

Communication from Public

Name: Kathy Schaeffer
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Council File No: 25-0002-S44

Comments for Public Posting: I am writing in support of Council File 25-0002-S44, a resolution in support of California Senate Bill 684 and Assembly Bill 1243, The Polluters Pay Climate Superfund. This critically important legislation would require that the largest multinational fossil fuel companies doing business in California, would be required to pay their fair share of climate-related damages caused by their attributable greenhouse gas emissions from 1990-2024. California taxpayers, local municipalities and the State cannot, and should not have to pay for damages associated with extreme heat, wildfires, drought and floods. SB 684 and AB 1243 are modeled on Federal Superfund Clean-Up legislation with strict liability and attribution standards. These bills will require 1) a statewide study to determine quantifiable damages through 2045, 2) Defines responsible parties as those who emitted more than one billion metric tons of CO2 equivalent from 1990-2024, 3) Assess and collect fees from polluters to be paid into a Climate Superfund and allocate these funds for mitigation and prevention of climate harms and 4) Prevent unfair fees, rate increases and costs for Californians and ensure prioritization of labor/job standards and severely impacted communities. Last year the oil and gas industry spent \$39 million dollars to lobby against these bills. They will tell you that gas prices will go up. Here are the facts: 1) The assessment will only apply to the very largest polluters (i.e. Chevron, ExxonMobil, Shell) Smaller oil and gas companies, as well as unbranded gas stations (Costco) will not be affected, 2) Gasoline prices are determined by a global market and future prices are not always stable. The Superfund assessment is based on past production and will be a predictable amount, 3) The largest multinational companies have hundreds of billions of dollars in retained earnings from which assessments can be paid. Their operating budgets will not be affected so gas prices should not be affected significantly. I strongly urge ALL council members to vote yes on CF 25-0002-S44

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Blakespear, Chair

2025 - 2026 Regular

Bill No: SB 684

Author: Menjivar

Version: 2/21/2025

Hearing Date: 4/2/2025

Urgency: Yes

Fiscal: Yes

Consultant: Eric Walters

SUBJECT: Polluters Pay Climate Superfund Act of 2025

DIGEST: This bill tasks the California Environmental Protection Agency (CalEPA) with determining the total damage amount caused to the state by covered fossil fuel emissions, then assessing a cost recovery demand against those responsibility parties, which will be appropriated by the Legislature for any qualified expenditure.

ANALYSIS:

Existing federal law:

- 1) Creates, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a Federal “Superfund” to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Provides the United States Environmental Protection Agency (US EPA) with the authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. (42 United States Code (USC) § 9601 et seq.)

Existing state law:

- 1) Requires the California Air Resources Board (CARB) to approve a statewide greenhouse gas (GHG) emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 (AB 32, 2006) and to ensure that statewide GHGs are reduced to at least 40% below the 1990 level by 2030 (SB 32, 2016).
- 2) States, under the California Climate Crisis Act—AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022), that it is the policy of the state to achieve net zero GHG emissions no later than 2045, and to ensure that by 2045 statewide anthropogenic GHG emissions are reduced to at least 85% below the 1990 level.

- 3) Defines “greenhouse gas” to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride. (Health and Safety Code (HSC) § 38505)
- 4) Establishes the Greenhouse Gas Reduction Fund (GGRF) to receive the moneys raised through the auction of allowances under cap-and-trade, and to be appropriated annually by the Legislature for the purpose of reducing GHG emissions in the state. (HSC § 39719)

This bill, the Polluters Pay Climate Superfund Act of 2025:

- 1) Tasks CalEPA with determining the total damage amount (1990-2045) caused by covered fossil fuel emissions (1990-2024) attributable to responsible parties, then assessing a cost recovery demand against those responsible parties to be appropriated by the Legislature for any qualified expenditure.
- 2) Defines a number of pertinent terms, most notably:
 - a) Covered fossil fuel emissions, to mean the GHGs released into the atmosphere during the covered period, attributable to the extraction, production, refining, sale, or combustion, including by third parties, of fossil fuels or petroleum products;
 - b) Covered period, to mean January 1, 1990 to December 31, 2024.
 - c) Qualifying expenditures to mean projects and programs within the state to mitigate, adapt, or respond to damages and harms from climate change. These may include but are not limited to investments in:
 - i) Community disaster preparedness, response, and recovery;
 - ii) Energy efficiency and resiliency;
 - iii) Green workforce development and other workforce support;
 - iv) Regenerative agricultural practices; and
 - v) Natural systems protections.
 - d) Total damage amount, to mean the costs incurred by effects—experienced between January 1, 1990 and December 31, 2045—attributable to covered fossil fuel emissions to California’s government, residents, biodiversity and ecosystems, agriculture and food systems, water, wildfire, built environment, economic development, and any other effects that may be relevant; and
 - e) Responsible party, to mean an entity that meets all 3 of these conditions:

