

8 July 2013

Hon. William Monning, Chair
Committee on Labor and Industrial Relations
California State Senate
State Capitol, Room 4066
Sacramento, CA 95814



Re: **AB 26–OPPOSE**
Analysis including 25 June 2013 amendments

Dear Senator Monning,

Communities for a Better Environment (CBE) stands **OPPOSED** to AB 26 (Bonilla). Our independent analysis of this proposed state law has found that it threatens to:

- Give oil companies public money to continue operating their refineries;
- Undercut climate protection and jobs growth through this new subsidy to a polluting fossil industry that disadvantages clean energy alternatives;
- Hurt workers' rights by outsourcing existing refinery workers' jobs; and
- Thereby undermine workers' ability to stand up to corporate risk-taking, exacerbating serious existing refinery safety risks to workers and communities.

The 25 June 2013 amendments to the bill do not resolve these problems. Indeed, AB 26 as amended would prioritize refineries for public money from the Greenhouse Gas Reduction Fund (the “fund”), in direct contradiction to the stated intent of the Senate Committee on Environmental Quality,¹ the committee from which the 25 June amendments originated. This new oil subsidy and the flawed labor requirements that AB 26 would link to it pose serious threats to climate protection, worker and community safety, and jobs growth in California, as discussed more fully below.

AB 26 as amended prioritizes oil refineries for ‘climate’ subsidies

The amended bill adds subdivision 39714 (d), which limits funding to work related to a market-based mechanism under AB 32, but reads in part that “moneys from the fund shall be made available only for work at a refinery if” that condition is met. Oddly, the words are not sequenced to read that money may be available to a refinery only if that condition is met. The positioning of the word “only” could allow an interpretation that all money from the fund must go to refineries, so long as they use it for work “related to” greenhouse gas (GHG) reduction that is not otherwise required and use workers who meet the bill’s labor requirements. At a minimum, it highlights refineries as a funding priority.

¹ Senate Environmental Quality Committee, June 19, 2013 Video (www.calchannel.com): See esp. Sens. Hill at 00:42:51–00:43:13, Hancock at 00:45:57–00:50:00, Pavley at 00:54:36–00:54:45, Jackson at 01:04:54–01:05:04 (“giving the money to the refineries under cap and trade or for the reduction of greenhouse gases is about the last place that we want public money going”), Jackson and Hill at 01:07:02–01:08:00, Corbett at 01:08:45–01:09:12, and Hancock at 01:10:00–01:10:50.

AB 26 adds references to refineries into the part of the Health and Safety Code governing the fund and specifies conditions under which “moneys from the fund may be made available to the owner or operator of a refinery pursuant to Section 39716.” §39714; see esp. subs. (c), (d). By identifying refineries for consideration of funding and conditions for funding them specifically, where existing law does neither of these things for refineries or for any other industry, sector, or strategy, AB 26 prioritizes refineries for a subsidy from the fund.

Further, by linking funding for refinery work—and only for refinery work—to labor requirements for all contract work at privately owned facilities related to GHG reduction, the bill strengthens a corrosive incentive to subsidize refineries. AB 26 would establish a training and certification system for workers that fails to allow equal access for all refinery workers, and would link this unfair system to new requirements for all work “related to” GHG reduction in refineries that the bill would subsidize, thereby replacing existing refinery workers with transient contract workers.² The interests of those contractors with access to this certification system and those refiners that choose to employ them would virtually ensure a focus on subsidies from the fund to refineries.

History rebuts the assumption that other requirements preclude such perverse subsidies. In 2011, under pressure from oil refiners and some of their workers, the Air Resources Board voted to give away free to the state’s refineries most of the carbon credits to permit their emissions through 2020—a windfall worth billions of dollars.³

AB 26 threatens to stall climate protection *and* jobs growth

Money given to refineries from the fund would be taken from other critical needs. We need deep emission cuts to avoid catastrophic climate change, and the best path to this cleanup requires transforming our existing infrastructure into efficient buildings and electric cars powered by renewable energy while conserving fossil fuels through expanded public transit, among other things.⁴ This path is best in part because we also need the jobs these “green” sectors have begun to create. Alternatives to oil can create more jobs. For example, public transit creates roughly 40 times more jobs per dollar of statewide economic activity than oil refining creates.⁵ Moreover, given the imperative to protect our climate, we can plan confidently for continuing growth in these “green” sectors—if we invest in them.

