SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1322
Author: Allen (D)
Amended: 5/4/22
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 8-0, 4/26/22
AYES: Hueso, Becker, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Stern
NO VOTE RECORDED: Dahle, Borgeas, Bradford, Grove, Min, Rubio

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Energy: petroleum pricing

SOURCE: Consumer Watchdog

DIGEST: This bill requires the California Energy Commission (CEC) to collect specified pricing data from each oil refinery operating in the state.

ANALYSIS:

Existing law:

1) Establishes the Petroleum Industry Information Reporting Act of 1980 (PIIRA), which establishes requirements for oil refiners and marketers to submit specified data to the CEC and requires the CEC to analyze this data to identify trends in demand and supply for petroleum, including factors influencing unusual price changes. (Public Resources Code §25350 et. seq.)

2) Requires refiners, marketers, producers, transporters of petroleum in the state to submit specified information to the CEC on a monthly basis. While existing law specifies certain information these oil providers must report on a regular basis, existing law also authorizes the CEC to collect additional information it deems necessary.

3) Requires the CEC to annually submit a report to the Governor and Legislature on the CEC's findings based on its analysis of petroleum data submitted to the CEC. (Public Resources Code §25358)

4) Establishes penalties for persons who fail to report petroleum data in a timely manner. Existing law specifies that delinquent reporters shall be subject to a civil penalty of not less than $500 and no more $2,000 per day for each day the submission of information is refused or delayed, unless the person has a specified objection with the CEC. Any person who submits a false statement or record to the CEC shall be subject to a civil penalty not to exceed $2,000. (Public Resources Code §25362)

5) Establishes confidentiality requirements for petroleum data submitted to the CEC. Existing law authorizes any person to request that the CEC hold certain information in confidence. Existing law specifies that any information requested to be held in confidence shall be presumed to be confidential. Specifies that if any other state agency receives petroleum data relevant to the CEC's duties, the agency must provide the CEC with that data, and that information must be treated as confidential. (Public Resources Code §§25364 and 25366)

This bill:

1) Requires each oil refinery operator in the State to submit the following information to the CEC within seven days of the end of each month:

   a) The volume of crude oil refined into gasoline in the prior calendar month.
   b) The average price paid for each barrel of crude oil that is refined into gasoline in the prior calendar month.
   c) The gross and net refining margin per barrel of gasoline sold in the prior calendar month.

2) Defines "Gross refining margin" as the difference between the weighted average price of the finished unleaded regular, mid-grade, and premium gasoline sold by a refiner in the state and the average price of crude oil used by the refinery to produce the gasoline.

3) Defines "Net refining margin" as the gross refining margin minus the refinery's fixed operational costs.

4) Requires the CEC to publicly post the data it receives under this bill on its internet website in an aggregate format.

5) Extends the CEC's existing enforcement authority and civil penalties for false and delinquent data submissions to the reporting required by this bill.

Background

A brief history of the Petroleum Industry Information Reporting Act of 1980. California has experienced a number of price spikes for fuel refined from petroleum. In 1980, the Legislature passed SB 1444 (Holmdahl, Chapter 1055, Statutes of 1980), which established PIIRA and required the CEC to collect and analyze specified data related to petroleum to track market trends. PIIRA was passed in response to price volatility experienced during gas shortages in 1979 that partly stemmed from interruptions in oil supplies from Iran. PIIRA was intended to provide California with sufficient oil pricing information to identify price and supply volatility before it resulted in oil shocks similar to those experienced in the mid-to-late 1970s. Since the 1970s, California has experienced several other sudden price increases for petroleum. These increases have been related to pipeline and refinery outages, weather impacting supply, political instability and conflicts in oil-producing nations, and a range of other factors. In 2012, Hurricane Sandy, production disruptions in North Africa and Syria, refinery fires in the United States, and concerns about disruptions in oil supply stemming from political conflicts with Iran led to petroleum price increases. While global oil prices declined between 2014 and 2016, California experienced a sudden price increase associated with the February 2015 ExxonMobil Torrance Refinery explosion. California is currently experiencing historically high petroleum prices that could stem from supply and demand reshuffling due to the Russian invasion of Ukraine and increased economic activity as communities emerge from pandemic restrictions.

Californians have paid higher petroleum prices that appear unrelated to larger market trends. Generally, price increases have lasted for short periods, and prices at the pump decreased after petroleum supplies normalized. However, Californians have paid a higher-than-average price for petroleum that cannot be linked to a specific event or supply trend. A 2012 fire at the Chevron Richmond Refinery led to an outage that contributed to higher petroleum prices in California. While fuel pricing experts expected the outage to produce temporarily higher prices at the pump, research showed that Californians experienced unusual price increases even while supply was increasing and crude oil prices decreased.

Following these reports, a number of elected officials requested investigations into potential market manipulation.

Prior legislative and administrative efforts to address petroleum price concerns. In 2013, the Legislature passed SB 448 (Leno, 2013) to investigate suspected motor vehicle fuel price manipulation and make recommendations to the Legislature on how to limit motor vehicle fuel price volatility. Governor Brown vetoed SB 448 and instead directed the CEC to work with the Attorney General to evaluate market trends and develop a plan for responding to petroleum price volatility. In response to this direction, the CEC established the Petroleum Market Advisory Committee (PMAC) in 2014 to provide expertise on factors leading to price increases and strategies for addressing price volatility. In 2015, the ExxonMobil Torrance Refinery explosion contributed to a sudden increase in California petroleum prices, renewing concerns about fuel price volatility in California.