- i) Holds or held majority ownership in a business engaged in extracting or refining fossil fuels during the covered period (or a successor in interest to such an entity);
 - ii) Did business in the state (or otherwise had sufficient contacts to give jurisdiction pursuant to Code of Civil Procedure § 410.10) during the covered period; and
 - iii) At least one billion metric tons of covered fossil fuel emissions (in aggregate globally) are attributable to it.
- 3) Describes a number of logistical considerations and necessities to implement the Polluters Pay Climate Superfund Program (“Program”) and Polluters Pay Climate Superfund (“Fund”), including but not limited to:
 - a) Requiring CalEPA to:
 - i) Determine and publish the list of responsible parties within 90 days of the effective date of the legislation;
 - ii) Conduct or commission a climate cost study to determine the total damage amount within one year of the effective date of the legislation (which can be updated as science and quantification methods evolve);
 - iii) Assess a cost recovery demand upon each responsible party in proportion to its share of global fossil fuel emissions during the covered period within 60 days of the completion of the cost study.
 - b) Directing responsible parties that:
 - i) They must pay their cost recovery demand evenly over 20 annual installments after an initial 10% in the first year;
 - ii) They must pay all remaining installments immediately if they miss a payment, sell or liquidate their assets (unless the buyer assumes liability for payment), or cease doing business;
 - iii) They may challenge or adjust their status as a responsible party or their portion of the cost recovery demand, as specified.
 - c) Establishing the Fund in the State Treasury to:
 - i) Be appropriated by the Legislature to implement the Program, make qualifying expenditures, or reimburse any outstanding loan made to finance CalEPA’s initial costs;
 - ii) Be expended in accordance with the climate cost study;
 - iii) Be expended such that at least 40% of moneys directly benefit disadvantaged communities facing climate impacts; and

- iv) Assess and implement strategies to increase employment opportunities and improve job quality.
- d) Directing a number of other state governmental entities to assess and consult with the climate cost study and Program;
- e) Providing the Attorney General authority to enforce the requirements of the Program (including by revoking the business license of) and assess late fees upon responsible parties, as specified.

Background

- 1) *Climate change in California.* California is already experiencing the harmful effects of climate change, including an increase in extreme heat events, drought, floods, wildfire, sea level rise, and more.

According to the most recent California Climate Change Assessment, by 2100, the average annual maximum daily temperature is projected to increase by 3.1 - 4.9°C (5.6 - 8.8°F), water supply from snowpack is projected to decline by two-thirds, the average area burned in wildfires could increase by 77%, and up to 67% of Southern California beaches may completely erode due to sea level rise (SLR) without large-scale human intervention, all under business-as-usual and moderate GHG reduction pathways.

We can expect these effects to continue and worsen until global GHG emissions are significantly reduced.

- 2) *The cost of climate change.* The consequences of climate change come with a huge price tag that is only increasing. In 2020, wildfires in California amounted to economic losses of over \$19 billion.¹ A February 2025 report estimated the cost of property damage alone from the 2025 Los Angeles wildfires to be between \$28.0 and \$53.8 billion.² Estimates that also include damage, loss of life, healthcare, business disruptions, and other economic impacts as well estimate impacts to be in the \$250 billion to \$275 billion range.³ The Natural Resources Defense Council (NRDC) estimates that under a business-as-usual scenario, between the years 2025 and 2100, the cost of

¹ *California's 2020 Wildfire Season.* Kat Kerlin, 2022, UC Davis.

<https://www.ucdavis.edu/climate/news/californias-2020-wildfire-season-numbers>

² *Impact of 2025 Los Angeles Wildfires and Comparative Study.* Institute for Applied Economics, 2025.

<https://laedc.org/wpcms/wp-content/uploads/2025/02/LAEDC-2025-LA-Wildfires-Study.pdf>

³ *Behind the staggering economic toll of the L.A. wildfires.* Andrea Chang et al., LA Times, 2/12/25.

