

AMENDED IN ASSEMBLY MAY 8, 2013  
AMENDED IN ASSEMBLY MARCH 19, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 649**

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**Introduced by Assembly Member Nazarian**  
*(Coauthor: Assembly Member Stone)*

February 21, 2013

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An act to add Sections 3017 and 3203.5 to the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 649, as amended, Nazarian. Oil and gas: hydraulic fracturing.

(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, *referred to as the supervisor*, supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires an operator of a well, before commencing the work of drilling the well, to obtain approval from the ~~State Oil and Gas Supervisor~~ *supervisor* or a district deputy. Violation of these provisions is a misdemeanor.

This bill would define “hydraulic fracturing” in oil and gas operations and would prohibit hydraulic fracturing, as well as the use of clean freshwater for purposes of hydraulic fracturing, on any oil or gas well, if the well is located ~~\_\_\_\_\_ miles~~ *within 4,000 feet from a home, public*

*building, school, surface waters, underground source of drinking water, or any other sensitive human or environmental resource in the state* from an aquifer, until the completion of a report, as specified, and a determination is made that hydraulic fracturing can be conducted without a risk to the public health, welfare, environment, or the economy of the state. The bill would also express the intent of the Legislature to, among other things, protect the public health and welfare, natural and environmental resources and economic interest of the state.

(2) Existing law establishes the Natural Resources Agency consisting of various entities, departments, and boards. Existing law also establishes the California Environmental Protection Agency consisting of various entities, departments, and boards.

This bill would require the Secretary of the Natural Resources Agency and the Secretary for Environmental Protection to (A) convene an advisory committee, by July 1, 2014, to develop a report relating to hydraulic fracturing, as specified; (B) to complete the report on or before January 1, 2018, and provide a copy to the Governor and the Legislature on or before that date; and (C) to make a determination, as specified, not later than January 1, 2019, as to whether and under what conditions hydraulic fracturing is permitted within the state.

This bill would prohibit hydraulic fracturing *in certain wells*, as well as the use of freshwater for ~~there~~ *hydraulic fracturing purposes, as specified, in those wells*, the violation of which would be a misdemeanor. By creating a new crime, the 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.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the intent of the Legislature in enacting this act to protect
- 4 the public health and welfare, natural and environmental resources,
- 5 and the economic value of private and public property in the state.

1 (b) The Legislature recognizes that hydraulic fracturing poses  
2 serious threats to California’s air, water, climate, environment,  
3 wildlife, and public health.

4 (c) The Legislature further recognizes that hydraulic fracturing  
5 is currently occurring in California without monitoring or  
6 regulation, and almost completely undisclosed to the people of the  
7 state.

8 (d) Although some potential impacts from hydraulic fracturing  
9 are currently under investigation by federal agencies, other states,  
10 and academic and research institutions, no independent and  
11 scientific investigations are being undertaken or have been  
12 completed in California to examine the risks to the state’s unique  
13 geologic, geographic, atmospheric, and environmental conditions  
14 and resources.

15 (e) There is scarce independent information, investigation, and  
16 analysis regarding the tools and mechanisms available to assess  
17 the actual and potential risks of hydraulic fracturing and to protect  
18 the public health and welfare, and the environmental resources  
19 from these impacts.

20 (f) The Legislature recognizes the immediate need to protect  
21 against, and prepare for, the emergencies and impacts related to  
22 hydraulic fracturing as well as the related activities that could range  
23 from small localized events to far-reaching disasters with complex  
24 consequences that could require the involvement and coordination  
25 among many agencies. Mechanisms to ensure funding,  
26 coordination, and equipment for response to these impacts are  
27 urgently needed to be identified and adopted.

28 SEC. 2. Section 3017 is added to the Public Resources Code,  
29 to read:

30 3017. “Hydraulic fracturing” means the injection of fluids or  
31 gases into an underground geologic formation with the intention  
32 to cause or enhance fractures in the formation, in order to cause  
33 or enhance the production of oil or gas from a well. Alternate terms  
34 include, but are not limited to, “fracking,” “hydrofracking,” and  
35 “hydrofracturing.”

