

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 22, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE APRIL 30, 2003

SENATE BILL

No. 429

Introduced by Senator Torlakson

(Principal coauthor: Assembly Member Richman)

**(Coauthors: Senators Alpert, Cedillo, Denham, Ducheny, and
McPherson)**

(Coauthors: Assembly Members Aghazarian, Benoit, Bermudez,
Campbell, Canciamilla, Chavez, Firebaugh, Shirley Horton,
Houston, Matthews, Oropeza, Parra, and Wyland)

February 20, 2003

An act to add and repeal Section ~~12079~~ of the Government Code, to amend Section ~~42321~~ of, and to add and repeal Section ~~42322.7~~ of, the Health and Safety Code, and to add Chapter ~~6.7~~ (commencing with Section ~~25580~~) to Division ~~15~~ of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 429, as amended, Torlakson. Energy resources: petroleum infrastructure projects: permits: process.

(1) Existing law requires the State Energy Resources Conservation and Development Commission to report to the Governor and the Legislature regarding the state's petroleum supply and pricing.

This bill would require the Governor to ~~appoint~~ *designate*, until January 1, ~~2010~~ 2007, a statewide petroleum infrastructure facilitator

in the commission to investigate ~~and intervene in~~ rulemaking, permitting, and other proceedings by *state public* agencies that affect petroleum infrastructure projects in the state, and to suggest best practices ~~and procedures for permit streamlining.~~

The bill would require ~~a state agency that adopts regulations, issues permits, or conducts other proceedings that affect petroleum infrastructure projects~~ *the statewide petroleum infrastructure facilitator*, not more than ~~90~~ 120 days after the Governor ~~appoints the statewide petroleum infrastructure facilitator~~ *designates him or her*, to (1) identify and list all permits required by the agency for petroleum infrastructure projects and related facilities in the state; (2) describe ~~all~~ current procedures utilized in practice for ~~streamlining and~~ expediting permitting for petroleum infrastructure projects; ~~and~~ (3) identify and list all laws, rules, regulations, policies, guidelines, ~~and~~ permit conditions, *and standard practices* that ~~inhibit or restrain~~ *affect* petroleum infrastructure prospects:

~~The bill would require the statewide petroleum infrastructure facilitator, not more than 120 days after receiving the information specified above, to (1); (4) compile and, upon request, make available to persons proposing to modify, construct, or operate petroleum infrastructure projects, all available guidance documents and other information on permitting petroleum infrastructure projects; (2) upon request of applicants, provide permitting assistance to persons proposing to modify, construct, or operate petroleum infrastructure projects, including assistance in working with and (5) survey local governments in ensuring that on procedures for local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection; and (3) upon request of applicants, intervene and participate as a party in rulemaking, permitting, and other proceedings by a state agency that affect petroleum infrastructure projects, to streamline the process, preserve existing petroleum infrastructure efficiencies and capacity, and increase petroleum infrastructure efficiencies and capacity.~~

~~The bill would require the State Air Resources Board (state board), on or before February 1, 2005, and until January 1, 2010, to consult with the California Air Pollution Control Officers Association, the California Environmental Protection Agency, the Resources Agency, the State Energy Resources Conservation and Development Commission, the United States Environmental Protection Agency,~~



~~other states, public and private regulated entities, and other interested persons regarding successful methods and best practices for streamlining air quality permits and other permits that may be required for petroleum infrastructure projects.~~

~~The bill would require the state board, on or before June 30, 2005, to identify permit streamlining practices, including successful practices implemented by the districts under certain provisions of existing law, and would authorize the board to adopt a complete list of permit streamlining techniques, including specified provisions, procedures, and requirements. The bill would authorize the state board to require the districts to adopt, no later than May 1, 2005, and implement, no later than July 1, 2005, the permit provisions and procedures identified by the state board, thereby imposing a state-mandated local program by imposing new duties upon local air districts. for infrastructure projects.~~