<https://www.latimes.com/business/story/2025-02-12/la-wildfires-economic-impact-insurance-construction-real-estate-rebuild-los-angeles>

providing water to the western states in the US will increase from \$200 billion to \$950 billion per year, nearly an estimated 1% of the United States' gross domestic product.⁴

On sea level rise, a 2015 economic assessment by the Risky Business Project estimated that if current global GHG emission trends continue, between \$8 billion and \$10 billion of existing property in California is likely to be underwater by 2050.⁵ Moreover, a study by researchers from the US Geological Survey (USGS) estimated that by 2100, roughly six feet of SLR and recurring annual storms could impact over 480,000 California residents (based on 2010 census data) and \$119 billion in property value (in 2010 dollars).⁶

There is a human cost to climate change as well. In addition to capital losses, climate change affects physical health, mental health, food security, and more. It results in population migrations as it displaces people from their homes. The dollar amounts of these human costs are difficult to quantify. Taking action to mitigate climate change damage – by reducing emissions, protecting vulnerable communities, and limiting warming – of course also costs money. However, it is important that those costs be compared to the monumental costs of inaction.

Professor Kevin Anderson, a British petrochemical engineer turned climate scientist, is attributed for this poignant description of our outlooks:

“We face an unavoidably radical future. We either continue with rising emissions and reap the radical repercussions of severe climate change, or we acknowledge that we no longer have a choice and pursue radical emission reductions: no longer is there a non-radical option.”

- 3) *Legal precedents.* This bill, should this committee approve it, will be referred subsequently to the Senate Judiciary Committee, which is the more appropriate venue for considerations of the legal basis of the proposal. Several relevant laws are provided briefly here for context and completeness:
 - a) *The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA):* CERCLA, or Superfund, provides a Federal “Superfund” to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and

⁴ *The Cost of Climate Change.* NRDC, 2008. <https://www.nrdc.org/sites/default/files/cost.pdf>

⁵ *From Boom to Bust? Climate Risk in the Golden State.* Risky Business Project, 2015. <http://riskybusiness.org/uploads/files/California-Report-WEB-3-30-15.pdf>

⁶ *Increasing threat of coastal groundwater hazards from sea-level rise in California.* Befus *et al.*, Nature Climate Change, 2020. <https://doi.org/10.1038/s41558-020-0874-1>

contaminants into the environment. Through CERCLA, the US EPA was given authority to seek out those parties responsible for any release and assure their cooperation in the cleanup.

Superfund liability is retroactive (Parties may be held liable for acts that happened before Superfund's enactment in 1980), joint and several (any one potentially responsible party (PRP) may be held liable for the entire cleanup of the site when the harm caused by multiple parties cannot be separated), and strict (a PRP cannot simply say that it was not negligent or that it was operating according to industry standards; if a PRP sent some amount of the hazardous waste found at the site, that party is liable).

Under Superfund, a PRP is potentially liable for government cleanup costs, damages to natural resources, the costs of certain health assessments, and injunctive relief (i.e., performing a cleanup) where a site may present an imminent and substantial endangerment.

- b) *Childhood Lead Poisoning Prevention Act*. Since the 1990s, California has implemented a law assessing compensatory fees against lead paint and leaded gas producers to fund programs to screen and treat lead poisoning in children. The Department of Public Health assesses and collects the fee annually, based on the polluter's market share responsibility for environmental lead contamination. In a challenge by a petroleum company to its allocation, the California Court of Appeals found "there was a reasonable basis for the department to allocate the lead program fee in the manner it did, based on the gasoline industry's responsibility for contaminating the environment with lead."⁷
- c) *Other Climate Superfund laws*. In the last year (since the introduction of this bill's predecessor, SB 1497 (Menjivar, 2024), two other states have passed and signed into law their own Climate Superfund acts: New York and Vermont.

On December 26, 2024, New York Governor Kathy Hochul signed into law the "Climate Change Superfund Act," which seeks to impose retroactive fees on fossil fuel producers for their disproportionately large contributions to negative climate change impacts.

⁷ *Equilon Enterprises LLC v. Bd. of Equalization* (2010) 189 Cal. App. 4th 865, 870; see also *Sinclair Paint Co. v. State Bd. of Equalization*, 15 Cal. 4th 866, 877-878 (Cal. 1997) ("the police power is broad enough to include mandatory remedial measures to mitigate the past, present, or future adverse impact of the fee payer's operations, at least where, as here, the measure requires a causal connection or nexus between the product and its adverse effects").

New York's Climate Superfund assessed a set cost recovery for damages of \$75 billion. Estimates from New York of projected climate adaptation costs through 2050 exceed \$150 billion.⁸ Vermont's Climate Superfund, more akin to SB 684, will assess the costs that, "have been incurred and are projected to be incurred in the future."⁹

- 4) *The "Carbon Majors" report.* Published first in 2014 by Richard Heede, the Carbon Majors report describes the GHG contributions attributable to major fossil fuel companies. To quote the report:

"This project was undertaken to trace the origin of anthropogenic CO₂ and methane to the world's largest extant producers of carbon fuels and cement. The primary driver of climate change is not current emissions, but cumulative (historic) emissions. This project quantifies and traces for the first time the lion's share of cumulative global CO₂ and methane emissions since the industrial revolution began to the largest multinational and state-owned producers of crude oil, natural gas, coal, and cement. These fuels, used as intended by billions of consumers, have led to the most rapid increase in atmospheric CO₂ of the last 3 million years and the highest concentration of CO₂ of the last 800,000 years."

