Date of Hearing: June 27, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 1322(Allen) – As Amended May 4, 2022

SENATE VOTE: 22-4

SUBJECT: Energy: petroleum pricing

SUMMARY: Requires the State Energy Resources Conservation and Development Commission (CEC) to publicly report specified pricing data from each oil refinery operating in the state.

EXISTING LAW requires, pusurant to the Petroleum Industry Information Reporting Act of 1980, each refiner, within 30 days after the end of each month reporting period, to submit to the CEC, certain information regarding petroleum sales volumes and price, and requires CEC to notify a refiner that has failed to timely provide the required information and imposes a civil penalty on the refiner that fails to submit the required information within 5 days of being notified of the failure.

THIS BILL:

1) Defines the following terms for purposes of the bill:

   a) "Gross refining margin" means 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.

   b) "Net refining margin" means the gross refining margin minus the refinery's fixed operational costs.

2) Requires, within seven calendar days of the end of each month, the operator of each refinery operating in the state that produces gasoline to submit a report for the refinery containing all of the following information:

   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.

3) Requires, within 14 calendar days of the end of each month, CEC to post on its internet website the data reported pursuant to this section for the prior calendar month in aggregate.

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

FISCAL EFFECT: According to the Senate Appropriations Committee, enactment of this bill would result in negligible state costs.

COMMENTS:

1) **Author's statement**.

> SB 1322 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.

2) **California's gas prices**. The cost of a gallon of gasoline is tethered to a number of different variables, including:

- Taxes:

Federal Excise Tax:	18 cents per gallon
State Excise Tax:	51 cents per gallon
Sales Tax (estimated):	10 cents per gallon (can vary by location)

- Fees:

Low Carbon Gas Programs:	22 cents per gallon
Greenhouse Gas Programs:	15 cents per gallon
Underground Tank Storage:	2 cents per gallon

- Imbedded cost of compliance with environmental regulations: California has some of the strictest environmental regulatory requirements on oil extraction and refinement, in addition to the state's ambitious climate emission reduction goals, which contribute to the cost of doing business in the state.

- Industry profits margins: how profits are calculated into the price of a gallon per gasoline are speculative, but truly unknown. The price of gasoline in California is unregulated and companies can charge prices based on what consumers are willing to pay.

California is notorious for having some of the most expensive gas in the country. Oil refiners refer the added costs to taxes and fees for environmental programs, but those added costs are less than half the delta between U.S. and California pump prices. The differential between national and California prices has gotten as high as $1.00 per gallon in April 2019 – and the difference could be greater due to the war in Ukraine.

A 2019 CEC report concluded that "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 overall California increase in retail margins, above that experienced by the rest of the

U.S., has resulted in California gasoline consumers paying an estimated additional $1.5 billion in 2018 and $11.6 billion over the last five years."

The CEC found growth of the average retail margin in California has exceeded growth of the national margin, especially since 2012. From 2004 to 2010, the average retail margin in California was either equivalent to or below the national margin. From 2015 to 2017, however, the California retail margin increased to an average of 19 cents greater than the national margin.

More recently, since Russia invaded Ukraine in February, oil prices have skyrocketed. The United States and other Western nations introduced financial sanctions that made it difficult to clear Russian oil transactions through Western banks. Russian oil normally accounts for about 10% of global oil supply. It's still being traded, but not to the same degree, resulting in a gap in supply, increases demand – and prices – for gas.

According to AAA, crude topped $130 a barrel in early March, and the price of a gallon of gas increased 25-cents in just one week, with the national average reaching $4.86 as of Monday, June 6. In California, the statewide average is already $6.34 – $1.43 per gallon higher than US gasoline prices, according to the latest data from the Energy Information Administration (EIA). According to GasBuddy, Schlafer's Auto Repair in Mendocino is selling regular gas for $9.60 for a gallon—the most expensive gas in the country.

3) **Market price volatility**. In 2014, the Legislature passed SB 448 (Leno) to require CEC to investigate suspected motor vehicle fuel price manipulation and make recommendations to the Legislature on how to limit motor vehicle fuel price volatility. The bill was vetoed by Governor Brown, who said: "I am directing [CEC] to work with the Attorney General to evaluate market trends and ways to respond to price volatility. We need to have a plan and a rapid response team in place with the capability to respond when sudden and untoward price fluctuations occur."