~~The bill would require the commission, on or before February 1, 2005, and until January 1, 2010 2007, to initiate consultations with the statewide petroleum infrastructure facilitator, the California Environmental Protection Agency, the Resources Agency, the United States Environmental Protection Agency, other states, air districts, public and private regulated entities, California ports, and other interested persons, regarding successful methods and best practices for streamlining permits, leases, and other governmental authorizations and entitlements that may be required by petroleum infrastructure projects. The bill would require the consultation to include a complete report of agencies' and the regulated entities' experiences with facility siting conducted by the commission, similar processes in other states, and similar processes in this state.~~

~~The bill would require the commission, on or before June 30, 2005, to identify ~~permit streamlining~~ *permitting* practices, ~~including successful practices implemented by the State Air Resources Board under the provisions of the bill described above,~~ and to publish for public comment a complete list of permit streamlining techniques for petroleum infrastructure projects, ~~including certain, specific techniques.~~~~

~~The bill would require the commission, on or before December 31, 2005, to submit a report to the Governor and the Legislature describing the results of the consultation and the specified list, together with detailed recommendations for establishing new, ~~streamlined~~ *improved* processes for permitting petroleum infrastructure projects in California.~~



~~The bill would permit the Governor, or one or more officials designated by the Governor, to identify existing or proposed regulations and other requirements, and would require a member of the commission to review those requirements and to issue findings.~~

~~(2) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

The bill would authorize the commission to adopt rules and regulations to implement the bill's requirements.

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

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

1 ~~SECTION 1.~~ This act shall be known, and may be cited, as the
2 ~~Petroleum Infrastructure Reliability Act of 2004.~~

3 ~~SEC. 2.~~

4 *SECTION 1.* The Legislature hereby finds and declares all of
5 the following:

6 (a) California's supply of transportation fuel is not keeping
7 pace with growing demand.

8 (b) California consumers desire to use the cleanest available
9 transportation fuels. California has been a pioneer in the
10 development of cleaner burning gasoline and other cleaner
11 burning transportation fuels.

12 (c) In the past two decades, the number of petroleum refineries
13 in California and the nation has declined, and no new refineries are
14 anticipated in California.

15 (d) It is becoming more difficult for California refiners to
16 improve reliability, improve efficiency, and make incremental
17 capacity increases to meet demand growth for cleaner burning
18 transportation fuels. Imports of finished cleaner burning
19 transportation fuels and blending stocks are now critical to
20 balancing supply and demand in California.



1 (e) Ports, marine terminals, refineries, pipelines, terminals, and
2 other elements of the California petroleum infrastructure are
3 proving to be inadequate for producing and handling increased
4 volumes of cleaner burning transportation fuels.

5 (f) California faces potentially serious transportation fuel
6 imbalances over the next several years, which necessitate
7 immediate action by the state on a statewide basis.

8 (g) The purpose of this act is to respond to the problems facing
9 the state by promoting incremental investments in new, more
10 reliable, more efficient, and environmentally superior components
11 of the California petroleum infrastructure, ~~and to assist persons~~
12 ~~proposing to construct and operate petroleum infrastructure~~
13 ~~facilities, without in any manner compromising environmental~~
14 ~~protection.~~

15 ~~SEC. 3. Section 12079 is added to the Government Code, to~~
16 ~~read:~~

17 ~~12079.—.~~

18 ~~SEC. 2. Section 25226 is added to the Public Resources Code,~~
19 ~~to read:~~

20 25226. (a) The Governor shall ~~appoint~~ *designate* a statewide
21 petroleum infrastructure facilitator in the ~~State Energy Resources~~
22 ~~Conservation and Development Commission~~ *commission* to
23 investigate ~~and intervene in~~ rulemaking, permitting, and other
24 proceedings by *state public* agencies that affect petroleum
25 infrastructure projects in the state, and to suggest best practices ~~and~~
26 ~~procedures for permit streamlining.~~

