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AMENDED IN SENATE AUGUST 6, 2012
AMENDED IN SENATE JUNE 14, 2012
AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY MAY 2, 2012
AMENDED IN ASSEMBLY APRIL 19, 2012
AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1900

**Introduced by Assembly Members Gatto, Chesbro, and
Roger Hernández
(Coauthors: Assembly Members Gordon and Skinner)
(Coauthors: Senators Cannella and Liu)**

February 22, 2012

An act to amend ~~Sections~~ *Section 25420 of*, and to repeal and add *Section 25421 of*, the Health and Safety Code, to add Section 25326 to the Public Resources Code, and to add Sections 399.24 and 769 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Gatto. Renewable energy resources: biomethane.

Existing

(1) Existing law requires the Public Utilities Commission (PUC) to specify the maximum amount of vinyl chloride that may be found in

landfill gas. Existing law prohibits a gas producer from knowingly selling, supplying, or transporting to a gas corporation, and a gas corporation from knowingly purchasing, landfill gas containing vinyl chloride in a concentration exceeding the maximum amount determined by the PUC. Existing law requires a person who produces, sells, supplies, or releases landfill gas for sale offsite to a gas corporation to sample and test, bimonthly, the gas at the point of distribution for chemicals known to the state to cause cancer or reproductive toxicity.

Existing law requires the Office of Environmental Health Hazard Assessment (OEHHA) to evaluate the environmental and health risks posed by various hazardous substances.

~~This bill would require OEHHA to identify all constituents that may be found in landfill gas that is to be injected into a common carrier pipeline and that could adversely impact the health and safety of the public, and to specify the maximum amount of those constituents that may be found in that landfill gas. This bill would require the PUC to develop reasonable and prudent testing protocols for gas collected from a solid waste landfill that is to be injected into a common carrier pipeline to determine if the gas contains any of the identified constituents at levels that exceed the standards set by OEHHA. This bill would prohibit a gas producer from knowingly selling, supplying, transporting, or purchasing gas collected from a hazardous waste landfill, in consultation with the State Air Resources Board, the Department of Toxic Substances Control, the Department of Resources Recycling and Recovery, and the California Environmental Protection Agency, to compile a list of constituents of concern that could pose risks to human health and that are found in biogas, as defined, at concentrations that significantly exceed the concentrations of those constituents in natural gas. The bill would require OEHHA to determine the health protective levels for that list, as specified, and would require the state board to identify realistic exposure scenarios and the health risks associated with those scenarios, as specified. The bill would require the state board to determine the appropriate concentrations of those constituents, as specified. The bill would also provide that actions taken pursuant to the above-described requirements do not constitute regulations and are exempt from the Administrative Procedure Act.~~

The bill would further require the PUC to adopt, by rule or order, (1) standards for biomethane that specify the concentrations of constituents of concern that are reasonably necessary to protect public health and ensure pipeline integrity and safety, as specified, and (2)

requirements for monitoring, testing, reporting, and recordkeeping, as specified. The bill would require a gas corporation, as defined, to comply with those standards and requirements. The bill would require the PUC to require gas corporation tariffs to condition access to common carrier pipelines on the applicable customer meeting those standards and requirements. The bill would also prohibit a person and a gas corporation from knowingly engaging in specified transactions involving common carrier pipelines and biogas collected from a hazardous waste landfill, as defined.

The

(2) *The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to prepare an integrated energy policy report on or before November 1, 2003, and every 2 years thereafter. The act requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment.*

This bill would require the Energy Commission to hold public hearings to identify impediments that limit procurement of electricity generated from biomethane in California, including, but not limited to, impediments to interconnection. The bill would require the Energy Commission to offer solutions to those impediments as part of the above-mentioned report.

This

(3) *This bill would require the PUC to adopt policies and programs that promote the in-state production and distribution of biomethane.*

Existing

(4) *Existing law allows the PUC to set heating and purity requirements for biomethane injected into a gas pipeline. Existing law allows gas corporations to impose tariffs on biomethane injected into their pipelines.*

This bill would require the PUC to adopt pipeline access rules that will ensure nondiscriminatory open access to each corporation's gas pipeline system to any party for the purpose of physically interconnecting with the gas pipeline system and effectuating the delivery of gas ensure that each gas corporation provides nondiscriminatory open access to its gas pipeline system to any party

for the purposes of physically interconnecting with the gas pipeline system and effectuating the delivery of gas.