The report represents a methodical effort to assess publicly-available fossil fuel production data; apply fuel-specific emission factors to account for energy content, pollution profile, and other use profiles; and track culpability across decades of mergers and acquisitions. The result is a comprehensive description of which companies' actions led to what share of the total contribution of anthropogenic GHGs to the atmosphere. The author erred on the side of caution and applied conservative assumptions in cases of uncertainty.

Ultimately, the report found that just 90 fossil fuel-producing entities (the so-called "carbon majors") were responsible for 63.4% of global industrial GHG emissions between 1751 and 2010. It merits clarification that those 90 companies did not directly burn the fuels that led to those emissions; the majority are from end users who purchased resources from the carbon majors.

- 5) *Attribution science: linking emissions and disasters.* Today, as extreme weather events happen more frequently, people are routinely asking if they are caused by climate change. Developments in recent years in a new type of research called "attribution science" (or "even attribution") can determine not if climate change caused an event, but if climate change made some extreme

⁸ New York State Senate Bill S2129A. Liz Krueger, 2024. <https://www.nysenate.gov/legislation/bills/2023/S2129>

⁹ Vermont Act 122. Wilson, Sears Jr., 2024. <https://legislature.vermont.gov/bill/status/2024/S.259>

events more severe and more likely to occur, and if so, by how much. There have always been extreme weather events caused by numerous natural factors, but climate change is increasing the number and strength of these events. Now, it is possible to quantify climate change's relative influence more precisely, even if it does not cause the event per se.

When there is an extreme weather event, scientists first determine how frequently an event of that magnitude might occur based on historical and observational data. Attribution studies then run identical climate models under two scenarios. In the first, GHG concentrations are kept constant at some level from the past before humans started burning fossil fuels, and the climate model is run over, say, a 150-year period. For the second scenario, the climate model goes back in time again, plugging in the actual GHG concentrations for each year as they increased over time. By comparing the results from the modeled scenarios, scientists can estimate how much human emissions from fossil fuel activity have shifted the odds. Statistical methods are then used to quantify the differences in severity and frequency of the event.

As an example, if the extreme event occurs twice as often in today's climate model as it does in the counterfactual climate model, then climate change is determined to have made the event twice as likely as it would otherwise have been in a world without human-induced emissions. Such claims have become a hallmark of climate journalism in recent years, and are the foundation of Vermont's Climate Superfund as well,

In implementing Vermont's Climate Superfund, a recent feasibility report produced by the Vermont Agency of Natural Resources reports that even attribution has developed in the past two decades and researchers are capable of connecting emissions of individual actors to damages on a national level, with experts describing a full causal chain from emissions to impacts.¹⁰ Nevertheless, the feasibility report suggests that further development to the methods will be necessary to address the full scope of climate impacts covered in Vermont by the Climate Superfund.

Comments

- 1) *Purpose of Bill.* According to the author, "Profits for polluters skyrocket year over year, and California's taxpayers simultaneously pinch their pennies for household expenses while also solely footing the bill for catastrophic climate change driven natural disasters. We must be relentless in pursuing all avenues

¹⁰ Act 122L Climate Superfund Cost Recovery Program. Report to the General Assembly. January 15, 2025

to redirect the financial burden away from the consumer as we mitigate the consequences of human-made disasters. The Polluters Pay Climate Superfund Act is a commonsense way to tap into a small fraction of polluters' profits, and collect their share of the financial burden."

- 2) *Who pays for California's climate damages?* With or without this bill, the costs of climate disaster recovery, adaptation, and mitigation will climb and must be paid. The question then is, "Paid by whom?"

This bill asserts that the most appropriate payers for these damages are those who profited the most by selling fossil fuels. Should those costs be borne by the companies most involved in the production and sale of fossil fuels, or by the Californians unlucky enough to live through the disasters that result?

It is not clear at this time exactly which companies would be implicated in the cost recovery demand envisioned by SB 684; that responsibility would fall upon CalEPA in the 90 days following the bill's enactment. The "Carbon Majors" dataset, which is based on original company-reported production data in annual reports and SEC 10-K filings, attempts to quantify the emissions associated with the world's largest fossil fuel and cement companies and provides some potential insights.

