
Introduced by Senator Alquist

April 19, 1977

An act to amend Section 30261 of the Public Resources Code, and to add Chapter 10 (commencing with Section 5550) to Division 2 of the Public Utilities Code, relating to liquefied natural gas terminals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1081, as introduced, Alquist. Liquefied natural gas: Public Utilities Commission.

(1) Under existing law only 1 liquefied natural gas terminal shall be permitted in the coastal zone until engineering and operational practices can eliminate any significant risk to life due to accident or until guaranteed supplies of liquefied natural gas and distribution system dependence on liquefied natural gas are substantial enough that an interruption of service from a single liquefied natural gas facility would cause substantial public harm.

This bill would repeal such restriction concerning liquefied natural gas terminals.

(2) Under existing law various state and local agencies have authority with respect to determining or approving the location of liquid natural gas facilities, including zoning authority, planning, environmental quality, and similar authority.

This bill would grant to the Public Utilities Commission the exclusive power to issue permits concerning the construction and operation of liquefied natural gas terminals pursuant to a prescribed permit procedure. It would require local governmental input as specified. It would provide that such permits may contain reasonable conditions necessary to preserve the public safety, to protect the environment, and to assure compliance with ordinary and reasonable requirements of any local government.

The bill would also make legislative findings and declarations regarding liquefied natural gas, and it would require the commission to prepare a forecast of the state's gas supply and demands for the next ensuing decade.

The bill would provide a separate procedure allowing at least 1 liquefied natural gas terminal to receive a permit under an expedited procedure.

The bill would provide that if any provision or application of it is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

It would provide that no appropriation or reimbursement is made to any local agency is made to any local agency for any costs that may be incurred by them pursuant to this act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30261 of the Public Resources
2 Code is amended to read:
3 30261. ~~(a)~~ Multicompany use of existing and new
4 tanker facilities shall be encouraged to the maximum
5 extent feasible and legally permissible, except where to
6 do so would result in increased tanker operations and
7 associated onshore development incompatible with the
8 land use and environmental goals for the area. New
9 tanker terminals outside of existing terminal areas shall
10 be situated as to avoid risk to environmentally sensitive
11 areas and shall use a monobuoy system, unless an
12 alternative type of system can be shown to be
13 environmentally preferable for a specific site. Tanker
14 facilities shall be designed to (1) minimize the total
15 volume of oil spilled, (2) minimize the risk of collision
16 from movement of other vessels, (3) have ready access to
17 the most effective feasible containment and recovery
18 equipment for oilspills, and (4) have onshore deballasting
19 facilities to receive any fouled ballast water from tankers
20 where operationally or legally required.
21 ~~(b) Only one liquefied natural gas terminal shall be~~

1 permitted in the coastal zone until engineering and
2 operational practices can eliminate any significant risk to
3 life due to accident or until guaranteed supplies of
4 liquefied natural gas and distribution system dependence
5 on liquefied natural gas are substantial enough that an
6 interruption of service from a single liquefied natural gas
7 facility would cause substantial public harm.

8 Until the risks inherent in liquefied natural gas
9 terminal operations can be sufficiently identified and
10 overcome and such terminals are found to be consistent
11 with the health and safety of nearby human populations,
12 terminals shall be built only at sites remote from human
13 population concentrations. Other unrelated
14 development in the vicinity of liquefied natural gas
15 terminal site which is remote from human population
16 concentrations shall be prohibited. At such time as
17 liquefied natural gas marine terminal operations are
18 found consistent with public safety, terminal sites only in
19 developed or industrialized port areas may be approved.

20 SEC. 2. Chapter 10 (commencing with Section 5550) is
21 added to Division 1 of Part 1 of the Public Utilities Code,
22 to read:

23

24 **CHAPTER 10. LIQUEFIED NATURAL GAS TERMINAL**
25 **PERMITTING ACT**

26

27 **Article 1. Findings**

28

29 5550. This chapter shall be known as the Liquefied
30 Natural Gas Terminal Permitting Act.

31 5551. (a) The Legislature finds and declares that the
32 existence of an adequate natural gas supply is essential to
33 the health, safety, and welfare of the people of the State
34 of California and to the economy of the state, and that it
35 is the responsibility of the state to assure that adequate
36 and reliable supplies of natural gas are obtained by
37 California gas distributors in order to protect the public
38 health and safety, to promote the general welfare, and to
39 protect the environment.

40 (b) The Legislature finds and declares that a natural

1 gas shortage currently exists within the state and that this
2 shortage apparently will increase over the next few years
3 and further finds and declares that this shortage
4 increasingly endangers the health, safety, and welfare of
5 the citizens of this state.

