



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**BOARD OF DIRECTORS**  
**LEGISLATIVE COMMITTEE MEETING**  
**COMMITTEE MEMBERS**

**BRAD WAGENKNECHT – CHAIRPERSON**

**CHRIS DALY**  
**ERIN GARNER**  
**LIZ KNISS**  
**JOHN SILVA**

**PAMELA TORLIATT–VICE CHAIRPERSON**

**MARK DeSAULNIER**  
**ERLING HORN**  
**MARK ROSS**

**WEDNESDAY**  
**OCTOBER 13, 2004**  
**9:30 A.M.**

**BOARD ROOM**  
**DISTRICT OFFICES**

**AGENDA**

**1. CALL TO ORDER - ROLL CALL**

**2. PUBLIC COMMENT PERIOD**

*(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to five (5) minutes each.*

**3. APPROVAL OF MINUTES OF MARCH 17, 2004 AND APRIL 28, 2004**

**4. SUMMARY OF THE LEGISLATIVE YEAR**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Staff will present a summary of the 2004 Legislative Year.*

**5. MOTOR VEHICLE REGISTRATION FEE INCREASE**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee will consider a recommendation to the Board to allow a motor vehicle registration fee increase for air quality, as authorized by AB 923 (Firebaugh).*

**6. CONSIDERATION OF COUNTY SALES TAX TRANSPORTATION BALLOT MEASURES**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Staff will present a summary of the five Bay Area County transportation sales tax measures.*

**7. POTENTIAL LEGISLATIVE PROPOSALS FOR 2005**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Staff will present potential legislative measures for consideration by the Committee to form the District's 2005 legislative agenda.*

**8. CALIFORNIA PERFORMANCE REVIEW DISCUSSION**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Staff will present a summary of the California Performance Review.*

**9. COMMITTEE MEMBERS' COMMENTS**

*Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may; ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)*

**10. TIME AND PLACE OF NEXT MEETING AT THE CALL OF THE CHAIR**

**11. ADJOURNMENT**

**CONTACT CLERK OF THE BOARDS - 939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**(415) 749-4965  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://www.baaqmd.gov)**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Clerk's Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
(415) 771-6000**

**DRAFT MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
9:45 a.m., Wednesday, March 17, 2004

1. **Call to Order - Roll Call:** Chairperson Wagenknecht called the meeting to order at 9:59 a.m.

**Present:** Brad Wagenknecht, Chairperson, Chris Daly, Mark DeSaulnier, Mark Ross, Pamela Torliatt (10:01 a.m.).

**Absent:** Liz Kniss, John Silva.

**Also Present:** Jake McGoldrick (10:07 a.m.), Scott Haggerty (10:11 a.m.)

2. **Public Comment Period:** There were none.

3. **Approval of Minutes of January 14, 2004:** Director DeSaulnier moved approval of the minutes; seconded by Director Daly; carried unanimously.

4. **Consideration of New Legislation and Corresponding Agency Positions:** Staff presented eleven new bills with the recommended positions listed below:

<b>Bill</b>	<b>Brief Description</b>	<b>Staff Recommendation</b>
<i>AB 1991 (Lowenthal)</i>	<i>Intent language to establish a one-stop permitting process for petroleum infrastructure projects</i>	<i>Watch</i>
<i>AB 2366 (Chan)</i>	<i>Authorizes a 'fifth dollar' for clean air on vehicle registrations within the BAAQMD</i>	<i>Support</i>
<i>AB 2424 (LaMalfa)</i>	<i>Spot bill from Specialty Equipment Manufacturers Association to halt vehicle scrappage programs</i>	<i>Oppose in Concept</i>
<i>AB 2526 (Oropeza)</i>	<i>Funds the Moyer program with a quarter of a cent of existing diesel fuel tax</i>	<i>Support</i>
<i>AB 2628 (Pavley)</i>	<i>Allows hybrids into HOV lanes</i>	<i>Support if amended</i>

<i>AB 2847 (Oropeza)</i>	<i>Five cents per gallon fee on gas and diesel to mitigate air impacts</i>	<i>Support</i>
<i>AB 2880 (Pavley)</i>	<i>Authorizes increase from \$4 to \$6 in motor vehicle registration fees for clean air</i>	<i>Support and seek amendments</i>
<i>AB 2939 (Diaz)</i>	<i>Spot bill that will become a funding measure for a new Moyer-type program</i>	<i>Support</i>
<i>SB 1247 (Soto)</i>	<i>Spot bill that will become a funding measure for a new Moyer-type program</i>	<i>Support</i>
<i>SB 1614 (Torlakson)</i>	<i>Ten cents per gallon fee on gasoline and diesel with a penny going to clean air projects</i>	<i>Support</i>
<i>SB 1615 (Denham)</i>	<i>Ends California requirement that out-of-state vehicles older than 30 years be subject to smog check</i>	<i>Oppose unless amended</i>

During discussion it was noted that one of several measures that would streamline the permitting process for refineries is AB 1991 (Lowenthal). Thomas Addison, Advanced Projects Advisor, stated that this is a Western States Petroleum Association (WSPA) spot bill. Refineries have significant emissions and the Air District is in charge of the permitting process. Some of the proposals consider having the permitting process moved to some other agency, such as the California Energy Commission (CEC), which is an agency that, historically, has not been focused on air quality concerns. The staff recommended a position of “Watch” for this bill.

