SENATE BILL No. 1043

Introduced by Senator Allen
(Principal coauthor: Assembly Member Williams)

February 12, 2016

An act to amend Section 25420 of, and to add Section 39735 to, the Health and Safety Code, relating to biogas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1043, as introduced, Allen. Renewable gas: biogas and biomethane.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020 equivalent to the statewide greenhouse gas emissions level in 1990. Existing law requires the state board to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants, as defined, in the state.

This bill would require the state board to consider and adopt policies to significantly increase the sustainable production and use of renewable gas, as defined, and, in so doing, would require the state board, among other things, to ensure the production and use of renewable gas provides direct environmental benefits and identify barriers to the rapid development and use of renewable gas and potential sources of funding.

(2) Existing law requires the Office of Environmental Health Hazard Assessment, in consultation with the state board, the Department of Toxic Substances Control, the Department of Resources Recycling and

Recovery, and the California Environmental Protection Agency, to compile a list of constituents of concern that could pose risks to human health and that are found in biogas, as defined, at concentrations that significantly exceed the concentrations of those constituents in natural gas. Existing law requires the office to determine the health protective levels for that list, as specified, and requires the state board to identify realistic exposure scenarios and the health risks associated with those scenarios, as specified.

Existing law requires the Public Utilities Commission to adopt, by rule or order, standards for biomethane, as defined, that specify the concentrations of constituents of concern that are reasonably necessary to protect public health and ensure pipeline integrity and safety, as specified, and requirements for monitoring, testing, reporting, and recordkeeping, as specified. Existing law requires a gas corporation to comply with those standards and requirements and requires the commission to require gas corporation tariffs to condition access to common carrier pipelines on the applicable customer meeting those standards and requirements.

This bill would revise the definitions of biogas and biomethane for these purposes.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) California has enacted numerous policies to reduce emissions of greenhouse gases and to increase the use of renewable energy resources and renewable fuels, including the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code), the Low Carbon Fuel Standard regulation (Executive Order S-01-07 (January 19, 2007), Sections 95480 to 95490, inclusive, of Title 17 of the California Code of Regulations), an energy storage portfolio requirement (Chapter 469 of the Statutes of 2010), emissions goals for 2030 and 2050 (Executive Order B-30-15), and the state's comprehensive strategy to reduce

emissions of short-lived climate pollutants (Section 39730 of the Health and Safety Code).

(b) Natural gas, which is used for a wide variety of purposes, including the generation of electricity, heating, cooling, industrial, commercial, residential, and transportation fuel, causes more than one-quarter of all emissions of greenhouse gases in California. Methane emissions from a variety of sources, including wastewater treatment facilities, landfills, dairies, agricultural production, and oil and gas, represent up to 15 percent of California's total climate change emissions. Wildfires cause two-thirds of all black carbon emissions, which accounts for approximately 10 percent of California's's total climate change emissions.

(c) Reducing emissions of methane, black carbon, and other short-lived climate pollutants is the most effective way to immediately slow global warming and reduce the impacts of climate change. Capturing and using methane (renewable gas) can significantly reduce emissions of greenhouse gases from fossil fuel use, organic waste, wildfires, and petroleum-based fertilizers. Increasing the production and use of renewable gas could reduce emissions of greenhouse gases by tens of millions of metric tons of carbon dioxide equivalent emissions per year.

(d) Renewable gas generated from organic waste can be used to produce the lowest carbon transportation fuel, flexible generation of electricity from a renewable resource, energy storage, and a low-carbon gas supply for heating, cooling, and other purposes.

(e) Using forest biomass collected as part of a sustainable forestry plan can significantly reduce the risks and impacts of catastrophic wildfires, including black carbon emissions and air pollution, impacts on water supply and quality, impacts on utility and other infrastructure, threats to public safety and communities, impacts on fisheries and wildlife, and effects on precipitation.

(f) Increasing the use of renewable gas in heavy-duty vehicles in California can help protect disadvantaged communities in the state by reducing toxic air contaminants and smog-forming emissions.

(g) Renewable gas can provide significant economic benefits to California, including job creation, an in-state source of gas, increased energy security, revenue and energy for public agencies, and revenue for dairies, farms, rural forest communities, and other areas.

(h) Increasing the use of renewable gas will diversify and decarbonize California's gas supply.

(i) Increasing the use of renewable gas can help California to meet the waste diversion requirements of Section 41781.3, Article 1 (commencing with Section 41780) of Chapter 6 of Part 2 of, and Chapter 12.9 (commencing with Section 42649.8) of Part 3 of, Division 30 of, the Public Resources Code, and the Short-Lived Climate Pollutant Reduction Strategy being developed by the State Air Resources Board pursuant to Section 39730 of the Health and Safety Code by using diverted organic waste to produce renewable gas.