27 ~~(b) The Governor may authorize and direct the chair of the~~
28 ~~State Energy Resources Conservation and Development~~
29 ~~Commission to designate individual members of the commission~~
30 ~~to investigate and intervene in agency rulemaking, permitting, and~~
31 ~~other proceedings affecting petroleum infrastructure projects in~~
32 ~~the state and to suggest best practices and procedures for permit~~
33 ~~streamlining.~~

34 (e)

35 (b) Not more than ~~90~~ *120* days after the Governor ~~appoints~~
36 *designates* a statewide petroleum infrastructure facilitator
37 pursuant to ~~subdivision (a), a state agency that adopts regulations,~~
38 ~~issues permits, or conducts other proceedings that affect petroleum~~
39 ~~infrastructure projects shall do all of the~~ *subdivision (a), the*
40 *petroleum infrastructure facilitator shall do all of the* following:



1 (1) Identify and list all permits required by the agency for
2 petroleum infrastructure projects and related facilities in the state.

3 (2) Describe all current procedures utilized in practice for
4 streamlining and expediting permitting for petroleum
5 infrastructure projects.

6 (3) Identify and list all laws, rules, regulations, policies,
7 guidelines, and permit conditions that inhibit or restrain permit
8 conditions, and standard practices that affect petroleum
9 infrastructure prospects.

10 ~~(d) Not more than 120 days after receiving the information~~
11 ~~described in subdivision (e), the statewide petroleum~~
12 ~~infrastructure facilitator shall do all of the following:~~

13 ~~(1)~~

14 (4) Compile and, upon request, make available to persons
15 proposing to modify, construct, or operate petroleum
16 infrastructure projects, all available guidance documents and other
17 information on permitting petroleum infrastructure projects.

18 ~~(2) Upon request of applicants, provide permitting assistance~~
19 ~~to persons proposing to modify, construct, or operate petroleum~~
20 ~~infrastructure projects, including, but not limited to, assistance in~~
21 ~~working with local governments in ensuring that local permits,~~

22 (5) *Survey local governments on procedures for local permits,*
23 *land use authorizations, and other approvals made at the local level*
24 *are undertaken in the most expeditious manner feasible without*
25 *compromising public participation or environmental protection.*

26 ~~(3) Upon request of applicants, intervene and participate as a~~
27 ~~party in rulemaking, permitting, and other proceedings by a state~~
28 ~~agency that affect petroleum infrastructure projects, to streamline~~
29 ~~the process, to preserve existing petroleum infrastructure~~
30 ~~efficiencies and capacity, and to increase petroleum infrastructure~~
31 ~~efficiencies and capacity.~~

32 ~~(e) The statewide petroleum infrastructure facilitator shall~~
33 ~~work with the Legislature to introduce and enact legislation as~~
34 ~~expeditiously as possible to streamline and expedite permitting for~~
35 ~~petroleum infrastructure projects in the state.~~

36 ~~(f) for petroleum infrastructure projects.~~

37 (c) In carrying out the duties imposed pursuant to this section,
38 the statewide petroleum infrastructure facilitator shall consult
39 with all of the following:



1 (1) The Chair of the ~~State Energy Resources Conservation and~~
2 ~~Development Commission~~ *commission*.

3 (2) The Chair of the State Air Resources Board.

4 (3) The Secretary for Environmental Protection.

5 (4) The Secretary of the Resources Agency.

6 (5) The Director of the Governor's Office of Planning and
7 Research.

8 (6) Representatives from the United States Environmental
9 Protection Agency, the United States Department of Energy, the
10 United States Department of the Interior, and other affected
11 federal agencies, as appropriate.

12 (7) Representatives of local and regional agencies, including,
13 but not limited to, air pollution control districts, *cities*, and air
14 quality management districts.

