

AMENDED IN SENATE AUGUST 31, 2015

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**

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**Introduced by Senator Hill**

(Principal coauthor: Assembly Member Mullin)

February 27, 2015

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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: gas corporations.~~

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~~ For the taxable year beginning on January 1, 2015, this bill would not allow a deduction under the Corporation Tax Law for expenses or expenditures by ~~Pacific Gas and Electric Company~~ a gas

*corporation that the Public Utilities Commission identified in a specific decision relative to the operation of its natural gas transmission system pipelines. decision to penalize the gas corporation for a natural gas safety violation.* For any taxable year for which those expenses or expenditures are paid or incurred, the bill would require ~~Pacific Gas and Electric Company~~ *a gas corporation* 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~~, *gas corporation*, 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: yes.

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

1     SECTION 1. *The Legislature finds and declares both of the*  
2 *following:*

3     (a) *A fine or similar penalty paid at the direction of the*  
4 *government, where the government has determined the fine or*  
5 *similar penalty to be punitive, is not an ordinary and necessary*  
6 *business expense and, therefore, no deduction shall be allowed*  
7 *for any fine or similar penalty paid at the direction of the*  
8 *government for the violation of any law.*

9     (b) *Subdivision (a) does not constitute a change in, but is*  
10 *declaratory of, existing law.*

11     SECTION 1.

12     SEC. 2. Section 24446 is added to the Revenue and Taxation  
13 Code, to read:

14     24446. (a) ~~No~~ *For the taxable year beginning January 1, 2015,*  
15 *no deduction shall be allowed for any amount paid or incurred by*  
16 ~~Pacific Gas and Electric Company~~ *a gas corporation, as defined*

1 *in Section 222 of the Public Utilities Code, for expenses or*  
 2 *expenditures identified by the Public Utilities Commission in*  
 3 *Decision 15-04-024 (April 9, 2015), “Decision on Fines and*  
 4 *Remedies to be Imposed on Pacific Gas and Electric Company for*  
 5 *Specific Violations in Connection with the Operation and Practices*  
 6 *of its Natural Gas Transmission System Pipelines,” relating to a*  
 7 *decision to penalize the gas corporation for a natural gas safety*  
 8 *violation, including any of the following:*

9 (1) ~~Up to eight hundred fifty million dollars (\$850,000,000) in~~  
 10 ~~future~~ *Future* gas infrastructure improvements related to  
 11 transmission pipeline safety to be paid for by ~~Pacific Gas and~~  
 12 ~~Electric Company~~ *shareholders. shareholders of the gas*  
 13 *corporation.*

14 (2) ~~Four hundred million dollars (\$400,000,000) in bill~~ *Bill*  
 15 *credits for the gas ratepayers of Pacific Gas and Electric Company.*  
 16 *the gas corporation.*

17 (3) ~~Approximately fifty million dollars (\$50,000,000) to~~  
 18 ~~implement 75 remedies, including, but not limited to,~~ *The*  
 19 *implementation of pipeline safety remedies and reimbursement of*  
 20 *the Public Utilities Commission for its costs incurred in*  
 21 *investigating and enforcing violations of law relating to the public*  
 22 *safety by Pacific Gas and Electric Company. the gas corporation.*

23 (b) For any taxable year for which expenses or expenditures  
 24 identified in subdivision (a) are paid or incurred, ~~Pacific Gas and~~  
 25 ~~Electric Company~~ *the gas corporation* shall provide with the return,  
 26 for that taxable year, a certification, under penalty of perjury, that  
 27 none of those expenses or expenditures were taken into account,  
 28 directly or indirectly, in determining the amount of income of  
 29 ~~Pacific Gas and Electric Company,~~ *the gas corporation,* or any  
 30 other related taxpayer, that is subject to tax under this part, for that  
 31 taxable year.

32 **SEC. 2.**

33 **SEC. 3.** No reimbursement is required by this act pursuant to  
 34 Section 6 of Article XIII B of the California Constitution because  
 35 the only costs that may be incurred by a local agency or school  
 36 district will be incurred because this act creates a new crime or  
 37 infraction, eliminates a crime or infraction, or changes the penalty  
 38 for a crime or infraction, within the meaning of Section 17556 of  
 39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 ~~SEC. 3.~~

4 *SEC. 4.* This act is an urgency statute necessary for the  
5 immediate preservation of the public peace, health, or safety within  
6 the meaning of Article IV of the Constitution and shall go into  
7 immediate effect. The facts constituting the necessity are:

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

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