~~This bill would make other conforming changes.~~

(5) ~~This bill would become operative only if this bill and AB 2196 of the 2011–12 Regular Session are both enacted and become effective on or before January 1, 2013.~~

~~Under~~

(6) ~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.~~

Because this bill would require action by the PUC to implement certain of its requirements, a violation of which would be a crime, these provisions 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.

~~This bill would become operative only if this bill and AB 2196 of the 2011–12 Regular Session are both enacted and become effective on or before January 1, 2013.~~

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. Section 25420 of the Health and Safety Code is
 2 amended to read:
 3 25420. For purposes of this chapter, the following definitions
 4 apply:
 5 (a) ~~“Commission” means the Public Utilities Commission.~~
 6 (b) ~~“Delivery of landfill gas by dedicated pipeline” means gas~~
 7 ~~captured at a solid waste facility and transported from that site to~~
 8 ~~an eligible renewable energy resource, as defined in the California~~
 9 ~~Renewables Portfolio Standard Program (Article 16 (commencing~~
 10 ~~with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the~~
 11 ~~Public Utilities Code), that utilizes best available control~~
 12 ~~technology for the control of air pollutants, using a pipeline that~~
 13 ~~is not a common carrier pipeline used to transport natural gas to~~

1 ~~customers other than the eligible renewable energy resource, or~~
2 ~~otherwise subject to the jurisdiction of the commission.~~

3 (a) *“Biogas” means gas that is produced from the anaerobic*
4 *decomposition of organic material.*

5 (b) *“Biomethane” means biogas that meets the standards*
6 *adopted pursuant to subdivisions (c) and (d) of Section 25421 for*
7 *injection into a common carrier pipeline.*

8 (c) *“Board” means the State Air Resources Board.*

9 (d) *“CalRecycle” means the Department of Resources Recycling*
10 *and Recovery.*

11 (e) *“Commission” means the Public Utilities Commission.*

12 (f) *“Common carrier pipeline” means a gas conveyance*
13 *pipeline, located in California, that is owned or operated by a*
14 *utility or gas corporation, excluding a dedicated pipeline.*

15 (g) *“Dedicated pipeline” means a conveyance of biogas or*
16 *biomethane that is not part of a common carrier pipeline system,*
17 *and which conveys biogas from a biogas producer to a conditioning*
18 *facility or an electrical generation facility.*

19 ~~(e)~~

20 (h) *“Department” means the Department of Toxic Substances*
21 *Control.*

22 ~~(d)~~

23 (i) *“Gas corporation” has the same meaning as defined in Section*
24 *222 of the Public Utilities Code and is subject to rate regulation*
25 *by the commission.*

26 ~~(e)~~

27 (j) *“Hazardous waste landfill” means a landfill that is a*
28 *hazardous waste facility, as defined in Section 25117.1.*

29 ~~(f)~~

30 (k) *“Office” means the Office of Environmental Health Hazard*
31 *Assessment.*

32 ~~(g)~~

33 (l) *“Person” means an individual, trust, firm, joint stock*
34 *company, partnership, association, business concern, limited*
35 *liability company, or corporation. “Person” also includes any city,*
36 *county, district, and the state or any department or agency thereof,*
37 *or the federal government or any department or agency thereof to*
38 *the extent permitted by law.*

39 ~~(h) “Solid waste landfill” means a landfill that is a solid waste~~
40 ~~facility, as defined in Section 40194 of the Public Resources Code,~~

1 or at which solid waste, as defined in Section 40191 of the Public
2 Resources Code, is disposed.

3 SEC. 2. Section 25421 of the Health and Safety Code is
4 amended to read:

5 25421. (a) (1) The office shall, by rule or order, identify all
6 constituents that may be found in landfill gas that is to be injected
7 into a common carrier pipeline and that could adversely impact
8 the health and safety of the public. Potential impacts include, but
9 are not limited to, health and safety hazards to utility employees
10 or to the general public, damage to pipeline facilities, and other
11 impacts that may inhibit the marketability of gas.

12 (2) The office shall, by rule or order, specify the maximum
13 amount of constituents identified pursuant to paragraph (1) that
14 may be found in landfill gas that is to be injected into a common
15 carrier pipeline. The maximum amount adopted by the office shall
16 not exceed the equivalent of the no significant risk level set in
17 Section 25705 of Title 27 of the California Code of Regulations
18 for constituents that are specified in that section.

