



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

BRAD WAGENKNECHT – CHAIRPERSON

DAN DUNNIGAN

CAROL KLATT

JANET LOCKHART

TIM SMITH

ERIN GARNER–VICE CHAIRPERSON

SCOTT HAGGERTY

PATRICK KWOK

MICHAEL SHIMANSKY

MONDAY
MARCH 12, 2007
9:30 A.M.

FOURTH FLOOR CONFERENCE 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 MAY 22, 2006 AND OCTOBER 19, 2006**

4. **CONSIDERATION OF NEW BILLS AND CORRESPONDING AGENCY POSITION**

J. Broadbent/5052

jbroadbent@baaqmd.gov

Staff will present newly-introduced air quality bills for the Committee's deliberation.

5. **UPDATE ON PROPOSITION 1B HIGHWAY SAFETY, TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006**

J. Broadbent/5052

jbroadbent@baaqmd.gov

Staff will provide an update on Proposition 1B Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

6. **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)

7. **TIME AND PLACE OF NEXT MEETING:** *9:30 a.m., Monday, April 23, 2007 – 939 Ellis Street, San Francisco, CA 94109*
8. **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**

- 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

Memorandum

To: Chairperson Wagenknecht and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 26, 2007

Re: Legislative Committee Draft Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meetings of May 22, 2006 and October 19, 2006.

DISCUSSION

Attached for your review and approval are the draft minutes of the May 22, 2006 and October 19, 2006, Legislative Committee meetings.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

**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
9:30 a.m., Monday, May 22, 2006

1. Call to Order - Roll Call: Director Erin Garner called the meeting to order at 9:34 a.m.

Present: Erin Garner, Chairperson, Roberta Cooper, Chris Daly, Carol Klatt, Mark Ross, Tim Smith, Brad Wagenknecht.

Absent: Dan Dunnigan, Liz Kniss.

Also Present: Scott Haggerty, Gayle B. Uilkema.

2. Public Comment Period: There were none.

3. Approval of Minutes of January 30, 2006: Director Smith moved approval of the minutes; seconded by Director Uilkema; carried without objection with Director Cooper abstaining.

4. Consideration of New Bills and Corresponding Agency Position: *Staff presented recommended positions on nine bills. Staff also updated the Committee on the status of the BAAQMD-sponsored AB 1870 (Lieber), and answered questions on bills included in the BAAQMD Bill Discussion List-May 2006.*

Tom Addison, Senior Advanced Projects Advisor, discussed the following nine new bills and recommended positions for consideration by the Committee.

Bill	Brief Description	Staff Recommendation	Committee Recommendation
AB 32 (Nunez and Pavley)	California Global Warming Solutions Act of 2006	Support and seek amendments	Support and seek amendments
AB 2264 (Pavley)	Establishes fuel economy standards for new state vehicle purchases	Support	Support
AB 2276 (Pavley)	Establishes ARB regulatory program for ozone-producing indoor air cleaning devices	Support	Support

AB 2444 (Klehs)	Bay Area registration fee surcharge for congestion relief and environmental regulation	Support	Support and seek amendments
AB 2600 (Lieu)	Extends current HOV lane use by natural gas vehicles	Support	Support
AB 2791 (Ruskin)	Establishes California Clean Vehicle Discount Program	Support	Support
AB 3018 (Lieber)	Establishes indoor air quality regulatory program administered by the ARB	Support	Support
SB 1205 (Escutia)	Creates the California Children’s Breathing Rights Act and changes air penalty law	Oppose unless amended	Oppose unless amended
SB 1601 (Lowenthal)	Requires BACT on emissions sources at ports for new or renegotiated leases	Support	Support

Committee Action: Director Smith moved that the Committee recommend that the Board of Directors adopt the staff position of “support and seek amendments” on AB 32 (Nunez and Pavley); seconded by Director Wagenknecht; carried unanimously without objection.

Committee Action: Director Wagenknecht moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on AB 2264 (Pavley); seconded by Director Smith; carried unanimously without objection.

Committee Action: Director Smith moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on AB 2276 (Pavley); seconded by Director Ross; carried unanimously without objection.

Mr. Addison reviewed AB 2444 (Klehs) and stated that the bill would apply to all nine Bay Area counties. A \$5 surcharge would be imposed on annual vehicle registrations and the revenue would be used for congestion mitigation. The bill would also authorize the Air District Board to impose a \$5 fee for environmental mitigation. There was considerable discussion of this bill with a recommendation that the District would support the bill and seek amendments.

Committee Action: Director Wagenknecht moved that the Committee recommend that the Board of Directors adopt a “support and seek amendments” position on AB 2444 (Klehs); seconded by Director Cooper; carried on the following roll call:

AYES: Cooper, Daly, Klatt, Ross, Smith, Wagenknecht, Garner.

NOES: Uilkema.

ABSENT: Dunnigan, Kniss.

Committee Action: Director Daly moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on AB 2600 (Lieu); seconded by Director Smith; carried unanimously without objection.

Committee Action: Director Daly moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on AB 2791 (Ruskin); seconded by Director Wagenknecht; carried unanimously without objection.

Committee Action: Director Daly moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on AB 3018 (Lieber); seconded by Director Smith; carried unanimously without objection.

Committee Action: Director Smith moved that the Committee recommend that the Board of Directors adopt the staff position of “oppose unless amended” on SB 1205 (Escutia); seconded by Director Wagenknecht; carried unanimously without objection.

Committee Action: Director Wagenknecht moved that the Committee recommend that the Board of Directors adopt the staff position of “support” on SB 1601 (Lowenthal); seconded by Director Daly; carried unanimously without objection.

5. Overview of Stated 2006-07 Budget: *Staff provided an overview to the Committee on the State budget and any impact to the District.*

Mr. Addison provided a brief update on the State budget and impacts to the District and noted that both houses are recommending an increase of \$10 million in the State Subvention Fund. Mr. Addison stated that if this increase remains in the final budget approved by the Governor, this Air District would receive \$1.7 million of the funds. The California Air Resources Board (CARB) supported this level of increase to local districts.

Director Cooper discussed an environmental conference she attended in Chicago. There was discussion at the conference of a “green” building ordinance that encouraged owners of high-rise buildings to use alternative sources of energy.

Jack Broadbent, Executive Officer/APCO, stated that the California Air Pollution Control Officers Association (CAPCOA) has made progress on a revised formula for Carl Moyer funding.

Director Uilkema requested that staff take a look at state law on solar/photovoltaic panels.

Chairperson Garner discussed HVAC systems and a new filtration technology that is available. Mr. Garner suggested that the District look at the feasibility of helping to draft a bill on HVAC systems and stated that this would make a significant impact on indoor air quality at the residential level without a significant incremental cost.

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 was adjourned at 10:46 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
9:30 a.m., Thursday, October 19, 2006

1. **Call to Order - Roll Call:** Director Erin Garner called the meeting to order at 9:40 a.m.
Present: Erin Garner, Chairperson, Mark Ross, Brad Wagenknecht.
Absent: Chris Daly, Dan Dunnigan, Carol Klatt, Liz Kniss, Tim Smith.
Also Present: Scott Haggerty (9:57 a.m.), Pamela Torliatt (9:51 a.m.), Gayle B. Uilkema (9:50 a.m.).
2. **Public Comment Period:** There were none.
3. **Approval of Minutes of May 22, 2006:** Due to the lack of a quorum, approval of the minutes was deferred to the next meeting.
4. **Summary of 2006 Legislative Year:** *Staff presented a summary of the recently-concluded year in Sacramento, highlighting the outcome of measures on which the District adopted positions.*

Tom Addison, Senior Advanced Projects Advisor, presented a summary of the recently concluded year in Sacramento and highlighted the outcome of measures on which the District adopted positions. The Air District sponsored one bill on smoking vehicles, and had formal positions on 13 other measures.

Mr. Addison discussed AB 32, which requires greenhouse gas (GHG) emission reductions in California to be reduced to 1990 levels by 2020. The Air Resources Board is the agency designated to determine the 1990 levels.

Jack Broadbent, Executive Officer/APCO noted that SB 225 impacts the Air District.

Director Gayle B. Uilkema arrived at 9:50 a.m.

Mr. Addison stated that SB 225 changes the distribution formula for Carl Moyer funding resulting in an increase in Moyer revenues to the Air District by over \$2 million annually.

Director Pamela Torliatt arrived at 9:50 a.m.

Continuing, Mr. Addison stated that SB 1205 dealt with increased penalties and that the Air District supported the bill after it was amended in July. Brian Bunger, Counsel, noted that District staff worked with the author of this bill and the amendments addressed the District's concerns.

In response to a question from Director Ross regarding SB 225, Mr. Bunger stated that 50% of the Moyer funds need to go to the most affected communities and the Air District's Community Air Risk Evaluation (CARE) Program will help define these communities. Jean Roggenkamp, Deputy APCO, stated that there is \$11 million for the Year 9 cycle and there will be more funding for the next cycle.

Director Scott Haggerty arrived at 9:57 a.m.

In response to a question from Chairperson Garner on AB 3018, Mr. Addison stated that the Air District supported this bill that was sponsored by the American Lung Association. The bill would a formal indoor air quality program, with mandated reductions from categories of products with high indoor air emissions. The bill died early in the session.

There was additional discussion on AB 32 regarding the role of air districts and that role being specified by the legislature. The bill gives the responsibility of the program to the ARB. Mr. Broadbent added that discussions are continuing on this subject and noted that there is language in the bill that states nothing in the bill takes away any existing authority. There will be continuing discussions and legislative activity on greenhouse gas issues next year.

Committee Action: None. The report was provided for information only.

5. Potential Legislative Proposals for 2007: *The Committee discussed potential legislative proposals for the District's legislative agenda for 2007.*

Mr. Addison presented the potential legislative concept of focusing in 2007 on diesel emission reductions from the Port of Oakland. The Committee also discussed the following measures:

1. State-wide container fees at ports.
2. Funds for transit subsidy on Spare the Air days.
3. Assessing extra bridge tolls and fill-up fees on Spare the Air days.
4. Curtailing certain stationary sources on Spare the Air days.
5. Regulation of HVAC systems in large developments and schools relating to indoor air quality.
6. Mitigating storage of common products at large facilities (containment systems).

Committee Action: None. 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 was adjourned at 11:07 a.m.

Mary Romaidis
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and
Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 28, 2007

Re: Consideration of New Bills and Corresponding Agency Positions

RECOMMENDED ACTION:

Discuss bills of air quality significance and recommend Board positions on some of them.

DISCUSSION

The bill introduction deadline of February 23rd has passed, and legislators have introduced roughly 3,000 bills. While many are still not fleshed out, and some brand new ideas will materialize later in the session in the 'gut and amend' process, we now have a much better idea of the 2007 legislative landscape.

Air quality is yet again a popular topic, and an initial list of bills relevant to the District is attached. Staff will present recommended verbal positions on some of the bills on this list at the Committee's March 12th meeting. Also attached are copies of the text of a smaller set of air quality bills for the Committee's consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean Roggenkamp

BAAQMD BILL DISCUSSION LIST

February 28, 2007

BILL NO.	AUTHOR	SUBJECT	STATUS
AB 6	Houston	Would require (instead of allow) ARB to adopt market-based programs to implement AB 32	Asm. Nat.Resources
AB 94	Levine	Would increase current goals for renewable electricity production to 33% of total power by 2020	Asm. Utilities and Commerce
AB 99	Feuer	Expresses legislative intent that 50% of new cars sold in California by 2012 use clean alternative fuels	
AB 109	Nunez	Requires ARB to annually report to the Legislature on the implementation of AB 32 of 2006	Asm. Nat.Resources
AB 114	Blakeslee	Requires CEC by 2010 to develop a program to encourage, for industrial sources, containment, scrubbing, and capture technologies for carbon dioxide	Asm. Nat.Resources
AB 118	Nunez	Declares legislative intent for ongoing funding for alternative fuel research, development, and deployment	
AB 217	Beall	Would change current annual vehicle license fee to biennial, with total amounts paid not changing	Asm. Rev.& Tax
AB 218	Saldana	Eliminates current loophole allowing vehicle registration without smog certificate without penalty	Asm. Trans.
AB 233	Jones	Children's Breathing Rights Act; makes changes to air penalties and requires air districts to report penalty data to ARB	Asm. Nat.Resources
AB 236	Lieu	Requires maximum use of alternate fuel in flexible fueled state vehicles	
AB 242	Blakeslee	States legislative intent that early reducers of carbon emissions be rewarded with credits, in effect promoting a market-based implementation of AB 32	
AB 255	DeLeon	Establishes Clean Air and Energy Independence Fund, funded with a \$4 annual increase in fees paid by vehicles less than 7 years old currently exempted from smog check; administered by ARB	Asm. Trans.
AB 294	Adams	States legislative intent to identify sources and reduces levels of manganese particulate matter in the air	
AB 307	Hayashi	Exempts fuel cell transit buses bought by public agencies from sales tax	Asm. Rev.& Tax
AB 391	Lieu	Increases size of SCAQMD Board from 12 to 13; new member from a west side city other than LA	Asm. Loc. Gov.
AB 437	Jones	Authorizes county health officers to assist cities and counties on public health issues relating to land use and transportation planning	

AB 444	Hancock	Authorizes Alameda and Contra Costa congestion management agencies to impose an annual \$10 vehicle registration fee surcharge for congestion mitigation	Asm. Trans.
AB 463	Huffman	California Clean Ferry Act of 2007	
AB 493	Ruskin	Establishes fees and rebates respectively at the time of sale of high and low-emitting new motor vehicles	
AB 505	Plescia	Income tax credits for hybrid vehicles	
AB 532	Wolk	Requires solar electric installation by 2009 on all state buildings where feasible	
AB 534	Smyth	Increases Bicycle Transportation Account funding	
AB 568	Karnette	Requires establishment of Port Community Advisory Committees	
AB 575	Arambula	Prioritizes Proposition 1B air quality bond funding to South Coast and San Joaquin	
AB 616	Jones	Requires annual (instead of biennial) smog checks for cars at least 15 years old currently in the program	
AB 630	Price	Spot bill on SCAQMD Board	
AB 631	Horton	Requires new fueling stations by 2010 to be able to provide ethanol (E-85)	
AB 657	Jeffries	Spot bill on greenhouse gas emissions	
AB 700	Lieu	Declares legislative intent to address increase in air pollution from Santa Monica airport	
AB 705	Huffman	Requires state regulations for geologic carbon sequestration	
AB 712	DeLeon	Declares legislative intent to improve the efficiency of the Moyer program and recommend improvements	
AB 746	Krekorian	Requires CEC to develop programs to increase the use of natural gas as a transportation fuel	
AB 747	Levine	Requires ARB to develop regulations to cut carbon in transportation fuels, using market approaches	
AB 785	Karnette	Intent bill to reduce urban heat island effects	
AB 829	Duvall	Affects after-market motorcycle parts certified by the ARB and their use	
AB 842	Jones	States intent to award Prop 1B funds to jurisdictions that have a plan to reduce vehicle miles traveled	
AB 846	Blakeslee	Clean Marine Fuels Tax Incentive Act	
AB 934	Duvall	Would prohibit air districts from adopting airborne toxic control measures for non-stationary sources	
AB 995	Nava	Spot bill on Prop 1B bond funding of trade corridor and air quality improvements	
AB 1077	Lieber	California Plug-in Hybrid Electric Vehicle Leadership Act of 2007	
AB 1083	Huffman	Tax credits for sale of biodiesel fuel	
AB 1094	Arambula	Tax credits for biodiesel vendors	

AB 1119	Fuller	Requires ARB to provide guidance to local AQMDs on EJ requirements of Moyer program	
AB 1138	Brownley	Requires ARB to resolve questions regarding local AQMD boundaries	
AB 1209	Karnette	Establishes criteria favoring southern California ports for distribution of Prop 1B air quality funds	
AB 1225	DeSaulnier	Requires guidelines on environmental factors to guide state fleet purchases, and local government fleets of more than 100 vehicles	
AB 1350	Nunez	Spot bill on distribution criteria for Prop 1B bond funding	
AB 1455	Arambula	Would establish California Air Quality Zones, and allow loans for entities within these areas	
AB 1488	Mendoza	Requires by 2009 a pilot program to integrate light-duty diesel vehicles into smog check	
AB 1613	Blakeslee	Waste Heat and Carbon Emissions Reduction Act	
AB 1651	Alarcon	Tax credits for 'green' businesses acquiring 'green' machinery	
SB 9	Lowenthal	Legislative intent to identify criteria for expenditure of trade corridor funds from Prop 1B	
SB 19	Lowenthal	Legislative intent to identify criteria for expenditure of air quality funds from Prop 1B	
SB 23	Cogdill	Establishes a SJVUAQMD program to replace gross polluters with donated cleaner vehicles	Sen. Trans. & Housing
SB 70	Florez	Establishes standards for biodiesel and biodiesel blends	Sen. Business & Professions
SB 71	Florez	Requires ARB to administer a program to ensure that diesel vehicles owned by the State, cities, counties, and mass transit districts use B20 biodiesel	Sen. Trans. & Housing
SB 72	Florez	Requires ARB to see that diesel schoolbuses (public and private contractors) use B20 biodiesel	Sen. Education
SB 73	Florez	Establishes tax credits for producers of biodiesel	Sen. Rev.& Tax
SB 74	Florez	Exempts biodiesel from sales tax	Sen. Rev.& Tax
SB 75	Florez	Requires state diesel vehicles to be warranted to use B20 biodiesel	Sen. Trans. & Housing
SB 76	Florez	California Biofuels Investment Act	
SB 140	Kehoe	Requires California diesel to increase its renewable content first to at least 2%, and then to 5%	Sen. Trans. & Housing
SB 210	Kehoe	Requires ARB to develop a program to reduce carbon content of California transportation fuels by 10% by 2020, and implement a low-carbon fuel standard	Sen. Trans. & Housing
SB 240	Florez	Changes SJVUAQMD Board makeup, adding 2 Governor appointees and city council representatives	
SB 247	Ashburn	Greenhouse gas spot bill	

SB 412	Simitian	Spot bill on siting of LNG terminals	
SB 494	Kehoe	Requires ARB to adopt a program so that by 2020 half of new vehicles sold use clean alternative fuels	
SB 509	Simitian	Requires ARB to adopt regulations to limit formaldehyde emissions from composite wood to EU standards	
SB 531	Oropeza	Declares legislative intent to reform regulation of air toxics	
SB 532	Oropeza	Spot bill on port air pollution	
SB 572	Cogdill	Declares legislative intent to consider carbon emissions from wildfire, and forest carbon sequestration	
SB 587	Runner	Establishes exemptions from air district permit requirements for certain printing, coating, adhesive application, and laminating operations, subject to specified criteria	
SB 613	Simitian	Extends sunset of local San Mateo \$4 vehicle registration fee surcharge from 2009 to 2019	
SB 715	Lowenthal	Spot bill on smog check technical cleanup issues	
SB 719	Machado	Increases SJVUAQMD Board to 15, with 2 Governor's appointees and 5 city council members	
SB 842	Scott	Adds air protective requirements to gasification (conversion of solid waste to fuel)	
SB 849	Margett	Spot bill on prescribed burning	
SB 857	Correa	Authorizes study of tax credits for air pollution reduction equipment in SCAQMD and SJVUAQMD	
SB 871	Kehoe	Reestablishes through 2012 the expedited review process for new powerplants	
SB 876	Calderon	Requires ARB to consider economic impacts of diesel fleet rules on small businesses	
SB 886	Negrete McLeod	Spot bill on regional approach to air pollution	
SB 974	Lowenthal	Establishes a container fee of \$30 per twenty-foot equivalent unit at LA, Long Beach, and Oakland ports	

ASSEMBLY BILL

No. 218

**Introduced by Assembly Member Saldana
(Coauthor: Assembly Member Huffman)**

January 29, 2007

An act to amend Section 9552 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as introduced, Saldana. Vehicles: fees.

Existing law provides that the fees for renewal of registration, or for renewal of special license plates, are delinquent when the application is made after midnight of the expiration date of the registration or special plates, or 60 days after the date the registered owner receives a specified notice, whichever is later.

When a smog certificate is required, this bill would provide that an application for renewal is not made until the smog certificate is received by the Department of Motor Vehicles.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9552 of the Vehicle Code is amended to
2 read:
3 9552. (a) Whenever ~~any~~ a vehicle is operated upon ~~any~~ a
4 highway of this state without the fees first having been paid as
5 required by this code, and those fees have not been paid within 20

1 days of its first operation, those fees are delinquent, except as
2 provided in subdivision (b).

3 (b) (1) Fees are delinquent whenever *an* application for renewal
4 of registration, or ~~any~~ *an* application for renewal of special license
5 plates, is made after midnight of the expiration date of the
6 registration or special plates, or 60 days after the date the registered
7 owner is notified by the department pursuant to Section 1661,
8 whichever is later.

9 (2) *For purposes of paragraph (1), if a certificate of compliance*
10 *issued in accordance with Section 44015 of the Health and Safety*
11 *Code is required for renewal, an application for renewal is not*
12 *made until that certificate is received by the department.*

13 (c) Whenever ~~any~~ a person has received as transferee a properly
14 endorsed certificate of ownership and the transfer fee has not been
15 paid as required by this code within 10 days, the fee is delinquent.

16 (d) Whenever ~~any~~ a person becomes an automobile dismantler,
17 dealer, manufacturer, manufacturer branch, distributor, distributor
18 branch, or transporter without first having paid the license and
19 special plate fees as required by this code, the fees are delinquent.

ASSEMBLY BILL

No. 233

Introduced by Assembly Member Jones

January 30, 2007

An act to amend Sections 39674, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.4 of, and to add Sections 39604.3, 42400.3.7, 42400.9, 42402.4.5, and 42402.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 233, as introduced, Jones. Air pollution: Children's Breathing Rights Act: penalties.

(1) Existing law vests local and regional authorities, defined as the governing body of any city, county, or air pollution control district or air quality management district, with the primary responsibility for control of air pollution from all sources other than vehicular sources. Existing law establishes maximum criminal and civil penalties for any person, as defined, for violations of air pollution laws from nonvehicular sources.

