

As Californians endured staggering prices at the gas pump during the summer and fall of 2022—in excess of \$2 higher per gallon than the national average—Governor Newsom accused oil companies of “rank price gouging” and vowed to put money back in Californians’ pockets. He [announced](#) a special session of the California Legislature to address the issue, but then it was radio silence for months, leaving many to wonder whether the money would ever be “returned to taxpayers,” as the Governor had called for.

Now, a proposal is moving, and fast. But it isn’t a windfall tax by any stretch of the imagination.

[SBX1-2](#) (Skinner) was introduced at the beginning of the special session in December 2022, but sat untouched until Monday, when it took significant amendments. Since then, the bill has been on a whirlwind tour of the State Senate, [passing out](#) of the Energy, Utilities, and Communications Committee yesterday and speeding through Appropriations and a Senate floor vote (30-8) this morning. Now it’s on to the Assembly in time to be considered before Spring Recess.

But what does the bill, which has been called a “first-of-its-kind” law, actually do? It would direct the California Energy Commission (CEC) to calculate the amount of refiner profit over and above state program costs per gallon of gasoline, and then allow the CEC to levy a penalty against refiners if future profits exceed a CEC-set maximum margin. But the CEC could only establish a penalty if it concludes the likely benefits to consumers will outweigh potential costs to them, by considering things like supply and demand, increased gas prices, and the need for case-by-case exemptions from the penalty. Penalties would go into a state fund that the Legislature could appropriate “to address any consequences of price gouging on Californians.” The bill would also empower the CEC to gather information from companies participating in California’s transportation fuels market and, in some cases, to get involved in refinery maintenance and turnaround plans that could affect fuel prices.

The oil company lobby has balked at the bill’s provisions, raising the specter of antitrust concerns. But the primary complaint raised in the Legislature this week—on both sides of the aisle—was how fast the bill is moving. While highlighting the urgency of the legislation, even the bill’s author recognized that drafting cleanup would be needed. Republican lawmakers griped that the bill would increase costs to the State without producing results for consumers and urged consideration of SBX1-1 (Jones), a Republican-introduced measure to suspend California’s gas tax. Legislators declined to move that bill out of the Rules Committee for a full floor vote this morning.

So where does this leave us? SBX1-2 would be a big step forward for transparency around

price-setting in the transportation fuels market, allowing the CEC, a trusted regulator, access to key information it’s never had before. It would also require the CEC to work with the Air Resources Board, in consultation with fuel producers and refiners, to prepare a Transportation Fuels Transition Plan to ensure that fuel supply is “affordable, reliable, equitable, and adequate to meet [] demand” as California transitions away from petroleum fuels over time. And its penalty-setting provisions could deter future unreasonable price hikes. These are good things.

One thing the bill won’t do, though, is respond to the price spikes that happened over the summer, or any near-term price spikes. California’s Attorney General has used its existing powers to police price increases in the past, including a successful suit against Valero in 2017; in 2022, the AG’s office [sent a warning letter](#) to refineries across California, but it hasn’t filed an action related to those high prices. SBX1-2 could give the State tools to better understand what drives future high prices and clap back against unreasonable spikes, but Californians won’t see spent dollars back in their pocketbooks anytime soon.