36 SEC. 3. Section 3203.5 is added to the Public Resources Code,  
37 to read:

38 3203.5. Neither hydraulic fracturing nor the use of clean  
39 freshwater for hydraulic fracturing purposes is permitted on any  
40 oil or gas well if the well is located            miles from an aquifer,

1 within 4,000 feet from a home, public building, school, surface  
2 waters, underground source of drinking water as defined under  
3 the regulations in Part 144 (commencing with Section 144.3) of  
4 Title 40 of the Code of Federal Regulations, or any other sensitive  
5 human or environmental resource in the state, until all of the  
6 following requirements are met:

7 (a) (1) By July 1, 2014, the Secretary of the Natural Resources  
8 Agency and the Secretary of the California Environmental  
9 Protection Agency, shall convene an advisory committee to develop  
10 a report, based on the best scientific information available, relating  
11 to hydraulic fracturing. The advisory committee shall include of  
12 one representative from each of the following:

13 (A) The California Environmental Protection Agency.

14 (B) The Natural Resources Agency.

15 (C) The State Department of Public Health.

16 (D) An environmental justice organization.

17 (E) The agriculture industry.

18 (F) The oil and gas industry.

19 (G) An academic researcher with experience in hydraulic  
20 fracturing issues.

21 (H) A water agency.

22 (2) The advisory committee shall address specific issues related  
23 to hydraulic fracturing in the report, which shall include, but is not  
24 limited to, all of the following:

25 (A) A description of hydraulic fracturing, and other enhanced  
26 oil and gas recovery techniques.

27 (B) All potential health and environmental impacts related to  
28 hydraulic fracturing, including, but not limited to, all of the  
29 following:

30 (i) The handling and disposition of produced water or  
31 wastewater.

32 (ii) Contamination of groundwater or surface water.

33 (iii) The supply and sources of water used in hydraulic fracturing  
34 and its impact on the state, regional, and local water supply.

35 (iv) The use, handling, and accidental spill of chemicals used  
36 in hydraulic fracturing.

37 (v) Impacts on endangered species and their habitat.

38 (C) All potential economic impacts of increased hydraulic  
39 fracturing operations and other enhanced oil and gas recovery  
40 methods in the state.

1 (D) All potential effects on communities most likely to be  
2 negatively affected by the impacts of hydraulic fracturing.

3 (E) A review of the regulations affecting hydraulic fracturing  
4 and an analysis of whether these are adequate to address the issues  
5 identified in this report.

6 (F) Recommendations for emergency planning and mechanisms  
7 necessary to ensure adequate and fully funded responses to  
8 emergencies related to hydraulic fracturing operations.

9 (G) Recommendations for regulatory and statutory changes  
10 needed to address the issues covered in the report.

11 (H) *Scientific and technical justification for appropriate setbacks*  
12 *of hydraulic fracturing operations from sensitive human and*  
13 *environmental resources in the state.*

14 (3) *The advisory committee shall develop the report in the*  
15 *context of current and foreseeable hydraulic fracturing operations*  
16 *in the state, such as potential operations in the Monterey shale*  
17 *and northern California gas reservoirs.*

18 (b) A draft of the final report shall be made available for public  
19 comment for a period of no less than 120 days.

20 (c) The final report shall be completed on or before January 1,  
21 2018, and a copy shall be provided to the Governor and the  
22 Legislature by the Secretary of the Natural Resources Agency and  
23 the Secretary of the California Environmental Protection Agency  
24 on or before that date.

25 (d) Upon completion of the report, the Secretary of the Natural  
26 Resources Agency and Secretary of the California Environmental  
27 Protection Agency shall make a determination not later than  
28 January 1, 2019, as to whether and under what conditions,  
29 hydraulic fracturing—*is in any new or existing well shall be*  
30 *permitted anywhere* within the state. The determination shall be  
31 made only after measures are in place to ensure that any activities  
32 related to hydraulic fracturing do not pose a risk to the public  
33 health, welfare, environment, or the economy of the state.

34 ~~(e) This section shall not be interpreted to impair or infringe on~~  
35 ~~any vested right to conduct hydraulic fracturing operations.~~

36 (e) *This section shall not be interpreted to preclude a local*  
37 *government from establishing additional protective setbacks related*  
38 *to hydraulic fracturing operations.*

39 SEC. 4. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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