

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 216

Introduced by Senator Yee

(Coauthors: Assembly Members Blumenfield, Ma, and Portantino)

February 9, 2011

An act to add ~~Section 770.6~~ to *Chapter 4.5 (commencing with Section 950) to Part 1 of Division 1 of the Public Utilities Code*, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 216, as amended, Yee. Public utilities: intrastate natural gas pipeline safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations.

Existing federal law requires the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) to adopt minimum safety standards for pipeline transportation and for pipeline facilities, including an interstate gas pipeline facility and intrastate gas pipeline facility, as defined. Existing law authorizes the United States Secretary of Transportation to prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a state authority that annually submits to the secretary a certification for the facilities and transportation or, alternatively, authorizes the secretary to make an agreement with a state

authority authorizing it to take necessary action to meet certain pipeline safety requirements. Existing law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Existing law authorizes a state authority that has submitted a current certification to adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed by the PHMSA. Existing federal law additionally authorizes a state authority to enforce a requirement for a one-call notification program that meets the requirements established by the PHMSA.

This bill would designate the commission as the state authority responsible for *regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines* ~~and for the implementation and enforcement of a one-call notification program for the state~~. The bill would require the commission to evaluate current practices and to determine whether compatible *transmission* safety standards, as defined, should be adopted for the enhancement of public safety with respect to: ~~(1) the proximity of pipelines carrying liquid materials to commission-regulated gas pipeline facilities, as defined, and (2) the installation, maintenance, location, and type of sectionalized block valves on commission-regulated gas pipeline facilities that are intrastate transmission lines, as defined.~~ The bill would require the commission, unless it determines that doing so is preempted under federal law, to ~~adopt compatible safety standards that require the installation of automatic shut-off or remote controlled sectionalized block valves on all commission-regulated gas pipeline facilities intrastate transmission lines~~ that are located in a high consequence area, as defined, or that traverse an active seismic earthquake fault. The bill would require the commission, in consultation with the PHMSA, to ~~adopt and enforce compatible safety standards, as defined, for commission-regulated gas pipeline facilities that the commission determines should be adopted following its evaluation or as required by the bill~~ *the owner or operator of a commission-regulated gas pipeline facility that is an intrastate transmission line to provide the commission with a valve location plan, along with any recommendations for valve locations, and would authorize the commission to make modifications to the valve location plan.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of 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 implementing its requirements 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.—Section 770.6 is added to the Public Utilities~~
2 ~~Code, to read:~~
3 ~~770.6.—(a) For purposes of this section, the following terms~~
4 ~~have the following meanings:~~
5 ~~(1) “Class 1 location,” “class 2 location,” “class 3 location,”~~
6 ~~and “class 4 location” have those meanings as defined in the~~
7 ~~regulations adopted by the United States Department of~~
8 ~~Transportation pursuant to Chapter 601 (commencing with Section~~
9 ~~60101) of Subtitle VIII of Title 49 of the United States Code (49~~
10 ~~C.F.R. 192.5, as adopted January 1, 2011, or a successor~~
11 ~~regulation).~~
12 ~~(2) “Commission-regulated gas pipeline facility” means an~~
13 ~~intrastate gas pipeline facility, as defined in Section 60101 of Title~~
14 ~~49 of the United States Code, that transports natural gas and is~~
15 ~~subject to the regulatory authority of the commission, including a~~
16 ~~pipeline that the commission, pursuant to subsection (c) of Section~~
17 ~~717 of Title 15 of the United States Code, has certified to the~~
18 ~~Federal Energy Regulatory Commission as being subject to the~~
19 ~~regulatory jurisdiction of the commission over rates and service.~~
20 ~~“Commission-regulated gas pipeline facility” does not include~~
21 ~~those pipelines that are excluded from regulation by the Federal~~
22 ~~Energy Regulatory Commission pursuant to subsection (b) of~~

1 Section 717 of Title 15 of the United States Code because they are
 2 facilities used for the distribution of natural gas.

3 (3) “Compatible safety standards” means additional or more
 4 stringent safety standards for commission-regulated gas pipeline
 5 facilities that are compatible with the minimum safety standards
 6 adopted by the United States Department of Transportation
 7 pursuant to Chapter 601 (commencing with Section 60101) of
 8 Subtitle VIII of Title 49 of the United States Code, and that the
 9 commission is authorized to adopt pursuant to subsection (c) of
 10 Section 60104 of that chapter.

11 SECTION 1. Chapter 4.5 (commencing with Section 950) is
 12 added to Part 1 of Division 1 of the Public Utilities Code, to read:

13
 14 *CHAPTER 4.5. GAS PIPELINE SAFETY*

15
 16 *Article 1. General*

17
 18 950. For purposes of this chapter, the following terms have
 19 the following meanings:

20 (a) “Commission-regulated gas pipeline facility” means an
 21 intrastate gas pipeline facility as defined in Section 60101 of Title
 22 49 of the United States Code, that is subject to the safety regulatory
 23 authority of the commission, including each of the following
 24 pipelines:

25 (1) An intrastate distribution line, which is a pipeline that is
 26 not subject to the jurisdiction of the Federal Energy Regulatory
 27 Commission pursuant to Section 717(b) of Title 15 of the United
 28 States Code because it is used for the local distribution of natural
 29 gas.

