

Assembly Bill No. 1900

CHAPTER 602

An act to amend 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 784 to the Public Utilities Code, relating to energy.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, Gatto. Renewable energy resources: biomethane.

(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, 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.

(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 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.

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

(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 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.

(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.

(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.

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

SECTION 1. Section 25420 of the Health and Safety Code is amended to read:

25420. For purposes of this chapter, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The office, in consultation with the board, the department, CalRecycle, and the California Environmental Protection Agency, shall compile a list of constituents of concern that could pose risks to human health and that are found in biogas at concentrations that significantly exceed the concentrations of those constituents in natural gas. The office, in consultation with the board, the department, CalRecycle, and the California Environmental Protection Agency, shall update this list at least every five years.

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

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

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

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

(b) Actions taken pursuant to subdivision (a) shall not constitute regulations and shall be exempt from the administrative regulations and rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 2 of Title 2 of the Government Code).

(c) On or before December 31, 2013, for biomethane that is to be injected into a common carrier pipeline, the commission shall, by rule or order, adopt standards that specify, for constituents that may be found in that biomethane, concentrations that are reasonably necessary to ensure both of the following:

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

(2) Pipeline and pipeline facility integrity and safety.

(d) To ensure pipeline and pipeline facility integrity and safety, on or before December 31, 2013, the commission, giving due deference to the board's determinations, shall, by rule or order, adopt the monitoring, testing,

reporting, and recordkeeping requirements identified pursuant to paragraph (5) of subdivision (a).

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

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

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

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

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

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

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

(b) For the purposes of this section, “biomethane” means biogas that meets the standards adopted pursuant to subdivisions (c) and (d) of Section 25421 of the Health and Safety Code for injection into a common carrier pipeline.

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

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

(b) For the purposes of this section, “biomethane” means biogas that meets the standards adopted pursuant to subdivisions (c) and (d) of Section 25421 of the Health and Safety Code for injection into a common carrier pipeline.

SEC. 6. Section 784 is added to the Public Utilities Code, to read:

784. For each gas corporation, the commission shall adopt pipeline access rules that 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.

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

SEC. 8. 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 crime within the meaning of Section 6 of Article XIII B of the California Constitution.