15 ~~(g) This section shall remain in effect only until January 1,~~
16 ~~2010, and as of that date is repealed, unless a later enacted statute~~
17 ~~that is enacted before January 1, 2010, deletes or extends that date.~~

18 ~~SEC. 4. Section 42321 of the Health and Safety Code is~~
19 ~~amended to read:~~

20 ~~42321. The Legislature hereby finds and declares all of the~~
21 ~~following:~~

22 ~~(a) California's air pollution control programs have been~~
23 ~~among the most successful efforts in the country to reduce air~~
24 ~~pollution and to protect public health and the environment.~~

25 ~~(b) It is in the interest of the people of the state, particularly~~
26 ~~during times of economic difficulty, to enact laws that improve the~~
27 ~~processes by which businesses comply with environmental and air~~
28 ~~quality laws, without sacrificing the protection of public health~~
29 ~~and the environment.~~

30 ~~(c) The purpose of this article is to require the state board to~~
31 ~~assist applicants and districts in identifying and instituting new,~~
32 ~~efficient procedures to assist applicants for permits for petroleum~~
33 ~~infrastructure projects in complying with regional, state, and~~
34 ~~federal air quality laws in an expedited fashion, for the purpose of~~
35 ~~preserving the efficiencies and capacity of existing petroleum~~
36 ~~infrastructure and increasing the efficiencies and capacity of the~~
37 ~~petroleum infrastructure, without reducing protection of public~~
38 ~~health and the environment.~~

39 ~~SEC. 5. Section 42322.7 is added to the Health and Safety~~
40 ~~Code, to read:~~



1 ~~42322.7. (a) On or before February 1, 2005, the state board~~
2 ~~shall consult with the California Air Pollution Control Officers~~
3 ~~Association, the California Environmental Protection Agency, the~~
4 ~~Resources Agency, the State Energy Resources Conservation and~~
5 ~~Development Commission, the United States Environmental~~
6 ~~Protection Agency, other states, public and private regulated~~
7 ~~entities, and other interested persons regarding successful methods~~
8 ~~and best practices for streamlining air quality permits and other~~
9 ~~permits that may be required for petroleum infrastructure projects.~~

10 ~~(b) On or before June 30, 2005, the state board shall identify~~
11 ~~permit streamlining practices, including, but not limited to,~~
12 ~~successful practices implemented by the districts as directed by~~
13 ~~Sections 42322 and 42322.5, and may adopt a complete list of~~
14 ~~permit streamlining techniques, including, but not limited to, all~~
15 ~~of the following:~~

16 ~~(1) Provisions for same day permit issuance for qualified~~
17 ~~petroleum infrastructure projects.~~

18 ~~(2) Streamlined procedures for hiring and relying on certified~~
19 ~~permit application reviewers for petroleum infrastructure projects.~~

20 ~~(3) Requiring that the districts determine whether an~~
21 ~~application for a petroleum infrastructure project is complete, not~~
22 ~~more than 15 days after receiving the application.~~

23 ~~(4) Review, avoidance, and deletion of involuntary limitations~~
24 ~~on the throughput of any components of the state petroleum~~
25 ~~infrastructure.~~

26 ~~(c) The state board may require the districts to adopt, no later~~
27 ~~than May 1, 2005, and implement, no later than July 1, 2005, the~~
28 ~~permit provisions and procedures identified by the state board~~
29 ~~under subdivision (b).~~

30 ~~(d) The state board may continuously identify permit~~
31 ~~streamlining practices to preserve the efficiencies and capacity of~~
32 ~~existing petroleum infrastructure and to increase the efficiencies~~
33 ~~and capacity of petroleum infrastructure in the state, and may~~
34 ~~require the districts to adopt and implement all other best practices~~
35 ~~identified by the state board on an expeditious basis.~~

36 ~~(e) The state board may waive the requirement for a district to~~
37 ~~implement a best practice if the district can demonstrate both of the~~
38 ~~following:~~



1 ~~(1) That its existing district program performs at least as~~
2 ~~effectively as a streamlining practice identified under subdivision~~
3 ~~(b) or (d).~~

4 ~~(2) That the district program has, in actual practice, resulted in~~
5 ~~simplifying and expediting permitting for petroleum~~
6 ~~infrastructure projects.~~