30 (2) An intrastate transmission line, which is a transmission
 31 pipeline that the commission, pursuant to Section 717(c) of Title
 32 15 of the United States Code, has certified to the Federal Energy
 33 Regulatory Commission as being subject to the regulatory
 34 jurisdiction of the commission over rates and service. For these
 35 purposes, a transmission pipeline means a pipeline other than a
 36 gathering line that: (A) transports gas from a gathering line or
 37 storage facility to a distribution center, storage facility, or large
 38 volume customer that is not down-stream from a distribution
 39 center; (B) operates at a hoop stress of 20 percent or more of

1 *specified maximum yield strength, or (C) transports gas within a*
2 *storage field.*

3 *(3) An intrastate gathering line, which is a pipeline that*
4 *transports gas from a current production facility to a transmission*
5 *line or main.*

6 *(4) A mobilehome park master-metered natural gas distribution*
7 *system that is subject to the commission’s safety inspection and*
8 *enforcement program pursuant to Chapter 4 (commencing with*
9 *Section 4351) of Division 2.*

10 *(5) A propane distribution system that is subject to the*
11 *commission’s safety inspection and enforcement program pursuant*
12 *to Chapter 4.1 (commencing with Section 4451) of Division 2.*

13 *(b) “Compatible transmission safety standards” means safety*
14 *standards that are applicable to an intrastate transmission line*
15 *that are in addition to, or more stringent than, the minimum safety*
16 *standards adopted by the United States Department of*
17 *Transportation pursuant to Chapter 601 (commencing with Section*
18 *60101) of Subtitle VIII of Title 49 of the United States Code, and*
19 *that the commission is authorized to adopt pursuant to subsection*
20 *(c) of Section 60104 of that chapter.*

21 ~~(4)~~

22 *(c) “High consequence area” has the same meaning as defined*
23 *in the regulations adopted by the United States Department of*
24 *Transportation pursuant to Chapter 601 (commencing with Section*
25 *60101) of Subtitle VIII of Title 49 of the United States Code (49*
26 *C.F.R. 192.903, as adopted January 1, 2011, or a successor*
27 *regulation).*

28 ~~(b) (1) The commission is the state authority responsible for~~
29 ~~the development, submission, and administration of a state pipeline~~
30 ~~safety program certification for natural gas pipelines pursuant to~~
31 ~~Chapter 601 (commencing with Section 60101) of Subtitle VIII~~
32 ~~of Title 49 of the United States Code.~~

33 ~~(2) The commission is the state authority responsible for~~
34 ~~implementation and enforcement of a one-call notification program~~
35 ~~for the state, consistent with the requirements adopted by the~~
36 ~~United States Department of Transportation pursuant to Chapter~~
37 ~~601 (commencing with Section 60101) of Subtitle VIII of Title 49~~
38 ~~of the United States Code.~~

1 Article 2. Natural Gas Pipeline Safety Act of 2011

2
 3 955. (a) This article shall be known and may be cited as the
 4 Natural Gas Pipeline Safety Act of 2011.

5 (b) The commission is the state authority responsible for
 6 regulating and enforcing intrastate gas pipeline transportation
 7 and pipeline facilities pursuant to Chapter 601 (commencing with
 8 Section 60101 of Subtitle VIII of Title 49 of the United States Code,
 9 including the development, submission, and administration of a
 10 state pipeline safety program certification pursuant to Section
 11 60105 of that chapter.

12 (c) The State Fire Marshal shall exercise exclusive safety
 13 regulatory and enforcement authority over intrastate hazardous
 14 liquid pipelines pursuant to the Elder California Pipeline Safety
 15 Act of 1981 (Chapter 5.5 (commencing with Section 51010) of
 16 Division 1 of Title 5 of the Government Code and Section 13107.5
 17 of the Health and Safety Code).