This bill would enact the Children's Breathing Rights Act, which would increase the maximum penalties for specified violations of air pollution laws. The bill would enact criminal and civil penalties for additional specified violations of air pollution laws that result in substantial risk of actual injury, and for making certain false statements, representations, or certifications. The bill would also require the State Air Resources Board to post on its Internet Web site certain information on air quality violations, which the bill would require the districts to report to the state board, and would require the districts to jointly develop with the state board a format for presenting this information.

Because this bill would impose new duties on local air districts, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Children’s Breathing Rights Act.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Breathing clean and healthy air is a right of all Californians,
6 especially our children, whose health suffers disproportionately
7 when our air is polluted.

8 (2) Reduced lung growth and function, new asthma cases,
9 respiratory complications for asthmatics, and increased school
10 absences from respiratory illnesses are just some of the
11 consequences our children face if we fail to protect that right.

12 (3) The most recent available state and federal data reveal that
13 more than 245 million pounds of industrial air pollution were
14 emitted near California schools in 1995. Statewide, more than 2.8
15 million children were enrolled in schools located near reported air
16 emissions of carcinogens, reproductive toxins, heavy metals,
17 nitrogen oxides, sulfur dioxide, or particulate matter.

18 (4) If we improve the statutes governing violations of our air
19 quality laws and ensure that adequate penalties are available to
20 deter even the most serious air pollution violations, our children’s
21 right to clean and healthy air can be better protected, as can the
22 right to environmental justice provided in Section 65040.12 of the
23 Government Code, that is, the fair treatment of people of all races,
24 cultures, and income with respect to the enforcement of
25 environmental laws, regulations, and policies. If we improve the

1 enforcement of our air quality laws, we will avoid future economic
2 and social costs of air pollution.

3 (b) It is the intent of the Legislature in the enactment of this act
4 to improve compliance with air quality laws, to increase penalties
5 for serious violators of air pollution laws and to use enhanced
6 penalties to improve air pollution enforcement activities, and to
7 create a statewide database that would provide transparency
8 regarding violations, including serious violations.

9 SEC. 3. Section 39604.3 is added to the Health and Safety
10 Code, to read:

11 39604.3. (a) (1) Notwithstanding Section 39604, the state
12 board shall post on its Internet Web site, by January 1, 2009, and
13 by January 1 of each year thereafter, the same information on air
14 quality violations that the districts provide to the United States
15 Environmental Protection Agency. The state board shall also
16 provide a link on its Internet Web site to the Internet Web sites of
17 the districts. To protect confidentiality, the state board may require
18 a password for certain areas of its Internet Web site.

19 (2) Each district shall submit the information described in
20 paragraph (1) to the state board, and the state board and the districts
21 shall jointly develop a format for presenting this information. The
22 format shall ensure that the data is presented in an open and
23 transparent manner that is, to the greatest extent possible, readily
24 accessible to, and understandable by, the public and compatible
25 with enforcement data provided by other state environmental
26 agencies.

27 (b) (1) Commencing January 1, 2009, every judgment entered
28 in an action brought by a district and every final settlement
29 agreement entered into by a district to enforce any provision of
30 law that is administered by the district shall be posted on the
31 district's Internet Web site, if the judgment or settlement agreement
32 is in the public record.

33 (2) Paragraph (1) shall apply only to districts with a population
34 greater than 1,000,000. A district with a population of less than
35 1,000,000 that maintains an Internet Web site shall either comply
36 with paragraph (1) or post a statement on its Internet Web site
37 informing the public how to request information in the public
38 record regarding judgments and settlement agreements.

1 (3) For the purposes of this subdivision, a judgment or settlement
2 agreement is final when the time for judicial review has expired,
3 or when all means of judicial review have been exhausted.

4 (4) A judgment or settlement agreement posted pursuant to this
5 subdivision shall be posted for not less than one year.

6 SEC. 4. Section 39674 of the Health and Safety Code is
7 amended to read:

8 39674. (a) Except as otherwise provided in subdivision (b),
9 any person who violates any rule or regulation, emission limitation,
10 or permit condition adopted pursuant to Section 39659 or Article
11 4 (commencing with Section 39665) or which is implemented and
12 enforced as authorized by subdivision (b) of Section 39658 is
13 strictly liable for a civil penalty not to exceed ~~one thousand dollars~~
14 ~~(\$1,000)~~ *ten thousand dollars (\$10,000)* for each day ~~in~~ *during*
15 *any portion of* which the violation occurs.

16 (b) (1) Any person who violates any rule or regulation, emission
17 limitation, permit condition, order fee requirement, filing
18 requirement, duty to allow or carry out inspection or monitoring
19 activities, or duty to allow entry for which delegation or approval
20 of implementation and enforcement authority has been obtained
21 pursuant to subdivision (l) of Section 112 of the Clean Air Act (42
22 U.S.C. ~~Section~~ *Sec. 7412(l)*) or the regulations adopted pursuant
23 thereto, adopted pursuant to Section 39659 or Article 4
24 (commencing with Section 39665) or which is implemented and
25 enforced as authorized by subdivision (b) of Section 39658 is
26 strictly liable for a civil penalty not to exceed ~~ten thousand dollars~~
27 ~~(\$10,000)~~ *fifty thousand dollars (\$50,000)* for each day ~~in~~ *during*
28 *any portion of* which the violation occurs.

29 (2) Where a civil penalty in excess of ~~one thousand dollars~~
30 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day of violation
31 is sought, there is no liability under *subdivision (a) or paragraph*
32 *(1) for an amount above five thousand dollars (\$5,000) for each*
33 *day during any portion of which a violation occurs*, if the person
34 accused of the violation alleges by affirmative defense and
35 establishes that the violation is caused by an act ~~which~~ *that was*
36 not the result of intentional or negligent conduct. In a district in
37 which a Title V permit program has been fully approved, this
38 paragraph shall not apply to a violation of federally enforceable
39 requirements that occur at a Title V source.

1 (3) Paragraph (2) shall not apply to a violation of a toxic air
 2 contaminant rule, regulation, permit, order, fee requirement, filing
 3 requirement, duty to allow or carry out inspection or monitoring
 4 activities, or duty to allow entry for which delegation or approval
 5 of implementation and enforcement authority has been obtained
 6 pursuant to subdivision (l) of Section 112 of the Clean Air Act (~~42~~
 7 ~~U.S.C. Sec. 7412(l)~~), or the regulations adopted pursuant thereto.

8 SEC. 5. Section 42400 of the Health and Safety Code is
 9 amended to read:

10 42400. (a) Except as otherwise provided in Section 42400.1,
 11 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates
 12 this part, or any rule, regulation, permit, or order of the state board
 13 or of a district, including a district hearing board, adopted pursuant
 14 to Part 1 (commencing with Section 39000) to Part 4 (commencing
 15 with Section 41500), inclusive, is guilty of a misdemeanor and is
 16 subject to a fine of not more than ~~one thousand dollars (\$1,000)~~
 17 *ten thousand dollars (\$10,000)* or imprisonment in the county jail
 18 for not more than six months, or both.

19 (b) If a violation under subdivision (a) with regard to the failure
 20 to operate a vapor recovery system on a gasoline cargo tank is
 21 directly caused by the actions of an employee under the supervision
 22 of, or of any independent contractor working for, any person
 23 subject to this part, the employee or independent contractor, as the
 24 case may be, causing the violation is guilty of a misdemeanor and
 25 is punishable as provided in subdivision (a). That liability shall
 26 not extend to the person employing the employee or retaining the
 27 independent contractor, unless that person is separately guilty of
 28 an action that violates this part.

29 (c) *Any person who owns or operates any source of air*
 30 *contaminants in violation of Section 41700 that causes a*
 31 *substantial risk of actual injury, as defined in subdivision (e), to*
 32 *another person, whether the risk of injury is immediate or in the*
 33 *future, is guilty of a misdemeanor and is subject to a fine of not*
 34 *more than twenty-five thousand dollars (\$25,000) or imprisonment*
 35 *in the county jail for not more than nine months or both.*

36 (e)
 37 (d) Any person who owns or operates any source of air
 38 contaminants in violation of Section 41700 that causes actual
 39 injury, as defined in subdivision ~~(d)~~ (e), ~~to the health or safety of~~
 40 ~~a considerable number of persons or the public~~ *another person*, is

1 guilty of a misdemeanor and is subject to a fine of not more than
 2 ~~fifteen thousand dollars (\$15,000)~~ *fifty thousand dollars (\$50,000)*
 3 or imprisonment in the county jail for not more than nine months,
 4 or both.

5 ~~(d)~~

6 (e) As used in this section, “actual injury” means any physical
 7 injury that, in the opinion of a licensed physician and surgeon,
 8 requires medical treatment involving more than a physical
 9 examination.

10 ~~(e)~~

11 (f) Each day during any portion of which a violation of
 12 subdivision (a) ~~or~~, (c), or (d) occurs is a separate offense.

13 SEC. 6. Section 42400.1 of the Health and Safety Code is
 14 amended to read:

15 42400.1. (a) Any person who negligently emits an air
 16 contaminant in violation of any provision of this part or any rule,
 17 regulation, permit, or order of the state board or of a district
 18 pertaining to emission regulations or limitations is guilty of a
 19 misdemeanor and is punishable by a fine of not more than
 20 twenty-five thousand dollars (\$25,000), or imprisonment in a
 21 county jail for not more than nine months, ~~or by both that fine and~~
 22 ~~imprisonment.~~

23 (b) *Any person who negligently emits an air contaminant in*
 24 *violation of Section 41700 that causes a substantial risk of actual*
 25 *injury, as defined in subdivision (e) of Section 42400, to another*
 26 *person, whether the risk of injury is immediate or in the future, is*
 27 *guilty of a misdemeanor and is punishable by a fine of not more*
 28 *than fifty thousand dollars (\$50,000) or imprisonment in the county*
 29 *jail for not more than nine months, or both.*

30 (c) *Any person who negligently emits an air contaminant in*
 31 *violation of Section 41700 that causes actual injury, as defined in*
 32 *subdivision (e) of Section 42400, to another person, is guilty of a*
 33 *misdemeanor and is punishable by a fine of not more than*
 34 *seventy-five thousand dollars (\$75,000) or imprisonment in the*
 35 *county jail for not more than nine months, or both.*

36 ~~(b)~~

37 (d) Any person who negligently emits an air contaminant in
 38 violation of Section 41700 that causes great bodily injury, as
 39 defined by Section 12022.7 of the Penal Code, to, or death of, any
 40 person, is guilty of a misdemeanor and is punishable by a fine of

1 not more than one hundred thousand dollars (\$100,000), or
2 imprisonment in a county jail for not more than one year, or ~~by~~
3 ~~both that fine and imprisonment.~~

4 (e)

5 (e) Each day during any portion of which a violation occurs is
6 a separate offense.

7 SEC. 7. Section 42400.2 of the Health and Safety Code is
8 amended to read:

9 42400.2. (a) Any person who emits an air contaminant in
10 violation of any provision of this part, or any order, rule, regulation,
11 or permit of the state board or of a district pertaining to emission
12 regulations or limitations, and who knew of the emission and failed
13 to take corrective action within a reasonable period of time under
14 the circumstances, is guilty of a misdemeanor and is punishable
15 by a fine of not more than forty thousand dollars (\$40,000), or
16 imprisonment in a county jail for not more than one year, or ~~by~~
17 ~~both that fine and imprisonment.~~

18 (b) For purposes of this section, “corrective action” means the
19 termination of the emission violation or the grant of a variance
20 from the applicable order, rule, regulation, or permit pursuant to
21 Article 2 (commencing with Section 42350). If a district regulation
22 regarding process upsets or equipment breakdowns would allow
23 continued operation of equipment which is emitting air
24 contaminants in excess of allowable limits, compliance with that
25 regulation is deemed to be corrective action.

26 (c) *Any person who owns or operates any source of air*
27 *contaminants in violation of Section 41700 that causes a*
28 *substantial risk of actual injury, as defined in subdivision (e) of*
29 *Section 42400, to another person, whether the risk of injury is*
30 *immediate or in the future, and who knew of the discharge and*
31 *failed to take corrective action within a reasonable period of time*
32 *under the circumstances, is guilty of a misdemeanor and is subject*
33 *to a fine of not more than seventy-five thousand dollars (\$75,000),*
34 *or imprisonment in the county jail for not more than nine months,*
35 *or both.*

36 (d) *Any person who owns or operates any source of air*
37 *contaminants in violation of Section 41700 that causes actual*
38 *injury, as defined in subdivision (e) of Section 42400, to another*
39 *person, and who knew of the discharge and failed to take corrective*
40 *action within a reasonable period of time under the circumstances,*

1 *is guilty of a misdemeanor and is subject to a fine of not more than*
2 *one hundred thousand dollars (\$100,000), or imprisonment in the*
3 *county jail for not more than nine months, or both.*

4 ~~(e)~~

5 (e) Any person who owns or operates any source of air
6 contaminants in violation of Section 41700 that causes great bodily
7 injury, as defined by Section 12022.7 of the Penal Code, to, or
8 death of, any person, and who knew of the emission and failed to
9 take corrective action within a reasonable period of time under the
10 circumstances, is guilty of a misdemeanor and is punishable by a
11 fine of not more than two hundred fifty thousand dollars
12 (\$250,000), or imprisonment in a county jail for not more than one
13 year, or ~~by both that fine and imprisonment.~~

14 ~~(d)~~

15 (f) Each day during any portion of which a violation occurs
16 constitutes a separate offense.

17 SEC. 8. Section 42400.3 of the Health and Safety Code is
18 amended to read:

19 42400.3. (a) Any person who willfully and intentionally emits
20 an air contaminant in violation of any provision of this part or any
21 rule, regulation, permit, or order of the state board or of a district,
22 pertaining to emission regulations or limitations, is guilty of a
23 misdemeanor and is punishable by a fine of not more than
24 seventy-five thousand dollars (\$75,000), or imprisonment in a
25 county jail for not more than one year, or ~~by both that fine and~~
26 ~~imprisonment.~~

27 (b) Any person who willfully and intentionally, or with reckless
28 disregard for the risk of causing actual injury, as defined in
29 subdivision (e) of Section 42400, emits an air contaminant in
30 violation of Section 41700 that causes a substantial risk of actual
31 injury to another person, whether the risk of injury is immediate
32 or in the future, is guilty of a misdemeanor and is punishable by
33 a fine of not more than one hundred thousand dollars (\$100,000),
34 or imprisonment in a county jail for not more than one year, or
35 both.

36 (c) Any person who willfully and intentionally, or with reckless
37 disregard for the risk of causing actual injury, as defined in
38 subdivision (e) of Section 42400, emits an air contaminant in
39 violation of Section 41700 that causes actual injury to another
40 person, is guilty of a misdemeanor and is punishable by a fine of

1 *not more than one hundred twenty-five thousand dollars*
2 *(\$125,000), or imprisonment in a county jail for not more than*
3 *one year, or both. However, if the defendant is a corporation, the*
4 *maximum fine is two hundred fifty thousand dollars (\$250,000).*

5 (b)

6 (d) Any person who willfully and intentionally, or with reckless
7 disregard for the risk of great bodily injury, as defined by Section
8 12022.7 of the Penal Code, to, or death of, any person, emits an
9 air contaminant in violation of Section 41700 that results in any
10 unreasonable risk of great bodily injury to, or death of, any person,
11 is guilty of a public offense and is punishable by a fine of not more
12 ~~than one hundred twenty-five thousand dollars (\$125,000)~~ *one*
13 *hundred fifty thousand dollars (\$150,000), or imprisonment in a*
14 *county jail for not more than one year, or by both that fine and*
15 ~~imprisonment.~~ However, if the defendant is a corporation, the
16 maximum fine ~~may be up to~~ *is* five hundred thousand dollars
17 (\$500,000).

18 (e)

19 (e) Any person who willfully and intentionally, or with reckless
20 disregard for the risk of great bodily injury, as defined by Section
21 12022.7 of the Penal Code, to, or death of, any person emits an air
22 contaminant in violation of Section 41700 that causes great bodily
23 injury to, or death of, any person is guilty of a public offense, and
24 is punishable by a fine of not more than ~~two hundred fifty thousand~~
25 ~~dollars (\$250,000)~~ *five hundred thousand dollars (\$500,000), or*
26 *imprisonment in a county jail for not more than one year, or both*
27 *that fine and imprisonment, or is punishable by a fine of not more*
28 *than two hundred fifty thousand dollars (\$250,000) five hundred*
29 *thousand dollars (\$500,000), or imprisonment in the state prison,*
30 *or by both that fine and imprisonment. If the defendant is a*
31 *corporation, the maximum fine may be up to is one million dollars*
32 *(\$1,000,000).*

33 (f)

34 (f) Each day during any portion of which a violation occurs
35 constitutes a separate offense.

36 (g)

37 (g) This section does not preclude punishment under Section
38 189 or 192 of the Penal Code or any other provision of law that
39 provides a more severe punishment.

40 (h)

1 (h) For the purposes of this section:

2 (1) “Great bodily injury” means great bodily injury as defined
3 by Section 12022.7 of the Penal Code.

4 (2) “Imprisonment in state prison” means imprisonment in the
5 state prison for 16 months, or two or three years.

6 (3) “Unreasonable risk of great bodily injury or death” means
7 substantial probability of great bodily injury or death.

8 SEC. 9. Section 42400.3.5 of the Health and Safety Code is
9 amended to read:

10 42400.3.5. ~~(a)~~ Any person who knowingly violates any rule,
11 regulation, permit, order, fee requirement, or filing requirement
12 of the state board or of a district, including a district hearing board,
13 that is adopted for the control of toxic air contaminants pursuant
14 to Part 1 (commencing with Section 39000) to Part 4 (commencing
15 with Section 41500), inclusive, and for which delegation or
16 approval of implementation and enforcement authority has been
17 obtained pursuant to subdivision (l) of Section 112 of the Clean
18 Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted
19 pursuant thereto, is guilty of a misdemeanor and is subject to a
20 fine of not more than ten thousand dollars (\$10,000) or
21 imprisonment in the county jail for not more than six months, or
22 both.

23 ~~(b) Any person who knowingly makes any false material~~
24 ~~statement, representation, or certification in any form or in any~~
25 ~~notice or report required by a rule or regulation adopted or permit~~
26 ~~issued for the control of toxic air contaminants pursuant to Part 1~~
27 ~~(commencing with Section 39000) to Part 4 (commencing with~~
28 ~~Section 41500), inclusive, and for which delegation or approval~~
29 ~~of implementation and enforcement authority has been obtained~~
30 ~~pursuant to subdivision (l) of Section 112 of the Clean Air Act (42~~
31 ~~U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto,~~
32 ~~or who knowingly renders inaccurate any monitoring device~~
33 ~~required by that toxic air contaminant rule, regulation, or permit~~
34 ~~is subject to a fine of not more than thirty-five thousand dollars~~
35 ~~(\$35,000) or imprisonment in the county jail for not more than~~
36 ~~nine months, or both.~~

37 ~~(c) Any person who, knowingly and with intent to deceive,~~
38 ~~falsifies any document required to be kept pursuant to any provision~~
39 ~~of this part, or any rule, regulation, permit, notice to comply, or~~

1 order of the state board or of a district, is punishable as provided
2 in subdivision (b).

3 ~~(d) Subdivisions (a) and (b) shall apply only to those violations~~
4 ~~that are not otherwise subject to a fine of ten thousand dollars~~
5 ~~(\$10,000) or more pursuant to Section 42400.1, 42400.2, or~~
6 ~~42400.3.~~

7 SEC. 10. Section 42400.3.7 is added to the Health and Safety
8 Code, to read:

9 42400.3.7. (a) Any person who knowingly makes any false
10 material statement, representation, or certification in any form,
11 notice, or report required to be kept pursuant to any provision of
12 this part, or any rule, regulation, permit, or order of the state board
13 or of a district, including a district hearing board, or who knowingly
14 renders inaccurate any monitoring device required by any such
15 rule, regulation, permit, or order, is subject to a fine of not more
16 than fifty thousand dollars (\$50,000) or imprisonment in the county
17 jail for not more than nine months, or both.

18 (b) Any person who knowingly and with intent to deceive makes
19 any false material statement, representation, or certification in any
20 form, notice, or report required to be kept pursuant to any provision
21 of this part, or any rule, regulation, permit, or order of the state
22 board or of a district, including a district hearing board, or who
23 knowingly and with intent to deceive renders inaccurate any
24 monitoring device required by any such rule, regulation, permit,
25 or order, is subject to a fine of not more than one hundred thousand
26 dollars (\$100,000) or imprisonment in the county jail for not more
27 than one year, or both.

28 (c) Nothing in this section shall preclude prosecution under any
29 other law.

30 SEC. 11. Section 42400.6 of the Health and Safety Code is
31 amended to read:

32 42400.6. A fine or monetary penalty specified in Section 39674;
33 ~~subdivision (a), (b), (d), or (e) of, subdivisions (a) and (b) of~~
34 ~~Section 42400;, Section 42402;, or subdivision (a) of Section 44381~~
35 of this code, that may be imposed as the result of conduct that is
36 also subject to Chapter 5 (commencing with Section 17200) of
37 Part 2 of Division 7 of the Business and Professions Code, may
38 be collected either under those provisions of this code, or under
39 that chapter of the Business and Professions Code, but not under
40 both.

1 SEC. 12. Section 42400.9 is added to the Health and Safety
2 Code, to read:

3 42400.9. An act or omission that is criminally punishable in
4 different ways by different provisions of this article shall be
5 punished under the provision that provides for the highest
6 maximum penalty and shall not be punished criminally under more
7 than one provision.