6 5552. The Legislature further finds and declares that:
7 (a) It anticipates that disruptive shortages of natural
8 gas and attendant job losses, like those occurring in the
9 eastern half of the nation during the winter 1976-1977,
10 will occur within the State of California, causing personal
11 and economic hardship, if new supplies of natural gas are
12 not acquired; and

13 (b) The citizens of the state will in such a case be
14 subject to significantly increased air pollution effects if
15 new supplies of natural gas are not obtained.

16 5553. (a) The Legislature further finds and declares
17 that it is necessary for a state agency with significant
18 experience in the regulation of gas in California to
19 prepare a study forecasting the gas demand and supply
20 situation of California and to further determine when
21 significant new supplies must be available in order to
22 avert disruptive shortages in California.

23 (b) The Legislature further finds and declares that
24 liquefied natural gas is the only new source of natural gas
25 for California which can be acquired in sufficient
26 quantities for long term use commencing in time to avoid
27 major disruptions, including the closing of industry and
28 commerce and the resultant loss of hundreds of
29 thousands of jobs as well as possible curtailment of gas
30 service to residential customers, which may otherwise
31 occur in California due to shortages of gas.

32 (c) The Legislature further finds and declares that to
33 assure the availability of significant new supplies for
34 California when necessary, permitting procedures for a
35 liquefied natural gas terminal facility should be
36 undertaken concurrently with a gas demand and supply
37 forecast study.

38 (d) The Legislature further finds and declares that in
39 order to assure the timely acquisition of natural gas
40 supplies which may be necessary to avert the shutdown

1 of commerce and industry and the resulting disastrous
2 unemployment in the state and otherwise to protect the
3 health, safety, and welfare of the citizens of the state, it
4 is necessary to consolidate all previously existing state
5 and local permitting procedures for liquefied natural gas
6 terminals in a single state agency.

7 (e) The Legislature further finds and declares that in
8 order to expedite the liquefied natural gas terminal
9 permitting process while at the same time providing for
10 the safety and welfare of the citizens of the State of
11 California, an existing state agency with demonstrated
12 expertise in industrial safety matters should conduct an
13 independent technical review of any proposed liquefied
14 natural gas terminal.

Article 2. Definitions

18 5560. Unless the contrary is stated or clearly appears
19 from the context, the definitions set forth in this article
20 shall govern the construction of this chapter.

5561. "Person" means any individual, organization, partnership, or other business association or corporation, and any federal, state, local government, or special district, or an agency thereof.

25 5562. "Local government" means any chartered or
26 general law city, chartered or general law county, or any
27 city and county, and further means any special district,
28 which is any public agency, other than state government
29 as defined in this section or a city, county, or city and
30 county, formed pursuant to general law or special act for
31 the local performance of governmental or proprietary
32 functions within limited boundaries and which includes,
33 but is not limited to, a county service area, a maintenance
34 district or area, an improvement district or improvement
35 zone, or any other zone or area, formed for the purpose
36 of designating an area within which a property tax rate
37 will be levied to pay for a service or improvement
38 benefiting that area.

39 5563. "Liquefied natural gas terminal" means facilities
40 designed to receive liquefied natural gas from ocean

1 going vessels, including those facilities required for
2 storage and revaporation of the liquefied natural gas
3 and those pipelines and facilities necessary for
4 transmission of the revaporized natural gas to the point
5 of interconnection with existing pipelines.

6 5564. "State government" means any state or regional
7 agency, office, department, division, bureau, board, or
8 commission.

9 5565. "Commission" means the Public Utilities
10 Commission of the State of California.

11 5566. "Permit" means the single governmental
12 authorization, to the extent permitted by federal law,
13 required to construct and operate a liquefied natural gas
14 terminal in California.

15 5567. "Division" means the Division of Industrial Safety
16 of the Department of Industrial Relations, as described in
17 the Labor Code.

18

19 Article 3. Gas Demand and Supply Forecast

20

21 5570. The commission shall prepare a forecast of
22 California's gas supply and demand for the next ensuing
23 decade. Such forecast shall include consideration of
24 supplies from existing sources, estimated availability and
25 timing of supplies from new sources, load equation
26 capabilities through underground storage or other
27 means, and customer demand under cold year, warm
28 year, and extreme peak day, as well as average weather
29 conditions. Customer demand forecasts shall reflect the
30 anticipated impact of conservation programs.

31 The commission's forecast shall determine if and when,
32 considering at least the foregoing factors, California will
33 require significant new supplies of gas.