According to the Carbon Majors dataset, there are only 133 global entities that have ever produced over a billion tons of CO₂-equivalent GHG emissions (through the combination of their own operations (Scope 1 emissions) as well as those associated with combustion of their sold products (Scope 3 emissions)). It is not immediately apparent which of those 133 entities may have emitted over a billion tons between 1990-2024 (the threshold and range contemplated in SB 684). Of those 133, only 26 operate in the United States.¹¹ Of those 26, it is not apparent which have done business in California or otherwise had sufficient contacts with the state to be included in the bill. Nevertheless, it is noteworthy that likely relatively few entities are implicated as responsible parties.

¹¹ The 26 companies referenced here are as follows: Chevron, ExxonMobil, ConocoPhillips, Peabody Energy, Occidental Petroleum, CONSOL Energy, Arch Resources, Alpha Metallurgical Resources, Marathon Oil, Devon Energy, Hess Corporation, Orintiv, Cyprus AMAX Minerals, American Consolidated Natural Resources, Westmoreland Mining, APA Corporation, EOG Resources, Alliance Resource Partners, Kiewit Mining Group, Chesapeake Energy, North American Coal, Cloud Peak, Vistra, Coterra Energy, EQT Corporation, and Southwestern Energy. This list is strictly provided for illustrative purposes and should not be construed to suggest inclusion in SB 684 (nor should absence from this list be construed to suggest exclusion from SB 684). These are entities listed on the Carbon Majors database that 1) are associated with at least 1 billion tons of GHG emissions, and 2) have their region listed as "USA".

- 3) *What's the damage?* Like the list of responsible parties, the damage assessment required by SB 684 will be conducted by CalEPA and it is premature to make any assertions about the amount that will be demanded for recovery. Regardless, there are some points of reference that can provide an idea of the scope and scale of the costs associated with climate-related damages.

Now that New York has passed its own Climate Superfund Act, their program provides one useful comparison. New York's program, rather than assess the damages from climate change, opted to set the fund at \$75 billion in statute, despite the bill itself stating, "The cost to the state of climate adaptation investments through 2050 will easily exceed \$150 billion." For reference, California's gross state product is roughly \$3.8 trillion to New York's \$2.15 trillion. In other words, although the exact cost estimate for California to adapt to climate change is unknown until CalEPA conducts the study required by SB 684, it seems highly likely that the costs could significantly exceed \$150 billion.

No one can predict the future, but the trends are dire. Last year, 2024, was the world's hottest year on record by a significant margin,¹² yet it could well be among the coldest years for decades to come. Even the staggering \$28.0 to \$53.8 billion in property damage estimated from the 2025 Los Angeles wildfires could well be surpassed by future climate-worsened disasters.

Such large numbers can be difficult to conceptualize without points of comparison. Total California General Fund spending in the 2023-2024 Budget was \$208.7 billion. GGRF, from cap-and-trade's inception to July 2023, has received \$24.3 billion from the auction of allowances. Exxon Mobil and Chevron reported \$36 and \$21.3 billion in profits in 2023, respectively.

- 4) *What does this mean for Californians?* It is no coincidence that many of the same companies likely to be responsible parties under SB 684 have been the target of previous and ongoing policy action, nor is it coincidental that the fuel those companies sell is a major cost driver for the majority of Californians' daily lives and commerce. Fossil fuels have been the primary energy source for most of the state's economy, as well as the primary source of GHG emissions, and shifting to other sources of energy is difficult. As cost-of-living concerns justifiably dominate headlines and discourse alike, it is worth considering the impacts SB 684 could have on consumer costs in the context of California's existing climate policies.

¹² 2024 was warmest year in the modern record for the globe. NOAA National Centers for Environmental Information. Published 1/10/2025, accessed 3/20/25 <https://www.climate.gov/news-features/featured-images/2024-was-warmest-year-modern-record-globe>

Most (if not all) responsible parties under SB 684 already have been paying into California's climate policies, either in the form of purchasing cap-and-trade allowances, or procuring Low Carbon Fuel Standard (LCFS) credits.

- a) Cap-and-trade compliance obligations are imposed upon any facility emitting over 25,000 tons of GHGs per year. A common method to comply with that obligation is to purchase "allowances" at auction, at the rate of roughly \$30 per ton of GHG emissions. Those auction proceeds then fund the Greenhouse Gas Reduction Fund (GGRF), where they are appropriated by the Legislature for a number of beneficial programs.
- b) Somewhat similarly, LCFS requires producers of high-carbon intensity (CI) transportation fuels (i.e. gasoline and diesel) to obtain an LCFS "credit" for each ton-equivalent of emissions associated with their fuel production above a set target CI. These credits have traded as high as \$200 per ton in the past, but have more recently hovered around \$60 per ton. The purchase of LCFS credits is made directly from credit generators (such as low-CI fuel producers), and so the sale proceeds go directly to subsidizing credit generators, rather than flowing through the state.