Brian Bunger, Counsel, added that the Air District is not sure how this would be structured, but in the power plant context, the Air District still has its permitting authority and then that gets rolled into the CEC process, which is not an expedited process.

Jack Broadbent, Executive Officer/APCO, stated that the Air District has written a letter expressing strong concern on behalf of having CEC play a role in permitting and the perception of taking some authority away from the Air District. Director DeSaulnier noted that the California Air Resources Board (CARB) would like to see the Air District oppose this bill.

**Committee Action:** Director DeSaulnier moved to change the recommendation on AB 1991 (Lowenthal) from “Watch” to “Oppose in concept;” seconded by Director Daly; carried unanimously.

There was discussion on AB 2628 (Pavley), which would allow hybrids into HOV lanes. Mr. Addison discussed the following amendments staff would suggest: 1) Because today’s hybrids are selling very well without this incentive, and excess capacity in the HOV lanes is limited, the bill should provide the benefit to plug-in hybrids. It should either not apply to today’s hybrids, or be very limited duration for the non-plug-in hybrids. The plug-in hybrid technology could use the extra boost and, in addition, there is a bigger air quality benefit. Electric vehicles have access to the HOV lanes now. 2) Do not include allowing hybrids into the HOV lanes in the same code section as the existing language applying to pure battery electric vehicles. If, in the future, the HOV lanes are too full, then the hybrids HOV access would need to be removed. This change

would be more difficult if the battery electric vehicles are in the same code section with the other vehicles.

There was further discussion on how full the HOV lanes are now. Director Haggerty suggested two amendments: 1) having an early sunset for hybrid access to HOV lands, and 2) restructuring the bill so the hybrid vehicles' access language is separate from the existing access language for battery electric and natural gas vehicles.

**Committee Action:** Director Haggerty moved to support AB 2628 (Pavley) if amended per his above recommendations; seconded by Director Ross; carried unanimously by acclamation.

There was discussion on the variety of bills to provide funding for air quality, and their different approaches. This included discussion of the bills to increase motor vehicle registration fee surcharges, including the statewide measure AB 2880-Pavley and AB 2366-Chan, which is for the Bay Area only. Director Haggerty requested staff speak with Ms. Chan and urge her to go forward with her bill even if AB 2880 passes. Other bills discussed were SB 1257 (McClintock), AB 2953 (Canciamilla), and AB 2983 (McCarthy). Mr. Addison stated that AB 2983 will be a Moyer-funding bill, but there is no language in it yet. Staff may bring this bill back to the Committee in April with a "support" position.

The Committee had no changes on the staff recommendations for the other nine bills on the list.

5. **Update on District-Sponsored Smog Check Bill:** *Staff informed the Committee of the status of AB 2683 (Lieber), which would clean the air by keeping vehicles that are in the Smog Check program today in the program in the future.*

Mr. Addison stated that this is a controversial bill and that as of last Wednesday there were approximately 800 letters and e-mails in opposition of this bill. The considerable opposition to this bill has been generated by the Specialty Equipment Manufacturers Association (SEMA). Mr. Addison noted that most people who oppose this bill, including television personality Jay Leno, own vehicles that would not be affected by the bill because they own pre-1976 cars.

**Committee Action:** None. This report provided for information only.

6. **Committee Members' Comments:** There were none.
7. **Time and Place of Next Meeting:** At the Call of the Chair.
8. **Adjournment:** The meeting adjourned at 10:57 a.m.

Mary Romaidis  
Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
(415) 771-6000**

**DRAFT MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
9:45 a.m., Wednesday, April 28, 2004

1. **Call to Order - Roll Call:** Chairperson Wagenknecht called the meeting to order at 9:50 a.m.  
**Present:** Brad Wagenknecht, Chairperson, Chris Daly (9:55 a.m.), Mark Ross, John Silva.  
**Absent:** Mark DeSaulnier, Erin Garner, Liz Kniss, Pamela Torliatt.
2. **Public Comment Period:** There were no comments.
6. **Discussion of Potential District Fleet Rule:** *Staff discussed the status of fleet rules in other districts and the potential for a Bay Area rule.*

Jack Broadbent, Executive Officer/APCO, explained that this item was on the Legislative Committee agenda at the request of Chairperson Haggerty, after a recent Mobile Source Committee discussion. Mr. Broadbent provided background information to the Committee on fleet rules. Under California Health and Safety Code (H&SC) Section 40919(a)(4), "serious" or worse ozone nonattainment areas under the California Clean Air Act (which includes the Bay Area) may require the use of a significant number of low-emission motor vehicles by operators of motor vehicle fleets. Under other sections of California law, Sacramento, the South Coast, Mojave, and San Joaquin all have additional fleet rule authority, and Sacramento and South Coast have adopted fleet rules.

Mr. Broadbent discussed the South Coast rules, which were adopted in 2001. He noted that the Engine Manufacturers Association (EMA) has challenged SCAQMD's rules, and this case is now before the U.S. Supreme Court. The EMA has argued that the SCAQMD's rules amount to establishment of emission standards and are, therefore, preempted by federal Clean Air Act provisions that grant this authority only to the Environmental Protection Agency (EPA) and to the State of California. The SCAQMD has argued that their fleet rules all include an exemption for any vehicle that is not commercially available and, therefore, do not establish emission standards that would force manufacturers to make vehicles that they do not already make. Oral arguments before the U.S. Supreme Court were held only a few months ago and a ruling is expected shortly.