34 5571. The commission, in preparing its forecast, may
35 utilize as it deems appropriate, other documents
36 previously prepared by agencies of federal, state, or local
37 government as well as those prepared by private persons.

38 5572. The forecast shall be completed within 150 days
39 of the date an application is filed pursuant to this chapter.

1 Article 4. Liquefied Natural Gas Terminal Permitting
2 Procedure

3

4 5580. After the effective date of this chapter, no person
5 shall construct or operate a liquefied natural gas terminal
6 in the State of California without first applying for and
7 obtaining the permit required by this chapter.
8 Notwithstanding any other provision of law to the
9 contrary, and to the extent permitted by federal law, such
10 permit shall be the only permit required from agencies
11 of state or local government to construct and operate
12 such liquefied natural gas terminal, except as provided in
13 Section 1001, if applicable, and as otherwise specified in
14 Section 5589 and shall be in lieu of any permit,
15 entitlement to use, or other similar authorization
16 required from any state or local government. The
17 provisions of this section supersede, to the extent
18 permitted by federal law, any statute, regulation, or
19 ordinance of any state or local government applicable to
20 the construction and operation of a liquefied natural gas
21 terminal. In no event shall any person filing any
22 application for, or receiving a permit pursuant to the
23 provisions of this chapter be deemed a public utility or a
24 gas corporation pursuant to the provisions of this code
25 solely because of the application for, or receipt of, a
26 permit pursuant to this chapter.

27 5581. (a) The commission is hereby granted the
28 exclusive power to issue the permit required, to the
29 extent permitted by federal law, to construct and operate
30 a liquefied natural gas terminal in this state. Such permit
31 may contain reasonable conditions necessary to preserve
32 the public safety, to protect the environment, and to
33 assure compliance, as appropriate, with ordinary and
34 reasonable requirements of any local government in
35 which the liquefied natural gas terminal is located.

36 (b) The commission shall issue a permit if it finds that
37 the construction and operation of a liquefied natural gas
38 terminal, for which application has been filed, meets the
39 requirements of this chapter. The commission shall
40 consider only the following factors in making this

1 determination:

2 (1) The necessity for a liquefied natural gas terminal to
3 accommodate anticipated or approved gas supplies.

4 (2) Public safety.

5 (3) Environmental impact.

6 (4) Land use planning.

7 5582. To aid the commission in its consideration of
8 public safety, the commission may request the division to
9 prepare a report for the commission on such matter. The
10 division's report shall be made following an independent
11 technical review of the plans for the proposed liquefied
12 natural gas terminal. Such review shall consider, but, shall
13 not be limited to, relevant studies prepared by the
14 applicant or prepared by agencies of federal, state, or
15 local government, or by all such entities. Such division
16 report shall include, but, shall not be limited to, the
17 following elements:

18 (a) Transfer and storage system design, including
19 materials, components and controls, involved in the
20 handling of liquefied natural gas;

21 (b) Seismic design of critical plant elements;

22 (c) Safety systems design, including containment,
23 detection devices, emergency shutdown systems, and fire
24 control systems;

25 (d) Sabotage avoidance plans to be made available and
26 reviewed on a confidential basis only; and

27 (e) Fire fighting capability of plant and local fire
28 departments.

29 The division's report may include suggested permit
30 conditions necessary to promote the safety of nearby
31 human populations.

32 5583. If the division is requested by the commission to
33 prepare a report pursuant to Section 5583, the
34 commission shall reimburse the division for the costs and
35 expense incurred by the division in undertaking its
36 review and preparing its report. The applicant may be
37 required by the commission to pay all reasonable costs
38 and expenses, up to a maximum of two hundred fifty
39 thousand dollars (\$250,000), for which the commission
40 shall reimburse the division. All additional costs incurred

1 in the review and preparation of the report shall be paid
2 by the commission.

3 5584. If the commission requests the division to prepare
4 a report, within 10 days after an application for a permit
5 has been filed, the commission shall give notice to the
6 division of the application and its contents. The division
7 shall complete any review and report requested by the
8 commission pursuant to this section within 180 days of the
9 date on which the commission gives the notice herein
10 required, and shall transmit such report to the
11 commission.

12 5585. (a) To aid the commission in its consideration
13 whether to issue a permit and if a permit is issued, what
14 conditions, if any, to attach to the permit, the commission
15 shall request input from directly affected local
16 governments. To achieve this the commission shall give
17 notice to any local government in which a liquefied
18 natural gas terminal, for which an application has been
19 filed, would be located. Notice shall be given to the local
20 government within 10 days of the date on which an
21 application is filed, the notice shall inform the local
22 government of the application's contents, and it shall
23 invite the local government to fully participate in all
24 hearings on the application and to inform the commission
25 of its recommendations regarding permitting of the
26 liquefied natural gas terminal or appropriate conditions
27 to affix a permit if granted, or both.