Ultimately, both of these programs impose compliance costs upon gasoline producers in the state that are volumetric (that is, more fuel sold begets more compliance costs). Although the subject of considerable debate, it is safe to say that at least some portion of those compliance costs is passed through to consumers, who then pay a higher retail price.

It is not obvious exactly how SB 684 would affect fuel producers' operations, and even less obvious how that could affect retail fuel prices. Firstly, cost recovery demands would be a one-time recompense, not an increase to operating costs (like cap-and-trade and LCFS are). Since cost recovery demands would only be imposed upon the largest (i.e. over one billion tons of associated GHG emissions) fossil fuel producers, not all fuel producers would be affected. Even among responsible parties, the fact that the cost recovery demand is issued proportionally to historical emissions means that not all responsible parties would be affected equally (e.g. per the Carbon Majors dataset, Chevron is associated with 58.6 billion tons of GHG emissions and Marathon with 3.87 billion: a factor of fifteen difference). This is complicated even further by the fact that California's fossil fuel supply chain may include different parties (responsible and not) at different steps. California's largest refineries are operated by only a handful of companies (Marathon, Phillips 66,

Chevron, PBF, and Valero)¹³ and yet only the first three of those five appear on the Carbon Majors dataset.

Ultimately, nothing about SB 684 would *force* fossil fuel companies to increase gas prices. Nevertheless, gas prices are set through a fairly opaque process, and it stands to reason that companies suddenly hit with a new, large liability would attempt to recoup the cost however they are able. So what would the impacts be on fossil fuel company behaviors? What price would a Chevron gas station charge for gasoline refined at a Chevron refinery? What price would a mom-and-pop gas station charge for gasoline refined at a Valero refinery? If the prices in those two scenarios are different, what would a consumer do? If the prices are the same, how much more profit would the mom-and-pop gas station (or other market players in the supply chain) stand to make from selling the same volume of fuel? Will cost recovery demands issued pursuant to SB 684 change how fossil fuel companies do business with California going forward? If cost recovery demands do result in distortionary effects on the retail gasoline market, are there mechanisms (such as the maximum gross gasoline refining margin authorized by SBX1-2 (Skinner, Statutes of 2023, 1st extraordinary session)) to prevent inappropriate market pricing coordination?

The answers to all of these questions are not immediately apparent, but suggest that—because of competition between market players and unequal, retroactive cost burdens on responsible parties—it would be much less straightforward to pass costs on to consumers compared to programs like cap-and-trade or LCFS.

- 4) *What will it take it to, “mitigate or adapt to climate change and its impacts,” exactly?* To paraphrase the Intergovernmental Panel on Climate Change’s 2018 Special Report on Global Warming of 1.5 degrees C, staving off the worst effects of global climate change will require rapid, far-reaching, and unprecedented changes across all sectors of the economy.¹⁴

Recent amendments taken to SB 684 provide more direction to the allowable uses of the Fund by expanding the definition of “qualifying expenditures.” These include community disaster preparedness, response, and recovery; energy efficiency and resiliency; green workforce development and other workforce support; regenerative agricultural practices; and natural systems protections. Without a doubt, these are important investments in California’s climate-changed, climate-adapted future. It will remain vital going forward that

¹³ *California’s Oil Refineries*. CEC Energy Almanac. Data from 10/17/2024) <https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/californias-oil-refineries>

¹⁴ Special Report: Global Warming of 1.5 °C - Summary for Policymakers. IPCC, 2018. <https://www.ipcc.ch/sr15/chapter/spm/>

the moneys from the Fund be used to remedy the damages caused by the largest fossil fuel producers, even if that is far-reaching changes across all sectors of the economy.

These laudable qualifying expenditures envision the construction of a decarbonized future California, but in considering how to mitigate and adapt to climate change and its impacts, an important fact must not be overlooked: California's economy today relies on an immense volume of fossil fuels. In turn, extracting, transporting, refining, distributing, and using those fossil fuels relies on an immense network of infrastructure operated by a broad constellation of private companies. Those private companies themselves rely on immense certainty about the profitability of their investments. What happens when—not if—it is no longer profitable to operate fossil fuel infrastructure in California? What—if not profit—would compel private companies to continue maintaining and operating their infrastructure? How can California's economy stay afloat in the crucial period between when fossil fuels stop being profitable, and when they stop being needed? How can the workers who make this infrastructure work continue to be made whole as costs exceed revenues for an increasing share of the sector? Can the existing infrastructure be kept safer for workers and communities alike by making proactive investments, rather than risking assets falling into disrepair as they face an uncertain future?

