

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Hill

December 6, 2010

An act to add Sections 726 and 770.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as introduced, Hill. Public utilities: fines and penalties: intrastate pipeline safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit a public utility from recovering any fine or penalty in any rate approved by the commission.

The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations, as defined.

Existing federal law requires the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) to adopt minimum safety standards for pipeline transportation and for pipeline facilities, including an interstate gas pipeline facility and intrastate gas pipeline facility, as defined. Existing law authorizes the Secretary of Transportation to prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are

regulated by a state authority that submits to the secretary annually a certification for the facilities and transportation or alternatively authorizes the secretary to make an agreement with a state authority authorizing it to take necessary action to meet certain pipeline safety requirements. Existing law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Existing law authorizes a state authority that has submitted a current certification to adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed by PHMSA.

This bill would designate the commission as the state authority responsible for development, submission, and administration of a state pipeline safety program certification for natural gas pipelines. The bill would require the commission to adopt and enforce compatible safety standards, as defined, for commission-regulated gas pipeline facilities, as defined, to accomplish specified results. The bill would require the commission to track proposed repairs for which a gas corporation requested compensation in any rate request that was granted by the commission in order to determine if the repairs are made and to require any gas corporation that fails to make repairs for which the commission granted recovery in rates to promptly make a public filing as to the justification for failing to make the approved repairs. The bill would prohibit a gas corporation from recovering in rates any uninsured expense resulting from a fire, explosion, or other catastrophic event involving a commission-regulated gas pipeline facility that resulted from negligence by the utility.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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 726 is added to the Public Utilities Code,
2 to read:
3 726. A public utility shall not recover any fine or penalty in
4 any rate approved by the commission.
5 SEC. 2. Section 770.5 is added to the Public Utilities Code, to
6 read:
7 770.5. (a) For purposes of this section the following terms
8 have the following meanings:
9 (1) “Commission-regulated gas pipeline facility” means an
10 intrastate gas pipeline facility, as defined in Section 60101 of Title
11 49 of the United States Code, that transports natural gas and is
12 subject to the regulatory authority of the commission, including a
13 pipeline that the commission, pursuant to subsection (c) of Section
14 717 of Title 15 of the United States Code, has certified to the
15 Federal Energy Regulatory Commission as being subject to the
16 regulatory jurisdiction of the commission over rates and service.
17 “Commission-regulated gas pipeline facility” does not include
18 those pipelines that are excluded from regulation by the Federal
19 Energy Regulatory Commission pursuant to subsection (b) of
20 Section 717 of Title 15 of the United States Code because they are
21 facilities used for the distribution of natural gas.
22 (2) “Compatible safety standards” means additional or more
23 stringent safety standards for commission-regulated gas pipeline
24 facilities that are compatible with the minimum safety standards
25 adopted by the Department of Transportation pursuant to Chapter
26 601 (commencing with Section 60101) of Subtitle VIII of Title 49
27 of the United States Code and which the commission is authorized
28 to adopt pursuant to subsection (c) of Section 60104 of that chapter.
29 (b) The commission shall be the state authority responsible for
30 the development, submission, and administration of a state pipeline
31 safety program certification for natural gas pipelines pursuant to
32 Chapter 601 (commencing with Section 60101) of Subtitle VIII
33 of Title 49 of the United States Code.

1 (c) The commission shall adopt and enforce compatible safety
2 standards for commission-regulated gas pipeline facilities to
3 accomplish all of the following:

4 (1) Require the owner or operator to make an annual
5 performance measure report to the commission concerning all
6 commission-regulated gas pipeline facilities. The performance
7 measure report shall include the total number of anomalies
8 identified as a result of safety assessments, the total number of
9 conditions repaired, and the actual anomalies identified by the
10 pipeline owner or operator during the inspections and the
11 conditions requiring repair. The annual performance measure
12 reports shall be made publicly available to the extent that doing
13 so does not create a public safety risk. The commission shall
14 consult with the federal Department of Homeland Security in
15 determining what information may be made available without
16 creating a public safety risk.

17 (2) Require the owner or operator to evaluate the integrity of
18 all commission-regulated gas pipeline facilities outside high
19 consequence areas and to include this evaluation as part of their
20 safety assessment reports.

21 (3) Require the owner or operator of commission-regulated gas
22 pipeline facilities to develop and to implement, by January 1, 2012,
23 a continuing public education program pursuant to Section 60116
24 of Title 49 of the United States Code. The owner or operator, to
25 the extent that doing so does not create a public safety risk, shall
26 provide detailed, customized information on pipeline locations
27 and emergency response plans, as well as enhanced annual
28 emergency response training.

29 (4) Require the owner or operator of commission-regulated gas
30 pipeline facilities to provide information regarding the pipeline
31 system to state and local emergency responders, including the
32 business name, address, and emergency contact information of
33 whom to contact if an event occurs, accurate maps of facility
34 locations, the owner or operator's emergency response, plan and
35 any other information the commission determines should be
36 supplied to state and local emergency responders.

37 (5) Require the owner or operator of commission-regulated gas
38 pipeline facilities to conduct outreach and public education relative
39 to excavation dangers and the availability of the one-call

1 notification program in order to reduce dangerous incidences
2 caused by third-party excavations.

3 (6) Require the owner or operator of commission-regulated gas
4 pipeline facilities to prioritize those facilities that, because of their
5 proximity to seismic active areas, should be subject to the highest
6 level of safety oversight.

7 (7) Require the owner or operator of commission-regulated gas
8 pipeline facilities to comply with minimum standards established
9 by the commission, in consultation with the independent review
10 panel investigating the San Bruno natural gas pipeline explosion
11 of 2010, to install automatic or remote shutoff valves, unless
12 technically unfeasible, according to the following timelines:

13 (A) On all new commission-regulated gas pipeline facilities or
14 any facility being replaced beginning January 1, 2012.

15 (B) On all facilities within 10 miles of a high-risk seismic fault
16 by January 1, 2014.

17 (C) On all facilities within 10 miles of a Class 3 or Class 4 high
18 consequence area by January 1, 2017.

19 (8) Require the owner or operator of commission-regulated gas
20 pipeline facilities to operate those facilities at safe pressure if the
21 facility cannot be inspected using the most effective inspection
22 technology.

23 (9) Require owners and operators of commission-regulated gas
24 pipeline facilities to complete, by January 1, 2022, a modernization
25 program to upgrade key facilities located in heavily populated and
26 other critical areas. The commission shall consult with owners and
27 operators and interested stakeholders in developing the program
28 requirements and schedule. The program shall contain criteria for
29 prioritizing critical gas pipeline facilities and ensure that all
30 upgraded facilities can accommodate state of the art inspections,
31 including internal corrosion inspection methods.

32 (d) The commission shall adopt and enforce a one-call
33 notification program for the state consistent with the requirements
34 adopted by the Department of Transportation pursuant to Chapter
35 601 (commencing with Section 60101) of Subtitle VIII of Title 49
36 of the United States Code.

37 (e) The commission shall track proposed repairs for which a
38 gas corporation requested compensation in any rate request that
39 was granted by the commission in order to determine if the repairs
40 are made. The commission shall require any gas corporation that

1 fails to make repairs for which the commission granted recovery
2 in rates to promptly make a public filing as to the justification for
3 failing to make the approved repairs.

4 (f) A gas corporation shall not recover in rates any uninsured
5 expense resulting from a fire, explosion, or other catastrophic event
6 involving a commission-regulated gas pipeline facility that resulted
7 from negligence by the utility.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.