

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1064

Introduced by Senator Hill

February 18, 2014

An act to *amend Section 960 of, and to add Section 765 to, the Public Utilities Code, relating to ~~railroads~~ public utility safety.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as amended, Hill. Public Utilities Commission: railroads: *natural gas pipelines: safety.*

Existing law provides that the Public Utilities Commission has certain responsibilities for the inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads, including public mass transit guideways, and for enforcement of state and federal laws, regulations, orders, and directives relative to railroad safety.

Existing law, with respect to safety recommendations of the National Transportation Safety Board (NTSB) concerning gas pipelines, requires ~~the commission to respond to a safety recommendation letter sent to the commission by the NTSB within 90 days. Existing law requires the commission, in its response to the NTSB, to indicate whether the commission intends to implement the recommendations in whole or in part, or whether the commission refuses to implement the recommendations, as specified. Existing law requires the commission's decision to be detailed in writing and to be approved by a majority vote of commissioners. Existing law requires the commission to issue orders or adopt rules to implement the NTSB recommendations if the commission determines that they are appropriate. Existing law requires~~

~~the commission to report on any action taken on NTSB recommendations in an annual report submitted to the Legislature.~~

The Natural Gas Pipeline Safety Act of 2011 designates the commission as the state authority responsible for regulating and enforcing federal law with respect to intrastate gas pipeline transportation and pipeline facilities. When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, the act requires the commission, within 90 days, to provide the NTSB with a formal written response to each recommendation, as specified. When the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), a gas corporation, or to the commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the act requires the commission to determine if implementation of the recommendation or advisory is appropriate and requires the commission, in that case, to issue orders or adopt rules to implement the safety recommendations or advisory as soon as practical and to consider whether specified alternatives exist to address the safety issue that the recommendation or advisory addresses. The act additionally requires the commission to include a detailed description of any action taken on the recommendations or advisory in a specified annual report to the Legislature.

This bill would enact similar provisions applicable to NTSB safety recommendations and Federal Transit Administration (FTA) safety advisories concerning railroads. *With respect to natural gas pipelines, if the commission receives a correspondence from the NTSB that indicates that a recommendation of the NTSB has been closed following an action that the NTSB finds unacceptable, the bill would require this fact to be noted in the annual report submitted to the Legislature.*

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because this bill would require the commission to issue orders or adopt rules to implement any safety recommendation of the NTSB and safety advisories of the FTA relative to railroads that the commission determines to be appropriate, and a violation of those orders or rules would be a crime, this bill would impose a state-mandated local program.

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 765 is added to the Public Utilities Code,
2 to read:

3 765. (a) When the federal National Transportation Safety
4 Board (NTSB) submits a safety recommendation letter concerning
5 railroad safety to the commission, the commission shall provide
6 the NTSB with a formal written response to each recommendation
7 no later than 90 days after receiving the letter. The response shall
8 state one of the following:

9 (1) The commission's intent to implement the recommendations
10 in full, with a proposed timetable for implementation of the
11 recommendations.

12 (2) The commission's intent to implement part of the
13 recommendations, with a proposed timetable for implementation
14 of those recommendations, and detailed reasons for the
15 commission's refusal to implement those recommendations that
16 the commission does not intend to implement.

17 (3) The commission's refusal to implement the
18 recommendations, with detailed reasons for the commission's
19 refusal to implement the recommendations.

20 (b) If the NTSB issues a safety recommendation letter
21 concerning any commission-regulated railroad facility to *the United*
22 *States Department of Transportation, the Federal Transit*
23 *Administration, to a commission-regulated rail operator, or to the*
24 *commission, or if the Federal Transit Administration issues a*
25 *safety advisory concerning any commission-regulated railroad*
26 *facility, the commission shall determine if implementation of the*
27 *recommendation or advisory is appropriate. The basis for the*
28 *commission's determination shall be detailed in writing and shall*
29 *be approved by a majority vote of the commission.*

1 (c) If the commission determines that a safety recommendation
2 made by the NTSB is appropriate, *or that action concerning a*
3 *safety advisory is necessary*, the commission shall issue orders or
4 adopt rules to implement the safety recommendations *or advisory*
5 as soon as practicable. In implementing the safety recommendation
6 *or advisory*, the commission shall consider whether a more
7 effective, or equally effective and less costly, alternative exists to
8 address the safety issue that the recommendation *or advisory*
9 addresses.

10 (d) Any action taken by the commission on a safety
11 recommendation letter *or safety advisory* shall be reported
12 annually, in detail, to the Legislature with the report required by
13 Section 321.6. Any correspondence from the NTSB indicating that
14 a recommendation has been closed following an action that the
15 NTSB finds unacceptable shall be noted in the report required by
16 Section 321.6.

17 *SEC. 2. Section 960 of the Public Utilities Code is amended*
18 *to read:*

19 960. (a) When the federal National Transportation Safety
20 Board (NTSB) submits a safety recommendation letter concerning
21 gas pipeline safety to the commission, the commission shall provide
22 the NTSB with a formal written response to each recommendation
23 not later than 90 days after receiving the letter. The response shall
24 state one of the following:

25 (1) The commission's intent to implement the recommendations
26 in full, with a proposed timetable for implementation of the
27 recommendations.

28 (2) The commission's intent to implement part of the
29 recommendations, with a proposed timetable for implementation
30 of those recommendations, and detailed reasons for the
31 commission's refusal to implement those recommendations that
32 the commission does not intend to implement.

33 (3) The commission's refusal to implement the
34 recommendations, with detailed reasons for the commission's
35 refusal to implement the recommendations.

36 (b) If the NTSB issues a safety recommendation letter
37 concerning any commission-regulated gas pipeline facility to the
38 United States Department of Transportation, the federal Pipeline
39 and Hazardous Materials Safety Administration (PHMSA), a gas
40 corporation, or to the commission, or the PHMSA issues an

1 advisory bulletin concerning any commission-regulated gas
2 pipeline facility, the commission shall determine if implementation
3 of the recommendation or advisory is appropriate. The basis for
4 the commission's determination shall be detailed in writing and
5 shall be approved by a majority vote of the commission.

6 (c) If the commission determines that a safety recommendation
7 made by the NTSB is appropriate or that action concerning an
8 advisory bulletin is necessary, the commission shall issue orders
9 or adopt rules to implement the safety recommendations or
10 advisory as soon as practicable. In implementing the safety
11 recommendation or advisory, the commission shall consider
12 whether a more effective, or equally effective and less costly,
13 alternative exists to address the safety issue that the
14 recommendation or advisory addresses.

15 (d) Any action taken by the commission on a safety
16 recommendation letter or advisory bulletin shall be reported
17 annually, in detail, to the Legislature with the report required by
18 Section 321.6. *Any correspondence from the NTSB that indicates*
19 *that a recommendation of the NTSB has been closed following an*
20 *action that the NTSB finds unacceptable shall be noted in the*
21 *report required by Section 321.6.*

22 ~~SEC. 2.~~

23 *SEC. 3.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

O