8 SEC. 13. Section 42401 of the Health and Safety Code is
9 amended to read:

10 42401. ~~Any~~ *Except as otherwise provided in subdivision (b)*
11 *of Section 42402, any person who intentionally or negligently*
12 *violates any order of abatement issued by a district pursuant to*
13 *Section 42450, by a hearing board pursuant to Section 42451, or*
14 *by the state board pursuant to Section 41505 is liable for a civil*
15 *penalty of not more than twenty-five thousand dollars (\$25,000)*
16 *for each day in which the violation occurs.*

17 SEC. 14. Section 42402 of the Health and Safety Code is
18 amended to read:

19 42402. (a) Except as provided in Sections 42402.1, 42402.2,
20 42402.3, and 42402.4, any person who violates this part, any order
21 issued pursuant to Section 42316, or any rule, regulation, permit,
22 or order of a district, including a district hearing board, or of the
23 state board issued pursuant to Part 1 (commencing with Section
24 39000) to Part 4 (commencing with Section 41500), inclusive, is
25 strictly liable for a civil penalty of not more than ~~one thousand~~
26 ~~dollars (\$1,000)~~ *ten thousand dollars (\$10,000)*.

27 (b) (1) Any person who violates any provision of this part, any
28 order issued pursuant to Section 42316, or any rule, regulation,
29 permit or order of a district, including a district hearing board, or
30 of the state board issued pursuant to Part 1 (commencing with
31 Section 39000) to Part 4 (commencing with Section 41500),
32 inclusive, is strictly liable for a civil penalty of not more than ~~ten~~
33 ~~thousand dollars (\$10,000)~~ *fifty thousand dollars (\$50,000)*.

34 (2) (A) If a civil penalty in excess of ~~one thousand dollars~~
35 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day in which a
36 violation occurs is sought, there is no liability under ~~this~~
37 ~~subdivision (a) or paragraph (1) for an amount above five thousand~~
38 ~~dollars (\$5,000) for each day during any portion of which a~~
39 ~~violation occurs, if the person accused of the violation alleges by~~
40 ~~affirmative defense and establishes that the violation was caused~~

1 by an act that was not the result of intentional nor negligent
2 conduct.

3 (B) Subparagraph (A) shall not apply to a violation of federally
4 enforceable requirements that occur at a Title V source in a district
5 in which a Title V permit program has been fully approved.

6 (C) Subparagraph (A) does not apply to a person who is
7 determined to have violated an annual facility emissions cap
8 established pursuant to a market based incentive program adopted
9 by a district pursuant to subdivision (b) of Section 39616.

10 *(c) Any person who owns or operates any source of air*
11 *contaminants in violation of Section 41700 that causes a*
12 *substantial risk of actual injury, as defined in subdivision (e) of*
13 *Section 42400, to another person, whether the risk of injury is*
14 *immediate or in the future, is liable for a civil penalty of not more*
15 *than twenty-five thousand dollars (\$25,000).*

16 ~~(e)~~

17 *(d) Any person who owns or operates any source of air*
18 *contaminants in violation of Section 41700 that causes actual*
19 *injury, as defined in subdivision ~~(d)~~ (e) of Section 42400, to the*
20 *health and safety of a considerable number of persons or the public*
21 *another person, is liable for a civil penalty of not more than fifteen*
22 *thousand dollars ~~(\$15,000) fifty thousand dollars (\$50,000).~~*

23 ~~(d)~~

24 *(e) Each day during any portion of which a violation occurs is*
25 *a separate offense.*

26 SEC. 15. Section 42402.1 of the Health and Safety Code is
27 amended to read:

28 42402.1. (a) Any person who negligently emits an air
29 contaminant in violation of this part or any rule, regulation, permit,
30 or order of the state board or of a district, including a district
31 hearing board, pertaining to emission regulations or limitations is
32 liable for a civil penalty of not more than twenty-five thousand
33 dollars (\$25,000).

34 *(b) Any person who negligently emits an air contaminant in*
35 *violation of Section 41700 that causes a substantial risk of actual*
36 *injury, as defined in subdivision (e) of Section 42400, to another*
37 *person, whether the risk of injury is immediate or in the future, is*
38 *liable for a civil penalty of not more than fifty thousand dollars*
39 *(\$50,000).*

1 (c) Any person who negligently emits an air contaminant in
2 violation of Section 41700 that causes actual injury, as defined in
3 subdivision (e) of Section 42400, to another person is liable for a
4 civil penalty of not more than seventy-five thousand dollars
5 (\$75,000).

6 ~~(b)~~

7 (d) Any person who negligently emits an air contaminant in
8 violation of Section 41700 that causes great bodily injury, as
9 defined by Section 12022.7 of the Penal Code, to any person or
10 that causes the death of any person; is liable for a civil penalty of
11 not more than one hundred thousand dollars (\$100,000).

12 ~~(e)~~

13 (e) Each day during any portion of which a violation occurs is
14 a separate offense.

15 SEC. 16. Section 42402.2 of the Health and Safety Code is
16 amended to read:

17 42402.2. (a) Any person who emits an air contaminant in
18 violation of any provision of this part, or any order, rule, regulation,
19 or permit of the state board or of a district, including a district
20 hearing board, pertaining to emission regulations or limitations,
21 and who knew of the emission and failed to take corrective action,
22 as defined in subdivision (b) of Section 42400.2, within a
23 reasonable period of time under the circumstances, is liable for a
24 civil penalty of not more than forty thousand dollars (\$40,000).

25 (b) Any person who emits an air contaminant in violation of
26 Section 41700 that causes a substantial risk of actual injury, as
27 defined in subdivision (e) of Section 42400, to another person,
28 whether the risk of injury is immediate or in the future, and who
29 knew of the discharge and failed to take corrective action, as
30 defined in subdivision (b) of Section 42400.2, within a reasonable
31 period of time under the circumstances, is liable for a civil penalty
32 of not more than seventy-five thousand dollars (\$75,000).

33 (c) Any person who emits an air contaminant in violation of
34 Section 41700 that causes actual injury, as defined in subdivision
35 (e) of Section 42400, to another person, and who knew of the
36 discharge and failed to take corrective action, as defined in
37 subdivision (b) of Section 42400.2, within a reasonable period of
38 time under the circumstances, is liable for a civil penalty of not
39 more than one hundred thousand dollars (\$100,000).

40 ~~(b)~~

1 (d) Any person who owns or operates any source of air
2 contaminants in violation of Section 41700 that causes great bodily
3 injury, as defined by Section 12022.7 of the Penal Code, to any
4 person or that causes the death of any person, and who knew of
5 the emission and failed to take corrective action, as defined in
6 subdivision (b) of Section 42400.2, within a reasonable period of
7 time under the circumstances, is liable for a civil penalty not to
8 exceed two hundred fifty thousand dollars (\$250,000).

9 (e)

10 (e) Each day during any portion of which a violation occurs is
11 a separate offense.

12 SEC. 17. Section 42402.3 of the Health and Safety Code is
13 amended to read:

14 42402.3. (a) Any person who willfully and intentionally emits
15 an air contaminant in violation of this part or any rule, regulation,
16 permit, or order of the state board, or of a district, including a
17 district hearing board, pertaining to emission regulations or
18 limitations, is liable for a civil penalty of not more than
19 seventy-five thousand dollars (\$75,000).

20 (b) Any person who willfully and intentionally, or with reckless
21 disregard for the risk of causing actual injury, as defined in
22 subdivision (e) of Section 42400, emits an air contaminant in
23 violation of Section 41700 that results in a substantial risk of actual
24 injury to another person, whether the risk of injury is immediate
25 or in the future, is liable for a civil penalty of not more than one
26 hundred thousand dollars (\$100,000).

27 (c) Any person who willfully and intentionally, or with reckless
28 disregard for the risk of causing actual injury, as defined in
29 subdivision (e) of Section 42400, emits an air contaminant in
30 violation of Section 41700 that results in actual injury to another
31 person, is liable for a civil penalty of not more than one hundred
32 twenty-five thousand dollars (\$125,000). If the defendant is a
33 corporation, the maximum fine shall be two hundred fifty thousand
34 dollars (\$250,000).

35 (b)

36 (d) Any person who willfully and intentionally, or with reckless
37 disregard for the risk of great bodily injury, as defined by Section
38 12022.7 of the Penal Code, to, or death of, any person, emits an
39 air contaminant in violation of Section 41700 that results in an
40 unreasonable risk of great bodily injury to, or death of, any person,

1 is liable for a civil penalty of not more than ~~one hundred~~
 2 ~~twenty-five thousand dollars (\$125,000)~~ *one hundred fifty thousand*
 3 *dollars (\$150,000)*. If the violator is a corporation, the maximum
 4 penalty ~~may be up to~~ *is* five hundred thousand dollars (\$500,000).

5 (e)
 6 (e) Any person who willfully and intentionally, or with reckless
 7 disregard for the risk of great bodily injury, as defined by Section
 8 12022.7 of the Penal Code, to, or death of, any person, emits an
 9 air contaminant in violation of Section 41700 that causes great
 10 bodily injury, as defined by Section 12022.7 of the Penal Code,
 11 to any person or that causes the death of any person, is liable for
 12 a civil penalty of not more than ~~two hundred fifty thousand dollars~~
 13 ~~(\$250,000)~~ *five hundred thousand dollars (\$500,000)*. If the
 14 violator is a corporation, the maximum penalty may be up to one
 15 million dollars (\$1,000,000).

16 (d)
 17 (f) Each day during any portion of which a violation occurs is
 18 a separate offense.

19 SEC. 18. Section 42402.4 of the Health and Safety Code is
 20 amended to read:

21 42402.4. (a) *Any person who knowingly makes any false*
 22 *material statement, representation, or certification in any form,*
 23 *notice, or report required to be kept pursuant to any provision of*
 24 *this part, or any rule, regulation, permit, or order of the state*
 25 *board or of a district, including a district hearing board, or who*
 26 *knowingly renders inaccurate any monitoring device required by*
 27 *any such rule, regulation, permit, or order, is liable for a civil*
 28 *penalty of not more than fifty thousand dollars (\$50,000).*

29 (b) Any person who knowingly and with intent to deceive,
 30 ~~falsifies any document~~ *makes any false material statement,*
 31 *representation, or certification in any form, notice, or report*
 32 *required to be kept pursuant to any provision of this part, or any*
 33 *rule, regulation, permit, or order of the state board or of a district,*
 34 *including a district hearing board, or who knowingly and with*
 35 *intent to deceive renders inaccurate any monitoring device required*
 36 *by any such rule, regulation, permit, or order, is liable for a civil*
 37 *penalty of not more than* ~~thirty-five thousand dollars (\$35,000)~~
 38 *one hundred thousand dollars (\$100,000).*

39 SEC. 19. Section 42402.4.5 is added to the Health and Safety
 40 Code, to read:

1 42402.4.5. Any person who knowingly violates any rule,
2 regulation, permit, order, fee requirement, or filing requirement
3 of the state board or of a district, including a district hearing board,
4 that is adopted for the control of toxic air contaminants pursuant
5 to Part 1 (commencing with Section 39000) to Part 4 (commencing
6 with Section 41500), inclusive, and for which delegation or
7 approval of implementation and enforcement authority has been
8 obtained pursuant to subdivision (I) of Section 112 of the Clean
9 Air Act (42 U.S.C. Sec. 7412(I)), or the regulations adopted
10 pursuant thereto, is liable for a civil penalty of not more than ten
11 thousand dollars (\$10,000).

12 SEC. 20. Section 42402.6 is added to the Health and Safety
13 Code, to read:

14 42402.6. An act or omission that is punishable by different
15 civil penalties pursuant to different provisions of this article shall
16 be punished under the provision that provides for the highest
17 maximum civil penalty and shall not be punished civilly under
18 more than one provision.

19 SEC. 21. If the Commission on State Mandates determines
20 that this act contains costs mandated by the state, reimbursement
21 to local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

ASSEMBLY BILL

No. 463

Introduced by Assembly Member Huffman

February 20, 2007

An act to amend the heading of Chapter 3.3 (commencing with Section 39630) of, and to add Article 2 (commencing with Section 39640) and the heading of Article 1 (commencing with Section 39630) to Chapter 3.3 of, Part 2 of Division 26 of, the Health and Safety Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 463, as introduced, Huffman. Vessels: California Clean Ferry Act of 2007: air emissions.

(1) Existing law establishes the State Air Resources Board as having responsibility for the control of motor vehicle emissions and to protect air quality from increasing volumes of cruise ship engine and oceangoing ship engine emissions. The state board is required to adopt standards, rules, and regulations necessary for the proper execution of its powers and duties. Existing law generally provides that a violation of any regulation of the state board is a crime.

This bill would require all new diesel powered ferries operating in the waters of this state, to meet certain specified air emissions standards. The air emissions standards would be enforced by the state board, and the state board would be authorized to adopt standards, rules, and regulations for that purpose.

Because this bill would create a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 3.3 (commencing with
2 Section 39630) of Part 2 of Division 26 of the Health and Safety
3 Code is amended to read:

4
5 CHAPTER 3.3. ~~CRUISE SHIPS AND OCEANGOING SHIPS~~ VESSELS
6

7 SEC. 2. The heading of Article 1 (commencing with Section
8 39630) is added to Chapter 3.3 of Part 2 of Division 26 of the
9 Health and Safety Code, to read:

10
11 Article 1. Cruise Ships and Oceangoing Ships
12

13 SEC. 3. Article 2 (commencing with Section 39640) is added
14 to Chapter 3.3 of Part 2 of Division 26 of the Health and Safety
15 Code, to read:

16
17 Article 2. The California Clean Ferry Act of 2007
18

19 39640. The Legislature finds and declares all of the following:

20 (a) It is in the interests of all Californians to protect air quality
21 from increasing volumes of diesel-powered ferry engine emissions
22 due to expanding fleets.

23 (b) While new ferry operations may offer certain benefits to
24 Californians, diesel-powered ferry engines emit more air pollution
25 per passenger mile than land based transportation modes.

26 (c) All new diesel-powered ferries in this state shall meet the
27 same air quality standards currently set forth in statutes governing
28 the expansion of ferry service in the San Francisco Bay.

29 39641. As used in this article, unless the context clearly requires
30 a different meaning:

1 (a) “Diesel engine” means an internal combustion,
2 compression-ignition engine designed to burn diesel fuel.

3 (b) “Diesel-powered” means a ferry equipped with and powered
4 by a diesel engine.

5 (c) “Ferry” means a vessel engaged in the commercial transport
6 of passengers with the capacity to transport 75 or more passengers,
7 including, but not limited to, ferries engaged in commuter service,
8 excursions, charter service, waterborne transit, or emergency
9 response service.

10 (d) “New ferry” means any of the following:

11 (1) A ferry where the engine was installed on or after January
12 1, 2008.

13 (2) A ferry that had its keel laid on or after January 1, 2008.

14 (3) A ferry placed into service for the first time on or after
15 January 1, 2008.

16 (e) “Waters of this state” means any waters within the territorial
17 limits of this state.

18 (f) “Recreational vessel” means a vessel that is being used only
19 for pleasure.

20 39642. (a) Each new diesel-powered ferry operating in the
21 waters of this state shall meet the air emissions standards
22 established pursuant to Section 65540.27 of the Government Code.

23 (b) The state board shall enforce this article and may adopt
24 standards, rules, and regulations for that purpose pursuant to
25 Section 39601.

26 (c) This section shall not apply to recreational vessels, cruise
27 ships, and oceangoing vessels.

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Ruskin

February 20, 2007

An act to add Article 3 (commencing with Section 43300) to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as introduced, Ruskin. Motor vehicle greenhouse gas emissions: incentive program.

Existing law designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020, and is required to adopt rules and regulations in an open-public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would require the state board to create and implement a clean vehicle incentive program meeting specified requirements, that would provide rebates to, and require surcharges from, purchasers of new motor vehicles based on the vehicles' greenhouse gas emissions to mitigate against emissions of greenhouse gases from motor vehicles.

The bill would create the Clean Vehicle Incentive Account to be administered by the state board in consultation with the State Board of Equalization. All funds collected from surcharges would be required

to be deposited into this account and all clean vehicle discounts would be required to be taken from the account. Moneys in the fund would be continuously appropriated to the state board to fund the clean vehicle incentive program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 3 (commencing with Section 43300) is
2 added to Chapter 2 of Part 5 of Division 26 of the Health and Safety
3 Code, to read:

4

5 Article 3. Clean Vehicle Incentive Program

6

7 43300. The Legislature finds and declares all of the following:

8 (a) According to the State Energy Resources Conservation and
9 Development Commission, the transportation sector is the largest
10 source of greenhouse gas emissions in California.

11 (b) Multiple independent economic studies indicate that
12 undertaking action to reduce greenhouse gas emissions will likely
13 create long-term economic benefits to the state’s economy.

14 (c) While substantial progress has been made in reducing
15 smog-forming emissions from new motor vehicles, there remain
16 disparities in the amount of allowable emissions of criteria
17 pollutants among the identified categories of exhaust emissions
18 standards for passenger vehicles and light-duty trucks sold in
19 California.

20 (d) Monetary incentives can augment existing state vehicle
21 emissions standards by encouraging automobile buyers to purchase
22 cleaner vehicles and by encouraging manufacturers to offer more
23 low-emitting vehicle choices to California consumers.

24 (e) One-time rebates on the purchase of new motor vehicles that
25 emit low amounts of greenhouse gases are a reasonable and
26 appropriate method to incentivize the purchase of these vehicles.

27 (f) One-time surcharges on the purchase of new motor vehicles
28 that emit high amounts of greenhouse gases are a reasonable and
29 appropriate method to disincentivize the purchase of and internalize
30 the environmental cost to the public of these vehicles.

1 (g) The creation of a clean vehicle incentive program to reduce
2 greenhouse gas emissions from motor vehicles is a market-based
3 mechanism that does not create any new regulatory standard under
4 the law.

5 (h) Recent studies authorized by the California Environmental
6 Protection Agency and the State Energy Resources Conservation
7 and Development Commission have found that the impact of global
8 warming to California residents is likely to be quite severe,
9 especially if action to curb global warming emissions is not taken.

10 43300.5. (a) It is the intent of the Legislature in enacting this
11 article to establish a market-based clean vehicle incentive program
12 consisting of one-time rebates and one-time surcharges on the
13 purchase of new motor vehicles to mitigate against emissions of
14 greenhouse gases from motor vehicles.

15 (b) It is the intent of the Legislature that this program be
16 self-financing and not increase expenditures from or reduce
17 revenues into the General Fund.

18 43301. For purposes of this article, the following terms have
19 the following meanings:

20 (a) “Account” means the Clean Vehicle Incentive Account
21 created by Section 43313.

22 (b) “Carbon dioxide equivalent” means a metric, as determined
23 by the state board, used to compare or identify the emissions from
24 various greenhouse gases based upon their global warming
25 potential derived by multiplying the tons of the gas by the
26 associated global warming potential.

27 (c) “Contributory pollutant” means an air toxic pollutant or
28 contaminant, including, but not limited to, black carbon, carbon
29 monoxide, and nitrous oxide, for which the state board has
30 determined contributes to global warming.

31 (d) “Criteria air pollutant” means an air pollutant for which the
32 United States Environmental Protection Agency has issued primary
33 or secondary national air quality standards pursuant to Sections
34 108 and 109 of the federal Clean Air Act (42 U.S.C. Secs. 7408
35 and 7409), including carbon monoxide, lead, nitrogen oxides,
36 ozone, particulate matter, and sulfur dioxide.

37 (e) “Dealer” means dealer as defined in Section 285 of the
38 Vehicle Code.

39 (f) “Department” means the Department of Finance.

1 (g) “Emergency vehicle” means an authorized emergency
2 vehicle as defined in Section 165 of the Vehicle Code.

3 (h) “Greenhouse gas factor” means a dollar value, as determined
4 by the state board, assigned to carbon dioxide equivalent emissions
5 per mile from a motor vehicle. At the discretion of the state board,
6 this may be expressed in dollars divided by grams of carbon
7 dioxide equivalent per mile (\$/g CO₂ -eq/mi).

8 (i) “Greenhouse gases” means carbon dioxide,
9 hydrofluorocarbons, methane, oxides of nitrogen, perfluorocarbons,
10 and sulfur hexafluoride, and any other gases that the state board
11 determines contributes significantly to global warming.

12 (j) “Motor vehicle” and “vehicle” mean a passenger vehicle,
13 light-duty truck, or any other vehicle that is subject to the
14 regulations pursuant to Section 43018.5, whether or not Section
15 43018.5 remains in effect.

16 (k) “New motor vehicle” means new vehicle as defined in
17 Section 430 of the Vehicle Code.

18 (l) “Program” means the Clean Vehicle Incentive Program
19 established pursuant to this article.

20 (m) “Retail sale” means a retail sale as defined in Section 6007
21 of the Revenue and Taxation Code of a new motor vehicle.

22 (n) “Zero band” means that portion of a linear scale of rebates
23 and surcharges in which vehicles are assigned neither a rebate nor
24 a surcharge.

25 43302. (a) (1) Any California resident who becomes a motor
26 vehicle owner by purchasing a new motor vehicle at a retail sale
27 in California shall receive a clean vehicle rebate for the purchase
28 on or after July 1, 2010, of a new motor vehicle of model year
29 2011 or later, determined by the state board to be eligible for a
30 rebate in the amount assigned by the state board pursuant to
31 regulations adopted under this article.

32 (2) The dealer shall clearly indicate the amount of the rebate
33 owed to the new motor vehicle owner on the purchase receipt and
34 contract, or lease agreement as applicable.

35 (3) In order to receive the rebate, the motor vehicle owner shall
36 file a claim through the dealer at the time of purchase.

37 (4) The dealer shall facilitate and accept these claims from the
38 new motor vehicle owner and shall submit these claims to the State
39 Board of Equalization on a form prescribed by the State Board of
40 Equalization, in a time, place, and manner determined by the State

1 Board of Equalization, that shall be accompanied by proof of
2 vehicle purchase from the dealer. The proof of purchase shall
3 include, at a minimum, all of the following:

- 4 (A) The date when the vehicle was purchased.
- 5 (B) The year, make, and model of the vehicle purchased.
- 6 (C) The vehicle identification number (VIN) of the vehicle.
- 7 (D) The price paid for the vehicle.

8 (5) The State Board of Equalization shall pay the rebate to the
9 eligible new motor vehicle owner through electronic funds transfer
10 if requested by the owner.

11 (6) No interest shall be paid on any rebate made pursuant to this
12 article.