Pursuant to SBX1-2, the CEC produced a Transportation Fuels Assessment, which has begun to wrestle with some of these questions.¹⁵ One possible solution under consideration is state ownership of refineries, in which, “The State of California would purchase and own refineries in the State to manage the supply and price of gasoline.” Table 19 of the Transportation Fuels Assessment weighs some of the pros and cons of doing so, and notably the first con is, “It is very expensive to purchase or compensate for refinery infrastructure and will raise questions of liability and cost effectiveness when the projected demand of gasoline will decline in the State over time.” These ideas are expected to be explored further in future reports such as the Transportation Fuels Transition Plan, also being developed pursuant to SBX1-2 and future iterations of the triennial Transportation Fuels Assessment.

There is perhaps no better way to, “mitigate climate change and its impacts,” than to chart a course for the complete phase-down of fossil fuels across all sectors of California's economy. Investing in that infrastructure—and in the

¹⁵ Transportation Fuels Assessment. CEC, 2024.

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=258521&DocumentContentId=94552>

people who make that infrastructure work—will remain essential to California past the point where companies can turn a profit by doing so.

If one of the biggest impediments to the state taking ownership of refineries is the upfront cost of acquiring them, what better source of funds than the damages recovered from the companies themselves? If the profitability of fossil fuel infrastructure is essential for its operation by private companies, why not instead operate them—even when unprofitable—as a public good? If California is going to support and uplift the Californians who work in fossil fuel-reliant industries even while fossil fuels are phased out, why not use the profits the companies have generated from their labor to do so?

Although it may be premature to move towards this today, going forward the author may wish to consider exploring the idea of using moneys from the Polluters Pay Climate Superfund to support the state acquiring, operating, and—most importantly—phasing-down existing fossil fuel infrastructure, as well as establishing payments necessary to fairly compensate, support, and retrain displaced oil and gas workers.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Judiciary Committee.

Related/Prior Legislation

AB 1243 (Addis, 2025) is identical to this bill. It is pending referral in the Assembly.

SB 1497 (Menjivar, 2024) was substantially similar to this bill. It died on the inactive file on the Senate Floor.

SOURCE: Center for Biological Diversity

SUPPORT:

1000 Grandmothers
198 Methods
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Contra Costa Action

350 Humboldt
350 Marin
350 Sacramento
350 Santa Barbara
350 Southland Legislative Alliance
350 Ventura County Climate Hub
350.org
Action for The Climate Emergency (ACE)
Active San Gabriel Valley
Alliance of Californians for Community Empowerment (ACCE)
American Academy of Pediatrics, California
American Lung Association
Asian Pacific Environmental Network
Avaaz
Azul
Ballona Institute
Bay Area-system Change Not Climate Change
Benioff Ocean Science Laboratory
Better APC
Better Future Project
Beyond Extreme Energy (BXE)
Bicycling Monterey
Biofuelwatch
Black Women for Wellness Action Project
CA Youth Vs. Big Oil
California Association of Professional Employees (CAPE)
California Calls
California Climate Voters
California Environmental Justice Alliance (CEJA) Action
California Environmental Voters
California Federation of Teachers
California Green New Deal Coalition
California Institute for Biodiversity
California Interfaith Power & Light
California Nurses Association
California Nurses for Environmental Health and Justice
Californians Against Waste
Campaign for A Safe and Healthy California
Carbon Cycle Institute
Ccan Action Fund
Center for Biological Diversity
Center for Community Action and Environmental Justice (CCA EJ)

Center for Developing Leadership in Science
Center on Race, Poverty & the Environment
Central California Asthma Collaborative (CCAC)
Central California Environmental Justice Network
Cerbat
Cft- a Union of Educators & Classified Professionals, Aft, Afl-cio
Church and Society of First Presbyterian Church of San Anselmo
Church and Society, First Presbyterian Church of San Anselmo
Clean Water Action California
Cleaneearth4kids.org
Climate Action California
Climate Action Campaign
Climate Defenders
Climate Equity Policy Center
Climate First: Replacing Oil & Gas (CFROG)
Climate Hawks Vote
Climate Health Now
Climate Reality Project Bay Area Chapter
Climate Reality Project Riverside County Chapter
Climate Reality Project San Diego
Climate Reality Project San Fernando Valley Chapter
Climate Reality Project San Francisco Bay Area Chapter
Climate Reality Project, California Coalition
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, Orange County
Climate Reality Project, San Fernando Valley
Coalition for Clean Air
Coalition for Humane Immigrant Rights (CHIRLA)
Coastal Defenders
Coastal Lands Action Network (CLAN)
Communities for A Better Environment
Conejo Climate Coalition
Consumer Attorneys of California
Consumer Watchdog
Courage California
Culver City Democratic Club
Dayenu: a Jewish Call to Climate Action
Defend Ballona Wetlands
Dr. Bronner's
Earth Ethics, INC
Eco Office of Asuc Senator China Duff
Eko