Mr. Broadbent recommended that District staff monitor the case that is currently before the U.S. Supreme Court. Should the Court uphold the authority of the SCAQMD regarding fleet rules, staff will come back to the Legislative Committee to discuss possible 2005 legislation to modify

the Health and Safety Code such that the District would have the same authority as the SCAQMD.

Kathleen Walsh, Assistant Counsel, responded to Director Ross's inquiry as to why the Sacramento Air District was not named in the lawsuit. Ms. Walsh explained that the Sacramento rule is less legally vulnerable, since it involves only public fleets. Ms. Walsh pointed out that even if the Supreme Court decides to invalidate the SCAQMD's rules, that would not be the end of the process for California. Under federal law, the State of California can request a waiver for standards that are different from the federal standards, and if the Supreme Court were to strike down the SCAQMD's rules, the California Air Resources Board (CARB) could request a waiver on behalf of the SCAQMD which would presumably validate those rules under existing provisions of federal law.

Director Ross inquired if the public fleet provision could be included as a Transportation Control Measure (TCM). Mr. Broadbent stated that staff would take this as part of the direction from the Legislative Committee. He opined that the fleet operators in the Bay Area need to be pushed in this regard. He also stated that there would be a great deal of discussion in the near future about the urban bus rule that is presently before the CARB. CARB has a statewide rule that requires public and private transit operators to meet some specific standards relative to their fleet operations. The fleet operators that are most opposed to this particular proposal are from the Bay Area. AC Transit, Golden Gate Transit, Muni and VTA have all raised concerns about the urban bus rule, urging modifications. Mr. Broadbent stated that the fleet rule option for the Bay Area is something that the District should consider and that it can be included as part of the District's TCMs in its upcoming plan. The District can then identify any needed additional legislative authority.

**Committee Action:** The consensus of the Committee is that this matter be held in abeyance until after the U.S. Supreme Court ruling, and that staff brings this matter back to the Legislative Committee for further discussion after the ruling.

3. **Approval of Minutes of March 17, 2004:** Due to a lack of a quorum, the approval of the minutes was deferred.
4. **Consideration of New Legislation and Corresponding Agency Positions:** Staff presented three new bills with the recommended positions listed below:

<b>Bill</b>	<b>Brief Description</b>	<b>Staff Recommendation</b>
<i>AB 2128 (Jackson)</i>	<i>Uses SB 1614 fuel fee for light-duty scrappage and retrofit programs</i>	<i>Support in Concept</i>
<i>AB 2541 (Fromer)</i>	<i>Establishes Low Emission Contractor Incentive Program</i>	<i>Support</i>
<i>AB 3104 (Firebaugh)</i>	<i>Environmental Health and Air Quality Funding Act of 2004</i>	<i>Support</i>

Thomas Addison, Advanced Projects Advisor, explained the bills as follows:

**AB 2128** (Jackson) would allocate a portion of the clean air funding to be raised by SB 1614 (Torlakson). SB 1614, supported by the District, would impose a 10-cent per gallon fee on gasoline and diesel fuel, with a penny of these funds going to unspecified air quality programs. If SB 1614 is passed, AB 2128 would direct \$50 million annually (or 50% of the air quality funds raised by SB 1614) into voluntary light-duty vehicle scrappage and retrofit programs operated by the Air Resources Board.

Staff feels that light-duty vehicle scrappage and retrofit programs are cost-effective options for reducing motor vehicle emissions, and that a fee on gasoline is an appropriate way to fund such programs. However, SB 1614 failed to advance out of the Senate Transportation Committee, and if that bill fails, AB 2128 becomes moot.

**AB 2451** (Frommer) is sponsored by the Coalition for Clean Air. It establishes the Low-Emission Contractor Incentive Program. The primary intent of the bill is to create an incentive for state contractors to use low-emission vehicles. It does this through a series of bid incentives for the use of low-emission equipment (both on and off-road) and ride-sharing programs by those bidding to get state contracts. The bill is modeled on a Placer County ordinance.

Large state contracts for such activities as freeway construction can use large numbers of heavy-duty diesel on and off-road vehicles. Emissions from such a project can be significant. The bill establishes separate bid preferences for different types of clean vehicles, and for a successful ride-sharing program. The maximum preference for all low-emission actions is capped at 10%. The bill establishes that the Department of General Services shall consult closely with the ARB in establishing the rules of the program.

Staff believes that this bill is an innovative, well-drafted approach to cutting emissions. It should accelerate sales of clean heavy-duty equipment, and help build a market for potential manufacturers of such equipment. Supporters include environmental organizations and other air districts. There is no registered opposition currently.

**AB 3104** (Firebaugh) is titled the Environmental Health and Air Quality Funding Act of 2004. This bill is sponsored by the Sierra Club, and is designed to be part of a package of measures to provide long-term, stable, substantial funding for incentive-based, motor vehicle emission reduction programs such as Moyer, Low Emission School buses, and light-duty scrappage and retrofit. The bill would place a fee on petroleum at the rack (essentially the wholesale level), although the size of the fee has not yet been fixed. There will also be an increase in motor vehicle registration fees from \$4 to \$6.