18 ~~(e)~~

19 957. (a) The commission shall open an appropriate proceeding
 20 or joint proceedings, or expand the scope of an existing proceeding,
 21 to evaluate current practices and to determine whether compatible
 22 transmission safety standards should be adopted for the
 23 enhancement of public safety, with respect to both of the following:

24 ~~(1) The proximity of pipelines carrying liquid materials to~~
 25 ~~commission-regulated gas pipeline facilities safety, with respect~~
 26 ~~to the proximity of pipelines carrying liquid materials to intrastate~~
 27 ~~transmission lines. As part of this evaluation, the commission shall~~
 28 evaluate current practices with respect to, and the desirability of
 29 adopting compatible safety standards for, the separation of
 30 ~~commission-regulated gas pipeline facilities intrastate transmission~~
 31 ~~lines~~ and pipelines that carry water used for fire suppression in the
 32 event of a fire involving a commission-regulated gas pipeline
 33 facility. As part of this evaluation, and in consultation with the
 34 State Fire Marshal, the commission shall also evaluate current
 35 practices and the desirability of adopting compatible transmission
 36 safety standards with respect to the proximity of
 37 ~~commission-regulated gas pipeline facilities intrastate transmission~~
 38 ~~lines~~ and pipelines used for the transportation of hazardous liquid
 39 substances or highly volatile liquid substances that are under the
 40 safety responsibility of the State Fire Marshal pursuant to the Elder

1 California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing
2 with Section 51010) of Division 1 of Title 5 of the Government
3 Code) or Section 13107.5 of the Health and Safety Code.

4 ~~(2) The installation, maintenance, location, and type of~~
5 ~~sectionalized block valves on commission-regulated gas pipeline~~
6 ~~facilities. In performing the evaluation, the commission shall~~
7 ~~consider differences in pipelines, including differences in size,~~
8 ~~differences in operational pressure, and differences relative to the~~
9 ~~proximity of the pipeline to heavily populated and other critical~~
10 ~~areas, proximity to seismic earthquake fault lines, appropriate~~
11 ~~spacing of transmission shut-off valves, impacts on operation of~~
12 ~~the pipelines, safety and reliability, cost, and technical feasibility.~~
13 ~~This paragraph shall not limit the authority of the owner or operator~~
14 ~~of a commission-regulated gas pipeline facility to proceed with a~~
15 ~~pilot project or other program for the installation of automatic or~~
16 ~~remote gas shutoff valves prior to the commission completing its~~
17 ~~evaluation or adoption of compatible safety standards. The~~
18 ~~commission shall complete its evaluation by December 31, 2012.~~

19 ~~(d)~~

20 ~~(b) (1) Unless the commission determines that it is prohibited~~
21 ~~from doing so by subdivision (c) of Section 60104 of Title 49 of~~
22 ~~the United States Code, the commission shall adopt compatible~~
23 ~~safety standards that require the installation of automatic shut-off~~
24 ~~or remote controlled sectionalized block valves on all both of the~~
25 ~~following facilities:~~

26 ~~(A) Commission-regulated gas pipeline facilities—Intrastate~~
27 ~~transmission lines that are located in a high consequence area.~~

28 ~~(B) Commission-regulated gas pipeline facilities—Intrastate~~
29 ~~transmission lines that traverse an active seismic earthquake fault.~~

30 ~~(2) Installation of automatic shut-off or remote controlled~~
31 ~~sectionalized block valves pursuant to paragraph (1) shall meet~~
32 ~~the requirements of 49 C.F.R. 192.179, and be spaced as follows:~~

33 ~~(A) Each point on the pipeline in a class 4 location shall be~~
34 ~~within 2.5 miles (4 kilometers) of a valve.~~

35 ~~(B) Each point on the pipeline in a class 3 location shall be~~
36 ~~within 4 miles (6.4 kilometers) of a valve.~~

37 ~~(C) Each point on the pipeline in a class 2 location shall be~~
38 ~~within 7.5 miles (12 kilometers) of a valve.~~

39 ~~(D) Each point on the pipeline in a class 1 location shall be~~
40 ~~within 10 miles (16 kilometers) of a valve.~~

1 (2) *Each owner or operator of a commission-regulated gas*
2 *pipeline facility that is an intrastate transmission line shall provide*
3 *the commission with a valve location plan, along with any*
4 *recommendations for valve locations. The commission may make*
5 *modifications to the valve location plan or provide for variations*
6 *from any location requirements adopted by the commission*
7 *pursuant to this section that it deems necessary or appropriate*
8 *and consistent with protection of the public.*

9 (3) The commission shall additionally establish action timelines,
10 adopt standards for how to prioritize installation of automatic
11 shut-off or remote controlled sectionalized block valves pursuant
12 to paragraph (1), *ensure that remote and automatic shut-off valves*
13 *are installed as quickly as is reasonably possible*, and establish
14 ongoing procedures for monitoring progress in achieving the
15 compatible *transmission* safety standards.

16 (e)

17 (c) The commission shall authorize recovery in rates for all
18 reasonably incurred costs incurred for implementation of the
19 compatible safety standards.

20 (f)

21 (d) The commission, in consultation with the Pipeline and
22 Hazardous Materials Safety Administration of the United States
23 Department of Transportation, shall adopt and enforce compatible
24 safety standards for commission-regulated gas pipeline facilities
25 that the commission determines should be adopted following its
26 evaluation conducted pursuant to subdivision (c), and those
27 conditionally required to be adopted pursuant to subdivision (d).

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.