

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 6, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 448

Introduced by Senator Leno

February 21, 2013

An act to add ~~Section~~ *Sections 25351 and 25356.5* to the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 448, as amended, Leno. Energy: petroleum supply and pricing.

Existing law establishes the State Energy Resources Conservation and Development Commission in the Natural Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Under existing law, various provisions regulate petroleum supply and pricing. Existing law requires the commission to obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor under a specific provision. Existing law authorizes the State Lands Commission to enter into oil and gas leases for the extraction and removal of oil and gas deposits on state lands. Existing law requires the leases to include a royalty provision.

This bill would require the State Energy Resources Conservation and Development Commission, *or the commission*, upon appropriation by the Legislature of moneys generated by the collection of royalty payments from the oil and gas leases, to identify ~~motor vehicle fuel price manipulation~~, establish a methodology to determine whether fuel price manipulation is occurring, and analyze data and investigate for

~~suspected~~ data currently collected or developed by the commission and to establish a methodology to analyze whether fuel price manipulation has occurred or is occurring. The bill would require the commission to notify the appropriate state or federal agencies if a probable market manipulation has occurred or is occurring. The bill would require the commission, in consultation with the State Air Resources Board and other relevant state agencies, to prepare and submit to the Legislature a report on further legislative recommendations to limit the amount of price volatility and comparative price increase in the California fuel market.

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

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

- 1 SECTION 1. Section 25351 is added to the Public Resources
2 Code, to read:
3 25351. The Legislature finds and declares all of the following:
4 (a) California is in the process of creating investments in, and
5 deployment of, lower carbon and more sustainable fuel options
6 for consumers.
7 (b) California's transition to a lower carbon and lower cost
8 transportation fuel mix can be threatened by illegal actions that
9 manipulate prices and make it difficult to understand the real
10 impact of new standards and regulations.
11 (c) It is the intent of the Legislature to implement policies that
12 protect consumers against market manipulation in the wholesale
13 markets for finished gas and diesel fuel and their refining
14 feedstocks.
15 (d) It is the intent of the Legislature to use existing resources
16 at the State Energy Resources Conservation and Development
17 Commission and develop additional expertise to prevent market
18 manipulation.
19 (e) It is the intent of the Legislature that the authority under
20 this act be complementary to the authority of other state and
21 federal agencies.
22 (f) It is the intent of the Legislature that the State Energy
23 Resources Conservation and Development Commission work with
24 other state and federal agencies to identify activities that may
25 indicate market manipulation and investigate those activities.

1 SECTION 1.

2 SEC. 2. Section 25356.5 is added to the Public Resources Code,
3 to read:

4 25356.5. (a) In addition to the requirements of Section 25356,
5 *and in consultation with relevant state and federal agencies*, the
6 commission shall do all of the following:

7 ~~(1) Establish a definition for fuel market manipulation.~~

8 ~~(2)~~

9 ~~(1) Identify data necessary currently collected or developed by~~
10 ~~the commission that is important to determine whether improper~~
11 ~~fuel pricing price manipulation has occurred or is occurring that~~
12 ~~includes occurring. The data may include all of the following:~~

13 ~~(A) Individual fuel producer data and importer and bulk trader~~
14 ~~data, including all of the following:~~

15 ~~(i) Production or throughput data.~~

16 ~~(ii) Emission data or operational data.~~

17 ~~(iii) Sales, storage, and transfer volumes.~~

18 ~~(iv) Price.~~

19 ~~(B) Marketwide pricing data. Observed and forecasted wholesale~~
20 ~~market prices.~~

21 ~~(3)~~

22 ~~(2) Establish an analytical methodology necessary to evaluate~~
23 ~~for use in evaluating data collected by the commission to inform~~
24 ~~whether fuel price manipulation has occurred or is occurring that~~
25 ~~includes both occurring. The methodology may, at the discretion~~
26 ~~of the commission, be targeted to analyzing data on transactions~~
27 ~~and market conditions most likely connected with fuel pricing~~
28 ~~manipulation, and may include, but shall not be limited to, both~~
29 ~~of the following:~~

30 ~~(A) Producer, importer, and bulk trader level analysis.~~

31 ~~(B) Marketwide analysis, comparing real time prices to expected~~
32 ~~prices based on published forecasts or modeling output.~~

33 ~~(4)~~

34 ~~(3) Analyze the data under paragraph (1) that is in the~~
35 ~~possession of the commission and investigate for suspected fuel~~
36 ~~price manipulation using in both of the following:~~

37 ~~(A) Producer level analysis. Individual business level.~~

38 ~~(B) Marketwide analysis producer level, taking into account~~
39 ~~the actions of multiple producers.~~

1 (4) *Identify data that is not in possession of the commission and*
2 *is considered important to determine whether fuel pricing*
3 *manipulation has occurred or is occurring. The commission shall*
4 *furnish a list of the data to the Legislature upon request.*

5 (b) The commission, in consultation with the State Air Resources
6 Board and other relevant state agencies, shall include in the *first*
7 biennial assessment specified in subdivision (b) of Section 25358
8 *following enactment of this section* a report on further legislative
9 recommendations to limit the amount of price volatility and
10 comparative price increase in the California fuel market. The report
11 shall include an evaluation of strategies *for* doing all of the
12 following:

13 (1) Increasing ~~fuel~~ storage of fuels produced in the state.

14 (2) Leveraging the state's purchasing power related to the state's
15 fleet.

16 (3) Increasing timely imports of fuels during *emergency*
17 *conditions and rapid price-swings* volatility.

18 (4) *Coordinating the timing of maintenance and shutdown*
19 *activities at in-state fuel production facilities.*

20 (c) For purposes of this section, "fuel" means *finished* gasoline
21 and diesel *and their refining feedstocks* derived from petroleum.

22 (d) The commission shall implement this section upon
23 appropriation by the Legislature of moneys generated by the
24 collection of royalty payments from oil and gas leases entered into
25 pursuant to Article 2 (commencing with Section 6826) of Chapter
26 3 of Part 2 of Division 6.

27 (e) (1) *Upon collection of the data and completion of the*
28 *analyses required under this section, if the data indicates that a*
29 *probable market manipulation has occurred or is occurring, the*
30 *commission shall notify the appropriate state or federal agencies*
31 *of the probable market manipulation.*

32 (2) *Nothing in this section shall require the commission to make*
33 *final findings or determinations that market manipulation has*
34 *occurred or is occurring.*