

**Introduced by Senator Alquist**

April 19, 1977

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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.

15

16

## Article 2. Definitions

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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.

21 5561. "Person" means any individual, organization,  
22 partnership, or other business association or corporation,  
23 and any federal, state, local government, or special  
24 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 revaporization 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 aforescribed 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.