SEC. 2. Section 25420 of the Health and Safety Code is amended to read:

25420. For purposes of this chapter, the following definitions apply:

(a) "Biogas" means gas that is produced from ~~the anaerobic decomposition of organic material.~~ *organic waste through anaerobic digestion or eligible conversion technologies, consistent with Section 40106 of the Public Resources Code.*

(b) "Biomethane" means ~~biogas that meets the standards adopted pursuant to subdivisions (c) and (d) of Section 25421 for injection into a common carrier pipeline.~~ *the methane derived from biogas.*

(c) "Board" means the State Air Resources Board.

(d) "CalRecycle" means the Department of Resources Recycling and Recovery.

(e) "Commission" means the Public Utilities Commission.

(f) "Common carrier pipeline" means a gas conveyance ~~pipeline,~~ *pipeline* located in ~~California,~~ *California* that is owned or operated by a utility or gas corporation, excluding a dedicated pipeline.

(g) "Dedicated pipeline" means a conveyance of biogas or biomethane that is not part of a common carrier pipeline ~~system,~~ *system* and ~~which~~ *that* conveys biogas from a biogas producer to a conditioning facility or an electrical generation facility.

(h) "Department" means the Department of Toxic Substances Control.

(i) "Gas corporation" has the same meaning as defined in Section 222 of the Public Utilities Code and is subject to rate regulation by the commission.

(j) "Hazardous waste landfill" means a landfill that is a hazardous waste facility, as defined in Section 25117.1.

(k) "Office" means the Office of Environmental Health Hazard Assessment.

(l) "Organic waste" means waste of biological origins, including organic waste, as defined in Section 42649.8 of the Public Resources Code; biomass feedstock, consistent with Section 40106 of the Public Resources Code; and livestock waste.

~~(l)~~

(m) "Person" means an individual, trust, firm, joint stock company, partnership, association, business concern, limited liability company, or corporation. "Person" also includes any city, county, district, and the state or any department or agency thereof, or the federal government or any department or agency thereof to the extent permitted by law.

SEC. 3. Section 39735 is added to the Health and Safety Code, to read:

39735. (a) For purposes of this section, the following terms have the following meanings:

(1) "Biogas" has the same meaning as defined in Section 25420, except that it does not include gas produced from forest biomass unless is it produced from forest waste remaining after all other reasonable forest products have been produced and harvested pursuant to the Governor's state of emergency proclamation issued on October 30, 2015, or a subsequent emergency order related to forests, defensible space within 150 feet of a legally permitted structure, or a harvesting operation that advances the establishment of a well-distributed mature forest on the site.

(2) "Renewable gas" means biogas or synthetic gas generated by an eligible renewable energy resource meeting the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(3) "Short-lived climate pollutant" has the same meaning as defined in Section 39730.

(b) In order to meet the state's climate change, low-carbon fuel, renewable energy, landfill diversion, and wildfire reduction goals, the state board shall consider and adopt policies to significantly increase the sustainable production and use of renewable gas. In doing so, the state board shall do all the following:

(1) Consider adopting a low-carbon gas standard, a renewable gas portfolio standard, public utility purchase requirements,

purchase requirements by end-use sectors, including transportation, electrical generation, fuels refining, and public utility purchasing, and other policies to increase the production and use of renewable gas and to reduce the carbon intensity of the state's gas supply.

(2) Ensure that any policy is coordinated and consistent with existing state policies to:

(A) Promote renewable fuels and eligible renewable energy resources, as defined in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(B) Reduce life-cycle emissions of greenhouse gases and short-lived climate pollutants and increase carbon sequestration.

(C) Divert organic waste from landfills, consistent with Section 39730 and other state policies.

(D) Reduce air and water pollution.

(E) Reduce wildfires.

(F) Promote resilient and sustainable forests.

(3) Ensure that the production and use of renewable gas provides direct benefits to the state's environment by avoiding or reducing the emission of criteria pollutants, avoiding or reducing emissions of short-lived climate pollutants and greenhouse gases, avoiding or reducing emissions that adversely affect the waters of the state, avoiding or reducing nuisances associated with the emission of odors, or helping the state to meet its landfill diversion requirements.

(4) Identify barriers to the rapid development and use of renewable gas and make specific recommendations to remove those barriers.

(5) Coordinate with the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, publicly owned utilities, the Department of Resources Recycling and Recovery, and the Department of Forestry and Fire Protection.

(6) Identify potential sources of funding to provide incentives for renewable gas production and use.

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