testified that they had positive dealings with TransCanada and felt comfortable about a pipeline crossing their land.

"Some of it comes from knowing we need the oil as a country. Somebody's got to make that sacrifice," said Curt Carlson, who owns land in Hamilton and Merrick Counties.

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