7 ~~(f) The state board shall revise its best practices list after~~
8 ~~holding a public meeting, and the districts shall adopt the revised~~
9 ~~practices at least annually.~~

10 ~~(g) This section shall remain in effect only until January 1,~~
11 ~~2010, and as of that date is repealed, unless a later enacted statute~~
12 ~~that is enacted before January 1, 2010, deletes or extends that date.~~

13 ~~SEC. 6. Chapter 6.7 (commencing with Section 25580) is~~
14 ~~added to Division 15 of the Public Resources Code, to read:~~

15
16 ~~CHAPTER 6.7. PETROLEUM INFRASTRUCTURE PROJECTS~~

17
18 ~~25580. For the purposes of this chapter, “petroleum~~
19 ~~infrastructure projects” include marine terminals, port facilities,~~
20 ~~product storage facilities, pipelines, land terminals, refinery~~
21 ~~projects, and related kinds of facilities identified by the~~
22 ~~commission as being necessary to assure a consistent and reliable~~
23 ~~supply of cleaner burning gasoline, ultra low sulfur diesel fuel, and~~
24 ~~other petroleum products to California consumers.~~

25 ~~25582. The Legislature hereby finds and declares all of the~~
26 ~~following:~~

27 ~~(a) California is making increasing and new demands for~~
28 ~~petroleum products, including demands for alternative and cleaner~~
29 ~~burning transportation fuels.~~

30 ~~(b) It is in the best interests of the people of the state to enact~~
31 ~~laws that improve the processes by which California fuel~~
32 ~~producers and importers comply with environmental, land use,~~
33 ~~and siting laws, without sacrificing the protection of public health~~
34 ~~and the environment.~~

35 ~~(c) Certain projects are vital to ensuring the reliability, to~~
36 ~~preserving the existing efficiencies and capacity, and to increasing~~
37 ~~the efficiencies and capacity of state ports, refineries, terminals,~~
38 ~~pipelines, and other petroleum infrastructure facilities. It is in the~~
39 ~~best interests of the people of the state to streamline permitting for~~
40 ~~petroleum infrastructure projects to preserve and increase the~~



1 ~~efficiencies and capacity of the California petroleum~~
2 ~~infrastructure.~~

3 ~~(d) Rules, regulations, policies, guidelines, and permit~~
4 ~~conditions adopted by local, regional, and state regulatory~~
5 ~~agencies may significantly impair the ability of petroleum~~
6 ~~infrastructure facilities to produce a consistent and reliable supply~~
7 ~~of cleaner burning gasoline and other products for California~~
8 ~~consumers.~~

9 ~~(e) It is in the best interests of the people of the state for the~~
10 ~~commission to review regulations to ensure continued, consistent,~~
11 ~~and reliable operation of California petroleum infrastructure~~
12 ~~facilities and reduce the need for California to import gasoline.~~

13 ~~25584. (a) On or before February 1, 2005, the commission~~
14 ~~(d) The commission shall initiate consultations with the~~
15 ~~facilitator appointed pursuant to subdivision (a) of Section 12079~~
16 ~~of the Government Code, the California Environmental Protection~~
17 ~~Agency, the Resources Agency, the United States Environmental~~
18 ~~Protection Agency, other states, air districts, public and private~~
19 ~~regulated entities, California ports, and other interested persons,~~
20 ~~regarding successful methods and best practices for streamlining~~
21 ~~permits, leases, and other governmental authorizations and~~
22 ~~entitlements that may be required by petroleum infrastructure~~
23 ~~projects.~~

24 ~~(b)~~
25 ~~(e) The consultation required pursuant to subdivision (a) (d)~~
26 ~~shall include a complete report of agencies' and the regulated~~
27 ~~entities' experiences with facility siting conducted by the~~
28 ~~commission, similar processes in other states, and similar~~
29 ~~processes in this state.~~