28 (b) In addition to the procedural requirements
29 specified in Section 5587, the commission shall hold some
30 part of the hearings on the application in the city or
31 county in which the proposed liquefied natural gas
32 terminal is to be located, in order to facilitate the receipt
33 of information from persons residing in the vicinity of the
34 proposed liquefied natural gas terminal.

35 (c) If an application is made for a liquefied natural gas
36 terminal to be located in a city, for which a city charter
37 existed on October 10, 1911, the commission shall obtain
38 from such city a list of all its existing police, sanitary, and
39 other regulations concerning municipal affairs, which
40 were promulgated pursuant to the city charter existing

1 on October 11, 1911. If a permit is issued for the
2 construction and operation of the liquefied natural gas
3 terminal, the commission shall require as a condition that
4 the applicant comply with or meet all standards
5 embodied in the municipal affairs regulations listed by
6 the city.

7 5586. The commission shall complete the permitting
8 procedure and shall issue its decision within one year of
9 the date upon which an application is filed pursuant to
10 this chapter.

11 5587. To cover costs incurred in processing permit
12 applications pursuant to this chapter, the commission
13 may charge a permit applicant a fee not to exceed fifty
14 thousand dollars (\$50,000).

15 5588. The commission may consult with any other
16 agency of state or local government to aid it in its
17 evaluation of the factors enumerated in subdivision (b)
18 of Section 5581. If called upon for their assistance by the
19 commission, such agencies shall cooperate with the
20 commission to the fullest extent practicable.

21 5589. Except as otherwise provided in this chapter, all
22 applications for permits pursuant to this chapter shall be
23 filed with the commission, process issued, hearings held,
24 decisions made and filed, and petitions for writs of review
25 filed with the Supreme Court of this state, considered and
26 disposed of by the Supreme Court of this state in regard
27 to matters provided for in this chapter pursuant to the
28 provisions of this division, to the extent applicable.

29 5590. (a) If a proposed liquefied natural gas terminal
30 requires a lease, easement, or other similar interest in real
31 property from an agency of the state or local
32 government, the writing memorializing such lease,
33 easement, or other interest in real property shall be
34 forwarded by such agency or local government to the
35 commission within 180 days of the date on which the
36 notice is given to the agency by the applicant pursuant to
37 this article. Any state or local government executing such
38 a writing shall be exempted from the provisions of
39 Division 13 (commencing with Section 21000) of the
40 Public Resources Code. Such writing shall be considered

1 by the commission in its review of an application for a
2 permit.

3 (b) Should the applicant and any agency of state
4 government be unable to reach agreement within the
5 time period established in subdivision (a), the parties
6 shall notify the commission, which shall arbitrate the
7 terms and conditions of the property interest to be
8 conveyed. In the event arbitration is necessary, the
9 arbitration may be conducted pursuant to the
10 Commercial Arbitration Rules of the American
11 Arbitration Association, to the extent applicable. The
12 decision of the arbitrator shall be rendered within 300
13 days of the date on which an application for a liquefied
14 natural gas terminal is filed.

15 (c) Within 10 days of filing an application with the
16 commission, any applicant for a permit shall give notice
17 to any state or local government, from which it requires
18 a property interest of the type prescribed in subdivision
19 (a), of the application and its contents.

20 5591. (a) The commission may request the division to
21 prepare a safety monitoring program to be utilized by the
22 commission in assuring that the construction and the
23 operation of any liquefied natural gas terminal is
24 undertaken pursuant to the terms and conditions
25 pertaining to safety of any permit issued by the
26 commission.

27 (b) The division may recommend to the commission
28 rules and regulations necessary to implement such a
29 monitoring program. The commission may promulgate
30 all rules and regulations necessary to implement the
31 monitoring program.

32
33 Article 5. Initial Liquefied Natural Gas Terminal
34 Permitting Procedure
35

36 5600. Due to the probable urgent need expeditiously to
37 permit at least one liquefied natural gas terminal which
38 can initially receive liquefied natural gas, a permit
39 application for an onshore site may be made pursuant to
40 this article only if an application for authorization to

1 construct such a terminal was pending before the Federal
2 Power Commission as of January 1, 1977. Application may
3 also be made for an offshore site. Notwithstanding any
4 other provision of law, the commission shall issue a final
5 decision within 180 days of filing an application for any
6 such terminal.