But AB 26 would give that money to oil refining—the state’s worst industrial GHG emitter.⁶

California’s climate initiative is uniquely vulnerable to these impacts of AB 26. Because of its choice to use an emissions trading market, the state’s climate program relies primarily on financial incentives to develop climate-friendly energy. But that “requires, at the very least, reversing perverse incentives, such as existing global subsidies to fossil fuels that are estimated to be 12 times higher than those to renewable energy.”⁷ AB 26 would add to these perverse incentives, and might foreclose our ability to reverse them.

² See the 25 June 2013 analysis submitted on behalf of the United Steelworkers (USW) by Daniel Kovalik to Chair Monning and members of the Committee on Labor and Industrial Relations.

³ Cost estimate reported by the Union of Concerned Scientists in opposition to this windfall.

⁴ See Meinshausen et al., 2009. *Nature*. DOI: 10.1038/nature08017; and Allen et al., 2009. *Nature*. DOI: 10.1038/nature08019; and Williams et al., 2011. *Science*. DOI: 10.1126/science.1208365.

⁵ U.S. Economic Census, California data, 1992–2007; compare data for “paid employees,” and for “employer sales, shipments, receipts, revenue, or business done” among 3-digit NAIC codes.

⁶ CARB *Greenhouse Gas Emissions Data Reporting and Verification Summary*. Revised 1/11/13.

⁷ Hoffert, 2010. *Science*. DOI: 10.1126/science.1195449.

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AB 26 threatens the safety of refinery workers *and* nearby communities

Chemical spill, fire, and explosion incidents at California and U.S. refineries killed at least 30 and injured at least 15,211 workers and nearby residents since 1999.⁸ At least 49 “emergency” incidents occurred at Bay Area refineries since March 2010⁹ and at least 30 incidents occurred at California refineries in a recent five-month span.¹⁰

Despite evidence that oil company management accountability for safety is the solution to this problem,⁸ and authoritative findings and recommendations regarding gaps in state oversight (none of which focus on worker training),¹¹ AB 26 focuses on worker training as its sole solution for safety. See § 39714. Enacting and implementing AB 26 would make this misplaced focus a matter of who gets or keeps their job,² distracting attention and resources from the real problem that must be addressed to prevent refinery spills, fires and explosions.

Worse, when an emergency occurs at a refinery, workers must respond in real time, before it escalates into a potentially catastrophic incident. But each refinery is custom built—no two are exactly alike. This means the workers who respond to emergency conditions in a refinery need plant-specific knowledge. For example:

“You may have a piece of pipeline that’s on fire We have to focus on getting that fire out, but there may be a hydrogen reactor 50 yards away, and if that gets too hot—even if it doesn’t catch on fire—and it explodes, you have now set off a hydrogen bomb in a refinery. Transient refinery workers do not have the knowledge to respond to an incident like that because they do not know the site-specific equipment.”


Testimony of Erica Kent, USW-675, Senate Env. Quality Committee, 19 June 2013

AB 26 threatens to replace many existing refinery workers who have plant-specific knowledge with transient workers who do not. This result of the bill’s unfair labor requirements, discussed above,² would undermine emergency response capacity in refineries, thereby contributing to increases in the frequency and magnitude of catastrophic incidents.

Conclusion

CBE asks that the Committee on Labor and Industrial Relations support workers’ rights, worker and community safety, climate protection and environmental health by rejecting this catastrophically bad bill. CBE asks that you vote **NO** on AB 26.

In Health,


Greg Karras
Senior Scientist

Copy: Members of the Senate Committee on Labor and Industrial Relations
Members of the Senate Committee on Environmental Quality
Interested organizations and individuals

⁸U.S. Chemical Safety Board (CSB) incident investigation reports (www.csb.gov). Injuries include reported hospital visits associated with the 2012 Chevron Richmond refinery fire.

⁹Flare causal analyses submitted to Air Quality Management District under Rule 12-12, §406.

¹⁰Labor Occupational Health Program, U.C. Berkeley, 2013 Report to the Governor’s Task Force.

¹¹CSB, 2013. Interim Investigation Report, Chevron Richmond Refinery Fire (www.csb.gov).