

Introduced by Senator Yee

February 9, 2011

An act to add Section 770.6 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 216, as introduced, Yee. Public utilities: intrastate natural gas pipeline safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations.

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 United States 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 annually submits to the secretary 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 the PHMSA. Existing federal law additionally authorizes a state authority to enforce a requirement for a one-call notification program that meets the requirements established by the 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 and for the implementation and enforcement of a one-call notification program for the state. The bill would require the commission to evaluate current practices and to determine whether compatible safety standards, as defined, should be adopted for the enhancement of public safety with respect to: (1) the proximity of pipelines carrying liquid materials to commission-regulated gas pipeline facilities, as defined, and (2) the installation, maintenance, location, and type of sectionalized block valves on commission-regulated gas pipeline facilities. The bill would require the commission, unless it determines that doing so is preempted under federal law, to adopt compatible safety standards that require the installation of automatic shut-off or remote controlled sectionalized block valves on all commission-regulated gas pipeline facilities that are located in a high consequence area, as defined, or that traverse an active seismic earthquake fault. The bill would require the commission, in consultation with the PHMSA, to adopt and enforce compatible safety standards, as defined, for commission-regulated gas pipeline facilities that the commission determines should be adopted following its evaluation or as required by the bill.

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 770.6 is added to the Public Utilities
2 Code, to read:

3 770.6. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) “Class 1 location,” “class 2 location,” “class 3 location,”
6 and “class 4 location” have those meanings as defined in the
7 regulations adopted by the United States Department of
8 Transportation pursuant to Chapter 601 (commencing with Section
9 60101) of Subtitle VIII of Title 49 of the United States Code (49
10 C.F.R. 192.5, as adopted January 1, 2011, or a successor
11 regulation).

12 (2) “Commission-regulated gas pipeline facility” means an
13 intrastate gas pipeline facility, as defined in Section 60101 of Title
14 49 of the United States Code, that transports natural gas and is
15 subject to the regulatory authority of the commission, including a
16 pipeline that the commission, pursuant to subsection (c) of Section
17 717 of Title 15 of the United States Code, has certified to the
18 Federal Energy Regulatory Commission as being subject to the
19 regulatory jurisdiction of the commission over rates and service.
20 “Commission-regulated gas pipeline facility” does not include
21 those pipelines that are excluded from regulation by the Federal
22 Energy Regulatory Commission pursuant to subsection (b) of
23 Section 717 of Title 15 of the United States Code because they are
24 facilities used for the distribution of natural gas.

25 (3) “Compatible safety standards” means additional or more
26 stringent safety standards for commission-regulated gas pipeline
27 facilities that are compatible with the minimum safety standards
28 adopted by the United States Department of Transportation
29 pursuant to Chapter 601 (commencing with Section 60101) of
30 Subtitle VIII of Title 49 of the United States Code, and that the
31 commission is authorized to adopt pursuant to subsection (c) of
32 Section 60104 of that chapter.

33 (4) “High consequence area” has the same meaning as defined
34 in the regulations adopted by the United States Department of
35 Transportation pursuant to Chapter 601 (commencing with Section

1 60101) of Subtitle VIII of Title 49 of the United States Code (49
2 C.F.R. 192.903, as adopted January 1, 2011, or a successor
3 regulation).

4 (b) (1) The commission is the state authority responsible for
5 the development, submission, and administration of a state pipeline
6 safety program certification for natural gas pipelines pursuant to
7 Chapter 601 (commencing with Section 60101) of Subtitle VIII
8 of Title 49 of the United States Code.

9 (2) The commission is the state authority responsible for
10 implementation and enforcement of a one-call notification program
11 for the state, consistent with the requirements adopted by the
12 United States Department of Transportation pursuant to Chapter
13 601 (commencing with Section 60101) of Subtitle VIII of Title 49
14 of the United States Code.