   In response to this direction, 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. The energy economists and experts on PMAC provided CEC and state regulators with independent advice and insights on issues affecting the market, from local policies to global events. The final report, issued in 2017, found several gasoline market anomalies that appeared to be new trends in California, including increasing retail margins for California gasoline, and increasing retail price differentials between the California and U.S. average, among others.

   The Attorney General at time did not participate on PMAC, but Attorney General Bonta's office writes in support of SB 1322:

   > The Attorney General's Office has investigated gas prices, looked for price-fixing and market manipulation, and prosecuted bad actors that schemed to drive up the price of gas. On March 18, 2022, the Attorney General sent a letter to California refiners warning them against illegal market manipulation and other violations of state antitrust laws after the sharp increase in gas prices. The letter warned refiners not to take advantage of the current market disruptions as an opportunity for market manipulation …

SB 1322 will improve transparency and help determine what has caused the long-standing higher prices in California compared to other states. It may also shed light on whether any market players are taking advantage of current events to pad their profits at the expense of California consumers.

4) **Petroleum Industry Information Reporting Act**. PIIRA, which the Legislature enacted in 1980, requires qualifying petroleum industry companies to submit weekly, monthly, and annual data to the California Energy Commission. Analysis of data collected under PIIRA is an important part of the Energy Commission's responsibility to create a thorough understanding of the operations of the petroleum industry in California. Businesses that ship, receive, store, process and sell crude oil and petroleum products in California file PIIRA reports.

   PIIRA has confidentiality protections for refinery data collected by CEC, but they are very restrictive and limit the extent to which information covered by this bill can be publicly reported. The only way to get public reporting for info under PIIRA is to mandate public reporting or exempt it from PIIRA's confidentiality requirements.

5) **Gross and net oil**. As defined by this bill, an oil refiners' gross refining margin is 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. An oil refiner's net refining margin is the gross refining margin minus the refinery's fixed operational costs.

   The difference between those two accounts for an oil refiner's profit margin, thus the price of gasoline being charged to consumers.

   California oil refiners reported profits from the first quarter (Q1) of 2022 that are more than twice as high as those reported by the same refiners in other regions and as much as 5x greater than in the Q1 of 2021. PBF Energy reports its crack spreads – the difference between the price of the crude oil it processes and petroleum products it sells – from both of its refineries in California on a quarterly basis. For Q1 of 2022, PBF Energy's profits from its Los Angeles refinery grew to $32.84 per barrel from $15.75 per barrel in Q1 of 2021. With 42 gallons in a barrel of gasoline, this means that PBF made about 78-cents per gallon on the gasoline it sold in Los Angeles from January 1 thru March 31st. That compares to 37-cents per gallon profits in Los Angeles in Q1 2021.

   SB 1322 requires the operator of each refinery that produces gasoline to submit a report to CEC on the volume of crude oil refined into gasoline in the prior calendar month; the average price paid for each barrel of crude oil that is refined into gasoline in the prior calendar month; and, the gross and net refining margin per barrel of gasoline sold in the prior calendar month. The CEC would then post that data on its website.

   Consumer Watchdog, sponsor of the bill, states that SB 1322 will allow Californians to finally know how much the big five oil refiners in the state are profiting from each gallon of gasoline they sell.

6) **Business confidentiality**. Refiners determine their prices based in part on structured taxes and fees, but also their own internalized costs for doing business (salaries, insurance,

compliance requirements) and assessing profits. If data is shared refinery by refinery, the Western States Petroleum Association (WSPA) is concerned that competitors will have access to each other's data, which could hurt competition and influence consumer prices. WSPA argues it is for this reason that PIIRA requires the data be kept confidential. WSPA also notes that almost all refiners in California are publicly traded companies that report extensive financial information on a quarterly and annual basis as required by the Securities Exchange Commission, thereby suggesting SB 1322 is unnecessary.

REGISTERED SUPPORT / OPPOSITION:

Support

Consumer Watchdog (sponsor)
State of California Attorney General

Opposition

Western States Petroleum Association

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