

AMENDED IN ASSEMBLY JANUARY 7, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1104

Introduced by Assembly Member Salas

February 22, 2013

An act to ~~amend~~ *add* Section ~~25205~~ of 21080.23.5 to the Public Resources Code, relating to ~~the State Energy Resources Conservation and Development Commission~~. *environmental quality.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Salas. ~~State Energy Resources Conservation and Development Commission; incompatible offices; incompatible activities~~. *California Environmental Quality Act: biogas pipelines: exemption.*

(1) *The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA provides some exemptions from its requirements for specified projects, including for a project that consists of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing pipeline, as defined, if specified conditions are met.*

This bill would provide that, for purposes of that exemption, "pipeline" also means a pipeline located in Fresno, Kern, Kings, or Tulare County, that is used to transport biogas, as the bill would define

that term, and that meets the existing requirements for the exemption and all local, state, and federal laws. Because a lead agency would be required to determine the applicability of the exemption, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Fresno, Kern, Kings, and Tulare.

(3) 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.

~~The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission, with various duties and responsibilities with respect to energy policy and planning. An existing provision in the act generally prohibits the members of the commission from holding any other elected or appointed public office or position. The act additionally requires all members of the commission and employees of the commission to comply with a provision of the Government Code that no longer exists. Existing law makes the violation of these provisions of the act a felony subject to fine and imprisonment, or both.~~

~~The Government Code prohibits any state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee and requires each appointing power to determine, subject to the approval of the Department of Personnel Administration, those activities that are inconsistent, incompatible, or in conflict with their duties as state officers or employees.~~

~~This bill would delete the prohibition in the act upon the members of the commission holding any other elected or appointed public office or position. The bill would require all members of the commission and employees of the commission to comply with the existing provision of the Government Code prohibiting a state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. Because a violation of the bill's prohibition upon a state officer or employee of the commission engaging~~

~~in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to their duties as a state officer or employee would be a crime, this 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 21080.23.5 is added to the Public
2 Resources Code, to read:

3 21080.23.5. (a) For purposes of Section 21080.23, “pipeline”
4 also means a pipeline located in Fresno, Kern, Kings, or Tulare
5 County, that is used to transport biogas, and meeting the
6 requirements of Section 21080.23 and all local, state, and federal
7 laws.

8 (b) For purposes of this section, “biogas” means natural gas
9 that meets the requirements of Section 2292.5 of Title 13 of the
10 California Code of Regulations and is derived from anaerobic
11 digestion of dairy animal waste.

12 SEC. 2. The Legislature finds and declares that a special law
13 is necessary and that a general law cannot be made applicable
14 within the meaning of Section 16 of Article IV of the California
15 Constitution because of the unique circumstances concerning
16 dealing with biogas in the Counties of Fresno, Kern, Kings, and
17 Tulare.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 a local agency or school district has the authority to levy service
21 charges, fees, or assessments sufficient to pay for the program or
22 level of service mandated by this act, within the meaning of Section
23 17556 of the Government Code.

24 SECTION 1. ~~Section 25205 of the Public Resources Code is~~
25 ~~amended to read:~~

1 ~~25205. (a) No person shall be a member of the commission~~
2 ~~who, during the two years prior to appointment on the commission,~~
3 ~~received any substantial portion of his or her income directly or~~
4 ~~indirectly from any electric utility, or who engages in sale or~~
5 ~~manufacture of any major component of any facility. A member~~
6 ~~of the commission shall not be employed by any electric utility,~~
7 ~~applicant, or, within two years after he or she ceases to be a~~
8 ~~member of the commission, by any person who engages in the sale~~
9 ~~or manufacture of any major component of any facility.~~

10 ~~(b) The members of the commission and all employees of the~~
11 ~~commission shall comply with all applicable provisions of Section~~
12 ~~19990 of the Government Code.~~

13 ~~(c) A person who is a member or employee of the commission~~
14 ~~shall not participate personally and substantially as a member or~~
15 ~~employee of the commission, through decision, approval,~~
16 ~~disapproval, recommendation, the rendering of advice,~~
17 ~~investigation, or otherwise, in a judicial or other proceeding,~~
18 ~~hearing, application, request for a ruling, or other determination,~~
19 ~~contract, claim, controversy, study, plan, or other particular matter~~
20 ~~in which, to his or her knowledge, he or she, his or her spouse,~~
21 ~~minor child, or partner, or any organization, except a governmental~~
22 ~~agency or educational or research institution qualifying as a~~
23 ~~nonprofit organization under state or federal income tax law, in~~
24 ~~which he or she is serving, or has served as officer, director, trustee,~~
25 ~~partner, or employee while serving as a member or employee of~~
26 ~~the commission or within two years prior to his or her appointment~~
27 ~~as a member of the commission, has a direct or indirect financial~~
28 ~~interest.~~

29 ~~(d) A person who is a partner, employer, or employee of a~~
30 ~~member or employee of the commission shall not act as an attorney,~~
31 ~~agent, or employee for any person other than the state in connection~~
32 ~~with any judicial or other proceeding, hearing, application, request~~
33 ~~for a ruling, or other determination, contract, claim, controversy,~~
34 ~~study, plan, or other particular matter in which the commission is~~
35 ~~a party or has a direct and substantial interest.~~

36 ~~(e) The provisions of this section shall not apply if the Attorney~~
37 ~~General finds that the interest of the member or employee of the~~
38 ~~commission is not so substantial as to be deemed likely to affect~~
39 ~~the integrity of the services which the state may expect from the~~
40 ~~member or employee.~~

1 ~~(f) Any person who violates any provision of this section is~~
2 ~~guilty of a felony and shall be subject to a fine of not more than~~
3 ~~ten thousand dollars (\$10,000) or imprisonment pursuant to~~
4 ~~subdivision (h) of Section 1170 of the Penal Code, or both that~~
5 ~~fine and imprisonment.~~

6 ~~(g) The amendment of subdivision (c) of this section enacted~~
7 ~~by the 1975-76 Regular Session of the Legislature does not~~
8 ~~constitute a change in, but is declaratory of, existing law.~~

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