15 (c) The commission shall open an appropriate proceeding or
16 joint proceedings, or expand the scope of an existing proceeding,
17 to evaluate current practices and to determine whether compatible
18 safety standards should be adopted for the enhancement of public
19 safety, with respect to both of the following:

20 (1) The proximity of pipelines carrying liquid materials to
21 commission-regulated gas pipeline facilities. As part of this
22 evaluation, the commission shall evaluate current practices with
23 respect to, and the desirability of adopting compatible safety
24 standards for, the separation of commission-regulated gas pipeline
25 facilities and pipelines that carry water used for fire suppression
26 in the event of a fire involving a commission-regulated gas pipeline
27 facility. As part of this evaluation, and in consultation with the
28 State Fire Marshal, the commission shall also evaluate current
29 practices and the desirability of adopting compatible safety
30 standards with respect to the proximity of commission-regulated
31 gas pipeline facilities and pipelines used for the transportation of
32 hazardous liquid substances or highly volatile liquid substances
33 that are under the safety responsibility of the State Fire Marshal
34 pursuant to the Elder California Pipeline Safety Act of 1981
35 (Chapter 5.5 (commencing with Section 51010) of Division 1 of
36 Title 5 of the Government Code) or Section 13107.5 of the Health
37 and Safety Code.

38 (2) The installation, maintenance, location, and type of
39 sectionalized block valves on commission-regulated gas pipeline
40 facilities. In performing the evaluation, the commission shall

1 consider differences in pipelines, including differences in size,
2 differences in operational pressure, and differences relative to the
3 proximity of the pipeline to heavily populated and other critical
4 areas, proximity to seismic earthquake fault lines, appropriate
5 spacing of transmission shut-off valves, impacts on operation of
6 the pipelines, safety and reliability, cost, and technical feasibility.

7 This paragraph shall not limit the authority of the owner or operator
8 of a commission-regulated gas pipeline facility to proceed with a
9 pilot project or other program for the installation of automatic or
10 remote gas shutoff valves prior to the commission completing its
11 evaluation or adoption of compatible safety standards. The
12 commission shall complete its evaluation by December 31, 2012.

13 (d) (1) Unless the commission determines that it is prohibited
14 from doing so by subdivision (c) of Section 60104 of Title 49 of
15 the United States Code, the commission shall adopt compatible
16 safety standards that require the installation of automatic shut-off
17 or remote controlled sectionalized block valves on all of the
18 following facilities:

19 (A) Commission-regulated gas pipeline facilities that are located
20 in a high consequence area.

21 (B) Commission-regulated gas pipeline facilities that traverse
22 an active seismic earthquake fault.

23 (2) Installation of automatic shut-off or remote controlled
24 sectionalized block valves pursuant to paragraph (1) shall meet
25 the requirements of 49 C.F.R. 192.179, and be spaced as follows:

26 (A) Each point on the pipeline in a class 4 location shall be
27 within 2.5 miles (4 kilometers) of a valve.

28 (B) Each point on the pipeline in a class 3 location shall be
29 within 4 miles (6.4 kilometers) of a valve.

30 (C) Each point on the pipeline in a class 2 location shall be
31 within 7.5 miles (12 kilometers) of a valve.

32 (D) Each point on the pipeline in a class 1 location shall be
33 within 10 miles (16 kilometers) of a valve.

34 (3) The commission shall additionally establish action timelines,
35 adopt standards for how to prioritize installation of automatic
36 shut-off or remote controlled sectionalized block valves pursuant
37 to paragraph (1), and establish ongoing procedures for monitoring
38 progress in achieving the compatible safety standards.

1 (e) The commission shall authorize recovery in rates for all
2 reasonably incurred costs incurred for implementation of the
3 compatible safety standards.

4 (f) The commission, in consultation with the Pipeline and
5 Hazardous Materials Safety Administration of the United States
6 Department of Transportation, shall adopt and enforce compatible
7 safety standards for commission-regulated gas pipeline facilities
8 that the commission determines should be adopted following its
9 evaluation conducted pursuant to subdivision (c), and those
10 conditionally required to be adopted pursuant to subdivision (d).

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.