The sponsors have engaged industry and environmental groups in a lengthy dialogue about how best to provide long-term funding for mobile source cleanup, and much of the bill language has been developed with input from stakeholders including the Western States Petroleum Association, local air districts, and environmental groups. In this respect, the bill has followed a parallel process to SB 1247 (Soto), which is sponsored by the South Coast Air Quality Management District.

There has been a good-faith effort by the sponsors of AB 3104 to develop a bill that petroleum and other industrial and business groups will support. However, it is not yet clear what position industry and others will ultimately take on this bill, since it is continuing to evolve. Since a

critical piece of the District's legislative agenda for 2004 is finding long-term funding for Moyer and other incentive-based mobile source cleanup programs, staff are recommending a support position on AB 3104.

**Committee Action:** The Committee endorsed staff's recommended positions on these three bills.

5. **Further Discussion of AB 2628 (Pavley):** *The Committee recommended a "support if amended" position at its last meeting. Per the direction of the Vice-Chair, staff brought this bill back to the Committee for discussion of the impact of the bill on bridge toll revenues in the Bay Area.*

**AB 2628** (Pavley) would allow advanced technology partial zero-emission vehicles (ATPZEVs) to use HOV lanes, regardless of occupancy. The Committee, at its last meeting, considered this bill. The Committee recommended, and the Board subsequently adopted, a "Support if Amended" position on the bill. After significant discussion, the Committee recommended two amendments: a shorter sunset provision, and different statutory construction (placing the hybrid vehicle HOV access in a code section different than the pre-existing language for electric and CNG vehicle HOV access)

Mr. Addison explained that this item was being revisited, at the request of Director Torliatt, to discuss the impact of the bill on bridge toll revenues in the Bay Area. The Metropolitan Transportation Commission (MTC) recently adopted a "watch and seek amendments" position.

MTC has noted that the bill would have some financial cost to the region, since HOV access for hybrids means those vehicles would not pay tolls when crossing state toll bridges in the peak commute hours. MTC staff has attempted to quantify the annual cost of this bill in lost toll revenue to the region. Their initial estimate was roughly \$5 million, although after further analysis they currently think a figure of \$3 million annually might be more accurate. Regional bridge tolls support a variety of transportation programs, including transit.

Staff noted that bridge toll by passes are a significant part of the Bay Area's HOV lane system. Much of the travel timesavings attributable to using the HOV network are from bypassing the toll plazas. Physically, the toll bypasses are an integral part of the region's HOV network. Thus, allowing certain vehicles into the HOV lanes but not allowing them into toll-free bridge crossings could be logistically difficult.

**Committee Action:** After discussion, the Committee decided not to seek additional amendments to the bill beyond the two changes initially sought.

7. **Update on District-Sponsored Smog Check Bill:** *Staff informed the Committee of the status of AB 2683 (Lieber), which would clean the air by keeping vehicles that are in the Smog Check program today in the program in the future. Staff also answered questions from the Committee about other bills of interest to the District.*

**AB 2683** (Lieber) passed the Assembly Transportation Committee, on April 12<sup>th</sup>. The bill has been put on the suspense file in the Assembly Appropriations Committee on April 21<sup>st</sup>, because

of DMV estimated costs of \$200,000 to notify the roughly 60,000 1976 vehicle owners. However, staff has concerns about the accuracy of DMV's estimated costs.

Mr. Addison distributed an updated list of all air quality bills and their current status. Mr. Addison reported that AB 2366 (Chan) has passed out of two Committees, both the Assembly Transit and Assembly Local Government, and is moving forward.

**Committee Action:** None. This report provided for information only.

- 8. Committee Members' Comments:** There were none.
- 9. Time and Place of Next Meeting:** At the Call of the Chair.
- 10. Adjournment:** The meeting adjourned at 10:37 a.m.

Neel Advani  
Deputy Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Thomas Addison  
Advanced Projects Advisor

Date: October 4, 2004

Re: Summary of 2004 Legislative Year

RECOMMENDED ACTION:

None. Receive and file.

BACKGROUND

As the 2004 legislative year began, Sacramento pundits predicted that Capitol activity would be controlled both by California's continuing fiscal problems and the priorities of the new Administration. While there was substantial uncertainty over how the new Governor and his appointees would respond to different legislative issues, there was little uncertainty that the State's lack of revenues would limit bills that proposed new State costs. Now the year has ended, with an adopted budget in place and all signings and vetoes completed. In hindsight, looking at the air quality arena shows that both new programs with new costs were adopted, and the Governor and his Administration (as well as the Legislature) have on the whole been quite receptive to measures to clean the air. 2004 turned out to be one of the District's best legislative years of the last decade.

DISCUSSION

There were a host of significant air quality measures introduced in 2004, and the District took positions on 18 of them. The following table highlights those bills that the District adopted positions on.