PMAC and the mystery of the unexplained price differential. The PMAC conducted a number of meetings and examined available data; however, the structure of the PMAC, lack of resources, and lack of access to confidential data limited the PMAC's ability to address pricing concerns. The PMAC dissolved in September 2017; however, the PMAC's final report indicated that Californians had paid a higher cost for petroleum since the 2015 ExxonMobile Torrance Refinery fire that could not be attributed to the fire, normal market conditions or California's environmental regulations. The PMAC final report stated: "The unexplained differential since the February 2015 fire implies that Californians have paid over $12 billion more than they would have had the price differential reflected only taxes, GHG programs, and the extra cost of producing CARB gasoline." While PMAC noted that this unexplained differential may not be the result of illicit behavior by petroleum providers, the PMAC could not determine the reason for California's higher average petroleum prices.

In April 2019, Governor Newsom directed the CEC to conduct in-depth analysis of the causes of the increased differential between national and California gasoline prices. In October 2019, the CEC produced a report that concluded, "…the primary cause of the residual price increase is simply that California's retail gasoline outlets are charging higher prices than those in other states." The CEC noted that the California Department of Justice had more expertise than the CEC to investigate whether price fixing or false advertising had occurred. Following the issuance of this report, the Governor asked the Attorney General to investigate whether illicit behavior could have contributed to the price differential. In 2020, the Attorney General filed lawsuits against two international commodities trading companies, SK Trading and Vitol, for exploiting the 2015 refinery explosion by engaging in market manipulation to artificially inflate the spot market price for refined gasoline. This lawsuit is still pending.

Refinery-specific data could identify unusually high refinery profit margins, but it may not explain higher retail prices. This bill requires refinery operators to report information to the CEC on a monthly basis, including information from the prior month about the volume of crude oil refined into gasoline, the average barrel price for each crude oil barrel refined, and the gross and net fining margin per barrel of gas sold. This data would provide information needed to determine the economic performance of each refinery in the state. This information may help identify the extent to which a refinery is obtaining an unusually high profit margin; however, the reporting required by this bill may not help the CEC determine why gasoline retailers in California are charging a higher price differential. While some refineries are vertically integrated in a company that also includes distributors and retailers, other refineries are not. Additionally, high refinery profit margins could be influenced by other factors, including the refining margins for other fuels. Following the Russian invasion of Ukraine, United States refining margins for petroleum products rose but refining margins for diesel and heating oil rose higher than those for gasoline. The higher refining margin for diesel and heating oil may encourage refiners to process proportionately more diesel and heating oil.

Bill increases CEC's access to data under PIIRA. This bill adds a section of law to PIIRA to expand the types of data that the CEC must collect on a monthly basis to include refinery-specific data. This bill does not modify existing PIIRA confidentiality requirements. The CEC may only report refinery data collected under this bill in aggregate. The CEC already reports aggregated industry data on refining margins using self-reported data through the Oil Price Information Service (OPIS). However, companies provide OPIS with data on a self-reported basis and this information may not be sufficiently detailed or verifiable to identify issues at specific refineries. The CEC's existing pubic reports do not identify the refining margins on a refinery-specific level and instead provide refiner margins based on branded and unbranded fuels. Branded fuels are more closely linked to vertically integrated companies that own refineries and market fuels for retail. PIIRA's confidentiality requirements are intended to encourage timely reporting and prevent companies from gaining access to pricing data that would allow them to manipulate the market. The ongoing Attorney General lawsuit against commodities traders indicates that certain actors may seek specific data to engage in market manipulation. The aggregate reporting under this bill would provide the

CEC with more detailed, verifiable data from refiners while preventing refinery-specific information from being used for manipulation.

Related/Prior Legislation

SB 448 (Leno, 2013) would have required the CEC to collect and analyze specific information regarding petroleum pricing, establish the Motor Vehicle Fuel Market Advisory Committee to provide subject matter expertise on fuel pricing, and include specified recommendations regarding its findings, including an analysis of potential market manipulation in the Integrated Energy Policy Report. The bill was vetoed.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 5/16/22)

Consumer Watchdog (source)
Attorney General Rob Bonta, State of California
California Nurses for Environmental Health & Justice
California Public Interest Research Group
Food & Water Watch
FracTracker Alliance
Friends of the Earth US
Greenpeace USA
Public Watchdogs
San Diego 350 Climate Action
SoCal 350 Climate Action
Stand.earth
Sunflower Alliance

OPPOSITION: (Verified 5/16/22)

Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to the author:

> SB 1322 is focused on what happens to oil once it arrives at a California refinery. Whether that oil is domestic or foreign, whether it comes from Bakersfield or overseas – evidence suggests the price by the time it arrives as gasoline in our tanks is significantly higher than it should be. Some factors causing gas prices to spiral to record highs are beyond our control.

> But finding out who is pocketing the billions in extra costs Californians have paid for gas is a mystery we can solve.
>
> The California Oil Refinery Cost Disclosure Act will provide the public with data to help illuminate who is adding a mystery gas surcharge that continues to cost drivers billions more than neighboring states, seven years after the Torrance refinery explosion that first caused gas prices to spike.

ARGUMENTS IN OPPOSITION: Opponents argue that this bill is not necessary and conflicts with a prior CEC report indicating that refineries are not the source of the ongoing higher price differential in California. In opposition, the Western States Petroleum Association states:

> While SB 1322 references this very report by the CEC in its findings and declarations as a justification for the bill, it fails to recognize that the CEC clearly concluded that refiner margins are not the cause of residual price increases in California. California already has a significant ability to collect and evaluate sensitive market information and the power to investigate and prosecute anticompetitive behavior. SB 1322 removes protections of market sensitive information, potentially creating the very problem the bill is intending to address.

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5/18/22 14:29:05

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