13 (b) (1) Except as otherwise provided for in this article, a person
14 who becomes a motor vehicle owner by purchasing at a retail sale,
15 on or after July 1, 2010, a new motor vehicle of model year 2011
16 or later, determined by the state board to be subject to an emissions
17 surcharge, shall pay the emissions surcharge in the amount
18 determined by the state board pursuant to regulations adopted
19 under this article.

20 (2) Dealers shall collect from the new motor vehicle owners the
21 emission surcharge at the time of retail sale.

22 (3) Dealers shall clearly indicate the amount of the emissions
23 surcharge paid by the new motor vehicle owner on the purchase
24 receipt and contract, or lease agreement as applicable.

25 (4) All emissions surcharges collected by a dealer shall be owed
26 to the state and be due and payable to the State Board of
27 Equalization in a time, place, and manner prescribed by the State
28 Board of Equalization.

29 43303. (a) No later than July 1, 2009, the state board, in
30 consultation with those other agencies that the state board
31 determines are appropriate, and after at least two public workshops,
32 shall adopt regulations to create and implement a clean vehicle
33 incentive program as described in this article.

34 (b) The regulations shall, consistent with Section 43304,
35 establish a schedule of one-time clean vehicle rebates and one-time
36 emissions surcharges for all new motor vehicles not otherwise
37 excluded in this article.

38 (c) The schedule of rebates and surcharges shall take effect July
39 1, 2010, and shall apply to motor vehicles with the 2011 model
40 year and each model year thereafter.

1 43304. (a) The state board shall calculate, using a linear scale,
2 the rebate or surcharge to be applied to any motor vehicle subject
3 to the program based on the vehicle's emissions of greenhouse
4 gases, compared to the greenhouse gas emissions of all vehicles
5 of the same model year that are subject to the program.

6 (b) To calculate the rebate or surcharge pursuant to subdivision
7 (a), the board shall determine the difference between a motor
8 vehicle's emissions of greenhouse gases, as determined pursuant
9 to Section 1961.1 of Title 13 of the California Code of Regulations,
10 and the average emissions of greenhouse gases of all vehicles
11 subject to the program, for a given model year. The difference
12 identified for each vehicle based on emissions of greenhouse gases
13 shall be multiplied by a greenhouse gases factor, to determine the
14 amount of the rebate or surcharge attributed to emissions of
15 greenhouse gases.

16 (c) The amount determined pursuant to subdivision (b) may be
17 adjusted to account for one or both of the following, but no
18 adjustments pursuant to this subdivision shall affect the rebate or
19 surcharge by a factor larger than 20 percent:

20 (1) Emissions of contributory pollutants as determined by the
21 state board.

22 (2) Emissions of criteria air pollutants based on the vehicle's
23 criteria pollutant certification category pursuant to Section 1961
24 of Title 13 of the California Code of Regulations.

25 (d) Based on the calculations made pursuant to subdivisions (b)
26 and (c), the state board shall assign a rebate or surcharge to every
27 motor vehicle subject to this program that reflects its relative
28 emissions of greenhouse gases and, at the discretion of the board,
29 its relative emissions of contributory pollutants or criteria air
30 pollutants, compared to all vehicles for the same model year that
31 are subject to the program, and subject to all of the following:

32 (1) The state board shall establish a zero band that includes the
33 midpoint of the linear scale and includes not less than 20 percent,
34 nor more than 25 percent, of the fleet of a given model year. Motor
35 vehicles that fall within the zero band shall not be assigned a rebate
36 or a surcharge.

37 (A) The zero band shall be designed, placed, and adjusted along
38 the linear scale to ensure that vehicle buyers continue to have a
39 variety of choices among multiple vehicle types, including light
40 trucks, that are not assigned a surcharge.

1 (B) The state board shall consider sales-weighted data in
2 determining the placement of the zero band.

3 (2) The maximum rebate and surcharge shall not be less than
4 two thousand two hundred fifty dollars (\$2,250) nor more than
5 two thousand five hundred dollars (\$2,500), and no rebate or
6 surcharge shall exceed the amount of the sales tax on the purchase
7 price of the motor vehicle.

8 (3) No rebate or surcharge shall be less than one hundred dollars
9 (\$100). Motor vehicles that would otherwise be assigned a rebate
10 or surcharge of less than one hundred dollars (\$100) shall be placed
11 in the zero band.

12 (4) The state board may round up or down the assigned rebate
13 and surcharge amounts to the nearest twenty-five dollars (\$25) for
14 each vehicle.

15 (e) When setting the schedule of rebates and surcharges for
16 vehicles of a given model year, the state board shall consider
17 previous years sales data and projected sales of motor vehicles in
18 order to ensure that the program will incentivize reductions in
19 greenhouse gas emissions and be self-financing.

20 43305. (a) The schedule of rebates and surcharges shall be
21 designed to ensure that the program will be self-financing and will
22 generate adequate revenues to do all the following:

23 (1) Fund the cost of all rebates and surcharge refunds associated
24 with the program.

25 (2) Fund all administrative costs associated with the program.

26 (3) Provide for a reserve within the program equal to
27 approximately 15 percent of estimated rebates to ensure the
28 account, to the extent possible, will have a positive balance at the
29 end of each fiscal year.

30 (b) If the department determines that the amount of the reserve
31 specified in paragraph (3) of subdivision (a) is either excessive or
32 inadequate at the 15-percent level to meet the requirements of
33 paragraphs (1) and (2) of subdivision (a), it may direct the state
34 board to reduce or increase the size of the reserve in a manner to
35 be determined by the state board.

36 (c) Once the schedule of rebates and surcharges are set for
37 vehicles in a specified model year, the schedule may be adjusted
38 no more than once per model year to meet the requirements of this
39 section. Any adjustments pursuant to this section shall become
40 operative on the first day of the first month that commences at

1 least 90 days after the state board formally adopts the adjustment
2 to the schedule.

3 (d) The state board shall make annual or biennial adjustments
4 to the schedule of surcharges and rebates, and the placement of
5 the zero band, based on recent and anticipated changes in motor
6 vehicle sales to ensure that the program continues to generate
7 adequate revenues to meet the requirements of subdivision (a).

8 43306. (a) The schedule of rebates and surcharges, as adjusted
9 annually or biennially, shall take effect no earlier than July 1 of
10 each subsequent year, and be applied to new vehicles of the next
11 model year accordingly. The state board may make adjustments
12 biennially only if the state board finds that biennial adjustments
13 meet both of the following criteria:

14 (1) The state board determines that the program will remain
15 self-financing and is not in jeopardy of running a deficit.

16 (2) The state board determines that it is in the best interests of
17 achieving the goals of the program to not make adjustments more
18 often than once every two years.

19 (b) In the first year of the program, the state board, in
20 consultation with the State Board of Equalization, may delay
21 implementation of the rebate eligibility for up to 30 days after the
22 surcharges initially take effect in order to ensure that adequate
23 funds are available to fund the program's rebates.

24 43307. The rebates and surcharges adopted by the state board
25 shall be assigned to the price of the motor vehicle after applicable
26 taxes have been added. Sales taxes shall not have an effect on the
27 assigned rebate or surcharge.

28 43308. (a) Any California resident who purchases a new motor
29 vehicle outside of the state that would otherwise have been subject
30 to an emissions surcharge shall pay the surcharge when the resident
31 returns to California with the vehicle within 90 days and registers
32 or is required to register the motor vehicle.

33 (b) The surcharge shall be paid to the Department of Motor
34 Vehicles at the time of the vehicle's initial registration. The state
35 board, the State Board of Equalization, and the Department of
36 Motor Vehicles shall cooperate to develop procedures to implement
37 this subdivision.

38 (c) Vehicles purchased outside of California shall not be eligible
39 for a rebate.

1 43309. (a) Any California resident who leases from a dealer
2 a new motor vehicle, otherwise subject to an emissions surcharge,
3 for a term of one year or more, shall be assessed and shall pay the
4 surcharge, but may amortize the surcharge over the life of the
5 lease.

6 (b) Any California resident who leases from a dealer a new
7 motor vehicle, otherwise subject to a rebate, for a term of one year
8 or more shall qualify for and receive the rebate

9 43310. (a) The State Board of Equalization shall collect all
10 surcharges and pay all rebates and refunds of surcharges pursuant
11 to the Fee Collection Procedures Law (Part 30 (commencing with
12 Section 55001) of Division 2 of the Revenue and Taxation Code).
13 For purposes of this article, “feepayer” shall include a motor
14 vehicle owner or dealer as applicable.

15 (b) For purposes of this article, refunds and surcharges shall be
16 treated the same as refunds under Chapter 5 (commencing with
17 Section 55221) of Part 30 of Division 2 of the Revenue and
18 Taxation Code.

19 43311. (a) Not later than May 1, 2010, the state board shall
20 make available to the public, including on the state board’s Internet
21 Web site, the schedule of rebates and surcharges applicable in the
22 fiscal year following their publication. The updated schedule shall
23 be made available to the public at the time when it is updated.

24 (b) The state board shall disseminate information to dealers and
25 consumers about the program, including, but not limited to, all of
26 the following:

27 (1) The state board shall notify licensed dealers about relevant
28 details of the program, including identifying, to the extent feasible,
29 motor vehicles that are exempt from the program pursuant to
30 Section 43312 and providing reasonable assistance to help motor
31 vehicle dealers carry out the program.

32 (2) The state board may modify the air pollution label that is
33 required to be displayed on new motor vehicles sold in the state
34 pursuant to Section 43200.1, to include specific information on
35 the applicable clean vehicle rebate or emissions surcharge imposed
36 pursuant to this article.

37 (c) Dealers shall be required to clearly display the amount of
38 the assigned rebate or surcharge for each new motor vehicle
39 available for sale at the dealership.

1 43312. (a) Notwithstanding any other provision of this article,
2 a new motor vehicle owner shall be refunded the surcharge that
3 would otherwise be applicable to his or her motor vehicle if that
4 motor vehicle is in any of the following categories:

5 (1) Emergency vehicles purchased by any local jurisdiction,
6 county agency, or municipality.

7 (2) Motor vehicles purchased or leased by a microbusiness, as
8 defined in Section 14837 of the Government Code, for identified
9 work-related purposes to be determined by the state board in
10 regulations adopted pursuant to this article.

11 (3) Paratransit and other motor vehicles designed or modified
12 specifically for the purpose of transporting disabled persons.

13 (4) Motor vehicles purchased by the state for use in official state
14 business, except that vehicles purchased or leased for Members
15 of the Legislature shall be subject to the surcharge.

16 (5) Motor vehicles purchased or leased by very low income
17 residents of the state, to be defined by the state board in regulations
18 adopted pursuant to this article.

19 (b) Notwithstanding any other provision of this article, motor
20 vehicles that meet both of the following conditions are exempt
21 from this article and shall be identified by the state board pursuant
22 to paragraph (1) of subdivision (b) of Section 43311:

23 (1) The motor vehicle's primary exhaust is identified by the
24 Office of Environmental Health Hazard Assessment as a chemical
25 that causes cancer.

26 (2) The motor vehicle is not subject to a state-mandated
27 inspection and maintenance program.

28 (c) If a motor vehicle is not identified as an exempt vehicle by
29 the state board pursuant to this section, but the purchaser of the
30 vehicle believes that he or she qualifies for an exemption pursuant
31 to this section, the purchaser shall pay the surcharge at the time of
32 sale as required by the article, and shall submit an application to
33 the state board certifying that the vehicle qualifies for the
34 exemption. The state board shall notify the applicant within 60
35 days of receipt of the application of its determination of whether
36 an exemption will be granted. If the state board determines that
37 the vehicle owner qualifies for an exemption from the surcharge
38 pursuant to this section, the state board shall reimburse the
39 applicant for the value of the surcharge from the account.

1 (d) The state board shall prepare and make available to dealers
2 and the public, including on the state board's Internet Web site,
3 an application for use by motor vehicle purchasers seeking
4 reimbursement for a surcharge paid for an exempt vehicle pursuant
5 to subdivision (c). The application shall provide the opportunity
6 for the purchaser to demonstrate that a vehicle or vehicle purchaser,
7 as applicable, qualifies for an exemption, specify the period of
8 time within which the purchaser must apply for reimbursement,
9 and provide reasonable means for the applicant to challenge the
10 state board's finding if it determines that a vehicle does not qualify
11 for an exemption.

12 43313. (a) The Clean Vehicle Incentive Account is hereby
13 created to be administered by the state board in consultation with
14 the State Board of Equalization. All emissions surcharges collected
15 pursuant to this article shall be deposited into the account. Moneys
16 in the account are continuously appropriated without regard to
17 fiscal year to pay for all of the following:

18 (1) Clean vehicle rebates.

19 (2) Refunds of emissions surcharges as allowed for in this
20 article.

21 (3) Reimbursing the State Board of Equalization for its
22 administrative costs of carrying out its responsibilities pursuant to
23 this article.

24 (4) Administrative costs of the state board for carrying out its
25 responsibilities pursuant to this article.

26 (5) Reimbursing the Department of Motor Vehicles for costs
27 incurred due to carrying out responsibilities pursuant to Section
28 43308.

29 (b) For the initial implementation of this article, the Director of
30 Finance is authorized to transfer, as a loan, up to nine hundred
31 thousand dollars (\$900,000) from the Motor Vehicle Account in
32 the State Transportation Fund into the account. This shall be repaid
33 with interest from the account.

34 43314. The state board may regularly collect from motor
35 vehicle manufacturers adequate data to calculate a vehicle's
36 emissions of greenhouse gases to carry out the provisions of this
37 article. This article does not require the board to conduct additional
38 vehicle testing to make the determinations required by this article.

39 43315. In adopting regulations pursuant to subdivisions (a)
40 and (b) of Section 43303, the state board shall determine a manner

1 to account for vehicles that run on an alternative fuel as defined
2 in Section 43867. The state board shall consider upstream
3 emissions, as defined in paragraph (2) of subdivision (h) of Section
4 43200.1, in the development of these regulations.

5 43316. (a) This article does not conflict with or supersede any
6 provision of Division 25.5 (commencing with Section 38500).
7 This article does not limit the state board in implementing Division
8 25.5 (commencing with Section 38500).

9 (b) Enactment of this article shall not be construed to, or be
10 deemed in, conflict with Section 38597.

ASSEMBLY BILL

No. 568

Introduced by Assembly Member Karnette
(Coauthor: Senator Lowenthal)

February 21, 2007

An act to add Article 4 (commencing with Section 6089) to Chapter 2 of Part 3 of Division 8 of the Harbors and Navigation Code, relating to harbors and ports.

LEGISLATIVE COUNSEL'S DIGEST

AB 568, as introduced, Karnette. Port Community Advisory Committee.

Under existing law, a county or portion thereof, a city or portion thereof, or more than one city with or without a portion of the unincorporated territory of a county, the exterior boundary of which includes a harbor, may be formed into a harbor district for the improvement or development of the harbor. A district is governed by a board of harbor commissioners.

This bill would require a board of harbor commissioners, by January 1, 2009, to establish a port community advisory committee to respond to specified actions and impacts on harbor area communities. The committee would be composed of members from various community and other organizations.

The bill would set forth the duties of the committee. The bill would require a board of harbor commissioners to annually allocate funds from its general budget to support the committee, and to provide office space and office services. By creating a new duty for a board of harbor commissioners, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There are numerous ports in the State of California that
4 currently conduct several billions of dollars in annual domestic
5 and international business and whose sizes have reached thousands
6 of acres. Most ports border residential communities, civic centers,
7 commercial business districts, public transportation corridors,
8 public beaches, public parks, protected wetlands, or wildlife
9 preserves.

10 (b) Ports and their business activities cause significant and
11 disproportional environmental, public health, traffic congestion,
12 economic, and public safety impacts on bordering harbor
13 communities and neighboring cities.

14 (c) In 2001, the Port of Los Angeles Board of Harbor
15 Commissioners, supported by the Mayor of the City of Los
16 Angeles, voted to create the first port community advisory
17 committee in California.

18 (d) There are currently over 25 voting members representing
19 25 organizations on the Port of Los Angeles Community Advisory
20 Committee and nine subcommittees. The committee is composed
21 of 10 ex officio members and three ad hoc members. Ex officio
22 members include the Mayor of Los Angeles, a city council member,
23 a harbor planning commission member, a county supervisor,
24 Assembly Members, Senate Members, and congressional members.
25 Ad hoc members include representatives of the South Coast Air
26 Quality Management District, the State Air Resources Board, and
27 the California Environmental Protection Agency.

28 (e) Harbor communities in the Port of Los Angeles, Port of
29 Long Beach, Port of Oakland, Port of San Francisco, and Port of

1 San Diego have expressed their desire to establish a state law for
2 local port community advisory committees.

3 SEC. 2. Article 4 (commencing with Section 6089) is added
4 to Chapter 2 of Part 3 of Division 8 of the Harbors and Navigation
5 Code, to read:

6

7 Article 4. Port Community Advisory Committee

8

9 6089. By January 1, 2009, a board shall establish a community
10 advisory committee. For purposes of this article, “committee”
11 means community advisory committee.

12 6089.1. (a) A committee shall be composed of members from
13 community organizations, neighborhood councils, residential
14 groups, senior citizen organizations, public health organizations,
15 environmental organizations, environmental justice organizations,
16 academic schools, religious groups, sports recreational teams, and
17 labor organizations who petition to be members.

18 (b) Each organization shall have been in existence for a
19 minimum of one year and may elect one voting representative and
20 one alternate to the committee. If no member of an organization,
21 as described in subdivision (a), petitions to be a member of the
22 committee, then that organization need not be represented.

23 (c) Ex officio members or ad hoc members may include elected
24 officials and designees of governmental agencies.

25 6089.2. A committee shall elect officers from the membership
26 who will chair and officiate at the monthly meetings, and organize
27 the committee’s activities.

28 6089.3. A committee may establish subcommittees, special
29 task forces, or sponsor special events, as may be necessary, to
30 support its activities and purposes.

31 6089.4. A committee shall do all of the following:

32 (a) Provide an open public forum for discussion of port project
33 proposals, reports, and actions, and of business activity impacts
34 on harbor area communities, and shall make recommendations to
35 the board.

36 (b) Assess the environmental, public health, economic, and
37 public safety impacts of city, county, regional, state, federal, and
38 international governmental agencies’ rules, regulations, laws,
39 international treaties, and bond measures on California harbor and
40 port communities, and make recommendations to the board.

1 (c) Review past, present, and future environmental impact
2 reports or statements, and environmental assessment documents
3 in an open public forum in order to discuss community concerns,
4 document inadequacies, project alternatives, and make mitigation
5 recommendations to the board in accordance with federal and state
6 law.

7 (d) Review current and developing alternative technologies that
8 would benefit a port's business activities and help mitigate any
9 environmental, public health, economic, or public safety impacts,
10 and make recommendations to the board.

11 (e) Prepare an annual report of the committee's activities and
12 accomplishments, and provide to the public a current membership
13 list and status of participation.

14 6089.5. The board and board staff shall respond to the
15 committee's recommendations, requests, and inquiries within 90
16 days of the submission or request. Recommendations, answers, or
17 actions requiring more than 90 days shall require the board or
18 board staff to submit a date for response, action, delivery,
19 completion, or a timeline for response, action, delivery, or
20 completion.

21 6089.6. The committee shall convene a public meeting a
22 minimum of once each month. Notice of a meeting shall be
23 provided 30 days in advance to all members, unless a 14 day public
24 notice is given of the cancellation of the scheduled meeting. All
25 public meeting notices, committee minutes, committee reports,
26 and submitted port documentation shall be made available to the
27 public a minimum of 30 days in advance of a public meeting on
28 the official port Web site and at the committee office.

29 6089.7. The board shall allocate funds from its general budget
30 to support the committee. Funds may be used to hire staff and an
31 environmental justice program coordinator, and support the
32 committee's activities.

33 6089.8. The board shall provide office space, meeting space,
34 telephone services, document duplication services, technical
35 assistance, and general support to the committee. The committee
36 shall sponsor conferences, conventions, training opportunities,
37 public hearings, or meetings for the port regarding goods
38 movement, economic development, and environmental and public
39 health issues.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of Section
6 17556 of the Government Code.

O

ASSEMBLY BILL

No. 575

Introduced by Assembly Member Arambula

February 21, 2007

An act to add Section 8879.24 to the Government Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as introduced, Arambula. The Highway Safety Traffic Reduction, Air Quality, and Port Security Fund of 2006: emission reductions.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, was approved by the voters as Proposition 1B at the November 7, 2006, statewide general election and authorizes the issuance of \$19.925 billion of state general obligation bonds for specified purposes. The act requires that of the proceeds of the bonds issued and sold \$1,000,000,000 be made available upon appropriation by the Legislature to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors.

This bill would require that these funds be appropriated with the highest priority given to projects and agencies in severe nonattainment air districts. The bill would specify that the South Coast Air Quality Management District and the San Joaquin Valley Unified Air Pollution Control District each receive no less than \$300,000,000 of the funding available under the act.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8879.24 is added to the Government
2 Code, to read:
3 8879.24. Funds available pursuant to paragraph (2) of
4 subdivision (c) of Section 8879.23 shall be appropriated with the
5 highest priority given to projects and agencies in severe
6 nonattainment air districts. The South Coast Air Quality
7 Management District and the San Joaquin Valley Unified Air
8 Pollution Control District shall each receive no less than three
9 hundred million dollars (\$300,000,000) of the funding available.

O

ASSEMBLY BILL

No. 616

Introduced by Assembly Member Jones

February 21, 2007

An act to add Section 44012.5 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 616, as introduced, Jones. Smog check: annual inspection.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The smog check program provides for the inspection of a motor vehicle, among in other circumstances, upon its registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biannually. The department is required to charge a fee to a smog check station for each motor vehicle inspection, as provided. Violations of the smog check constitute a criminal violation of law.

Existing law creates the High Polluter Repair or Removal Account, and makes available, upon appropriation by the Legislature, all money in the account to the State Air Resources Board and the department to establish and implement a program for the repair or replacement of high polluting motor vehicles.

This bill would require the department to incorporate annual inspection of motor vehicles 15 or greater model years old into the motor vehicle inspection and maintenance program by July 1, 2008, and would require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account. Because violations of

the smog check program are a crime, the bill would impose a state-mandated local program.