<i>Bill</i>	<i>Brief Description</i>	<i>BAAQMD Position</i>	<i>Outcome</i>
AB 471 Simitian	Prohibits cruise ship incineration within 3 miles of shore	Support	Signed
AB 923 Firebaugh	Funds air quality programs through \$2 motor vehicle registration fee increase and tire fee (late-session combination of AB 2880, SB 1247, and AB 3104)	Support	Signed
AB 1991 Lowenthal	Would expedite permitting of petroleum infrastructure	Oppose in concept	Died in Legislature
AB 2128 Jackson	Redirects smog check program fees into increased vehicle scrappage	Support in concept	Signed
AB 2366 Chan	Authorizes a 5 <sup>th</sup> dollar for the Bay Area	Support	Died in Legislature

<b><i>Bill</i></b>	<b><i>Brief Description</i></b>	<b><i>BAAQMD Position</i></b>	<b><i>Outcome</i></b>
AB 2424 LaMalfa	SEMA-sponsored bill that would limit vehicle scrappage programs	Oppose in concept	Died in Legislature
AB 2526 Oropeza	Funds Moyer program with a quarter of a penny of existing diesel fuel tax	Support	Died in Legislature
AB 2541 Fromer	Establishes Low Emission Contractor Incentive Program	Support	Died in Legislature
AB 2628 Pavley	Allows hybrid vehicles into HOV lanes	Support if amended	Signed
AB 2683 Lieber	Ends rolling 30-year exemption in Smog Check program	Support/Sponsor	Signed
AB 2847 Oropeza	5-cent per gallon fee on gasoline and diesel with some portion for air quality	Support	Died in Legislature
AB 2880 Pavley	Increases motor vehicle registration fee surcharges from \$4 to \$6	Support	AB 923 signed
AB 2939 Diaz	Spot bill for Moyer funding	Support	AB 923 signed
AB 3104 Firebaugh	Environmental Health and Air Quality Funding Act of 2004	Support	AB 923 signed
SB 849 Torlakson	Formation of ABAG/MTC/BAAQMD Joint Policy Committee	Support	Signed
SB 1247 Soto	Provides long-term Moyer funding	Support	AB 923 signed
SB 1614 Torlakson	10-cent per gallon fee on gasoline and diesel with a penny for clean air	Support	Died in Legislature
SB 1615 Denham	Establishes new rolling 30-year smog exemption for out-of-state vehicles imported into CA	Oppose unless amended	Bill amended and signed

At the start of the session, our primary goals were to improve the smog check program by ending the so-called rolling 30-year exemption, to allow increased funding of air quality projects through a registration fee increase in the Bay Area, and to secure long-term funding for the Carl Moyer program. All of these goals were accomplished this year. The District co-sponsored AB 2683, authored by Assembly Member Sally Lieber of Mountain View, to end the rolling 30-year exemption. While this bill's opponents mounted a vigorous campaign to defeat the bill, it passed out of the Legislature on the final day of the session, and was signed into law by the Governor. This year's success (in contrast to multiple unsuccessful efforts in the past) was a direct result of the broad-based nature of our coalition of supporters, and the hard work and determination of Assembly Member Lieber.

Throughout the year, the District worked with fellow air districts, the environmental and business communities, and the Administration to find a way to fund air programs that all parties could accept. While there were a number of bills introduced that would have created fuel surcharges to fund Moyer and similar programs, these faltered early in the session. However, the work of the coalition led to first the passage of budget trailer bill SB 1107, which provides \$61 million annually in new, ongoing Moyer program funding. The funds are generated from a \$12 annual fee that cars younger than 7 years old pay to be exempted from their biennial smog check

inspections. But even with the passage of this measure, the coalition worked to increase and expand Moyer funding, as well as to improve on the original and now somewhat dated Moyer statutory language. These efforts proved successful, when AB 923 (Firebaugh) was passed by the Legislature and signed by the Governor. This measure authorizes local air districts to increase local registration fee surcharges for clean air from \$4 to \$6, and imposes a state tire fee for clean air. The bill also makes important changes to the Moyer program that the District has tried to achieve for a number of years, and potentially raises up to \$80 million annually statewide for the next ten years for incentive-based clean air programs. These funds can be spent on Moyer projects, the Low-Emission Schoolbus Program, reducing emissions from agricultural sources, and light-duty motor vehicle scrappage and repair programs. This success, coming during fiscally challenging times, is one of the most important air quality legislative achievements in many years.

AB 2366 (Chan) would have allowed the Bay Area motor vehicle registration fee surcharge for clean air to increase from \$4 to \$5. While this bill made it almost all the way through the Legislature, it ultimately was halted in the Senate Appropriations Committee. However, this Committee did pass out AB 2880, allowing a \$2 increase statewide, which ultimately became part of AB 923.

SB 849 (Torlakson) was supported by the District and MTC, but opposed by ABAG. It codifies an existing Joint Policy Committee of ABAG and MTC Board members, and adds the BAAQMD to it. The Governor signed the bill, and indicated that next year he would seek legislative approval to add a representative from the Business, Transportation, and Housing Agency to the Committee as well.

We were also successful this year at preventing bills that would harm air quality from becoming law. None of the bills that the District opposed passed even their first committee without being amended to address our concerns. A list of all the bills of potential air quality significance that the District tracked, and their outcomes, is attached to this memorandum.