19 (3) The office shall provide the commission with the information
20 required by this subdivision for the commission to implement this
21 section.

22 (b) The office shall make findings that are sufficient to ensure
23 that the standards adopted pursuant to subdivision (a) do not do
24 either of the following:

25 (1) Expose any customer, employee, or other person to landfill
26 gas if that gas contains any chemical known to the state to cause
27 cancer or reproductive toxicity without first giving clear and
28 reasonable warning to that individual, except as provided by
29 Section 25249.10.

30 (2) Expose a natural gas pipeline to an unreasonable risk of
31 harm to pipeline integrity.

32 (c) The commission shall develop reasonable and prudent testing
33 protocols for gas collected from a solid waste landfill that is to be
34 injected into a common carrier pipeline to determine if the gas
35 contains any of the constituents that the office has identified
36 pursuant to subdivision (a) at levels that exceed the standards set
37 by the office.

38 (1) Recognizing the potential environmental benefits of landfill
39 gas that satisfies required standards and specifications, the
40 commission shall ensure that the protocols it adopts pursuant to

1 ~~this subdivision provide for efficient testing procedures that~~
2 ~~accurately, and, where needed, continuously, identify levels of~~
3 ~~constituents in landfill gas that is to be injected into a common~~
4 ~~carrier pipeline.~~

5 ~~(2) Every person who produces, sells, supplies, or releases gas~~
6 ~~collected at a solid waste landfill, that is to be injected into a~~
7 ~~common carrier pipeline for sale offsite to a gas corporation or~~
8 ~~noncore customer, shall comply with the standards and testing~~
9 ~~protocols set by the commission.~~

10 ~~(d) (1) A gas producer shall ensure that landfill gas it seeks to~~
11 ~~inject into a pipeline satisfies the standards set by the office~~
12 ~~pursuant to subdivision (a). A gas corporation shall administer~~
13 ~~testing protocols consistent with those standards, and shall not~~
14 ~~knowingly accept landfill gas that does not satisfy those standards.~~

15 ~~(2) A gas producer shall not knowingly sell, supply, or transport~~
16 ~~gas collected from a hazardous waste landfill to a gas corporation.~~
17 ~~A gas corporation shall not knowingly purchase gas collected from~~
18 ~~a hazardous waste landfill.~~

19 ~~(e) This section does not prohibit the onsite usage of landfill~~
20 ~~gas for the generation of electricity or any other onsite productive~~
21 ~~use by an eligible renewable energy resource, or the delivery of~~
22 ~~landfill gas by a dedicated pipeline for the generation of electricity,~~
23 ~~the production of steam, or any other productive use or other~~
24 ~~industrial applications.~~

25 ~~SEC. 2. Section 25421 of the Health and Safety Code is~~
26 ~~repealed.~~

27 ~~25421. (a) Until the rule or order specified in subdivision (b)~~
28 ~~is adopted, no gas producer shall knowingly sell, supply, or~~
29 ~~transport landfill gas to a gas corporation, and no gas corporation~~
30 ~~shall knowingly purchase landfill gas, if that gas contains vinyl~~
31 ~~chloride in a concentration that exceeds the operative no significant~~
32 ~~risk level set forth in Article 7 (commencing with Section 12701)~~
33 ~~of Chapter 3 of Division 2 of Title 22 of the California Code of~~
34 ~~Regulations.~~

35 ~~(b) On or before January 1, 1990, the Public Utilities~~
36 ~~Commission shall, by rule or order, specify the maximum amount~~
37 ~~of vinyl chloride that may be found in landfill gas pursuant to the~~
38 ~~requirements of subdivision (a).~~

39 ~~(c) No gas corporation shall knowingly and intentionally expose~~
40 ~~any customer, employee, or other person to gas from a landfill if~~

1 that gas contains any chemical known to the state to cause cancer
2 or reproductive toxicity without first giving clear and reasonable
3 warning to that individual, except as provided by Section 25249.10.