7 5601. (a) To accomplish this expedited permitting
8 procedure, the procedure provided in Article 4
9 (commencing with Section 5580) of this chapter shall be
10 followed as modified by this section.

11 (b) Any application filed pursuant to this article shall
12 be filed within 20 days of the effective date of this act. An
13 evidentiary presentation in support of the application
14 shall accompany it.

15 (c) Within 10 days following the filing of the
16 application, the commission shall set a time, not more
17 than 30 days following the filing of the application, and a
18 place for a prehearing conference and direct the
19 applicant to publish forthwith a notice thereof in a
20 newspaper of general circulation in the City of Los
21 Angeles; in the City of Sacramento, in the City of San
22 Diego, in the City and County of San Francisco, and in
23 the city or county in which the proposed terminal will be
24 located. Such notice shall advise of the filing of the
25 application, a general description of the permit sought,
26 the time and place of the prehearing conference, and
27 shall state that any person attending such conference
28 shall be entitled to receive a copy of the application, to
29 make an appearance in the proceeding, and to
30 participate as a party to the degree indicated by the
31 presiding officer. At such prehearing conference the
32 commission shall establish procedural dates which will
33 result in the issuance of a decision not later than 180 days
34 after the date of the filing of the application. Any permit
35 issued pursuant to this section shall be granted only for a
36 liquefied natural gas terminal which the commission
37 determines can be operative on the date on which
38 California will require significant new gas supplies
39 according to the commission's determination made
40 pursuant to Article 3 (commencing with Section 5570) of

1 this chapter.

2 5602. In acting on any application for a permit pursuant
3 to this article the commission shall review the final
4 environmental impact reports for such terminal. If no
5 final environmental impact report exists at the time of
6 the filing of an application the commission shall prepare
7 a final report so as to enable it to issue its decision within
8 the time specified in subdivision (c) of Section 5601. In
9 preparing and reviewing such final environmental
10 impact report pursuant to the requirements of Division
11 13 (commencing with Section 21000) of the Public
12 Resources Code, the commission shall as part of its review
13 of alternatives, and to the extent possible in light of time
14 deadlines, fully consider an offshore site for a liquefied
15 natural gas terminal, including its technological
16 feasibility, its economic consequences, its legal feasibility
17 and its current reliability. The final environmental
18 impact report for any liquefied natural gas terminal
19 pursuant to this section shall consider as alternatives to
20 the site applied for, all those onshore sites in California for
21 which applications were pending before the Federal
22 Power Commission as of January 1, 1977.

23 5603. To facilitate the expedited permit procedure
24 required by this article, the division shall complete any
25 review and report requested by the commission as
26 described in Article 4 (commencing with Section 5580) of
27 this chapter within 90 days following the date on which
28 the commission gives the division the notice set forth in
29 Section 5582. If any liquefied natural gas terminal for
30 which application is made pursuant to this article
31 requires a property interest from an agency of state or
32 local government, the writing, memorializing the
33 property interest, shall be forwarded to the commission
34 within 90 days of the date on which the applicant gives
35 the agency in question notice required by Article 4
36 (commencing with Section 5580) of this chapter. As
37 provided in Article 4 (commencing with Section 5580) of
38 this chapter, should the applicant and any agency of state
39 government be unable to reach agreement within the
40 aforesigned time period, the parties shall notify the

1 commission, which shall arbitrate the terms and
2 conditions of the property interests to be conveyed. The
3 decision of the arbitrator shall be rendered within 135
4 days of the date on which an application for a liquefied
5 natural gas terminal is filed. Notice regarding such
6 property interests shall be given in the manner described
7 in Article 4 (commencing with Section 5580) of this
8 chapter.

9 5604. If an application for a liquefied natural gas
10 terminal is made pursuant to this article, the denial of a
11 permit for such liquefied natural gas terminal shall be
12 without prejudice to an application for such liquefied
13 natural gas terminal pursuant to Article 4 (commencing
14 with Section 5580) of this chapter.

15 SEC. 3. If any provision of this act or the application
16 thereof to any person or circumstances is held invalid,
17 such invalidity shall not affect other provisions or
18 applications of this act which can be given effect without
19 the invalid provision or application thereof, and to this
20 end the provisions of this act are severable.

21 SEC. 4. No appropriation is made by this act, nor is any
22 obligation created thereby under Section 2231 of the
23 Revenue and Taxation Code, for the reimbursement of
24 any local agency for any costs that may be incurred by it
25 in carrying on any program or performing any service
26 required to be carried on or performed by it by this act.