
OLR Bill Analysis

sSB 858

AN ACT CONCERNING CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND CERTAIN MODIFICATIONS TO GAS PIPELINES PROCESSES.

SUMMARY

This bill makes various changes in the laws related to gas pipelines and underground utility facilities. It requires that penalties for violations of the “Call Before You Dig” law’s marking requirements be directly paid by the entity being penalized by the Public Utilities Regulatory Authority (PURA), without recovering the penalty from a third party (e.g., a contractor working for the penalized entity). It also establishes a process by which the PURA commissioners can stop the work on a Call Before You Dig project if there is an immediate life-threatening hazard resulting from a willful violation of the law.

The bill expands PURA’s authority over certain gas transportation entities (e.g., propane systems and municipal gas distribution systems). Among other things, it (1) gives PURA access to these entities’ facilities, (2) brings them under PURA’s investigatory powers, (3) allows PURA to order them to make certain reasonable improvements or repairs, (4) requires them to notify PURA about certain accidents (5) allows PURA to impose certain penalties on them, and (6) provides whistleblower protections to their employees.

It aligns PURA’s authority over gas transportation entities with applicable federal standards by (1) explicitly citing the federal regulations that the state adopts as its safety standards for pipeline facilities and the transportation of gas and (2) capping the maximum penalties at the maximum amount allowed under federal regulations, rather than federal law.

Lastly, the bill repeals obsolete and duplicative laws that generally require gas utility companies to submit a biennial report to PURA on

their underground facilities (§§ 13-14).

EFFECTIVE DATE: July 1, 2021, except that provisions repealing obsolete statutes are effective October 1, 2021.

§§ 1 & 12 — CALL BEFORE YOU DIG

Penalties (§ 1)

Existing law requires companies and individuals engaging in excavation, discharge of explosions, or demolition projects to comply with certain requirements (i.e., “Call Before You Dig”). Anyone who fails to comply with these requirements must pay a civil penalty up to \$40,000.

Under the bill, the penalty for a violation involving a public utility’s failure to properly or timely mark an underground facility’s approximate location must be paid by the public utility to whom the notice from PURA is addressed. However, the bill exempts an owner or operator of a municipal utility from this requirement. Additionally, if the penalized public utility recovers any portion of the penalty from a third party (e.g., a contractor that failed to make the markings), the bill also allows PURA to direct the public utility to forfeit the recovered amount, as provided in the notice.

Stop-Work Orders (§ 12)

If there is an immediate life-threatening hazard resulting from a willful violation of the Call Before You Dig laws or their related regulations, the bill requires PURA’s commissioners to immediately notify the entity responsible for the project about the hazard and violation. Upon receiving the notification, the responsible entity must promptly abate the hazard and violation. If it does not do so in a reasonable time frame, the bill authorizes the commissioners to stop the project immediately until the hazard and violation have been abated.

§§ 2-7 & 11 — pura jurisdiction over gas transportation

Current law gives PURA jurisdiction over public services companies, which includes investor-owned natural gas distribution

companies (e.g., Eversource). The bill extends certain elements of this jurisdiction to “persons involved in the transportation of gas,” which, under the bill, includes a wider array of gas transporting entities, such as municipal gas distribution systems and propane systems.

Under the bill:

1. “persons” are any individual, firm, joint venture, partnership, corporation, limited liability company, association, municipality, or cooperative association, including any of their trustees, receivers, assignees, or personal representatives;
2. “gas” is natural gas, flammable gas, or toxic or corrosive gas; and
3. “transportation of gas” is the gathering, transmission, or distribution of gas by pipeline or its storage.

PURA Access to Facilities (§ 2)

Current law allows PURA, or its designees, to access a public utility company’s or retail electric supplier’s premises, buildings, or other places that they own or control. The bill expands this access to also include their “plants” and to those of persons involved in the transportation of gas. By law a company’s “plants” include all real estate, buildings, tracks, pipes, mains, poles, wires, and other fixed or stationary construction and equipment, wherever located, used in the conduct of the company’s business (CGS § 16-1).

The bill also increases the maximum fine that may be imposed on someone who obstructs or hinders PURA’s access from \$200 to \$10,000. Under existing law, unchanged by the bill, the offender may be imprisoned up to six months or both fined and imprisoned.