4 (d) Every person who produces, sells, supplies, or releases
5 landfill gas for sale offsite to a gas corporation shall, twice each
6 month, sample and test the gas at the point of distribution for the
7 presence of chemicals known to the state to cause cancer or
8 reproductive toxicity in accordance with the test guidelines
9 prepared under Section 41805.5. The air pollution control district
10 or air quality management district within which the landfill is
11 situated shall review the testing procedures for compliance with
12 the guidelines and require the correction of any deficiencies. The
13 district shall require, among other things, that the gas be analyzed
14 by a laboratory certified by the department and shall transmit the
15 results of the analysis to the department for its determination of
16 compliance or noncompliance with subdivisions (a) and (b). The
17 department shall fix and impose upon the gas producer a fee to
18 cover its costs under this subdivision. The results of each sample
19 and test shall be reported promptly to the gas corporation to which
20 the landfill gas is sold, and any person or public agency requesting
21 a copy of the report.

22 (e) Nothing in this section prohibits the direct delivery of landfill
23 gas for the generation of electricity, the production of steam, or
24 other industrial application.

25 (f) The gas corporation shall obtain the results of the test
26 conducted pursuant to subdivision (d) and shall purchase no gas
27 which the test shows to contain vinyl chloride that exceeds the
28 amount permitted in subdivision (a), or if the rule or order has
29 been adopted, as specified in subdivision (b).

30 (g) This section applies only to landfill gas delivered to the
31 pipeline of a gas corporation.

32 *SEC. 3. Section 25421 is added to the Health and Safety Code,*
33 *to read:*

34 *25421. (a) On or before May 15, 2013, all of the following*
35 *shall be completed:*

36 *(1) The office, in consultation with the board, the department,*
37 *CalRecycle, and the California Environmental Protection Agency,*
38 *shall compile a list of constituents of concern that could pose risks*
39 *to human health and that are found in biogas at concentrations*
40 *that significantly exceed the concentrations of those constituents*

1 *in natural gas. The office, in consultation with the board, the*
2 *department, CalRecycle, and the California Environmental*
3 *Protection Agency, shall update this list at least every five years.*

4 *(2) The office shall determine health protective levels for the*
5 *list of constituents of concern identified pursuant to paragraph*
6 *(1). In determining those health protective levels, the office shall*
7 *consider potential health impacts and risks, including, but not*
8 *limited to, health impacts and risks to utility workers and gas end*
9 *users. The office shall update these levels at least every five years.*

10 *(3) The board shall identify realistic exposure scenarios and,*
11 *in consultation with the office, shall identify the health risks*
12 *associated with the exposure scenarios for the constituents of*
13 *concern identified by the office pursuant to paragraph (1). The*
14 *board shall update the exposure scenarios, and, in consultation*
15 *with the office, the health risks associated with the exposure*
16 *scenarios, at least every five years.*

17 *(4) Upon completion of the responsibilities required pursuant*
18 *to paragraphs (1) through (3), the board, in consultation with the*
19 *office, the department, CalRecycle, and the California*
20 *Environmental Protection Agency shall determine the appropriate*
21 *concentrations of constituents of concern. In determining those*
22 *concentrations, the board shall use the health protective levels*
23 *identified pursuant to paragraph (2) and the exposure scenarios*
24 *identified pursuant to paragraph (3). The concentrations shall be*
25 *updated at least every five years by the board in consultation with*
26 *the office, the department, CalRecycle, and the California*
27 *Environmental Protection Agency.*

28 *(5) The board, in consultation with the office, the department,*
29 *CalRecycle, and the California Environmental Protection Agency,*
30 *shall identify reasonable and prudent monitoring, testing,*
31 *reporting, and recordkeeping requirements, separately for each*
32 *source of biogas, that are sufficient to ensure compliance with the*
33 *health protective standards adopted pursuant to subdivision (d).*
34 *The board, in consultation with the office, the department,*
35 *CalRecycle and the California Environmental Protection Agency*
36 *shall update the monitoring, testing, reporting, and recordkeeping*
37 *requirements at least every five years.*

38 *(b) Actions taken pursuant to subdivision (a) shall not constitute*
39 *regulations and shall be exempt from the administrative regulations*
40 *and rulemaking provisions of the Administrative Procedure Act*

1 *(Chapter 3.5 (commencing with Section 11340) of Division 2 of*
 2 *Title 2 of the Government Code).*

3 *(c) On or before September 15, 2013, for biomethane that is to*
 4 *be injected into a common carrier pipeline, the commission shall,*
 5 *by rule or order, adopt standards that specify, for constituents that*
 6 *may be found in that biomethane, concentrations that are*
 7 *reasonably necessary to ensure both of the following:*