The bill would exempt all motor vehicles not subject to annual inspection, and would require the department to develop a methodology to exempt vehicles or classes of vehicles likely to pass annual inspection.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44012.5 is added to the Health and Safety
2 Code, to read:

3 44012.5. (a) The department shall incorporate annual
4 inspection of motor vehicles 15 or greater model years old into
5 the motor vehicle inspection and maintenance program by July 1,
6 2008.

7 (b) All funds generated through additional inspection fees shall
8 be deposited into the High Polluter Repair or Removal Account
9 created by Section 44091.

10 (c) (1) All motor vehicles not subject to biannual inspection
11 shall also be exempt from annual inspection.

12 (2) The department shall develop a methodology to exempt
13 vehicles or classes of vehicles likely to pass annual inspection.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

O

ASSEMBLY BILL

No. 846

Introduced by Assembly Member Blakeslee
(Coauthor: Assembly Member Karnette)
(Coauthor: Senator Maldonado)

February 22, 2007

An act to amend and repeal Section 6385 of, to add Section 60510 to, and to add and repeal Sections 6357.7, 6357.8 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 846, as introduced, Blakeslee. Sales and use taxes: exemptions: Clean Marine Fuels Tax Incentive Act.

(1) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax.

This bill would exempt, until specified State Board of Equalization determinations occur or specified federal actions occur, from those state taxes the gross receipts derived from the sale in this state of, and the storage, use, or other consumption in this state of, low-sulfur fuel products for use in a vessel's auxiliary or main engine sold to a water common carrier for use in California's territorial or internal waters, as provided.

(2) The Sales and Use tax law exempts, until 2014, the gross receipts from the sale of fuel and petroleum products to a water common carrier for immediate shipment outside this state for consumption in the conduct of its business as a common carrier after the first out-of-state destination, if specified conditions are met.

This bill would instead provide that the exemption is repealed when a federal exemption for similar sales to vessel and aircraft is repealed, and specified State Board of Equalization actions are taken, upon any notification of the repeal of the federal exemption.

(3) The Diesel Fuel Tax Law imposes a tax, with specified exemptions, at specified rates, upon the specified removal, entry, sale, delivery, and specified use of diesel fuel, as provided, for each gallon of fuel subject to the tax. Existing law provides for certain refunds of that tax if specified criteria are met and the diesel fuel was used for a specified purpose, including that the diesel fuel was used for purposes other than operating motor vehicles upon the public highways of the state.

This bill would provide that if a refund is claimed because the diesel fuel was used for purposes other than operating motor vehicles upon the public highways, the diesel fuel was used in a vessel, and the diesel fuel has a sulfur content greater than 5,000 parts per million, the refund shall be reduced by a specified amount, as provided.

(4) Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Clean Marine Fuels Tax Incentive Act.
- 3 SEC. 2. Section 6357.7 is added to the Revenue and Taxation
- 4 Code, to read:

1 6357.7. (a) There are exempted from the taxes imposed by
2 this part, the gross receipts from the sale in this state of, and the
3 storage, use, or other consumption in this state of, low-sulfur fuel
4 products for use in a vessel's auxiliary engine, sold to a water
5 common carrier inside this state for immediate consumption or
6 shipment in the conduct of its business as a water common carrier
7 in California's territorial or internal waters.

8 (b) To qualify for the exemption, the water common carrier
9 shall furnish to the seller an exemption certificate, in the form
10 prescribed by the board, stating the quantity of low-sulfur fuel
11 products for use in a vessel's auxiliary engines claimed as exempt
12 that are to be consumed within California's territorial or internal
13 waters. The certificate shall bear the purchaser's valid seller's
14 permit number or valid fuel exemption registration number.
15 Acceptance in good faith of that certificate shall relieve the seller
16 from liability for the sales tax exempted under this section.

17 (c) For purposes of this section:

18 (1) "Immediate consumption or shipment" means that the
19 delivery of the low-sulfur fuel products for use in a vessel's
20 auxiliary engine by the seller is directly into a vessel for
21 consumption by that vessel while in California's territorial or
22 internal waters, and is not used for storage by the purchaser or any
23 third party.

24 (2) "Low-sulfur fuel products for use in a vessel's auxiliary
25 engine," means any fuel, including heavy fuel oil, marine distillate
26 fuels, marine gas oil, marine diesel oil, or any other diesel fuel,
27 with a sulfur content of no greater than 0.05 percent, or 500 parts
28 per million, that is purchased for use in the operation of an engine,
29 on a vessel, that provides power for a use other than propulsion.

30 (3) "Territorial or internal waters" means waters within a
31 seaward boundary three geographical miles into the Pacific Ocean
32 measured from the mean low-water mark of the California coast,
33 all interior navigable waterways, and the Monterey Bay, subject
34 to definitions of the United Nations Convention on the Law of the
35 Sea.

36 (4) "Water common carrier" has the same meaning as "common
37 carrier" as set forth in Section 6385.

38 (d) (1) Any water common carrier claiming exemption under
39 this section that is not required to hold a valid seller's permit, shall
40 be required to register with the board and obtain a fuel exemption

1 registration number, and shall be required to file returns as the
2 board may prescribe, either if the board notifies the carrier that
3 returns must be filed or if the carrier is liable for taxes based upon
4 consumption of fuel products erroneously claimed as exempt under
5 this section.

6 (2) A water common carrier required to hold a fuel exemption
7 registration number shall be subject to all applicable provisions of
8 this part, Part 1.5 (commencing with Section 7200), and Part 1.6
9 (commencing with Section 7251).

10 (3) Upon approval of the board, a water common carrier may
11 utilize a single fuel exemption registration number for all
12 exemptions claimed under this chapter.

13 (e) A water common carrier claiming an exemption under this
14 section, upon request, shall make available to the board records,
15 including, but not limited to, a copy of a log abstract, or a cargo
16 manifest, documenting its consumption of low-sulfur fuel products
17 for use in a vessel's auxiliary engine while in California's territorial
18 and internal waters and the amount claimed as exempt. If the carrier
19 fails to provide these records upon request, the board may revoke
20 the carrier's fuel exemption registration number.

21 (f) The board may require any water common carrier claiming
22 an exemption under this section and required to obtain a fuel
23 exemption registration number, to place with it such security as
24 the board may determine pursuant to Section 6701.

25 (g) Pursuant to this section, any use of the fuel products by the
26 purchasing carrier, other than that incident to the delivery of the
27 fuel products to the carrier and the immediate consumption or
28 transportation of the fuel products by the carrier for use in the
29 conduct of its business as a water common carrier, or a failure of
30 the carrier to document its consumption of the fuel products in
31 California's territorial or internal waters, shall subject the carrier
32 to liability for payment of sales tax as if it were a retailer making
33 a retail sale of the property at the time of that use or failure, and
34 the sales price of the property to it shall be deemed to be the gross
35 receipts from the retail sale.

36 (h) In the event the board finds that sales of low-sulfur fuel
37 products for use in a vessel's auxiliary engine sold to water
38 common carriers inside this state accounts for greater than 95
39 percent of all sales of marine fuels to water common carriers for
40 use in a vessel's auxiliary engine, this section is hereby repealed

1 six months from the date such finding is submitted to the
2 Legislature and the Office of Administrative Law for publication
3 in the state register.

4 SEC. 3. Section 6357.8 is added to the Revenue and Taxation
5 Code, to read:

6 6357.8. (a) There are exempted from the taxes imposed by
7 this part, the gross receipts from the sale in this state of, and the
8 storage, use, or other consumption of, low-sulfur fuel products for
9 use in a vessel's main engine, sold to a water common carrier for
10 immediate consumption or shipment in the conduct of its business
11 as a water common carrier until the first out-of-state destination
12 or 500 nautical miles beyond California's territorial waters,
13 whichever is less.

14 (b) To qualify for the exemption, the water common carrier
15 shall furnish to the seller an exemption certificate, in the form
16 prescribed by the board, stating the quantity of low-sulfur fuel
17 products for use in a vessel's main engines claimed as exempt.
18 The certificate shall bear the purchaser's valid seller's permit
19 number or valid fuel exemption registration number. Acceptance
20 in good faith of that certificate shall relieve the seller from liability
21 for the sales tax exempted under this section.

22 (c) For purposes of this section:

23 (1) "Immediate consumption or shipment" means that the
24 delivery of the low-sulfur fuel products for use in a vessel's main
25 engine by the seller is directly into a vessel for consumption by
26 that vessel alone until the first out-of-state destination or 500 miles
27 beyond California's territorial waters and not used for storage by
28 the purchaser or any third party.

29 (2) "First out-of-state destination" has the same meaning as set
30 forth in Section 6385.

31 (3) "Low-sulfur fuel products for use in a vessel's main engine"
32 means any fuel, including heavy fuel oil, marine distillate fuels,
33 marine gas oil, marine diesel oil, or any other diesel fuel, with a
34 sulfur content of no greater than 1.5 percent, or 15,000 parts per
35 million, which is purchased for use in the operation of an engine,
36 on a vessel, that provides power for propulsion.

37 (4) "Territorial waters" means waters within a seaward boundary
38 three geographical miles into the Pacific Ocean measured from
39 the mean low-water mark of the California coast, and the Monterey

1 Bay, subject to definitions of the United Nations Convention on
2 the Law of the Sea.

3 (5) “Water common carrier” has the same meaning as “common
4 carrier” as set forth in Section 6385.

5 (d) (1) Any water common carrier claiming exemption under
6 this section that is not required to hold a valid seller’s permit, shall
7 be required to register with the board and obtain a fuel exemption
8 registration number, and shall be required to file returns as the
9 board may prescribe, either if the board notifies the carrier that
10 returns must be filed or if the carrier is liable for taxes based upon
11 consumption of fuel products erroneously claimed as exempt under
12 this section.

13 (2) A water common carrier required to hold a fuel exemption
14 registration number shall be subject to all applicable provisions of
15 this part, Part 1.5 (commencing with Section 7200), and Part 1.6
16 (commencing with Section 7251).

17 (3) Upon approval of the board, a water common carrier may
18 utilize a single fuel exemption registration number for all
19 exemptions claimed under this chapter.

20 (e) A water common carrier claiming an exemption under this
21 section upon request, shall make available to the board records,
22 including, but not limited to, a copy of a log abstract, or a cargo
23 manifest, documenting its consumption of low-sulfur fuel products
24 for use in a vessel’s auxiliary engine while in California’s territorial
25 and internal waters and the amount claimed as exempt. If the carrier
26 fails to provide these records upon request, the board may revoke
27 the carrier’s fuel exemption registration number.

28 (f) The board may require any water common carrier claiming
29 an exemption under this section and required to obtain a fuel
30 exemption registration number, to place with it such security as
31 the board may determine pursuant to Section 6701.

32 (g) Pursuant to this section, any use of the fuel products by the
33 purchasing carrier, other than that incident to the delivery of the
34 fuel products to the carrier and the immediate consumption or
35 transportation of the fuel products by the carrier for use in the
36 conduct of its business as a water common carrier, or a failure of
37 the carrier to document its consumption of the fuel products in
38 California’s territorial or internal waters, shall subject the carrier
39 to liability for payment of sales tax as if it were a retailer making
40 a retail sale of the property at the time of that use or failure, and

1 the sales price of the property to it shall be deemed to be the gross
2 receipts from the retail sale.

3 (h) In the event the United States Environmental Protection
4 Agency establishes a Sulfur Emission Control Area under the
5 provisions of Annex VI of the International Convention for the
6 Prevention of Pollution from Ships, 1973, as amended at London
7 in February 1978, provided in Section 1309 of Title 19 of the
8 United States Code, or otherwise defines and sets standards for
9 the regulation for the prevention of sulfur emissions from ships
10 regardless of their country of origin, relating to California's
11 territorial waters, this section is hereby repealed six months from
12 the date the board, upon any notification of this action, submits
13 this information to the Legislature and the Office of Administrative
14 law for publication in the state register.

15 SEC. 4. Section 6385 of the Revenue and Taxation Code, as
16 added by Section 3 of Chapter 712 of the Statutes of 2003, is
17 amended to read:

18 6385. (a) There are exempted from the computation of the
19 amount of the sales tax the gross receipts from the sale of tangible
20 personal property, other than fuel and petroleum products, to a
21 common carrier, shipped by the seller via the purchasing carrier's
22 facilities under a bill of lading whether the freight is paid in
23 advance, or the shipment is made freight charges collect, to a point
24 outside this state and the property is actually transported to the
25 out-of-state destination for use by the carrier in the conduct of its
26 business as a common carrier.

27 (b) There are exempted from the computation of the amount of
28 the sales tax the gross receipts from the sale of tangible personal
29 property, other than aircraft fuel and petroleum products, purchased
30 by a foreign air carrier and transported by the foreign air carrier's
31 facilities to a foreign destination for use by the air carrier in the
32 conduct of its business as a common carrier by air of persons or
33 property. To qualify for this exemption, the foreign air carrier shall
34 furnish to the seller a certificate in writing that the property shall
35 be transported and used in the manner required in this subdivision.
36 The certificate shall be substantially in the form prescribed by the
37 board. A seller is not liable for the sales tax if the seller accepts
38 the certificate in good faith. If the seller does not have the
39 certificate at the time the board requests the seller to submit the
40 certificate to the board, the seller shall be given a reasonable time

1 to request the foreign air carrier to provide the seller with the
2 certificate. The foreign air carrier shall maintain records in this
3 state, such as a copy of a bill of lading, an air waybill, or cargo
4 manifest, documenting its transportation of the tangible personal
5 property to a foreign destination.

6 (c) There are exempted from the computation of the amount of
7 the sales tax the gross receipts from the sale of fuel and petroleum
8 products to a water common carrier, for immediate shipment
9 outside this state for consumption in the conduct of its business as
10 a common carrier after the first out-of-state destination. To qualify
11 for the exemption the common carrier shall furnish to the seller
12 an exemption certificate in writing stating the quantity of fuel and
13 petroleum products claimed as exempt which is to be consumed
14 after reaching the first out-of-state destination. That certificate
15 shall bear the purchaser's valid seller's permit number or valid
16 fuel exemption registration number and shall be substantially in
17 the form prescribed by the board. Acceptance in good faith of that
18 certificate shall relieve the seller from liability for the sales tax.

19 (d) "First out-of-state destination," as used in this section, means
20 the first point reached outside this state by a common carrier in
21 the conduct of its business as a common carrier at which cargo or
22 passengers are loaded or discharged, cargo containers are added
23 or removed, fuel is bunkered, or docking fees are charged. "First
24 out-of-state destination," as used in this section, also includes the
25 entry point of the Panama Canal when the carrier is only transiting
26 the canal in the conduct of its business as a common carrier.

27 (e) "Common carrier," as used in this section, with respect to
28 water transportation, shall be deemed to include any vessel
29 engaged, for compensation, in transporting persons or property in
30 interstate or foreign commerce.

31 (f) "Foreign air carrier," as used in this section, means a foreign
32 air carrier as defined in Section 40102 of Title 49 of the United
33 States Code.

34 (g) "Immediate shipment," as used in this section, means that
35 the delivery of the fuel and petroleum products by the seller is
36 directly into a ship for transportation outside this state and not for
37 storage by the purchaser or any third party.

38 (h) Any common carrier claiming exemption under subdivision
39 (c) ~~who~~ *that* is not required to hold a valid seller's permit shall be
40 required to register with the board and obtain a fuel exemption

1 registration number and shall be required to file returns as the
2 board may prescribe if either the board notifies the carrier that
3 returns must be filed or the carrier is liable for taxes based upon
4 consumption of fuel erroneously claimed as exempt under this
5 section. A common carrier required to hold a fuel exemption
6 registration number shall be subject to all applicable provisions of
7 this part, Part 1.5 (commencing with Section 7200), and Part 1.6
8 (commencing with Section 7251).

9 (i) A common carrier claiming an exemption under subdivision
10 (c), upon request, shall make available to the board records,
11 including, but not limited to, a copy of a log abstract or a cargo
12 manifest, documenting its transportation of the fuel or petroleum
13 product to an out-of-state destination and the amount claimed as
14 exempt. If the carrier fails to provide these records upon request,
15 the board may revoke the carrier's fuel exemption registration
16 number.

17 (j) The board may require any carrier claiming an exemption
18 under this section and required to obtain a fuel exemption
19 registration number to place with it that security as the board may
20 determine pursuant to Section 6701.

21 (k) Pursuant to subdivisions (a), (b), and (c), any use of the
22 property by the purchasing carrier, other than that incident to the
23 delivery of the property to the carrier and the transportation of the
24 property by the carrier to the first out-of-state destination and
25 subsequent use in the conduct of its business as a common carrier,
26 or a failure of the carrier to document its transporting the property
27 to the first out-of-state destination, shall subject the carrier to
28 liability for payment of sales tax as if it were a retailer making a
29 retail sale of the property at the time of that use or failure, and the
30 sales price of the property to it shall be deemed to be the gross
31 receipts from the retail sale.

32 (l) On December 31, 2005, the Legislative Analyst's Office
33 (LAO) shall submit a report to the Governor and the Legislature
34 that evaluates the economic impact of the partial sales tax
35 exemption regarding bunker fuel.

36 ~~(m) This section shall remain in effect only until January 1,~~
37 ~~2014, and as of that date is repealed.~~

38 *(m) In the event the federal exemption provided by Section 1309*
39 *of Title 19 of the United States Code, relating to supplies for*
40 *certain vessels and aircraft, is repealed, this section is repealed*

1 *six months from the date the board, upon any notification of this*
2 *action, submits this information to the Legislature and the Office*
3 *of Administrative Law for publication in the state register.*

4 SEC. 5. Section 6385 of the Revenue and Taxation Code, as
5 added by Section 4 of Chapter 712 of the Statutes of 2003, is
6 repealed.

7 ~~6385.—(a) There are exempted from the computation of the~~
8 ~~amount of the sales tax the gross receipts from the sale of tangible~~
9 ~~personal property, other than fuel and petroleum products, to a~~
10 ~~common carrier, shipped by the seller via the purchasing carrier's~~
11 ~~facilities under a bill of lading whether the freight is paid in~~
12 ~~advance, or the shipment is made freight charges collect, to a point~~
13 ~~outside this state and the property is actually transported to the~~
14 ~~out-of-state destination for use by the carrier in the conduct of its~~
15 ~~business as a common carrier.~~

16 ~~(b) There are exempted from the computation of the amount of~~
17 ~~the sales tax the gross receipts from the sale of tangible personal~~
18 ~~property, other than aircraft fuel and petroleum products, purchased~~
19 ~~by a foreign air carrier and transported by the foreign air carrier's~~
20 ~~facilities to a foreign destination for use by the air carrier in the~~
21 ~~conduct of its business as a common carrier by air of persons or~~
22 ~~property. To qualify for this exemption, the foreign air carrier shall~~
23 ~~furnish to the seller a certificate in writing that the property shall~~
24 ~~be transported and used in the manner required in this subdivision.~~
25 ~~The certificate shall be substantially in the form prescribed by the~~
26 ~~board. A seller is not liable for the sales tax if the seller accepts~~
27 ~~the certificate in good faith. If the seller does not have the~~
28 ~~certificate at the time the board requests the seller to submit the~~
29 ~~certificate to the board, the seller shall be given a reasonable time~~
30 ~~to request the foreign air carrier to provide the seller with the~~
31 ~~certificate. The foreign air carrier shall maintain records in this~~
32 ~~state, such as a copy of a bill of lading, an air waybill, or cargo~~
33 ~~manifest, documenting its transportation of the tangible personal~~
34 ~~property to a foreign destination.~~

35 ~~(c) "Common carrier," as used in this section, with respect to~~
36 ~~water transportation, shall be deemed to include any vessel~~
37 ~~engaged, for compensation, in transporting persons or property in~~
38 ~~interstate or foreign commerce.~~

1 (d) ~~“Foreign air carrier,” as used in this section, means a foreign~~
2 ~~air carrier as defined in Section 40102 of Title 49 of the United~~
3 ~~States Code.~~

4 (e) ~~Pursuant to subdivisions (a) and (b), any use of the property~~
5 ~~by the purchasing carrier, other than that incident to the delivery~~
6 ~~of the property to the carrier and the transportation of the property~~
7 ~~by the carrier to an out-of-state destination and subsequent use in~~
8 ~~the conduct of its business as a common carrier, or a failure of the~~
9 ~~carrier to document its transporting the property to an out-of-state~~
10 ~~destination, shall subject the carrier to liability for payment of sales~~
11 ~~tax as if it were a retailer making a retail sale of the property at~~
12 ~~the time of that use or failure, and the sales price of the property~~
13 ~~to it shall be deemed to be the gross receipts from the retail sale.~~

14 (f) ~~This section shall become operative on January 1, 2014.~~

15 SEC. 6. Section 60510 is added to the Revenue and Taxation
16 Code, to read:

17 60510. (a) Any claim for a refund made pursuant to Section
18 60501 where the diesel fuel was sold and delivered directly by an
19 ultimate vendor to a vessel operated by an ultimate purchaser, the
20 diesel fuel sold has a sulfur content of greater than 0.5 percent, or
21 5,000 parts per million, and the diesel fuel was used for purposes
22 other than operating motor vehicles upon the public highways of
23 this state, shall be reduced by an amount equal to:

24 (1) Twenty-five percent of the claim, for all claims made after
25 the effective date of this section and prior to January 1, 2010.

26 (2) Fifty percent of the claim, for all claims made on or after
27 January 1, 2010, and prior to January 1, 2012.

28 (3) Seventy-five percent of the claim, for all claims made on or
29 after January 1, 2012.

30 (b) For purposes of this section, “vessel” has the same meaning
31 as set forth in Section 6273.

32 (c) In the event that the board makes a finding pursuant to
33 subdivision (h) of Section 6357.7, this section is hereby repealed
34 six months from the date such finding is submitted to the
35 Legislature and the Office of Administrative Law for publication
36 in the state register.

37 SEC. 7. Notwithstanding Section 2230 of the Revenue and
38 Taxation Code, no appropriation is made by this act and the state
39 shall not reimburse any local agency for any sales and use tax
40 revenues lost by it under this act.

