AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY JUNE 4, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1610

Introduced by Assembly Members Nunez and Eng

February 23, 2007

An act to add Chapter 9 (commencing with Section 3890) to Division 3 of the Public Resources Code.

LEGISLATIVE COUNSEL'S DIGEST

AB 1610, as amended, Nunez. California Petroleum Refinery Facilities Standards Board.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission (Energy Commission) in the Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Existing law requires major oil producers, refiners, major marketers, major oil transporters, and major oil storers to supply to the commission weekly, monthly, and annually certain designated information regarding petroleum supplies.

This bill would create the California Petroleum Refinery Facilities Standards Board, and would require an owner or operator of a petroleum refinery facility in the state to submit information to the board relating to the capacity and operational status of the facility. The board would be authorized to direct local air pollution control districts and air quality management districts to inspect petroleum refinery facilities in the state. By imposing new duties on these local air districts, the bill would impose a state-mandated local program.

The bill would require the board to produce supply and demand forecasts for petroleum.

The bill would authorize the Energy Commission to request a petroleum refinery facility in the state to voluntarily adjust or delay a scheduled major maintenance.

The bill would subject violations of its provisions to specified *civil and criminal* penalties*, thereby imposing a state-mandated local program by creating a new crime*.

(2) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

SECTION 1. Chapter 9 (commencing with Section 3890) is added to Division 3 of the Public Resources Code, to read:

Chapter 9. Refinery Facilities

3890. (a) The California Petroleum Refinery Facilities Standards Board is hereby created to implement the requirements of this chapter.

(b) The board shall consist of seven members: the Attorney General; the Controller; a member of the State Energy Resources

Conservation and Development Commission; a member of the State Air Resources Board; a member of an air pollution control or air quality management district board, to be selected by the Senate; a technical person appointed by the Governor and approved by the Senate; and a public person selected by the Speaker of the Assembly. The board shall be supported by a reasonable number of staff members.

(c) The board shall provide on a quarterly basis an opportunity for public comment.

(d) The board shall report in writing to the appropriate policy committees of the Legislature on a quarterly basis on its progress in implementing this chapter. The report shall include, but need not be limited to, information concerning refinery downtime scheduling and coordination, and wholesale price fluctuations.

(e) As used in this chapter "board" means the California Petroleum Refinery Facilities Standards Board.

(f) As used in this chapter "downtime" means any period of inoperation of the facility that reduces its normal capacity to refine petroleum.

3891. An owner or operator of a petroleum refinery facility in the state shall report to the board all of the following:

(a) On a monthly basis, whether and to what extent, during the preceding month, a facility was down or operating at reduced capacity and the reasons therefore. This accounting shall reflect the actual downtime at each facility. The report shall include all of the following:

(1) Reasons for each unscheduled downtime at each refinery.

(2) Amount of product lost due to downtime.

(3) Actions taken by the refinery and its parent company to minimize disruption to the market or price swings due to downtime.

(4) Reasons for scheduled maintenance that took longer than scheduled.

(5) Information on the type of each scheduled project at each refinery.

(b) On a daily basis, the operational status of each facility.

(c) On March 1 of each year, information regarding scheduled major maintenance for the next 12 months and projections for the next three years.

3892. (a) The board shall maintain records of petroleum refinery facility downtime and shall provide these records to the

~~commission~~ *State Energy Resources Conservation and Development Commission* on a daily basis.

(b) The board may direct air pollution control districts and air quality management districts to inspect the records, data, accounts, books, or documents of a petroleum refinery facility, if the inspection is reasonably related to the public interest of the people of California.

3893. (a) Information submitted to the board pursuant to this chapter shall be held in confidence by the board and aggregated to the extent necessary to ensure confidentiality, if public disclosure of the specific information or data to the public would result in unfair competitive disadvantage to the owner or operator that submitted that information.

(b) If the board receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information, notice of the request or proposal shall be provided to the owner or operator that submitted that information.

(c) The board shall issue a written decision that sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) Information submitted to the board shall not be deemed confidential if the owner or operator that submitted the information has made it public.

3894. The board shall review all relevant state and federal laws, including, but not limited to, Division of Occupational Safety and Health regulations, State Air Resources Board regulations, and regional water quality control board regulations, and air pollution control and air quality management district regulations, as they pertain to petroleum refinery facilities, and prepare a report to the Legislature by January 1, 2009, identifying the laws and regulations that may be in conflict.

3895. (a) Air pollution control and air quality management districts shall audit and inspect petroleum refinery facilities in the state that fail to comply with procedures, criteria, standards, or protocols established by the board to implement the requirements of this chapter.

(b) Air pollution control and air quality management districts are vested with the ability to investigate any petroleum refinery facility in the state without notice. The districts are vested with

the ability to investigate to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of gasoline.

3896. (a) The board shall by January 1, 2009, and every three years thereafter, produce a supply and demand forecast for petroleum for the next three years.

(b) The board shall by January 1, 2009, and every six years thereafter, produce a supply and demand forecast for petroleum for the next ten years.

3897. (a) The State Energy Resources Conservation and Development Commission may request a petroleum refinery facility in the state to voluntarily adjust or delay a scheduled major maintenance, if the maintenance is not a regulatory compliance, reliability, or safety repair.

(b) The refinery shall respond in writing within 24 hours if the refinery denies the request and explain the grounds for the refusal.

3898. (a) The board shall notify any person who has failed to timely provide the information required by this chapter. If, within five days after being notified of the failure to provide the information, the person fails to supply the information, the person shall be subject to a civil penalty of not less than five hundred dollars ($500), but not more than two thousand dollars ($2,000) per day for each day the submission of information is refused or delayed, unless the person has timely filed objections with the board regarding the information and the board has not yet held a hearing on the matter.

(b) Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail for a period not to exceed one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(c) Any person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document submitted to the board pursuant to this chapter shall be subject to a civil penalty not to exceed two thousand dollars ($2,000).

(d) The board, in consultation with the air pollution control districts and air quality management districts, may adopt additional penalties applicable to any person or entity who is in violation of any provision of this chapter.

(e) The board may seek an injunction from a court of competent jurisdiction to require compliance with the requirements of this chapter. This subdivision shall not limit any authority of the commission or air pollution control districts or air quality management districts to seek injunctions within their jurisdictions.

(f) The remedies and penalties provided by this section are cumulative to each other.

(g) For the purposes of this section, "person" shall mean the responsible corporate officer.

3899. Nothing in this chapter shall result in the modification, delay, or abrogation of any deadline, standard, rule, or regulation adopted by a federal, state, or local agency for the purposes of protecting public health or the environment, including, but not limited to, any requirements imposed by the State Air Resources Board or by an air pollution control district or an air quality management district.

~~SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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