On the budget front, given the State's fiscal crisis, 2004 was a very good year for the District. The District's subvention (funding we receive directly from the State) was not cut, but retained at the previous year's level. Of more significance however are the local property tax revenues the District receives, which are our second largest source of revenue. In each of the previous two budget cycles, there have been both legislative and Administrative proposals that would have had the State take significant portions of our property tax revenues. In the 2004-2005 budget year, staff believed it was inevitable that the State would take local property taxes. While the Governor's proposed budget would have taken 25% of our revenues, our allies in the Legislature helped ensure that the adopted budget contained only a 10% transfer for us.

BUDGET CONSIDERATION/FINANCIAL IMPACT

See discussion above for budget impacts of this legislative year.

Respectfully submitted,

Thomas Addison  
Advanced Projects Advisor

FORWARDED: \_\_\_\_\_

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Thomas Addison  
Advanced Projects Advisor

Date: October 4, 2004

Re: Motor Vehicle Registration Fee Increase

RECOMMENDED ACTION:

Recommend that the Board of Directors approve authorization of a \$2 motor vehicle registration fee increase for clean air, as allowed by AB 923 (Firebaugh)

BACKGROUND

AB 923 (Firebaugh) has been passed by the Legislature and signed by the Governor. This measure authorizes local air districts to increase local registration fee surcharges for clean air from \$4 to \$6, and imposes a state tire fee for clean air. The effective date of AB 923 is January 1, 2005. The Department of Motor Vehicles will begin collecting the higher fee in a local air district on either April 1, 2005 or October 1, 2005, depending on when the district adopts the necessary resolution. To get the emission reductions on the earlier date, the local district must pass a resolution authorizing the increase and adopting a program for expenditure. The increase in the surcharge can be spent on Moyer projects, the Low-Emission School Bus Program, reducing emissions from previously unregulated agricultural sources, and accelerated vehicle scrappage and repair.

DISCUSSION

Incentive-based programs to cut mobile source emissions are an essential part of the District's plans to attain air quality standards and reduce public exposure to diesel particulate. The Legislative Committee and the full Board have both already this year specifically endorsed measures to increase registration fee surcharges for clean air to provide the funding source for ongoing grant programs to clean the air. In the Bay Area, a \$2 registration fee increase will provide roughly \$11 million annually. Depending on the specifics of what types of projects are funded, this translates into potentially one to two thousand tons of emissions reduced every year—reductions that are not achievable in any other way. These are very substantial reductions, with correspondingly large public health benefits.

Staff requests that the Legislative Committee to recommend that the Board take action prior to January 1, 2005 to authorize the increase. The Board may wish to have the Mobile Source Committee develop a general plan for expenditure; as such a plan should be part of the Board adoption procedure.

BUDGET CONSIDERATION/FINANCIAL IMPACT

As noted above, a \$2 registration fee increase generates roughly \$11 million annually in the Bay Area for clean air grant programs. AB 923 specifically allows the District to be reimbursed for its administrative costs, subject to a 5% cap, to operate the grant program.

Respectfully submitted,

Thomas Addison  
Advanced Projects Advisor

FORWARDED: \_\_\_\_\_

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Thomas Addison  
Advanced Projects Advisor

Date: October 6, 2004

Re: Consideration of (5) Five Bay Area County Sales Tax Transportation  
Ballot Measures and Corresponding Agency Positions

RECOMMENDED ACTION

Consider whether to adopt positions on the five Bay Area county sales tax transportation ballot measures to appear on the November 2, 2004 ballot.

DISCUSSION

On November 2, 2004, voters in five (5) Bay Area counties: Contra Costa, Marin, San Mateo, Solano and Sonoma, will vote on local sales tax measures that would generate new revenue for transportation improvements in each county. All the measures require a two-thirds supermajority for approval.

**November 2004 Bay Area County Sales Tax Transportation Ballot Measures**

<b>Measure</b>	<b>Description</b>	<b>Estimated New Revenue (2004 \$)</b>
Contra Costa County (Measure J)	Half-cent sales tax extension.	\$2 billion Expires in 2034
Marin County (Measure A)	New half-cent sales tax.	\$332 million Expires in 2025
San Mateo County (Measure A)	Half-cent sales tax extension.	\$1.5 billion Expires in 2033
Solano County (Measure A)	New half-cent sales tax.	\$1.4 billion Expires in 2035
Sonoma County (Measure M)	New quarter-cent sales tax.	\$465 million Expires in 2025

\* A table with details from each of the five counties' sales tax expenditure plans is attached.

Historically, the District has not adopted positions on any previous county transportation sales tax ballot measures. In fact, the only past case of the District supporting a ballot measure was an endorsement, approximately six years ago, of a statewide ballot measure. Proposition 7 was an air quality-specific initiative that would have funded Moyer-like cleanup of heavy-duty diesel engines and school buses.

## ANALYSIS

All of the five county sales tax measures include individual expenditure plans that would allocate anticipated new tax revenue to fund transportation projects that fall into various categories, including street and highway improvements, transit improvements, bicycle/pedestrian improvements and other transportation-related projects and programs. For the most part, the measures tend to apportion greater percentages to local street and highway improvement projects while transit and other alternative transportation projects would receive considerably smaller amounts of funding. A more detailed analysis of the measures and the projects they would fund is included in the attached spreadsheet.