1 SEC. 8. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.
3 However, the provisions of this act shall become operative on the
4 first day of the first calendar quarter commencing more than 90
5 days after the effective date of this act.

O

ASSEMBLY BILL

No. 934

Introduced by Assembly Member Duvall
(Coauthor: Senator Runner)

February 22, 2007

An act to amend Sections 39666, 43013, and 43018 of, and to add Section 39666.5 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as introduced, Duvall. State Air Resources Board: air districts: mobile nonvehicular regulations.

(1) Existing law requires the State Air Resources Board to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources, and requires local air districts to implement and enforce the airborne toxic control measures or propose regulations enacting airborne toxic control measures on nonvehicular sources within their jurisdiction, and authorizes districts to adopt more stringent airborne toxic control measures than those adopted by the state board.

This bill would modify these provisions to authorize districts to adopt airborne toxic control measures only for nonvehicular stationary sources.

(2) Existing law requires the state board to adopt standards and regulations for motor vehicles and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

This bill would provide that the state board has exclusive jurisdiction to adopt these standards.

The bill would also provide that an existing provision of law does not authorize districts to share concurrent jurisdiction with the state board over mobile nonvehicular sources.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to further clarify
- 2 its standing intent to encourage statewide, uniform implementation
- 3 of regulations regarding mobile nonvehicular sources of emissions
- 4 when consistent with federal law, and further its standing intent
- 5 to discourage district-by-district adoption of different regulations.
- 6 SEC. 2. Section 39666 of the Health and Safety Code is
- 7 amended to read:
- 8 39666. (a) Following a noticed public hearing, the state board
- 9 shall adopt airborne toxic control measures to reduce emissions
- 10 of toxic air contaminants from nonvehicular *stationary* sources.
- 11 (b) For toxic air contaminants for which the state board has
- 12 determined, pursuant to Section 39662, that there is a threshold
- 13 exposure level below which no significant adverse health effects
- 14 are anticipated, the airborne toxic control measure shall be
- 15 designed, in consideration of the factors specified in subdivision
- 16 (b) of Section 39665, to reduce emissions sufficiently so that the
- 17 source will not result in, or contribute to, ambient levels at or in
- 18 excess of the level which may cause or contribute to adverse health
- 19 effects as that level is estimated pursuant to subdivision (c) of
- 20 Section 39660.
- 21 (c) For toxic air contaminants for which the state board has not
- 22 specified a threshold exposure level pursuant to Section 39662,
- 23 the airborne toxic control measure shall be designed, in
- 24 consideration of the factors specified in subdivision (b) of Section
- 25 39665, to reduce emissions to the lowest level achievable through
- 26 application of best available control technology or a more effective
- 27 control method, unless the state board or a district board
- 28 determines, based on an assessment of risk, that an alternative
- 29 level of emission reduction is adequate or necessary to prevent an
- 30 endangerment of public health.
- 31 (d) Not later than 120 days after the adoption or implementation
- 32 by the state board of an airborne toxic control measure pursuant

1 to this section or Section 39658, the districts shall implement and
2 enforce the airborne toxic control measure or shall propose
3 regulations enacting airborne toxic control measures on
4 nonvehicular *stationary* sources within their jurisdiction which
5 meet the requirements of subdivisions (b), (c), and (e), except that
6 a district may, at its option, and after considering the factors
7 specified in subdivision (b) of Section 39665, adopt and enforce
8 equally effective or more stringent airborne toxic control measures
9 than the airborne toxic control measures adopted by the state board.
10 A district shall adopt rules and regulations implementing airborne
11 toxic control measures on nonvehicular *stationary* sources within
12 its jurisdiction in conformance with subdivisions (b), (c), and (e),
13 not later than six months following the adoption of airborne toxic
14 control measures by the state board.

15 (e) District new source review rules and regulations shall require
16 new or modified sources to control emissions of toxic air
17 contaminants consistent with subdivisions (b), (c), and (d) and
18 Article 2.5 (commencing with Section 39656).

19 (f) Where an airborne toxic control measure requires the use of
20 a specified method or methods to reduce, avoid, or eliminate the
21 emissions of a toxic air contaminant, a source may submit to the
22 district an alternative method or methods that will achieve an equal
23 or greater amount of reduction in emissions of, and risk associated
24 with, that toxic air contaminant. The district shall approve the
25 proposed alternative method or methods if the operator of the
26 source demonstrates that the method is, or the methods are,
27 enforceable, that equal or greater amounts of reduction in emissions
28 and risk will be achieved, and that the reductions will be achieved
29 within the time period required by the applicable airborne toxic
30 control measure. The district shall revoke approval of the
31 alternative method or methods if the source fails to adequately
32 implement the approved alternative method or methods or if
33 subsequent monitoring demonstrates that the alternative method
34 or methods do not reduce emissions and risk as required. The
35 district shall notify the state board of any action it proposes to take
36 pursuant to this subdivision. ~~This subdivision~~

37 (g) *This section* is operative only to the extent it is consistent
38 with ~~the federal-act law~~.

39 SEC. 3. Section 39666.5 is added to the Health and Safety
40 Code, to read:

1 39666.5. (a) Following a noticed public hearing, the state
2 board shall adopt airborne toxic control measures to reduce
3 emissions of toxic air contaminants from nonvehicular mobile
4 sources.

5 (b) For toxic air contaminants for which the state board has
6 determined, pursuant to Section 39662, that there is a threshold
7 exposure level below which no significant adverse health effects
8 are anticipated, the airborne toxic control measure shall be
9 designed, in consideration of the factors specified in subdivision
10 (b) of Section 39665, to reduce emissions sufficiently so that the
11 source will not result in, or contribute to, ambient levels at or in
12 excess of the level which may cause or contribute to adverse health
13 effects as that level is estimated pursuant to subdivision (c) of
14 Section 39660.

15 (c) For toxic air contaminants for which the state board has not
16 specified a threshold exposure level pursuant to Section 39662,
17 the airborne toxic control measure shall be designed, in
18 consideration of the factors specified in subdivision (b) of Section
19 39665, to reduce emissions to the lowest level achievable through
20 application of best available control technology or a more effective
21 control method, unless the state board determines, based on an
22 assessment of risk, that an alternative level of emission reduction
23 is adequate or necessary to prevent an endangerment of public
24 health.

25 (d) Unless otherwise determined by the state board, the state
26 board shall implement and enforce the airborne toxic control
27 measure not later than 120 days after the adoption of an airborne
28 toxic control measure pursuant to this section or Section 39658.

29 (e) Where an airborne toxic control measure requires the use of
30 a specified method or methods to reduce, avoid, or eliminate the
31 emissions of a toxic air contaminant, a source may submit to the
32 state board an alternative method or methods that will achieve an
33 equal or greater amount of reduction in emissions of, and risk
34 associated with, that toxic air contaminant. The state board shall
35 approve the proposed alternative method or methods if the operator
36 of the source demonstrates that the method is, or the methods are,
37 enforceable, that equal or greater amounts of reduction in emissions
38 and risk will be achieved, and that the reductions will be achieved
39 within the time period required by the applicable airborne toxic
40 control measure. The state board shall revoke approval of the

1 alternative method or methods if the source fails to adequately
2 implement the approved alternative method or methods or if
3 subsequent monitoring demonstrates that the alternative method
4 or methods do not reduce emissions and risk as required. The
5 district shall notify the state board of any action it proposes to take
6 pursuant to this subdivision.

7 (f) This section is operative only to the extent it is consistent
8 with federal law.

9 SEC. 4. Section 43013 of the Health and Safety Code is
10 amended to read:

11 43013. (a) The state board may adopt and implement motor
12 vehicle emission standards, in-use performance standards, and
13 motor vehicle fuel specifications for the control of air contaminants
14 and sources of air pollution which the state board has found to be
15 necessary, cost-effective, and technologically feasible, to carry
16 out the purposes of this division, unless preempted by federal law.

17 (b) The state board shall, *and has exclusive authority to*,
18 consistent with subdivision (a), adopt standards and regulations
19 for light-duty and heavy-duty motor vehicles; medium-duty motor
20 vehicles, as determined and specified by the state board; and
21 off-road or nonvehicle engine categories, including, but not limited
22 to, off-highway motorcycles, off-highway vehicles, construction
23 equipment, farm equipment, utility engines, locomotives, and, to
24 the extent permitted by federal law, marine vessels.

25 (c) Prior to adopting standards and regulations for farm
26 equipment, the state board shall hold a public hearing and find and
27 determine that the standards and regulations are necessary,
28 cost-effective, and technologically feasible. The state board shall
29 also consider the technological effects of emission control standards
30 on the cost, fuel consumption, and performance characteristics of
31 mobile farm equipment.

32 (d) Notwithstanding subdivision (b), the state board shall not
33 adopt any standard or regulation affecting locomotives until the
34 final study required under Section 5 of Chapter 1326 of the Statutes
35 of 1987 has been completed and submitted to the Governor and
36 Legislature.

37 (e) Prior to adopting or amending any standard or regulation
38 relating to motor vehicle fuel specifications pursuant to this section,
39 the state board shall, after consultation with public or private

1 entities that would be significantly impacted as described in
2 paragraph (2) of subdivision (f), do both of the following:

3 (1) Determine the cost-effectiveness of the adoption or
4 amendment of the standard or regulation. The cost-effectiveness
5 shall be compared on an incremental basis with other mobile source
6 control methods and options.

7 (2) Based on a preponderance of scientific and engineering data
8 in the record, determine the technological feasibility of the adoption
9 or amendment of the standard or regulation. That determination
10 shall include, but is not limited to, the availability, effectiveness,
11 reliability, and safety expected of the proposed technology in an
12 application that is representative of the proposed use.

13 (f) Prior to adopting or amending any motor vehicle fuel
14 specification pursuant to this section, the state board shall do both
15 of the following:

16 (1) To the extent feasible, quantitatively document the
17 significant impacts of the proposed standard or specification on
18 affected segments of the state's economy. The economic analysis
19 shall include, but is not limited to, the significant impacts of any
20 change on motor vehicle fuel efficiency, the existing motor vehicle
21 fuel distribution system, the competitive position of the affected
22 segment relative to border states, and the cost to consumers.

23 (2) Consult with public or private entities that would be
24 significantly impacted to identify those investigative or preventive
25 actions that may be necessary to ensure consumer acceptance,
26 product availability, acceptable performance, and equipment
27 reliability. The significantly impacted parties shall include, but are
28 not limited to, fuel manufacturers, fuel distributors, independent
29 marketers, vehicle manufacturers, and fuel users.

30 (g) To the extent that there is any conflict between the
31 information required to be prepared by the state board pursuant to
32 subdivision (f) and information required to be prepared by the state
33 board pursuant to Chapter 3.5 (commencing with Section 11340)
34 of Part 1 of Division 3 of Title 2 of the Government Code, the
35 requirements established under subdivision (f) shall prevail.

36 (h) It is the intent of the Legislature that the state board act as
37 expeditiously as is feasible to reduce nitrogen oxide emissions
38 from diesel vehicles, marine vessels, and other categories of
39 vehicular and mobile sources which significantly contribute to air
40 pollution problems.

1 (i) *The amendments of this section made at the 2007–08 Regular*
2 *Session do not constitute a change in, but are declaratory of, the*
3 *existing law.*

4 SEC. 5. Section 43018 of the Health and Safety Code is
5 amended to read:

6 43018. (a) The state board shall endeavor to achieve the
7 maximum degree of emission reduction possible from vehicular
8 and other mobile sources in order to accomplish the attainment of
9 the state standards at the earliest practicable date.

10 (b) Not later than January 1, 1992, the state board shall take
11 whatever actions are necessary, cost-effective, and technologically
12 feasible in order to achieve, not later than December 31, 2000, a
13 reduction in the actual emissions of reactive organic gases of at
14 least 55 percent, a reduction in emissions of oxides of nitrogen of
15 at least 15 percent from motor vehicles. These reductions in
16 emissions shall be calculated with respect to the 1987 baseline
17 year. The state board also shall take action to achieve the maximum
18 feasible reductions in particulates, carbon monoxide, and toxic air
19 contaminants from vehicular sources.

20 (c) In carrying out this section, the state board shall adopt
21 standards and regulations which will result in the most
22 cost-effective combination of control measures on all classes of
23 motor vehicles and motor vehicle fuel, including, but not limited
24 to, all of the following:

25 (1) Reductions in motor vehicle exhaust and evaporative
26 emissions.

27 (2) Reductions in emissions from in-use emissions from motor
28 vehicles through improvements in emission system durability and
29 performance.

30 (3) Requiring the purchase of low-emission vehicles by state
31 fleet operators.

32 (4) Specification of vehicular fuel composition.

33 (d) In order to accomplish the purposes of this division, and to
34 ensure timely approval of the district's plans for attainment of the
35 state air quality standards by the state board, the state board shall
36 adopt the following schedule for workshops and hearings to
37 consider the adoption of the standards and regulations required
38 pursuant to this section:

39 (1) Workshops on the adoption of vehicular fuel specifications
40 for aromatic content, diesel fuel quality, light-duty vehicle exhaust

1 emission standards, and revisions to the standards for new vehicle
 2 certification and durability to reflect current driving conditions
 3 and useful vehicle life shall be held not later than March 31, 1989.
 4 Hearings of the state board to consider adoption of proposed
 5 regulations pursuant to this subdivision shall be held not later than
 6 November 15, 1989.

7 (2) Notwithstanding Section 43830, workshops on the adoption
 8 of regulations governing gasoline Reid vapor pressure, and
 9 standards for heavy-duty and medium-duty vehicle emissions,
 10 shall be held not later than January 31, 1990. Hearings of the state
 11 board to consider adoption of proposed regulations pursuant to
 12 this subdivision shall be held not later than November 15, 1990.

13 (3) Workshops on the adoption of regulations governing
 14 detergent content, emissions from off-highway vehicles, vehicle
 15 fuel composition, emissions from construction equipment and farm
 16 equipment, motorcycles, locomotives, utility engines, and to the
 17 extent permitted by federal law, marine vessels, shall be held not
 18 later than January 31, 1991. Hearings of the state board to consider
 19 adoption of proposed regulations pursuant to this subdivision shall
 20 be held not later than November 15, 1991.

21 (e) Prior to adopting standards and regulations pursuant to this
 22 section, the state board shall consider the effect of the standards
 23 and regulations on the economy of the state, including, but not
 24 limited to, motor vehicle fuel efficiency.

25 (f) *This section does not authorize districts to share concurrent*
 26 *jurisdiction with the state board over nonvehicular mobile sources.*

27 (f)—

28 (g) ~~The amendment~~ *amendments* of this section made at the
 29 ~~1989–90 and 2007–08 Regular Session of the Legislature~~ *does*
 30 ~~Sessions~~ *do* not constitute a change in, but ~~is~~ *are* declaratory of,
 31 the existing law.

ASSEMBLY BILL

No. 1077

**Introduced by Assembly Members Lieber and DeSaulnier
(Principal coauthor: Assembly Member Huffman)
(Coauthor: Assembly Member Lieu)**

February 23, 2007

An act to add Article 5.5 (commencing with Section 43850) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1077, as introduced, Lieber. State Air Resources Board: plug-in hybrid electric vehicles.

(1) Existing law grants to the State Air Resources Board primary authority for the control of air pollution from vehicular sources. Existing law authorizes the state board to adopt and implement motor vehicle emissions standards and motor vehicle specifications.

This bill would enact the California Plug-In Hybrid Electric Vehicle Leadership Act of 2007. The bill would establish a 19-member California Plug-In Hybrid Electric Vehicle Coordinating Council to meet and be an ongoing focal point for coordination and collaboration between entities and organizations working on plug-in hybrid electric vehicle-related activities, identify existing and potential barriers to the successful development and commercialization of plug-in hybrid vehicles, assess current and proposed activities related to plug-in hybrid vehicles, and describe the extent to which these will address identified barriers, recommend and prioritize additional work, activities, research, development and demonstration, and programs that will contribute to the resolution of identified barriers. The bill would make it the goal of

the council to have at a minimum 1,000,000 plug-in hybrid vehicles on California roads by 2015. The bill would require the council to consider, and recommend, certain financial and regulatory incentives to promote the manufacture and sale of plug-in hybrid vehicles. The bill would require the council to consider, and recommend, a multifuel approach. The bill would require the council to develop, and make recommendations on the implementation of, a public information and education program.

The bill would require the state board, on or before January 1, 2009, in conjunction with specified other entities, to develop certification testing protocols for emissions and fuel consumption for the different types of plug-in hybrid vehicles.

The bill would require the Department of General Services, on or before October 1, 2008, to identify the percentage or number of plug-in hybrid vehicles that could be reasonably added to the state vehicle fleet in the future, to streamline its procurement procedures for plug-in hybrid vehicles for state and local agencies, and to develop mechanisms and incentives to encourage local governments to identify the number and percentage of plug-in hybrid vehicles that could reasonably be added to local fleets, and to procure those vehicles.

The bill would require the Public Utilities Commission, on or before January 1, 2009, in conjunction with electrical and gas corporations, to develop and establish optional off-peak electrical rates for plug-in hybrid vehicles, or discounts in the cost of electric service for plug-in hybrid vehicles. The bill would require the commission to consider the establishment of utility testing and demonstration programs as it determines to be necessary to achieve specified objectives. The commission would also be required to consider the establishment of utility programs to provide certain hybrid-related information and assistance to utility customers.

The bill would authorize local publicly owned electric utilities to develop and establish specified utility programs involving plug-in hybrid vehicles.

(2) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program.

The bill would require the Energy Commission to award program funds to the council in accordance with that act to reimburse the council for costs the council incurs under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Plug-in hybrid electric vehicles (PHEVs or plug-in hybrids)
4 are a type of advanced gasoline/biofuel-electric hybrid vehicle that
5 are being developed, demonstrated, and tested in California and
6 elsewhere. Plug-in hybrids can achieve even greater environmental
7 and fuel-saving benefits than conventional hybrids. Plug-in hybrid
8 electric vehicle technology is rapidly developing and can be applied
9 not only in light-duty vehicles, but in medium-duty and heavy-duty
10 vehicles, and in nonroad applications.

11 (b) Plug-in hybrid light-duty vehicles have been demonstrated
12 that achieve in excess of 100 miles per gallon of gasoline and can
13 reduce gasoline use by 60 to 75 percent in comparison to today's
14 typical new cars or sport-utility vehicles, and by 45 to 65 percent
15 in comparison to today's best conventional hybrid vehicles.

16 (c) The transportation sector is more than 95 percent dependent
17 upon a single fuel source, petroleum, and over 60 percent of our
18 national petroleum consumption comes from foreign sources,
19 making this nation extremely vulnerable to petroleum price and
20 supply disruptions.

21 (d) California has adopted goals for increasing the use of
22 nonpetroleum fuels, including electricity, biofuels, and hydrogen,
23 to 20 percent of on-road fuel consumption by 2020, and 30 percent
24 by 2030.

25 (e) Plug-in hybrids may save state consumers money by
26 providing more fuel-efficient vehicles and reduced fuel cost by
27 using electricity for vehicle propulsion, at an equivalent of less
28 than one dollar (\$1) per gallon of gasoline, given current off-peak
29 electricity prices.

30 (f) Plug-in hybrids may reduce emissions of greenhouse gases
31 by 50 to 60 percent in comparison to today's typical new cars or
32 sport-utility vehicles, and by 30 to 45 percent in comparison to

1 today's most efficient conventional hybrid vehicles, and therefore
2 can provide significant help in achieving California's reduction
3 targets for emissions of greenhouse gases.

4 (g) Plug-in hybrids may reduce criteria air pollutants by as much
5 as 45 to 60 percent in comparison to today's new midsize cars or
6 sport-utility vehicles, and as much as 35 to 50 percent in
7 comparison to today's most efficient conventional hybrid vehicles.

8 (h) California has a significant potential for excess electricity
9 generation capacity during overnight and off-peak periods,
10 including renewable electricity such as wind power that is
11 predominately generated at night, allowing millions of plug-in
12 hybrids to charge during these periods when electricity prices are
13 low, and with minimal adverse environmental impacts. Moreover,
14 even under a worst-case peak-charging scenario, researchers at
15 the University of California, Berkeley, estimate that one million
16 compact plug-in hybrids on California roads would not significantly
17 impact peak loads. Many more times this number of vehicles could
18 be charged during off-peak periods without the need for new
19 generation.

20 (i) California's electricity generation mix is already one of the
21 cleanest in the nation, and the state has taken additional steps to
22 make it even cleaner, including new requirements that 20 percent
23 of all electricity generation come from renewable sources by 2010,
24 and has enacted legislation requiring that all new generation
25 sources have greenhouse gas emissions no greater than the level
26 of a combined-cycle natural gas-fired power plant.

27 (j) Infrastructure is already in place for plug-in hybrids, which
28 can be recharged using standard household electrical circuits and
29 current, requiring no deployment of new refueling or recharging
30 infrastructure.

31 (k) Plug-in hybrid vehicles could also use biofuels such as
32 ethanol or biodiesel, helping achieve even greater fuel economy
33 and diversity.

34 (l) The California Hydrogen Highway Blueprint Plan identified
35 plug-in hybrid vehicles as a "bridging technology" to fuel cell
36 vehicles, which can provide near-term environmental benefits to
37 Californians, while at the same time reducing the cost of similar
38 electric-drive components used in future fuel cell vehicles.

39 (m) The Governor, in Executive Order S-01-07, established a
40 low-carbon fuel standard for transportation fuels with the goal of

1 reducing the carbon intensity of California’s transportation fuels
2 by at least 10 percent by 2020. Plug-in hybrid vehicles can play a
3 key role in meeting or exceeding this goal.

4 (n) In January 2007, President George W. Bush issued an
5 executive order that, among other things, requires federal agencies
6 to procure plug-in hybrid vehicles when they are commercially
7 available.

8 (o) California needs new advanced vehicle technologies,
9 including plug-in hybrid vehicles, in the near term, that produce
10 even fewer emissions than today’s cleanest gasoline vehicles, and
11 that use cleaner fuels, if we are to meet the state’s goals for
12 reducing air pollution, greenhouse gases, and petroleum
13 dependence.

