

AMENDED IN SENATE APRIL 18, 2006

SENATE BILL

No. 1794

Introduced by Senators Dunn and Kehoe

February 24, 2006

An act to amend Section 216 of, and to add Sections 230.1~~and 230.2~~, 230.2, and 731 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1794, as amended, Dunn. Public utilities: refineries.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, as defined. The California Constitution authorizes the Legislature to prescribe that additional classes of private corporations or other persons are public utilities. Under the existing Public Utilities Act, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public.

This bill would make a refinery corporation, as defined, a public utility for purposes of the act. *The bill would provide that the commission's regulatory authority over a refinery, as defined, and a refinery corporation does not include the authority to establish rates for refinery products.*

(2) Under existing law, a violation of any provision of the Public Utilities Act or of any of the rules or orders issued by the commission, is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission relative

to a refinery corporation would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Gasoline and other refined petroleum products are basic
4 necessities for California's residents and businesses.

5 (b) High prices for gasoline and other refined petroleum
6 products harm California residents and the economy.

7 (c) The California Constitution provides that private persons
8 and corporations that own, operate, control, or manage a line,
9 plant, or system for furnishing heat, light, and power directly or
10 indirectly to or for the public, are public utilities, and that the
11 Legislature may prescribe that additional classes of private
12 corporations or other persons are public utilities.

13 (d) Persons and corporations that own, control, operate, or
14 manage oil refineries in California are public utilities, and it is in
15 the public interest for the Public Utilities Commission to regulate
16 oil refineries.

17 SEC. 2. Section 216 of the Public Utilities Code is amended
18 to read:

19 216. (a) "Public utility" includes every common carrier, toll
20 bridge corporation, pipeline corporation, refinery corporation,
21 gas corporation, electrical corporation, telephone corporation,
22 telegraph corporation, water corporation, sewer system
23 corporation, and heat corporation, where the service is performed
24 for, or the commodity is delivered to, the public or any portion
25 thereof.

26 (b) Whenever any common carrier, toll bridge corporation,
27 pipeline corporation, refinery corporation, gas corporation,

1 electrical corporation, telephone corporation, telegraph
2 corporation, water corporation, sewer system corporation, or heat
3 corporation performs a service for, or delivers a commodity to,
4 the public or any portion thereof for which any compensation or
5 payment whatsoever is received, that common carrier, toll bridge
6 corporation, pipeline corporation, refinery corporation, gas
7 corporation, electrical corporation, telephone corporation,
8 telegraph corporation, water corporation, sewer system
9 corporation, or heat corporation, is a public utility subject to the
10 jurisdiction, control, and regulation of the commission and the
11 provisions of this part.

12 (c) When any person or corporation performs any service for,
13 or delivers any commodity to, any person, private corporation,
14 municipality, or other political subdivision of the state, that in
15 turn either directly or indirectly, mediately or immediately,
16 performs that service for, or delivers that commodity to, the
17 public or any portion thereof, that person or corporation is a
18 public utility subject to the jurisdiction, control, and regulation of
19 the commission and the provisions of this part.

20 (d) Ownership or operation of a facility that employs
21 cogeneration technology or produces electricity from other than a
22 conventional power source or the ownership or operation of a
23 facility which employs landfill gas technology does not make a
24 corporation or person a public utility within the meaning of this
25 section solely because of the ownership or operation of that
26 facility.

27 (e) Any corporation or person engaged directly or indirectly in
28 developing, producing, transmitting, distributing, delivering, or
29 selling any form of heat derived from geothermal or solar
30 resources or from cogeneration technology to any privately
31 owned or publicly owned public utility, or to the public or any
32 portion thereof, is not a public utility within the meaning of this
33 section solely by reason of engaging in any of those activities.

34 (f) The ownership or operation of a facility that sells
35 compressed natural gas at retail to the public for use only as a
36 motor vehicle fuel, and the selling of compressed natural gas at
37 retail from that facility to the public for use only as a motor
38 vehicle fuel, does not make the corporation or person a public
39 utility within the meaning of this section solely because of that
40 ownership, operation, or sale.

(g) Ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission as an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (Chapter 2C (commencing with Section 79) of Title 15 of the United States Code) does not make a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.

(h) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into the Power Exchange referred to in Section 365, or the use or sale as permitted under subdivisions (b) to (d), inclusive, of Section 218, shall not make a corporation or person a public utility within the meaning of this section solely because of that ownership, participation, or sale.

SEC. 3. Section 230.1 is added to the Public Utilities Code, to read:

230.1. "Refinery corporation" includes every corporation or person owning, controlling, operating, or managing any refinery for compensation within this state.

SEC. 4. Section 230.2 is added to the Public Utilities Code, to read:

230.2. "Refinery" means any plant or facility, regardless of capacity, for the processing of crude oil feedstock or the manufacturing of oil products, for sale to or use by the public.

SEC. 5. *Section 731 is added to the Public Utilities Code, to read:*

731. The commission's regulatory authority over a refinery and a refinery corporation does not include the authority to establish rates for refinery products.

~~SEC. 5.~~

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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