
THIRD READING

Bill No: AB 1008
Author: Quirk (D)
Introduced: 2/26/15
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 10-0, 6/16/15
AYES: Hueso, Fuller, Cannella, Hertzberg, Hill, Lara, Leyva, McGuire, Morrell,
Wolk
NO VOTE RECORDED: Pavley

ASSEMBLY FLOOR: 80-0, 4/20/15 (Consent) - See last page for vote

SUBJECT: Public utilities: sale of hydrogen to public as a motor vehicle fuel

SOURCE: Author

DIGEST: This bill provides that the ownership or operation of a facility that sells hydrogen at retail to the public for use only as a motor vehicle fuel does not make the corporation or person a public utility solely because of that ownership, operation, or sale.

ANALYSIS:

Existing law:

- 1) Establishes the California Public Utilities Commission (CPUC) with five members appointed by the Governor and confirmed by the Senate and empowers the CPUC to regulate privately owned public utilities. Provides that the CPUC may fix rates, establish rules, examine records, issue subpoenas, and other powers over the utilities it regulates. Specifies that the Legislature may prescribe that additional classes of private corporations or other persons are public utilities. (Article XII California Constitution)

- 2) Defines a public utility as every common carrier, gas corporation, electrical corporation, water corporation, toll bridge corporation, pipeline corporation, telegraph corporation, sewer system corporation and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. Provides that when any public utility performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment shall be subject to the jurisdiction, control, and regulation of the CPUC. (Public Utilities Code §216)
- 3) Establishes that the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from the facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility solely because of that ownership, operation, or sale. (Public Utilities Code §216)
- 4) Establishes that ownership, control, operation or management of a facility that supplies electricity to the public only for the use to charge light duty plug-in vehicles does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, control, operation, or management. (Public Utilities Code §216)

This bill provides that the ownership or operation of a facility that sells hydrogen at retail to the public for use only as a motor vehicle fuel does not make the corporation or person a public utility solely because of that ownership, operation, or sale.

Background

The California Global Warming Solutions Act of 2006, enacted by AB 32 (Núñez and Pavley, Chapter 488, Statutes of 2006), tasked the Air Resources Board (ARB) to adopt rules and regulations that would reduce greenhouse gas emission in the state to 1990 levels by 2020. With AB 32, the Legislature acknowledged the adverse impacts and threat global warming poses to the economic wellbeing, public health, natural resources, and environment of California and took an active step towards mitigating its effect.

With the transportation sector representing roughly 40% of the state's greenhouse gas emissions, increasing the use of zero emission vehicles (ZEV), such as hydrogen fuel cell electric vehicles (FCEVs), is expected to play a significant role in reducing California's greenhouse gas emissions and provide improved local air

quality. In 2012, the ARB began implementing the Advanced Clean Cars program which seeks to rapidly increase the number of ZEV technologies, such as hydrogen fuel cells and battery electric vehicles. The ARB estimates that by mid-century, 87% of cars on the road will need to be full ZEVs which would put California on the path to reducing greenhouse gas emissions by 80% by 2050.

FCEVs. FCEVs are fueled with hydrogen gas stored on the vehicle. Hydrogen gas passes through a fuel cell that mixes the gas with oxygen to generate electric currents that run the vehicle. Since the vehicle is primarily fueled with pure hydrogen, there are no pollutants emitted into the atmosphere, only water and heat.

Hydrogen stations. In April 2004, Governor Schwarzenegger issued Executive Order S-07-04, which created the California Hydrogen Highway Network (CaH2Net). The mission of CaH2Net was to assure that the state had hydrogen-fueling stations in place to meet the demand of fuel cells and other hydrogen vehicle technologies being placed on California roads. CaH2Net convened stakeholders and developed a blueprint plan that described the actions needed to create hydrogen highways.

In March 2012, Governor Brown issued Executive Order B-16-2012 to facilitate the rapid commercialization of ZEVs and in February 2013, he issued a ZEV Action Plan which created a roadmap towards achieving 1.5 million ZEVs on California roadways by 2025.

In 2014, the Legislature passed and the Governor signed SB 1275 (De León, Chapter 530, Statutes of 2014) which codified a goal of one million zero and near-zero emission vehicles on California's roads by 2023.

California currently has 13 research hydrogen-fueling stations, nine public stations and an additional 18 that have been funded and are expected to become operational in the next few years. Funding for hydrogen infrastructure is provided by the California Energy Commission (CEC) through funding authorized by AB 118 (Núñez, Chapter 750, Statutes of 2007).

Is a bill needed? AB 1008 includes hydrogen fueling stations among the list of facilities exempted from the definition of a public utility. Current law exempts both electricity and natural gas fueling facilities for vehicles from the definition of a public utility. However, electricity and natural gas facilities use a commodity that is also supplied by a privately owned public utility regulated by the CPUC. A similar exemption may not be needed for hydrogen since there is no existing

privately owned public utility that provides hydrogen as a commodity to the public. The author and supporters argue that such an exemption is needed to give investors greater certainty that hydrogen stations won't be regulated as a utility in the future and, thereby, encourage increased private investment in hydrogen-fueling stations.

Prior/Related Legislation

AB 118 (Núñez, Chapter 750, Statutes of 2007) created the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) and authorized CEC to spend up to \$120 million per year for over seven years (from 2008-2015) to develop, demonstrate, and deploy innovative technologies to transform California's fuel and vehicle types.

AB 631 (Ma, Chapter 480, Statutes of 2011) exempted from the definition of a public utility a facility that supplies electricity to the public only for use to charge light-duty plug-in electric vehicles.

AB 8 (Perea, Chapter 401, Statutes of 2013) extended the sunset imposed to 2024 for several fee programs, including the ARFVTP. Required CEC to allocate \$20 million annually until 2024 to fund hydrogen-fueling charging stations, not to exceed 20% of the monies appropriated by the Legislature from the ARFVTP Fund, until there are at least 100 publicly available hydrogen-fueling stations in California.

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

SUPPORT: (Verified 6/16/15)

California Hydrogen Business Council
Center for Transportation and the Environment
FirstElement Fuel Inc.
Natural Resources Defense Council

OPPOSITION: (Verified 6/16/15)

None received

ARGUMENTS IN SUPPORT: The author's office states that the ambiguity in how hydrogen will be regulated is a concern for investors interested in developing hydrogen-fueling infrastructure. The author argues that the certainty provided by this bill when adopted will enable investors to prepare and establish a credible, privately funded business case to scale the market.

ASSEMBLY FLOOR: 80-0, 4/20/15

AYES: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

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