

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE MAY 5, 2015

SENATE BILL

No. 681

Introduced by Senator Hill

(Principal coauthor: Assembly Member Mullin)

February 27, 2015

An act to add Section 24446 to the Revenue and Taxation Code, relating to income taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 681, as amended, Hill. Corporation taxes: deduction: public utilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations.

The Corporation Tax Law allows various deductions in computing the income that is subject to the taxes imposed by those laws, and in modified conformity with federal law, allows a deduction for ordinary and necessary expenses carrying on a trade or business. Existing law provides that no deduction is allowed for any fine or similar penalty paid to a government for the violation of any law.

This bill would not allow a deduction under the Corporation Tax Law for expenses or expenditures ~~for plant and equipment~~ by Pacific Gas and Electric Company that the Public Utilities Commission ~~determined in a specific decision should be borne by the shareholders of the utility, and not the utility's ratepayers, because of the utility's numerous~~

violations of law relating to the public safety. The bill would additionally not allow a deduction for amounts that the Public Utilities Commission ordered Pacific Gas and Electric Company to pay to reimburse the commission for its costs incurred in investigating and enforcing violations of law by the utility relating to public safety: *identified in a specific decision relative to the operation of its natural gas transmission system pipelines. For any taxable year for which those expenses or expenditures are paid or incurred, the bill would require Pacific Gas and Electric Company to provide with the return a certification, under penalty of perjury, that none of those expenses or expenditures were taken into account, directly or indirectly, in determining the amount of income of the company, or any other related taxpayer, that is subject to tax under the Corporation Tax Law, for that taxable year. By expanding the scope of the crime of perjury, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 24446 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 24446. (a) No deduction shall be allowed for any amount paid
- 4 or incurred by Pacific Gas and Electric Company for expenses or
- 5 expenditures identified by the Public Utilities Commission in
- 6 Decision 15-04-024 (April 9, 2015), "Decision on Fines and
- 7 Remedies to be Imposed on Pacific Gas and Electric Company for
- 8 Specific Violations in Connection with the Operation and Practices
- 9 of its Natural Gas Transmission System Pipelines," relating to
- 10 any of the following:
- 11 (1) Up to eight hundred fifty million dollars (\$850,000,000) in
- 12 future gas infrastructure improvements related to transmission

1 pipeline safety to be paid for by Pacific Gas and Electric Company
2 shareholders.

3 (2) Four hundred million dollars (\$400,000,000) in bill credits
4 for the gas ratepayers of Pacific Gas and Electric Company.

5 (3) Approximately fifty million dollars (\$50,000,000) to
6 implement 75 remedies, including, but not limited to,
7 implementation of pipeline safety remedies and reimbursement of
8 the Public Utilities Commission for its costs incurred in
9 investigating and enforcing violations of law relating to the public
10 safety by Pacific Gas and Electric Company.

11 (b) For any taxable year for which expenses or expenditures
12 identified in subdivision (a) are paid or incurred, Pacific Gas and
13 Electric Company shall provide with the return, for that taxable
14 year, a certification, under penalty of perjury, that none of those
15 expenses or expenditures were taken into account, directly or
16 indirectly, in determining the amount of income of Pacific Gas
17 and Electric Company, or any other related taxpayer, that is
18 subject to tax under this part, for that taxable year.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SEC. 3. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order for the provisions of this act to be applicable to the
33 current tax year and to better ensure the effectiveness of decisions
34 of the Public Utilities Commission protecting the public safety, it
35 is necessary that this act take effect immediately.

36 SECTION 1. ~~Section 24446 is added to the Revenue and~~
37 ~~Taxation Code, to read:~~

38 ~~24446. Section 162(a) of the Internal Revenue Code, relating~~
39 ~~to trade or business expenses, in general, shall not apply to the~~
40 ~~following:~~

1 ~~(a) Expenses or expenditures for plant and equipment by Pacific~~
 2 ~~Gas and Electric Company that the Public Utilities Commission~~
 3 ~~determined in Decision 15-04-024 (April 9, 2015), “Decision on~~
 4 ~~Fines and Remedies to be Imposed on Pacific Gas and Electric~~
 5 ~~Company for Specific Violations in Connection with the Operation~~
 6 ~~and Practices of its Natural Gas Transmission System Pipelines,”~~
 7 ~~should be borne by the shareholders of the utility, and not the~~
 8 ~~utility’s ratepayers, because of the utility’s numerous violations~~
 9 ~~of law relating to public safety.~~

10 ~~(b) Amounts that the Public Utilities Commission, in Decision~~
 11 ~~15-04-024, ordered Pacific Gas and Electric Company to pay to~~
 12 ~~reimburse the commission for its costs incurred in investigating~~
 13 ~~and enforcing a violation of law relating to public safety by the~~
 14 ~~utility.~~

15 ~~SEC. 2. This act is an urgency statute necessary for the~~
 16 ~~immediate preservation of the public peace, health, or safety within~~
 17 ~~the meaning of Article IV of the Constitution and shall go into~~
 18 ~~immediate effect. The facts constituting the necessity are:~~

19 ~~In order for the provisions of this act to be applicable to the~~
 20 ~~current tax year and to better ensure the effectiveness of decisions~~
 21 ~~of the Public Utilities Commission protecting the public safety, it~~
 22 ~~is necessary that this act take effect immediately.~~