The fact that most of the sales tax measures would allocate the highest percent expenditure to new roadway and highway capacity construction projects is thought by many outside observers to be not beneficial to regional air quality in the long term. Most would suggest that in the short-term, improving traffic flow can relieve congestion and reduce travel time for drivers. However, over time in congested metropolitan areas, a number of academic studies show that increased roadway capacity is often consumed by latent travel demand, resulting in further congestion and higher emissions. In the interim, when driving becomes more convenient, there is less incentive to travel during non-peak periods, use transportation alternatives, work and shop closer to home, and avoid discretionary trips. Short-term higher speeds from the additional capacity may induce some people to move to areas farther from their jobs, encouraging land use changes that further increase VMT and emissions. This has led a number of transportation scholars to conclude that especially in growing or already congested areas, highway capacity expansions can result in greater dependence on automobiles thereby causing long-term increased air pollution and other significant environmental impacts.

On the other hand, these five sales tax measures all include some transportation projects that would be beneficial to air quality goals. In our regional air quality plans, the District has identified an important role for local agencies in implementing transportation control measures (TCM) to reduce emissions. TCM strategies include providing appropriate and efficient transit service; designing streets and infrastructure to be safe and convenient for transit users, pedestrians and bicyclists; encouraging the use of clean-burning fuels and technology; encouraging transit-oriented development near existing and proposed transit stations; and other strategies to reduce single-occupant automobile usage. All of the five county sales tax measures include projects and programs that staff recognize will help implement a number of our TCMs.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Thomas Addison  
Advanced Projects Advisor

FORWARDED: \_\_\_\_\_

## 5 BAY AREA COUNTY SALES TAX TRANSPORTATION BALLOT MEASURE EXPENDITURE PLANS

	Percentage Share of County Sales Tax Funding (5 County average in <b>BOLD</b> )	Estimated County Sales Tax Funding	Impact on Air Quality	Notes
<b>Local Streets Improvements</b>	<b>23%</b>		<b>Variable</b>	Most local street improvements include projects such as pothole repair and street maintenance, the majority of which have neither a positive nor negative effect on air quality. In some cases, traffic signal timing improvements can be air quality beneficial, especially in the short term, by improving traffic flow and preventing the formation of CO hotspots at intersections. In other cases, local street projects that increase roadway capacity can induce more vehicle trips on these roadways and lead to degraded air quality.
Contra Costa County	24%	\$482,000,000		
Marin County	13%	\$43,935,000		
San Mateo County*	N/A	N/A		
* Local Street Improvements for San Mateo will be determined by local jurisdictions. See <i>Return to Source</i> category below.				
Solano County	15%	\$210,000,000		
Sonoma County	40%	\$178,000,000		
<b>Highway Improvements</b>	<b>33%</b>		<b>Variable / Negative</b>	Most proposed highway improvements will result in increased roadway capacity, which may relieve congestion in the short term, but can also induce more vehicle trips and lead to worsened air quality. Some highway improvements include the construction of additional HOV segments, the expansion of park and ride lots and bicycle paths, which can encourage more carpooling and cycling and lead to fewer single-occupant vehicle trips.
Contra Costa County	26%	\$526,000,000		
Marin County	8%	\$24,870,000		
San Mateo County	43%	\$638,000,000		
Solano County	47%	\$675,000,000		
Sonoma County	40%	\$188,000,000		

## 5 BAY AREA COUNTY SALES TAX TRANSPORTATION BALLOT MEASURE EXPENDITURE PLANS

	Percentage Share of County Sales Tax Funding (5 County average in <b>BOLD</b> )	Estimated Sales Tax Funding	Impact on Air Quality	Notes
<b>Local Transit Improvements</b>	<b>19%</b>		<b>Positive</b>	Local transit improvement projects will encourage people to use transit as an alternative to driving. As long as transit service is appropriate and the cleanest available technology is employed, these projects will have air quality benefits.
Contra Costa County	14%	\$291,000,000		
Marin County	55%	\$182,000,000		
San Mateo County	8%	\$120,000,000		
Solano County	7%	\$105,000,000		
Sonoma County	10%	\$47,000,000		
<b>Rail, Express Bus and Ferry Improvements</b>	<b>12%</b>		<b>Positive</b>	Improvements to regional rail, express bus and ferry service will encourage people to use these alternative modes of transportation and will result in fewer automobile trips. As long as transit service is appropriate and the cleanest available technology is employed, these projects will have air quality benefits.
Contra Costa County	15%	\$298,000,000		
San Mateo County	22%	\$330,000,000		
Solano County	18%	\$261,000,000		
Sonoma County	5%	\$23,000,000		