30 ~~(e)~~
31 ~~(f) On or before June 30, 2005, the commission shall identify~~
32 ~~permit streamlining practices, including, but not limited to,~~
33 ~~successful practices implemented by the State Air Resources~~
34 ~~Board under Section 42322.7 of the Health and Safety Code, and~~
35 ~~identify permitting practices, and shall publish for public~~
36 ~~comment a complete list of permit streamlining techniques for~~
37 ~~petroleum infrastructure projects, including, but not limited to, all~~
38 ~~of the following:~~



1 ~~(1) Developing and implementing partially or fully~~
2 ~~consolidated permit programs for petroleum infrastructure~~
3 ~~projects.~~

4 ~~(2) Adopting criteria for the types of permitting actions for~~
5 ~~petroleum infrastructure projects eligible for streamlining and for~~
6 ~~a simplified permitting process.~~

7 ~~(3) Adopting streamlined lists and criteria for application~~
8 ~~completeness determinations for petroleum infrastructure~~
9 ~~projects.~~

10 ~~(4) Adopting mandatory deadlines for actions on permits for~~
11 ~~petroleum infrastructure projects, similar to those enforceable by~~
12 ~~appeal under Section 42302 of the Health and Safety Code.~~

13 ~~(5) Avoiding and eliminating limitations on the throughput of~~
14 ~~components of the California petroleum infrastructure.~~

15 ~~(6) Relying on actual emissions performance standards that~~
16 ~~allow the maximum flexibility in utilizing existing efficiencies~~
17 ~~and capacity and increasing efficiencies and capacity of the~~
18 ~~California petroleum infrastructure.~~

19 ~~(d).~~

20 (g) On or before December 31, 2005, the commission shall
21 submit a report to the Governor and the Legislature describing the
22 results of the consultation pursuant to this section and the list
23 published pursuant to subdivision (e) (f), together with detailed
24 recommendations for establishing new, ~~streamlined~~ *improved*
25 processes for permitting petroleum infrastructure projects in
26 California.

27 ~~25586. (a) The Governor, or one or more officials designated~~
28 ~~by the Governor, may identify existing or proposed rules,~~
29 ~~regulations, plans, policies, guidelines, permit conditions, or other~~
30 ~~requirements affecting petroleum infrastructure facilities and refer~~
31 ~~them to the commission.~~

32 ~~(b) The chair of the commission shall designate a single~~
33 ~~commissioner to review requirements and issue findings affecting~~
34 ~~petroleum infrastructure facilities that are referred under~~
35 ~~subdivision (a).~~

36 ~~SEC. 7. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~a local agency or school district has the authority to levy service~~
39 ~~charges, fees, or assessments sufficient to pay for the program or~~



1 ~~level of service mandated by this act, within the meaning of~~
2 ~~Section 17556 of the Government Code.~~

3 (h) (1) *In taking an action under this section, the commission*
4 *may adopt rules and regulations as necessary to ensure that*
5 *relevant duties pursuant to this section are carried out.*

6 (2) *To implement this section, the commission may adopt*
7 *emergency regulations in accordance with Chapter 3.5*
8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
9 *2 of the Government Code. For purposes of that chapter, including,*
10 *but not limited to, Section 11349.6 of the Government Code, the*
11 *adoption of the regulations shall be considered by the Office of*
12 *Administrative Law to be necessary for the immediate*
13 *preservation of the public peace, health, safety, and general*
14 *welfare.*

15 (i) *For the purposes of this section, “petroleum infrastructure*
16 *projects” include marine terminals, port facilities, product*
17 *storage facilities, pipelines, land terminals, refinery projects, and*
18 *related kinds of facilities identified by the petroleum infrastructure*
19 *facilitator as being necessary to assure a consistent and reliable*
20 *supply of cleaner burning gasoline, ultra low sulfur diesel fuel, and*
21 *other petroleum products to California consumers.*

22 (j) *This section shall remain in effect only until January 1,*
23 *2007, and as of that date is repealed, unless a later enacted statute*
24 *that is enacted before January 1, 2007, deletes or extends that date.*