8 *(1) The protection of human health. In making this specification,*
 9 *the commission shall give due deference to the determinations of*
 10 *the board pursuant to paragraph (4) of subdivision (a).*

11 *(2) Pipeline and pipeline facility integrity and safety.*

12 *(d) To ensure pipeline and pipeline facility integrity and safety,*
 13 *on or before September 15, 2013, the commission, giving due*
 14 *deference to the board's determinations, shall, by rule or order,*
 15 *adopt the monitoring, testing, reporting, and recordkeeping*
 16 *requirements identified pursuant to paragraph (5) of subdivision*
 17 *(a).*

18 *(e) Every five years, or earlier if new information becomes*
 19 *available, the commission shall review and update the standards*
 20 *for the protection of human health and pipeline integrity and safety*
 21 *adopted pursuant to subdivision (c), as well as the monitoring,*
 22 *testing, reporting, and recordkeeping requirements adopted*
 23 *pursuant to subdivision (d).*

24 *(f) (1) A person shall not inject biogas into a common carrier*
 25 *pipeline unless the biogas satisfies both the standards set by the*
 26 *commission pursuant to subdivision (c), as well as the monitoring,*
 27 *testing, reporting, and recordkeeping requirements of subdivision*
 28 *(d).*

29 *(2) The commission shall require gas corporation tariffs to*
 30 *condition access to common carrier pipelines on the applicable*
 31 *customer meeting the standards and requirements adopted by the*
 32 *commission pursuant to subdivisions (c) and (d).*

33 *(g) (1) A person shall not knowingly sell, supply, or transport,*
 34 *or knowingly cause to be sold, supplied, or transported, biogas*
 35 *collected from a hazardous waste landfill to a gas corporation*
 36 *through a common carrier pipeline.*

37 *(2) A gas corporation shall not knowingly purchase gas*
 38 *collected from a hazardous waste landfill through a common*
 39 *carrier pipeline.*

1 ~~SEC. 3.~~

2 ~~SEC. 4.~~ Section 25326 is added to the Public Resources Code,
3 to read:

4 25326. (a) The commission shall hold public hearings to
5 identify impediments that limit procurement of electricity generated
6 from biomethane in California, including, but not limited to,
7 impediments to interconnection. The commission shall offer
8 solutions to those impediments as part of the integrated energy
9 policy report prepared pursuant to Section 25302.

10 (b) For the purposes of this section, “biomethane” means ~~landfill~~
11 ~~gas or digester gas, consistent with subdivision (a) of Section 25741~~
12 *biogas that meets the standards adopted pursuant to subdivisions*
13 *(c) and (d) of Section 25421 of the Health and Safety Code for*
14 *injection into a common carrier pipeline.*

15 ~~SEC. 4.~~

16 ~~SEC. 5.~~ Section 399.24 is added to the Public Utilities Code,
17 to read:

18 399.24. (a) To meet the energy and transportation needs of
19 the state, the commission shall adopt policies and programs that
20 promote the in-state production and distribution of biomethane.
21 The policies and programs shall facilitate the development of a
22 variety of sources of in-state biomethane.

23 (b) For the purposes of this section, “biomethane” means ~~landfill~~
24 ~~gas or digester gas, consistent with subdivision (a) of Section 25741~~
25 ~~of the Public Resources Code~~ *biogas that meets the standards*
26 *adopted pursuant to subdivisions (c) and (d) of Section 25421 of*
27 *the Health and Safety Code for injection into a common carrier*
28 *pipeline.*

29 ~~SEC. 5.~~

30 ~~SEC. 6.~~ Section 769 is added to the Public Utilities Code, to
31 read:

32 769. For each gas corporation, the commission shall adopt
33 pipeline access rules that ~~will ensure nondiscriminatory open access~~
34 ~~to each corporation’s gas pipeline system to any party for the~~
35 ~~purpose of physically interconnecting with the gas pipeline system~~
36 ~~and effectuating the delivery of gas~~ *ensure that each gas*
37 *corporation provides nondiscriminatory open access to its gas*
38 *pipeline system to any party for the purposes of physically*
39 *interconnecting with the gas pipeline system and effectuating the*
40 *delivery of gas.*

1 ~~SEC. 6.~~

2 *SEC. 7.* This act shall become operative only if this act and
3 Assembly Bill 2196 of the 2011–12 Regular Session are both
4 enacted and become effective on or before January 1, 2013.

5 ~~SEC. 7.~~

6 *SEC. 8.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.