## 5 BAY AREA COUNTY SALES TAX TRANSPORTATION BALLOT MEASURE EXPENDITURE PLANS

	Percentage Share of County Sales Tax Funding (5 County average in <b>BOLD</b> )	Estimated Sales Tax Funding	Impact on Air Quality	Notes
<b>Bicycle &amp; Pedestrian</b>	<b>2%</b>		<b>Positive</b>	Bicycle and pedestrian improvement projects will encourage people to use these alternative modes of transportation. More bicycling and walking results in fewer automobile trips and less emissions. These projects have clear air quality benefits.
Contra Costa County	1%	\$30,000,000		
Marin County*	N/A	N/A		
* Bike/ped Improvements for Marin will be determined by local jurisdictions. See <i>Return to Source</i> category below.				
San Mateo County	3%	\$45,000,000		
Sonoma County	4%	\$19,000,000		
<b>Transit-supportive Land Use Projects</b>	<b>1%</b>		<b>Positive</b>	Projects funded through MTC's Transportation for Liveable Communities (TLC) program encourage transit-oriented development near transit stations. Such projects encourage more walking, bicycling and transit usage, and resulting in fewer vehicle trips and improved air quality.
Contra Costa County	5%	\$108,000,000		
<b>Commute Alternatives Promotion Programs</b>	<b>0.4%</b>		<b>Positive</b>	These projects encourage commuters to consider alternatives to driving alone, including transit, carpooling and vanpooling. Commute Alternatives Promotion programs can lead to less vehicle trips and improved air quality.
Contra Costa County	1%	\$20,000,000		
San Mateo County	1%	\$15,000,000		

## 5 BAY AREA COUNTY SALES TAX TRANSPORTATION BALLOT MEASURE EXPENDITURE PLANS

	Percentage Share of County Sales Tax Funding (5 County average in <b>BOLD</b> )	Estimated Sales Tax Funding	Impact on Air Quality	Notes
<b>Safety &amp; School Projects</b>	<b>4%</b>		<b>Positive / Neutral</b>	Safety Projects such as improvements to intersections, traffic signals, improving key bottlenecks for emergency vehicles during peak commute times will improve public safety but do not necessarily reduce vehicle trips or improve air quality. Some school-related projects such as the Safe Routes to School programs and low-income student bus pass subsidy programs can reduce automobile trips and improve air quality.
Contra Costa County	5%	\$91,000,000		
Marin County	11%	\$36,480,000		
Solano County	2%	\$25,000,000		
<b>Return-to-Source Projects</b>	<b>10%</b>		<b>Variable</b>	Return to Source Transportation Projects are selected by the local cities and may include: local street improvements and maintenance, safety projects, local interchanges, expanded local transit services and local downtown improvements. The funding of projects that encourage alternative modes like transit, bicycling and pedestrian will have air quality benefits while many other projects will not.
Contra Costa County	2%	\$30,000,000		
Marin County	13%	\$43,935,000		
San Mateo County	23%	\$338,000,000		
Solano County	10%	\$140,000,000		

## 5 BAY AREA COUNTY SALES TAX TRANSPORTATION BALLOT MEASURE EXPENDITURE PLANS

	Percentage Share of County Sales Tax Funding (5 County average in <b>BOLD</b> )	Estimated Sales Tax Funding	Impact on Air Quality	Notes
<b>Planning &amp; Administration</b>	<b>1%</b>		<b>Neutral</b>	Planning and Administrative projects do not have direct air quality impacts.
Contra Costa County	4%	\$80,000,000		
Solano County	1%	\$14,000,000		

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum**

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Thomas Addison  
Advanced Projects Advisor

Date: October 5, 2004

Re: Potential Legislative Proposals for 2005

RECOMMENDED ACTION:

Recommend that the Board of Directors adopt proposed 2005 legislative agenda.

DISCUSSION

Staff will orally present a range of ideas for consideration and incorporation into the Air District's 2005 legislative agenda.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None

Respectfully submitted,

Thomas Addison  
Advanced Projects Advisor

FORWARDED: \_\_\_\_\_

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Thomas Addison  
Advanced Projects Advisor

Date: October 5, 2004

Re: California Performance Review Discussion

RECOMMENDED ACTION:

None. Receive and file.

BACKGROUND

Governor Schwarzenegger convened a team of state and external managers and analysts to suggest ways to “restructure, reorganize, and reform state government to make it more responsive to the needs of its citizens and its business community.” The 2,700-page California Performance Review (CPR) is the product of this team, and its recommendations are under review by the Governor currently. Some of its reforms could only be implemented by action of the legislature, but some could be achieved through Administrative actions such as Executive Orders. Some of the recommendations in the CPR affect the goals of the District. The deadline to submit comments on the CPR was September 30, 2004. Staff submitted the attached comment letter.

DISCUSSION

Two of the CPR’s suggestions are of particular concern to the District. One suggestion would be to eliminate the Air Resources Board, and instead have ARB staff report directly to the Secretary of CalEPA. This theme of eliminating independent Boards is found throughout the CPR recommendations, with the rationale that it will make California’s environmental decision-making more accountable and transparent. Staff believe eliminating ARB would be a serious mistake that would not achieve the stated goal. In fact, we believe that ARB’s organizational structure—a multi-member body whose members are appointed by the Governor (subject to Senate confirmation)—has been integral to its success and accomplishments. In addition to having members required by statute to have expertise in fields relevant to air pollution, ARB is required to have members from local air districts, including our own. Its very public current decision-making process, as well as its structure and regional representation, ensure that it is accountable for its actions.

The CPR also contains a section on streamlining petroleum infrastructure permitting. Here the goal is to address fuel price volatility and spikes. While acknowledging the importance of this goal, staff believe that the recommendations ignore refinery air emissions and thus public health entirely. Our specific concerns are presented in the attached letter.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None

Respectfully submitted,

Thomas Addison  
Advanced Projects Advisor

FORWARDED: \_\_\_\_\_