

Date of Hearing: April 13, 2015

ASSEMBLY COMMITTEE ON UTILITIES AND COMMERCE

Anthony Rendon, Chair

AB 1008 (Quirk) – As Introduced February 26, 2015

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

SUMMARY: This bill clarifies that the ownership or operation of a facility that sells hydrogen for use only as a motor vehicle fuel is not a public utility. Specifically, **this bill:**

- a) Clarifies existing law to make clear 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.

EXISTING LAW:

- 1) The State Constitution permits the Public Utilities Commission to fix rates and establish rules for all public utilities and includes the furnishing power as a public utility, subject to control by the Legislature.
- 2) Defines a “public utility” to include every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation and heat corporation, where the service is performed for, or the commodity is delivered to, the public for any compensation or payment. (Public Utilities Code 216)
- 3) Specifies that the ownership or operation of a facility that employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology is not a public utility solely because of the ownership or operation of that facility. (Public Utilities Code 216)
- 4) Specifies that any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility solely by reason of engaging in any of those activities. (Public Utilities Code 216)
- 5) Specifies that the ownership or operations of a facility that sells compressed natural gas 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. (Public Utilities Code 216)
- 6) Specifies that ownership or operation of a facility that is an exempt wholesale generator is not a public utility solely due to the ownership or operation of that facility. (Public Utilities Code 216)
- 7) Specifies the ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions as permitted, is

not a public utility solely because of that ownership, participation or sale. (Public Utilities Code 216)

- 8) Specifies that the ownership, control, operation, or management of a facility that supplies electricity to the public only use to charge light duty plug-in electric vehicles is not a public utility solely because of that ownership, control, operation, or management. (Public Utilities Code 216)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's statement: "California's interest in hydrogen Fuel Cell Electric Vehicles (FCEVs) is not new. These technologies have had limited adoption rate and consumer market adoption penetration because of a lack of vehicle availability and fueling infrastructure. With numerous vehicle manufactures beginning to sell FCEVs and as more FCEV options become available in the near future, the fuel infrastructure is essential to supporting these technologies. Accelerating the use of hydrogen FCEVs in the state of California will assist in putting more zero-emission vehicles on the road."
- 2) Background: The California Global Warming Solutions Act of 2006, enacted by Assembly Bill (AB) 32, 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 it, 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.

Increasing the use of zero emission vehicles (ZEV), such as hydrogen fuel cell vehicles, will play a significant role in reducing California's greenhouse gas and smog emissions to standards set forth by AB 32. In 2012, the ARB implemented the Advanced Clean Cars program which seek 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.

- 3) Hydrogen Fuel Cell Electric Vehicles: Hydrogen 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. Because the vehicle is primarily fueled with pure hydrogen no pollutants is emitted, only water and heat.
- 4) 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 support a transition 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.

Subsequently 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 zero-emission vehicles on California roadways by 2025.

California currently has 13 research hydrogen fueling stations, 9 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 (Nunez) Chapter 750, Statutes of 2007. In May 2014, the CEC announced it will invest nearly \$40 million in hydrogen refueling stations to further accelerate the development of publically accessible hydrogen refueling stations in order to promote the use of zero emission fuel cell vehicles.

- 9) Provides clarity for hydrogen: Under current law, a person or a business that sells compressed natural gas for use only as a motor vehicle fuel, is not a public utility solely because of that ownership, operation, or sale. According to the author “the ambiguity in how hydrogen will be regulated is a concern for investors interested in developing hydrogen fueling infrastructure. These investors need certainty that hydrogen used for transportation will be treated like natural gas and electricity used for transportation.” This bill would remove the ambiguity in current law and clarifies that hydrogen sold for the purpose of being use as a motor vehicle fuel is not regulated as a public utility.

REGISTERED SUPPORT / OPPOSITION:

Support

California Hydrogen Business Council

Opposition

None on file

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