Investigatory Powers (§ 3)

Current law allows PURA to summon witnesses and require the production of various documents related to a public service company’s affairs. The bill expands this authority to also cover the affairs of persons involved in the transportation of gas.

The bill similarly expands PURA's authority to have management audits performed on the operating procedures or other internal workings of a person involved in the transportation of gas, including the relationship between the person and a related holding company or subsidiary. Existing law already gives PURA this authority over public service companies.

As under the current law for auditing public service companies, if the audit finds that the operating procedures or internal workings of the person involved in the transportation of gas are inefficient, improvident, unreasonable, negligent, or in abuse of discretion, the bill allows PURA to order the person to adopt new or altered practices and procedures.

Whistleblower Protections (§ 4)

The bill extends PURA's whistleblower protections to employees of (1) persons involved in the transportation of gas and (2) entities that directly or indirectly provide goods to them. It does this by, among other things:

1. prohibiting these employers from taking any retaliatory actions against their employees for disclosing the substantial malfeasance of a person involved in the transportation of gas;
2. allowing their employees to inform PURA about any prohibited retaliatory actions or malfeasance in management;
3. allowing PURA to investigate and issue orders, impose civil penalties, award attorney's fees and order payment for back pay;
4. voiding any agreement between the employees and employers if it discourages the employee from presenting a written complaint or testifying about the malfeasance; and
5. requiring a notice to be posted in these employees' workplaces, in accordance with PURA's regulations, informing them about the whistleblower protections.

PURA Authority to Order Improvements (§ 5)

Current law generally (1) requires PURA to keep fully informed about the conditions of a public service company's plant, equipment, and operations, in respect to its adequacy, suitability, and safety, and (2) authorizes PURA to order a company to make reasonable improvements, repairs, or alterations in its plants, equipment, or operations, that may be reasonably necessary for the public interest.

The bill extends this requirement and authority to include persons involved in the transportation of gas.

Accident Reporting (§ 6)

As current law requires for public service companies and retail electric suppliers, the bill requires persons involved in the transportations of gas to notify PURA, as soon as reasonably possible, about any accident, other than a minor accident, that (1) was, or may have been, connected with or due to the operation of their property and (2) involved personal injuries or public safety.

As under current law, if the notice is given in a nonwritten form, it must be confirmed in writing within five days after the accident. They must also submit a monthly written report on minor accidents to PURA. A failure to comply with these requirements is subject to a fine up to \$500 per offense.

Enforcement (§ 7)

Current law requires PURA-regulated entities to obey, observe, and comply with all applicable provisions of the laws for public service companies and PURA's applicable regulations and orders. It requires violators to be penalized, by PURA's order, under the applicable statutory penalty or, if no penalty is prescribed, with a fine up to \$10,000, restitution, or a combination of both for each offense. The bill expands these provisions to also cover persons involved with the transportation of gas.

The bill also specifies that the maximum civil penalty PURA may impose is the maximum allowed by law, not the penalty stated in the

notice of violation.

Stop-work orders (§ 11)

The bill authorizes PURA’s commissioners to order any work performed by a person involved in the transportation of gas to stop immediately if the work may endanger someone.

§§ 8-10 — FEDERAL STANDARDS & PURA REGULATIONS

PURA Waivers (§ 8)

Existing state law requires persons involved in the transportation of gas or the maintenance of gas pipelines to follow federal safety standards, but it also generally allows PURA to adopt regulations that are more specific than the federal standards under certain circumstances. Current law generally allows PURA to waive the federal standards in individual cases when warranted by local circumstances or conditions. The bill allows PURA to also do this for the regulations it adopts.

Federal Standards (§ 9)

Current law adopts the federal safety standards applicable to pipeline facilities and the transportation of gas. The bill limits their application to the transportation of gas and explicitly cites the applicable federal regulations for these standards (49 C.F.R. 191 to 49 C.F.R. 193).

Penalties (§ 10)

Under current law, violators of the federal law or regulations on natural gas pipeline safety (49 U.S.C. Chapter 601) or state law or regulations on natural gas pipelines are subject to a civil penalty up to the maximum allowed under the federal law. The bill instead allows the penalty to be up to the higher of the maximum allowed under (1) the federal law or (2) federal regulations on pipeline safety (49 C.F.R. 190.223(a)).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/18/2021)