14 (p) Plug-in hybrids also open the door for useful supply
15 diversification between the liquid fuel and power generation
16 sectors.

17 (q) This state can and should assist in the successful
18 development and commercialization of plug-in hybrids in several
19 important ways, in order to accelerate the benefits that these
20 vehicles can provide to all our citizens, including emissions
21 reduction, fuel security, and job creation in this state.

22 (r) It is the intent of the state to undertake a multifaceted effort
23 to support the development and commercial introduction of plug-in
24 hybrid electric vehicles.

25 SEC. 2. Article 5.5 (commencing with Section 43850) is added
26 to Chapter 4 of Part 5 of Division 26 of the Health and Safety
27 Code, to read:

28

29

Article 5.5. Plug-in Hybrid Electric Vehicles

30

31 43850. This article shall be known and may be cited as the
32 California Plug-In Hybrid Electric Vehicle Leadership Act of 2007.

33 43851. As used in this article, the following terms have the
34 following meanings:

35 (a) “Council” means the California Plug-In Hybrid Electric
36 Vehicle Coordinating Council established in Section 43852.

37 (b) “Energy Commission” means the State Energy Resources
38 Conservation and Development Commission.

39 (c) “Plug-in hybrid electric vehicle” or “plug-in hybrid vehicle”
40 means a light-duty, medium-duty, or heavy-duty on-road or

1 nonroad vehicle that is propelled by an internal combustion engine
2 or heat engine and an electric motor and energy storage system,
3 using all of the following:

- 4 (1) Any combustible fuel.
- 5 (2) An onboard, rechargeable storage device used primarily to
6 power transportation, not vehicle peripherals.
- 7 (3) A means of using an off-board source of electricity to operate
8 the vehicle in intermittent or continuous all-electric mode.

9 43852. (a) The 19-member California Plug-In Hybrid Electric
10 Vehicle Coordinating Council is hereby established, with
11 membership as follows:

12 (1) A member of the Energy Commission, appointed by that
13 commission, who shall act as a co-chair.

14 (2) A member of the state board, appointed by that state board,
15 who shall act as a co-chair.

16 (3) A member of the Public Utilities Commission, appointed
17 by that commission.

18 (4) A representative appointed by each of the following
19 agencies:

20 (A) The California Environmental Protection Agency.

21 (B) The Business, Transportation and Housing Agency.

22 (C) The Department of General Services.

23 (5) A representative appointed by each of the following entities:

24 (A) The University of California.

25 (B) The Senate.

26 (C) The Assembly.

27 (D) The California Independent System Operator.

28 (6) A representative, appointed by the co-chairs of the council
29 through a selection or nomination process to be developed jointly
30 by the Energy Commission and the state board, from each of the
31 following categories:

32 (A) Appropriate federal agencies and laboratories.

33 (B) Public and private research organizations.

34 (C) Automobile manufacturers.

35 (D) Component manufacturers.

36 (E) Air quality management districts.

37 (F) Local governments.

38 (G) Municipal and investor-owned utilities.

39 (H) Environmental and other nonprofit groups.

40 (I) Other stakeholders as determined by the co-chairs.

1 43853. The council shall do all of the following:

2 (a) Meet at least twice annually and be an ongoing focal point
3 for coordination and collaboration between the many entities and
4 organizations working on plug-in hybrid electric vehicle-related
5 activities, both within California and outside of the state. The
6 meetings of the council shall be subject to the Bagley-Keene Open
7 Meeting Act (Article 9 (commencing with Section 11120) of
8 Chapter 1 of Part 1 of Division 3 of the Government Code).

9 (b) Identify existing and potential barriers to the successful
10 development and commercialization of plug-in hybrid vehicles.
11 The council shall assess current and proposed activities, research,
12 programs, and other activities related to plug-in hybrid vehicles,
13 and describe the extent to which these will address identified
14 barriers.

15 (c) Recommend and prioritize additional work, activities,
16 research, development and demonstration, and programs that, in
17 the determination of the council, will contribute to the resolution
18 of identified barriers, with particular attention paid to those
19 initiatives which are best suited to state and local agencies. For
20 planning purposes, it shall be the goal of the council to have at a
21 minimum one million plug-in hybrid vehicles on California roads
22 by 2015.

23 (d) Consider, and recommend as appropriate, financial and
24 regulatory incentives for automobile manufacturers and other
25 companies, to encourage them to accelerate the introduction of
26 plug-in hybrid vehicles. The council shall also consider, and
27 recommend as appropriate, financial and nonfinancial incentives
28 to encourage individual consumers and fleet owners to purchase
29 plug-in hybrid vehicles.

30 (e) Consider financial and regulatory incentives to encourage
31 the in-state manufacture of plug-in hybrid vehicles and
32 components. The council shall also consider, and recommend as
33 appropriate, a multifuel approach, including, but not limited to,
34 the integration of E85, hydrogen, natural gas, or other fuels into
35 plug-in hybrid configurations.

36 (f) Develop a public information and education program about
37 plug-in hybrid characteristics, benefits to consumers and society,
38 safety, costs, and operating and charging procedures. The council
39 shall make recommendations on the most effective ways to
40 implement the information and education program.

1 43854. On or before January 1, 2009, the state board, in
2 conjunction with other applicable state and federal agencies,
3 automobile manufacturers and nonprofit research institutions, shall
4 develop certification testing protocols for emissions, including
5 both criteria pollutants and greenhouse gases, and fuel consumption
6 for the different types of plug-in hybrid vehicles.

7 43855. The Department of General Services shall do all of the
8 following:

9 (a) On or before October 1, 2008, identify the percentage or
10 number of plug-in hybrid vehicles that, in the determination of
11 that department, could be reasonably added to the state vehicle
12 fleet in the future when such vehicles become available, taking
13 into consideration the benefits of reducing greenhouse gas and
14 other vehicle emissions.

15 (b) Streamline its procurement procedures for plug-in hybrid
16 vehicles for state and local agencies, including pooled purchasing
17 opportunities.

18 (c) Develop mechanisms and incentives to encourage local
19 governments to identify the number and percentage of plug-in
20 hybrid vehicles that could reasonably be added to local fleets, and
21 to procure those vehicles.

22 43856. (a) On or before January 1, 2009, the Public Utilities
23 Commission, in conjunction with electrical and gas corporations,
24 shall develop and establish optional off-peak electrical rates for
25 plug-in hybrid vehicles, or discounts in the cost of electric service
26 for plug-in hybrid vehicles, taking into consideration the reduction
27 in greenhouse gas emissions and other benefits to California
28 ratepayers and citizens as specified in Sections 740.8 and 451 of
29 the Public Utilities Code.

30 (b) The Public Utilities Commission shall also do all of the
31 following:

32 (1) Give additional consideration to possible linkage of plug-in
33 hybrid vehicles to nighttime peaking renewable energy sources,
34 including, but not limited to, wind power.

35 (2) Consider the establishment of utility testing and
36 demonstration programs as it determines to be necessary to do any
37 of the following:

38 (A) Evaluate the impacts of plug-in hybrid vehicles on utility
39 systems.

40 (B) Encourage load management and energy efficiency.

1 (C) Conduct information and education activities.

2 (D) Maximize economic and environmental benefits to
3 ratepayers.

4 (3) The Public Utilities Commission shall also consider the
5 establishment of utility programs to provide information and
6 assistance to utility customers that may be considering the choice
7 of electric transportation and goods-movement technologies.

8 43857. Local publicly owned electric utilities, as defined in
9 Section 9604 of the Public Utilities Code, may develop and
10 establish any of the following:

11 (a) Optional off-peak electrical rates for plug-in hybrid vehicles.

12 (b) Discounts in the cost of electric service for plug-in hybrid
13 vehicles, taking into consideration the reduction in greenhouse gas
14 emissions and other benefits to California ratepayers and citizens.

15 (c) Other utility programs involving plug-in hybrid vehicles.

16 43858. The Energy Commission shall award funds in
17 accordance with Chapter 7.1 (commencing with Section 25620)
18 of Division 15 of the Public Resources Code to reimburse the
19 council for those costs the council incurs under this article.

ASSEMBLY BILL

No. 1209

Introduced by Assembly Member Karnette

February 23, 2007

An act to add Section 39611 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1209, as introduced, Karnette. State Air Resources Board: bond allocation criteria.

Existing law creates the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to authorize \$19.925 billion of state general obligation bonds for specified purposes. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 requires \$3,100,000,000 of these funds to be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account within the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006, and requires \$1,000,000,000 of these funds to be made available, upon appropriation by the Legislature, to the state board for emissions reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors.

This bill would require the state board to develop guidelines meeting specified requirements for the allocation of the \$1,000,000,000 in funding.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that it is in
2 the best interest of the state to allocate the one billion dollars
3 (\$1,000,000,000) in funding made available by paragraph (2) of
4 subdivision (c) of Section 8879.23 of the Government Code for
5 projects that are part of a comprehensive plan to cut air pollution
6 from ports, foster technologies that will reduce greenhouse gas
7 emissions, and improve public health.

8 SEC. 2. Section 39611 is added to the Health and Safety Code,
9 to read:

10 39611. (a) The state board shall develop guidelines, consistent
11 with the requirements of this section, for the allocation of funding
12 made available pursuant to paragraph (2) of subdivision (c) of
13 Section 8879.23 of the Government Code.

14 (b) Based on the guidelines established pursuant to this section,
15 upon appropriation, the state board shall allocate funds by port
16 region in proportion to the following criteria related to the port
17 during the most recent calendar year:

18 (1) The health risks and impact on the population surrounding
19 the port.

20 (2) The annual amount of twenty foot equivalent units (TEUs)
21 of containerized cargo passed through the port.

22 (3) The annual tonnage of noncontainerized, nonliquid bulk
23 cargo.

24 (4) The annual number of vessel calls in the port.

25 (5) The nonattainment status of the region in which the port is
26 in.

27 (c) The state board shall do all of the following in developing
28 the guidelines required by this section:

29 (1) Base the relative merits of proposed emission reduction
30 projects on the annual reduction in goods movement diesel-related
31 particulate matter, sulfur oxides, nitrous oxides, and carbon dioxide
32 emissions from all vehicles, ships, and locomotives within the
33 harbor district, and beyond along transportation corridors, that
34 would be caused by the project. Cost-effectiveness shall be
35 measured by taking the annualized capital cost and dividing it by
36 the annual reduction in those emissions.

37 (2) Focus on local sources and areas with the greatest health
38 impact.

- 1 (3) Base the feasibility and certainty of achieving emission
2 reductions on whether the project is the following:
 - 3 (A) Involves the use of technology that is verified or certified.
 - 4 (B) Is in-use or field tested.
 - 5 (C) Meets operational requirements for port service.
 - 6 (D) Accepted by the goods movement industry.
 - 7 (E) Applicable to both new builds and retrofits.
- 8 (4) Give priority to projects with systemwide and cumulative
9 benefits with applications across multiple fleets and operations
10 and applications on sources operating throughout the harbor district
11 and beyond.
- 12 (5) Provide immediate and sustained reductions in emissions
13 and health risks.
- 14 (6) Include clean and innovative goods movement technologies,
15 including all of the following:
 - 16 (A) Promote alternative fuel use and fuel diversity.
 - 17 (B) Promote renewable energy.
 - 18 (C) Reduce fuel use.
- 19 (7) Ensure that projects contribute to reducing disproportionate
20 and adverse environmental or health impacts attributable to goods
21 movement on communities throughout the South Coast Air Basin.
- 22 (8) Focus on areas that promote highway and rail safety.
- 23 (9) Give priority to projects ready for demonstration or prototype
24 development that contribute to technology advancement, including,
25 but not limited to, green or ultralow switcher locomotives and
26 other green container transport systems including linear induction
27 motor systems and electric container conveyor systems including
28 mag-lev, freight shuttle systems, aerospace freight options, and
29 others.
- 30 (10) Allocate funds by giving higher priority to projects
31 involving matching funds.

O

Introduced by Senator RunnerFebruary 22, 2007

An act to amend Section 42310 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 587, as introduced, Runner. Air quality: permit requirement: exemptions.

Existing law authorizes the board of each air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements.

This bill would also exempt printing, coating, adhesive application, or laminating equipment, as specified, from that permit requirement. The bill would limit this exemption to (1) equipment whose volatile organic compound emissions are no greater than 3 pounds per day or 66 pounds per calendar month, (2) equipment that employs ultraviolet (UV) or electric beam (EB) type materials and the total amount of inks, coatings, adhesives, or organic solvents used in this equipment, including in the cleanup, is no more than 6 gallons per day or 132 gallons per calendar month, and (3) equipment that employs UV or EB type materials that contain no more than 50 grams of volatile organic compounds per liter of material and use cleanup solvents containing no more than 50 grams of volatile organic compounds per liter of material. The bill would also correct an erroneous cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42310 of the Health and Safety Code is
2 amended to read:

3 42310. (a) A permit ~~shall~~ *is not be* required for any of the
4 following:

5 (1) Any vehicle.

6 (2) Any structure designed for and used exclusively as a
7 dwelling for not more than four families.

8 (3) An incinerator used exclusively in connection with a
9 structure described in ~~subdivision (b)~~ *paragraph (2)*.

10 (4) Barbecue equipment that is not used for commercial
11 purposes.

12 (5) (A) Repairs or maintenance not involving structural changes
13 to any equipment for which a permit has been granted.

14 (B) As used in this ~~subdivision~~ *paragraph*, maintenance does
15 not include operation.

16 (6) *Any printing, coating, adhesive application, or laminating*
17 *equipment, and associated drying and recycling equipment,*
18 *including, but not limited to, air spray equipment, airless spray*
19 *equipment, air-assisted airless spray equipment, high volume*
20 *low-pressure (HVLV) spray equipment, electrostatic spray*
21 *equipment, roller coaters, roll-to-roll coaters, dip coaters, vacuum*
22 *coaters, and flow coaters, if at least one of the following*
23 *requirements is met:*

24 (A) *The volatile organic compound emissions from the*
25 *equipment are no greater than three pounds per day or 66 pounds*
26 *per calendar month.*

27 (B) *The equipment employs ultraviolet (UV) or electric beam*
28 *(EB) type materials, and the total amount of inks, coatings,*
29 *adhesives, or organic solvents used in the equipment, including*
30 *in the cleanup, is no more than six gallons per day or 132 gallons*
31 *per calendar month.*

32 (C) *The equipment employs ultraviolet (UV) or electric beam*
33 *(EB) type materials containing no more than 50 grams of volatile*
34 *organic compounds per liter of material, and uses cleanup solvents*
35 *containing no more than 50 grams of volatile organic compounds*
36 *per liter of material.*

37 (b) Nothing in this section shall affect any requirements imposed
38 on a district or a source of air pollution, including, but not limited

1 to, an agricultural source, pursuant to the federal Clean Air Act
2 (42 U.S.C. Sec. 7401 et seq.).

O

Introduced by Senator Lowenthal

(Principal coauthor: Assembly Member De La Torre)

(Coauthors: Assembly Members Carter and Karnette)

February 23, 2007

An to add Article 10 (commencing with Section 63049.70) to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to amend and renumber Section 1760 of, to add a heading to Chapter 1 (commencing with Section 1720) of, and to add Chapter 2 (commencing with Section 1740) to, Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as introduced, Lowenthal. Ports: congestion relief: environmental mitigation: regulatory fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee on the owner of container cargo moving through the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland at a rate of \$30 per twenty-foot equivalent unit (TEU).

The bill would require the Ports of Los Angeles and Long Beach to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the Southern California Port Congestion Relief Trust Fund, which the bill would establish in the State Treasury, and $\frac{1}{2}$ to the Southern California Port Mitigation Relief Trust Fund, which the bill would establish in the State Treasury. The bill would require the Port of Oakland to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the Northern California Port Congestion Relief Trust Fund, which the bill would establish in the State Treasury, and $\frac{1}{2}$ to the Northern California Port

Mitigation Relief Trust Fund, which the bill would establish in the State Treasury.

The bill would require the moneys transmitted to the Southern California Port Congestion Relief Trust Fund and the Northern California Port Congestion Relief Trust Fund to be available, upon appropriation, for expenditure by the California Transportation Commission exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from those ports, and funding the administrative costs of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund. The bill would prohibit the commission from using the funds to construct, maintain, or improve highways, with certain exceptions.

The bill would require the moneys transmitted to the Southern California Port Mitigation Relief Trust Fund and the Northern California Port Mitigation Relief Trust Fund to be available, upon appropriation, for expenditure by the State Air Resources Board to develop a list of projects to mitigate environmental pollution caused by the movement of cargo to and from those ports, and for the administration of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

(2) Existing law sets forth the duties of the Infrastructure and Economic Development Bank and its board of directors generally in performing various financing transactions, including the issuance of bonds.

This bill would authorize the bank to enter into financing agreements with participating parties to finance or refinance Southern California and Northern California port congestion relief projects and Southern California and Northern California port mitigation relief projects. The bank would be authorized to issue revenue bonds. User fees on container ships from the Southern and Northern California Port Congestion Relief Trust Funds and the Southern and Northern California Mitigation Relief Trust Funds would be continuously appropriated to the bank to secure any revenue bonds.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10 (commencing with Section 63049.70)
2 is added to Chapter 2 of Division 1 of Title 6.7 of the Government
3 Code, to read:

4
5 Article 10. Financing of Port Congestion Relief and Port
6 Mitigation Relief
7

8 63049.70. The definitions contained in this section are in
9 addition to the definitions contained in Section 63010 and together
10 with the definitions contained in that section shall govern the
11 construction of this article, unless the context requires otherwise:

12 (a) "Credit facility" means all obligations, including principal,
13 interest, fees, costs, indemnities, and all other amounts incurred
14 by the bank under or in connection with any credit enhancement
15 or liquidity agreement, including a letter of credit, standby purchase
16 agreement, reimbursement agreement, liquidity facility, or other
17 similar arrangement entered into by the bank.

18 (b) "Northern California port congestion relief container fee
19 revenue" means all of the following:

20 (1) Income and receipts derived by the bank from Northern
21 California port congestion relief container fees.

22 (2) Interest and other income from investment of money in any
23 fund or account established pursuant to an indenture for Northern
24 California Port Congestion Relief Container Fee Revenue Bonds,
25 other than any fund established to rebate investment earnings to
26 the federal government.

27 (A) Amounts on deposit in these funds and accounts, other than
28 any fund or account established to rebate investment earnings to
29 the federal government and any fund or account established to

1 hold the proceeds of a drawing on any liquidity or credit support
2 facility for these bonds.

3 (B) Net income and net receipts derived by the bank on account
4 of interest rate swaps with respect to these bonds.

5 (c) “Northern California Port Congestion Relief Container Fee
6 Revenue Bonds” means revenue bonds issued pursuant to this
7 article that are payable from Northern California port congestion
8 relief container fee revenue.

9 (d) “Northern California port congestion relief container fees”
10 means all user fees that are imposed pursuant to Section 1747 of
11 the Harbors and Navigation Code and remitted to the Northern
12 California Port Congestion Relief Trust Fund in the State Treasury.

13 (e) “Northern California port congestion relief project” means
14 each project for public development facilities and economic
15 development facilities for which the expenditure of funds has been
16 approved by the California Transportation Commission pursuant
17 to Section 1751 of the Harbors and Navigation Code.

18 (f) “Northern California port mitigation relief container fee
19 revenue” means all of the following:

20 (1) Income and receipts derived by the bank from Northern
21 California port mitigation relief container fees.

22 (2) Interest and other income from investment of money in any
23 fund or account established pursuant to an indenture for Northern
24 California Port Mitigation Relief Container Fee Revenue Bonds,
25 other than any fund established to rebate investment earnings to
26 the federal government.

27 (A) Amounts on deposit in these funds and accounts, other than
28 any fund or account established to rebate investment earnings to
29 the federal government and any fund or account established to
30 hold the proceeds of a drawing on any liquidity or credit support
31 facility for these bonds.

32 (B) Net income and net receipts derived by the bank on account
33 of interest rate swaps with respect to these bonds.

34 (g) “Northern California Port Mitigation Relief Container Fee
35 Revenue Bonds” means revenue bonds issued pursuant to this
36 article that are payable from Northern California port mitigation
37 relief container fee revenue.

38 (h) “Northern California port mitigation relief container fees”
39 means all user fees that are imposed pursuant to Section 1747 of

1 the Harbors and Navigation Code and remitted to the Northern
2 California Port Mitigation Relief Trust Fund in the State Treasury.

3 (i) “Northern California port mitigation relief project” means
4 each project for public development facilities and economic
5 development facilities for which the expenditure of funds has been
6 approved by the State Air Resources Board pursuant to Section
7 1753 Harbors and Navigation Code.

8 (j) “Southern California port congestion relief container fee
9 revenue” means all of the following:

10 (1) Income and receipts derived by the bank from Southern
11 California port congestion relief container fees.

12 (2) Interest and other income from investment of money in any
13 fund or account established pursuant to an indenture for Southern
14 California Port Congestion Relief Container Fee Revenue Bonds,
15 other than any fund established to rebate investment earnings to
16 the federal government.

17 (A) Amounts on deposit in these funds and accounts, other than
18 any fund or account established to rebate investment earnings to
19 the federal government and any fund or account established to
20 hold the proceeds of a drawing on any liquidity or credit support
21 facility for these bonds.

22 (B) Net income and net receipts derived by the bank on account
23 of interest rate swaps with respect to these bonds.

24 (k) “Southern California Port Congestion Relief Container Fee
25 Revenue Bonds” means revenue bonds issued pursuant to this
26 article that are payable from Southern California port congestion
27 relief container fee revenue.

28 (l) “Southern California port congestion relief container fees”
29 means all user fees that are imposed pursuant to Sections 1745
30 and 1746 of the Harbors and Navigation Code and remitted to the
31 Southern California Port Congestion Relief Trust Fund in the State
32 Treasury.

33 (m) “Southern California port congestion relief project” means
34 each project for public development facilities and economic
35 development facilities for which the expenditure of funds has been
36 approved by the California Transportation Commission pursuant
37 to Section 1750 of the Harbors and Navigation Code.

