



## Legislation Text

File #: 2022-1022, Version: 1

### Report to Mayor and City Council

Tuesday, January 03, 2023

Consent

#### **SUBJECT:**

**CONSIDER TAKING A POSITION OF SUPPORT AND SENDING A CORRESPONDING LETTER TO THE OFFICE OF GOVERNOR GAVIN NEWSOM REGARDING THE ENACTMENT OF A PRICE GOUGING PENALTY ON OIL COMPANIES WITH A REQUEST THAT LOCAL OIL TAXES ARE PRESERVED (CITY COUNCIL)**

#### **I. SUMMARY**

This item transmits a request for City Council to consider taking a position of support and sending a corresponding letter to Governor Gavin Newsom and carbon-copied to state legislatures in support of the Governor's efforts to enact a Price Gouging Penalty on oil companies. The letter would also request that the final bill include language that ensures that any penalties imposed by the statute not interfere with any locally levied taxes and/or fees. This would preserve the City's current revenue from all fees and taxes currently imposed on oil companies through the Caron Municipal Code.

#### **II. RECOMMENDATION**

TAKE a position of SUPPORT and DIRECT staff to transmit a corresponding letter.

#### **III. ALTERNATIVES**

TAKE another action the City Council deems appropriate and that is consistent with applicable laws.

#### **IV. BACKGROUND**

From August to October of 2022, Californians experienced some of the highest gasoline prices ever recorded in the state, even though the price of crude oil declined, state taxes and fees remained unchanged, and gasoline prices did not increase outside the western United States. Much of this increase was caused by refiners, which increased the costs and profits they added to the price California consumers paid at the pump, leading to

prices that were substantially higher per gallon than average prices in the rest of the United States. During the third and fourth quarters of 2022, the overlap in timing of planned maintenance at refiners' facilities resulted in a larger decrease in crude oil processing capacity than would otherwise have occurred if planned maintenance at refiners' facilities had not coincided.

Historically, refinery outages and issues have created an opportunity for market participants to take advantage of naturally high prices by manipulating prices to stay higher longer, as evidenced by gasoline prices in California remaining elevated without explanation following a temporary price shock after a refinery explosion in 2015, which further demonstrates the need for greater visibility into the pricing, contracting, and marketing practices of industry participants.

Furthermore, during the third and fourth quarters of 2022, refiners allowed gasoline inventory levels to reach decade-low levels, placing an upward pressure on gasoline prices.

Despite these issues, during the third quarter of 2022, oil companies posted record high profits:

- Phillips 66 profits jumped to \$5.4 billion, a 1243% increase over last year's \$402 million;
- BP posted \$8.2 billion in profits, its second-highest on record, with \$2.5 billion going toward share buybacks;
- Marathon Petroleum profits rose to \$4.48 billion, a 545% increase over last year's \$694 million;
- Valero's \$2.82 billion in profits that were 500% higher than the year before;
- PBF Energy's \$1.06 billion that was 1700% higher than the year before;
- Shell reported a \$9.45 billion in profits that sent almost half-\$4 billion- for stock buybacks;
- Exxon reported their highest-ever \$19.7 billion in profits; and,
- Chevron reported \$11.2 billion in profits, their second-highest quarterly profit ever.

As a result of this, Governor Newsom and Senator Nancy Skinner (D-Berkeley) unveiled a bill on a proposed price gouging penalty on oil companies' excess profits to deter excessive price increases [SB-2 (2023)].

This bill would establish a maximum gross gasoline refining margin (currently at an unspecified amount per gallon) and would authorize the State Energy Resources Conservation and Development Commission ("Commission") to annually adjust the maximum gross gasoline refining margin, as provided.

The bill would authorize the Commission to petition the court to enjoin a refiner from

exceeding the maximum gross gasoline refining margin. The bill would also authorize the Commission to assess an administrative civil penalty on a refiner for exceeding the maximum gross gasoline refining margin, as provided. The bill would authorize the commission to grant a refiner's request for an exemption from the maximum gross gasoline refining margin upon a showing by the refiner of reasonable cause, and to subject the refiner to alternative maximum margins or other conditions set by the commission.

The bill would require a refiner seeking an exemption to file a statement under the penalty of perjury setting forth the basis of the request for exemption. By requiring the statement to be filed under the penalty of perjury, this bill would expand the scope of the crime of perjury, thereby imposing a state-mandated local program.

The bill would further require the penalties collected to be deposited into the Price Gouging Penalty Fund, which the bill would create in the State Treasury. The bill would require moneys in the fund, upon appropriation by the Legislature, to be returned, as refunds, to residents of the state.

While Staff is in agreement with the intent of Senate Bill No. 2, Staff is concerned that the bill's penalty provisions may inadvertently interfere with any locally levied fees and taxes. This would greatly affect the City's revenue from oil companies within City limits. Therefore, the City has drafted a letter to show its support for the Governor's efforts and request that the final bill regarding the Price Gouging Penalty has language that ensures that any penalties brought forth by the statute does not interfere with any locally levied taxes and/or fees. Staff would now like to request City Council approval sending the letter to the Governor and members of the State Legislature.

## **V. FISCAL IMPACT**

There will be no fiscal impact.

## **VI. EXHIBITS**

1. Letter of Support (pgs. 4 - 5)
2. Taking on Big Oil's Excessive Profits to Keep Money in Your Pockets (Governor's Fact Sheet) (pgs.6 - 7)
3. Assembly Bill 1 (2023) (pg. 8)
4. Senate Bill 2 (2023) (pgs. 9 - 16)

Prepared by: City Attorney's Office and City Manager's Office