Elders Climate Action
Elected Officials to Protect America
Endangered Habitats League
Environmental Center of San Diego
Environmental Defense Center
Evergreen Action
Extinction Rebellion San Francisco Bay Area
Facts: Families Advocating for Chemical & Toxics Safety
Food & Water Watch
Fossil Free California
Fossil Free Media
Fractracker Alliance
Fridays for Future Sacramento
Friends Committee on Legislation of California
Friends of The Earth
Friends of The River
Glendale Environmental Coalition
Good Neighbor Steering Committee of Benicia
Greenfaith
Greenpeace USA
Grid Alternatives
Human Impact Partners
ILWU Northern California District Council
Immaculate Heart Community Environmental Commission
Individual Climate Scientists & Environmental Science Experts
Individual Economists
Indivisible Marin
Little Manila Rising
Long Beach Alliance for Clean Energy
Los Angeles Climate Reality Project
Los Angeles Faith & Ecology Network
Make Polluters Pay National Campaign
Mothers Out Front Silicon Valley
Move LA
Natural Resources Defense Council
Natural Resources Defense Council (NRDC)
Nextgen California
No Drilling Contra Costa
Norcal Elder Climate Action
Oil & Gas Action Network
Oil Change International
Our Revolution

Our Time to Act
Oxfam America
Pacific Environment
Physicians for Social Responsibility - Los Angeles
Physicians for Social Responsibility - Pennsylvania
Physicians for Social Responsibility - Sacramento Chapter
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Poder
Presente.org
Protect Monterey County
Protect Playa Now
Public Citizen
Reclaim Our Power!
Redeemer Community Partnership
Resilient Palisades
Rise Economy
Rising Sun Center for Opportunity
Rootsaction.org
San Diego 350
San Diego Pediatricians for Clean Air
San Francisco Baykeeper
Santa Cruz Climate Action Network
Santa Cruz County Democratic Central Committee
Santa Monica Democratic Club
See (social Eco Education)
Seventh Generation
Sierra Club California
So Cal 350 Climate Action
Society of Native Nations
Spottswode Winery, INC.
Strategic Concepts in Organizing and Policy Education (SCOPE)
Sunflower Alliance
Sunrise Bay Area
Sunrise Movement
Sunrise Movement LA
Sustainable Mill Valley
Sustainable Rossmoor
Synergistic Solutions
The Campaign for A Safe and Healthy California
The Climate Center
The Phoenix Group
The Story of Stuff Project

The Wendy and Eric Schmidt Center Data Science and Environment At UC
Berkeley
Third ACT
Third ACT Bay Area
Third ACT Sacramento
Third ACT Social
Third ACT Upstate New York
Tiaa-divest!
Transition Sebastopol
Unidos Network INC
Vote Solar
Voters of Tomorrow
Voting 4 Climate & Health
West Berkeley Alliance for Clean Air and Safe Jobs
Wildearth Guardians
Youth for Earth
Youth V. Oil
Youth Will
Youth4climate

OPPOSITION:

American Chemistry Council
American Forest & Paper Association
California-nevada Conference of Operating Engineers
California Business Properties Association
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Conference of Carpenters
California Fuels and Convenience Alliance
California Independent Petroleum Association (CIPA)
California League of Food Producers
California Retailers Association
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
California Sustainable Cement Manufacturing & Environment (CSCME)
California Taxpayers Association
California Teamsters Public Affairs Council
Central Valley Business Federation
Civil Justice Association of California
Coastal Energy Alliance

District Council of Iron Workers of The State of California and Vicinity
East Bay Leadership Council
Greater Coachella Valley Chamber of Commerce
Independent Energy Producers Association
Industrial Association of Contra Costa County
Inland Empire Economic Partnership
International Brotherhood of Boilermakers
International Brotherhood of Boilermakers, Western States Section
Murrieta Wildomar Chamber of Commerce
Naiop of California
Orange County Business Council
Port Hueneme Chamber of Commerce
State Building & Construction Trades Council of California
Tri County Chamber Alliance
Ventura County Coalition of Labor, Agriculture and Business
Western States Council Sheet Metal, Air, Rail and Transportation
Wspa

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