38 (n) “Southern California port mitigation relief container fee
39 revenue” means all of the following:

1 (1) Income and receipts derived by the bank from Southern
2 California port mitigation relief container fees.

3 (2) Interest and other income from investment of money in any
4 fund or account established pursuant to an indenture for Southern
5 California Port Mitigation Relief Container Fee Revenue Bonds,
6 other than any fund established to rebate investment earnings to
7 the federal government.

8 (3) Amounts on deposit in these funds and accounts, other than
9 any fund or account established to rebate investment earnings to
10 the federal government and any fund or account established to
11 hold the proceeds of a drawing on any liquidity or credit support
12 facility for these bonds.

13 (4) Net income and net receipts derived by the bank on account
14 of interest rate swaps with respect to these bonds.

15 (o) “Southern California Port Mitigation Relief Container Fee
16 Revenue Bonds” means revenue bonds issued pursuant to this
17 article that are payable from Southern California port mitigation
18 relief container fee revenue.

19 (p) “Southern California port mitigation relief container fees”
20 means all user fees that are imposed pursuant to Sections 1745
21 and 1746 of the Harbors and Navigation Code and remitted to the
22 Southern California Port Mitigation Relief Trust Fund in the State
23 Treasury.

24 (q) “Southern California port mitigation project” means each
25 project for public development facilities and economic
26 development facilities for which the expenditure of funds has been
27 approved by the State Air Resources Board pursuant to Section
28 1752 of the Harbors and Navigation Code.

29 63049.71. (a) The bank may enter into financing agreements
30 with participating parties for the purpose of financing or
31 refinancing Southern California port congestion relief projects and
32 Southern California port mitigation relief projects.

33 (b) The bank may issue bonds pursuant to this chapter as
34 Southern California Port Congestion Relief Container Fee Revenue
35 Bonds to finance or refinance Southern California port congestion
36 relief projects and as Southern California Port Mitigation Relief
37 Container Fee Revenue Bonds to finance or refinance Southern
38 California port mitigation relief projects. The aggregate principal
39 amount of the bonds that may be issued is unlimited, but the
40 aggregate principal amount of the bonds that may be outstanding

1 at any one time is five billion dollars (\$5,000,000,000). The
2 revenue bonds may also be issued to finance necessary reserves,
3 capitalized interest, credit enhancement costs, and costs of issuance
4 of the revenue bonds. The last date for payment of principal of
5 any revenue bond may not be more than 30 years after the date of
6 issuance of the revenue bond.

7 (c) Principal of and interest and redemption premiums on
8 Southern California Port Congestion Relief Container Fee Revenue
9 Bonds and Southern California port mitigation relief container fee
10 revenue bonds shall be payable from, and secured by, Southern
11 California port congestion relief container fee revenue and Southern
12 California port mitigation relief container fee revenue, respectively,
13 as and to the extent provided in the constituent instruments defining
14 the rights of the holders of the bonds.

15 63049.72. (a) The bank may enter into financing agreements
16 with participating parties for the purpose of financing or
17 refinancing Northern California port congestion relief projects and
18 Northern California port mitigation relief projects.

19 (b) The bank may issue bonds pursuant to this chapter as
20 Northern California Port Congestion Relief Container Fee Revenue
21 Bonds to finance or refinance Northern California port congestion
22 relief projects and as Northern California Port Mitigation Relief
23 Container Fee Revenue Bonds to finance or refinance Northern
24 California Port Mitigation relief projects. The aggregate principal
25 amount of the bonds that may be issued is unlimited, but the
26 aggregate principal amount of the bonds that may be outstanding
27 at any one time is five billion dollars (\$5,000,000,000). The
28 revenue bonds may also be issued to finance necessary reserves,
29 capitalized interest, credit enhancement costs, and costs of issuance
30 of the revenue bonds. The last date for payment of principal of
31 any revenue bond may not be more than 30 years after the date of
32 issuance of the revenue bond.

33 (c) Principal of and interest and redemption premiums on
34 Northern California Port Congestion Relief Container Fee Revenue
35 Bonds and Northern California port mitigation relief container fee
36 revenue bonds shall be payable from, and secured by, Northern
37 California port congestion relief container fee revenue and Northern
38 California port mitigation relief container fee revenue, respectively,
39 all as and to the extent provided in the constituent instruments
40 defining the rights of the holders of the bonds.

1 63049.73. (a) The bank may pledge all or any portion of the
2 Southern California port congestion relief container fees to secure
3 Southern California Port Congestion Relief Container Fee Revenue
4 Bonds, and credit facilities for these bonds, and all or any portion
5 of the Southern California port mitigation relief container fees to
6 secure Southern California port mitigation relief container fee
7 revenue bonds, and credit facilities for these bonds. All Southern
8 California port congestion relief container fees and Southern
9 California port mitigation relief container fees so pledged are
10 hereby continuously appropriated, notwithstanding Section 13340,
11 without regard to fiscal years, to the bank, and, if the bank so
12 directs, shall be paid to the indenture trustee for these bonds each
13 month, from the Southern California Port Congestion Relief Trust
14 Fund and the Southern California Port Mitigation Relief Trust
15 Fund for so long as any of the bonds are outstanding. Any Southern
16 California port congestion relief container fees and Southern
17 California port mitigation relief container fees that are not required
18 to be retained by the indenture trustee pursuant to the constituent
19 instruments defining the rights of the holders of the bonds shall
20 be remitted by the indenture trustee to the Southern California Port
21 Congestion Relief Trust Fund and the Southern California Port
22 Mitigation Relief Trust Fund and shall be disbursed at the request
23 and direction of the California Transportation Commission and
24 the State Air Resources Board, respectively, for Southern California
25 congestion relief projects and Southern California port mitigation
26 projects that are not being financed with revenue bonds issued by
27 the bank, and these funds are hereby continuously appropriated,
28 notwithstanding Section 13340, without regard to fiscal years, for
29 that purpose.

30 (b) The state hereby pledges to and agrees with the holders of
31 revenue bonds issued pursuant to this article, and each provider
32 of a letter of credit, standby purchase agreement, reimbursement
33 agreement, liquidity facility, or other similar arrangement for the
34 benefit of the revenue bonds, that the state will not limit, alter, or
35 restrict each pledge of Southern California port congestion relief
36 container fees and Southern California port mitigation relief
37 container fees permitted hereby and any other terms of any
38 agreement made with or for the benefit of the holders of the
39 revenue bonds or the providers or in any way impair the rights or

1 remedies of the holders of the bonds or the providers or reduce or
2 terminate the fees while any the bonds remain outstanding.

3 63049.74 (a) The bank may pledge all or any portion of the
4 Northern California port congestion relief container fees to secure
5 Northern California Port Congestion Relief Container Fee Revenue
6 Bonds, and credit facilities for these bonds, and all or any portion
7 of the Northern California port mitigation relief container fees to
8 secure Northern California Port Mitigation Relief Container Fee
9 Revenue Bonds, and credit facilities for these bonds. All Northern
10 California port Congestion relief container fees and Northern
11 California port mitigation relief container fees so pledged are
12 hereby continuously appropriated, notwithstanding Section 13340,
13 without regard to fiscal years, to the bank, and, if the bank so
14 directs, shall be paid to the indenture trustee for the bonds each
15 month, from the Northern California Port Congestion Relief Trust
16 Fund and the Northern California Port Mitigation Relief Trust
17 Fund for so long as any of the bonds are outstanding. Any Northern
18 California port congestion relief container fees and Northern
19 California port mitigation relief container fees that are not required
20 to be retained by the indenture trustee pursuant to the constituent
21 instruments defining the rights of the holders of the bonds shall
22 be remitted by the indenture trustee to the Northern California Port
23 Congestion Relief Trust Fund and the Northern California Port
24 Mitigation Relief Trust Fund and shall be disbursed at the request
25 and direction of the California Transportation Commission and
26 the State Air Resources Board, respectively, for Northern California
27 port congestion relief projects and Northern California port
28 mitigation relief projects that are not being financed with revenue
29 bonds issued by the bank, and these funds are hereby continuously
30 appropriated, notwithstanding Section 13340, without regard to
31 fiscal years, for that purpose.

32 (b) The state hereby pledges to and agrees with the holders of
33 revenue bonds issued pursuant to this article, and each provider
34 of a letter of credit, standby purchase agreement, reimbursement
35 agreement, liquidity facility, or other similar arrangement for the
36 benefit of the revenue bonds, that the state will not limit, alter, or
37 restrict each pledge of Northern California port congestion relief
38 container fees and Northern California port mitigation relief
39 container fees permitted hereby and any other terms of any
40 agreement made with or for the benefit of the holders of the

1 revenue bonds or the providers or in any way impair the rights or
2 remedies of the holders of the bonds or the providers or reduce or
3 terminate the fees while any the bonds remain outstanding.

4 63049.75 Notwithstanding any other provision of law, Article
5 3 (commencing with Section 63040), Article 4 (commencing with
6 Section 63042), and Article 5 (commencing with Section 63043)
7 of this chapter do not apply to any financing provided by the bank
8 pursuant to this article, and the principal amount of revenue bonds
9 issued pursuant to this article and Chapter 5 (commencing with
10 Section 63070) shall not count against the limit stated in the first
11 sentence of subdivision (b) of Section 63071.

12 SEC. 2. The heading of Chapter 1 (commencing with Section
13 1720) is added to Part 2 of Division 6 of the Harbors and
14 Navigation Code, immediately preceding Section 1720, to read:

15
16 CHAPTER 1. PORT FACILITY CONSTRUCTION

17
18 SEC. 3. Chapter 2 (commencing with Section 1740) is added
19 to Part 2 of Division 6 of the Harbors and Navigation Code, to
20 read:

21
22 CHAPTER 2. PORT CONGESTION RELIEF AND PORT MITIGATION
23 RELIEF

24
25 Article 1. General Provisions

26
27 1740. The Legislature hereby finds and declares all of the
28 following:

29 (a) There is a need to mitigate the enormous burden imposed
30 on the highway transportation system serving the Ports of Los
31 Angeles, Long Beach, and Oakland by the overland movement of
32 cargo shipped from and to those ports.

33 (b) The operation of the ports causes environmental pollution
34 that requires mitigation.

35 (c) The improvement of goods movement infrastructure would
36 benefit the owners of container cargo moving through the ports
37 by allowing the owners of the cargo to move container cargo more
38 efficiently and to move more cargo through those ports.

39 (d) The reduction of goods movement pollution would benefit
40 the owners of container cargo moving through the ports by meeting

1 federal air quality standards, which will allow for continued federal
2 funding of goods movement infrastructure projects.

3 (e) Accordingly, it is the intent of the Legislature to alleviate
4 these burdens by imposing a fee on shipping containers processed
5 through those ports and using the funds derived from that fee to
6 do both of the following:

7 (1) Improve the rail system that serves as an alternative to
8 shipping on the highway by commercial vehicle, including, but
9 not limited to, the ondock rail facilities at those ports.

10 (2) Mitigate the environmental pollution caused by port
11 operations.

12 1741. (a) There is hereby established in the State Treasury the
13 Southern California Port Congestion Relief Trust Fund.

14 (b) There is hereby established in the State Treasury the
15 Northern California Port Congestion Relief Trust Fund.

16 (c) There is hereby established in the State Treasury the Southern
17 California Port Mitigation Relief Trust Fund.

18 (d) There is hereby established in the State Treasury the
19 Northern California Port Mitigation Relief Trust Fund.

20 1743. For purposes of this chapter, the following definitions
21 apply:

22 (a) “Board” means the State Air Resources Board.

23 (b) “Commission” means the California Transportation
24 Commission.

25 (c) “Northern California Congestion Fund” means the Northern
26 California Port Congestion Relief Trust Fund.

27 (d) “Northern California Mitigation Fund” means the Northern
28 California Port Mitigation Relief Trust Fund.

29 (e) “Port” means the Port of Los Angeles, Port of Long Beach,
30 or Port of Oakland, as appropriate.

31 (f) “Southern California Congestion Fund” means the Southern
32 California Port Congestion Relief Trust Fund.

33 (g) “Southern California Mitigation Fund” means the Southern
34 California Port Mitigation Relief Trust Fund.

35

36

Article 2. User Fee

37

38 1745. (a) Beginning January 1, 2008, the Port of Los Angeles
39 shall develop a process for notifying the owner of, and collecting

1 a user fee from the owner of, container cargo moving through the
2 port.

3 (b) No later than June 1, 2008, the port shall notify the owner
4 of cargo moving through the port that it will be assessed a user fee
5 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit
6 (TEU). The notice shall include, but not be limited to, the process
7 for payment of the user fee, the frequency for payment of the user
8 fee, and that the user fee is being assessed to improve the goods
9 movement infrastructure serving the port, to reduce pollution from
10 all forms of equipment, vehicles, locomotives, and ships that
11 operate at the port and bring containers to and from the port.

12 (c) Beginning January 1, 2009, the port shall assess a user fee
13 on the owner of container cargo moving through the port not to
14 exceed thirty dollars (\$30) per TEU. The port shall collect the fee
15 at least twice a year.

16 (1) The port shall remit one-half of the user fee to the Southern
17 California Congestion Fund. Upon appropriation, moneys deposited
18 in that fund shall be available for expenditure by the commission
19 exclusively for the purposes of funding projects that improve the
20 flow and efficiency of container cargo to and from the Port of Los
21 Angeles, and to fund the administrative costs of this program.
22 Moneys deposited in that fund shall not be loaned or transferred
23 to, or allocated or appropriated in any other way to, the General
24 Fund.

25 (2) The port shall remit one-half of the user fee to the Southern
26 California Mitigation Fund. Upon appropriation, moneys deposited
27 in that fund shall be available for expenditure by the board to
28 mitigate environmental pollution caused by the movement of cargo
29 to and from the Port of Los Angeles by commercial motor vehicles,
30 oceangoing vessels, and rail, and to fund the administrative costs
31 of this program. Moneys deposited in that fund shall not be loaned
32 or transferred to, or allocated or appropriated in any other way to,
33 the General Fund.

34 (d) The port may contract with PierPass for the collection of
35 the user fee authorized pursuant to this section.

36 1746. (a) Beginning January 1, 2008, the Port of Long Beach
37 shall develop a process for notifying the owner of, and collecting
38 a user fee from the owner of, container cargo moving through the
39 port.

1 (b) No later than June 1, 2008, the port shall notify the owner
2 of cargo moving through the port that it will be assessed a user fee
3 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit
4 (TEU). The notice shall include, but not be limited to, the process
5 for payment of the user fee, the frequency for payment of the user
6 fee, and that the user fee is being assessed to improve the goods
7 movement infrastructure serving the port, to reduce pollution from
8 all forms of equipment, vehicles, locomotives, and ships that
9 operate at the port and bring containers to and from the port.

10 (c) Beginning January 1, 2009, the port shall assess a user fee
11 on the owner of container cargo moving through the port not to
12 exceed thirty dollars (\$30) per TEU. The port shall collect the fee
13 at least twice a year.

14 (1) The port shall remit one-half of the user fee to the Southern
15 California Congestion Fund. Upon appropriation, moneys deposited
16 in that fund shall be available for expenditure by the commission
17 exclusively for the purposes of funding projects that improve the
18 flow and efficiency of container cargo to and from the Port of and
19 Long Beach, and to fund the administrative costs of this program.
20 Moneys deposited in that fund shall not be loaned or transferred
21 to, or allocated or appropriated in any other way to, the General
22 Fund.

23 (2) The port shall remit one-half of the user fee to the Southern
24 California Mitigation Fund. Upon appropriation, moneys deposited
25 in that fund shall be available for expenditure by the board to
26 mitigate environmental pollution caused by the movement of cargo
27 to and from the Port of Long Beach by commercial motor vehicles,
28 oceangoing vessels, and rail, and to fund the administrative costs
29 of this program. Moneys deposited in that fund shall not be loaned
30 or transferred to, or allocated or appropriated in any other way to,
31 the General Fund.

32 (d) The port may contract with PierPass for the collection of
33 the user fee authorized pursuant to this section.

34 1747. (a) Beginning January 1, 2008, the Port of Oakland shall
35 develop a process for notifying the owner of, and collecting a user
36 fee from the owner of, container cargo moving through the port.

37 (b) No later than June 1, 2008, the port shall notify the owner
38 of cargo moving through the port that it will be assessed a user fee
39 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit
40 (TEU). The notice shall include, but not be limited to, the process

1 for payment of the user fee, the frequency for payment of the user
2 fee, and that the user fee is being assessed to improve the goods
3 movement infrastructure serving the port, to reduce pollution from
4 all forms of equipment, vehicles, locomotives, and ships that
5 operate at the port and bring containers to and from the port.

6 (c) Beginning January 1, 2009, the port shall assess a user fee
7 on the owner of container cargo moving through the port not to
8 exceed thirty dollars (\$30) per TEU. The port shall collect the fee
9 at least twice a year.

10 (1) The port shall remit one-half of the user fee to the Northern
11 California Congestion Fund. Upon appropriation, moneys deposited
12 in that fund shall be available for expenditure by the commission
13 exclusively for the purposes of funding projects that improve the
14 flow and efficiency of container cargo to and from the Port of
15 Oakland and to fund the administrative costs of this program.
16 Moneys deposited in that fund shall not be loaned or transferred
17 to, or allocated or appropriated in any other way to, the General
18 Fund.

19 (2) The port shall remit one-half of the user fee to the Northern
20 California Mitigation Fund. Upon appropriation, moneys deposited
21 in that fund shall be available for expenditure by the board to
22 mitigate environmental pollution caused by the movement of cargo
23 to and from the port by commercial motor vehicles, oceangoing
24 vessels, and rail, and to fund the administrative costs of this
25 program. Moneys deposited in that fund shall not be loaned or
26 transferred to, or allocated or appropriated in any other way to,
27 the General Fund.

28 (d) The port may contract with PierPass for the collection of
29 the user fee authorized pursuant to this section.

30

31 Article 3. Congestion Relief and Mitigation Relief Projects

32

33 1750. (a) Beginning January 1, 2008, the commission shall
34 develop a list of projects that would improve the overall efficiency
35 of container cargo movement to and from the Ports of Los Angeles
36 and Long Beach by improving the rail system and container
37 transportation systems that transport container cargo from and to
38 those ports and the ondock rail facilities at those ports. In the
39 process for selecting projects, the commission shall consult with
40 the transportation commissions for the Counties of Los Angeles,

1 Orange, Riverside, San Bernardino, and Ventura, the Port of Los
2 Angeles, the City of Los Angeles, the Port of Long Beach, the City
3 of Long Beach, and the Southern California Association of
4 Governments. The commission shall hold public hearings to seek
5 further input on developing these projects.

6 (b) No later than September 1, 2008, the commission, at a public
7 hearing, shall finalize a list of projects that would improve the
8 overall efficiency of container cargo movement to and from the
9 Ports of Los Angeles and Long Beach by improving the rail system
10 and container transportation systems that transport container cargo
11 from and to those ports and the ondock rail facilities at those ports.
12 This will be the final list, of infrastructure projects at the Ports of
13 Los Angeles and Long Beach, eligible to be funded by the user
14 fee authorized pursuant to this chapter.

15 (c) Projects eligible to be on the final list shall not be used to
16 construct, maintain, or improve highways, unless the highway or
17 road improvement is part of a rail grade separation, or the highway
18 improvement is done to separate container cargo from motor
19 vehicle traffic by creating on-ramps or off-ramps for port container
20 truck traffic.

21 (d) In awarding funds pursuant to this section, the commission
22 shall give priority to those projects that have been designed to
23 measurably reduce air pollution and environmental impacts to
24 local communities, to assist in attaining state and federal air quality
25 goals and enhance environmental performance while addressing
26 the overall efficiency of container cargo movement.

27 (e) For all construction projects funded pursuant to this section,
28 a contractor shall ensure that all mobile nonroad equipment used
29 on the project will be equipped with a California Air Resources
30 Board (CARB) verified diesel particulate filter that obtains at least
31 an 85-percent reduction in emissions, unless any of the following
32 circumstances exists, and the contractor is able to provide proof
33 that any of these circumstances exists:

34 (1) A piece of specialized equipment is unavailable in a
35 controlled form within the state, including through a leasing
36 arrangement.

37 (2) A contractor has applied for incentive funds to put controls
38 on a piece of uncontrolled equipment planned for use on the
39 project, but the application is not yet approved, or the application
40 has been approved, but funds are not yet available.

1 (3) A contractor has ordered a control device for a piece of
2 equipment planned for use on the project, or has ordered a new
3 piece of controlled equipment to replace the uncontrolled
4 equipment, but that order has not been completed by the
5 manufacturer or dealer, and the contractor has attempted to lease
6 controlled equipment, but no dealer within 200 miles of the project
7 has the controlled equipment available for lease.

8 (f) Projects eligible to be considered by the commission include,
9 but are not limited to, all of the following:

10 (1) A project to separate at-grade crossings to reduce conflicts
11 between trains and motor vehicles in Los Angeles, Orange,
12 Riverside, and San Bernardino Counties, also known as the
13 Alameda Corridor East Project.

14 (2) A project to improve rail capacity by adding additional tracks
15 to existing rail lines in Los Angeles, Orange, Riverside, and San
16 Bernardino Counties.

17 (3) A project to separate at-grade rail crossings in San
18 Bernardino County, also known as the Colton crossing.

19 (4) A project to improve ondock rail infrastructure at the Ports
20 of Los Angeles and Long Beach.

21 (g) In determining which projects to select, the commission
22 shall also take into account the entire rail and trade corridor
23 servicing the Ports of Los Angeles and Long Beach.

24 (h) The commission shall only use the funds received from the
25 Southern California Congestion Fund to fund projects authorized
26 pursuant to this section.

27 (i) Once the projects on the final list are completed and fully
28 funded, the commission shall notify the Ports of Los Angeles and
29 Long Beach that the infrastructure projects are completed and to
30 no longer collect the one-half of the user fee for infrastructure
31 projects. The commission may also make a finding that a project
32 on the final list has either been funded by another source or is no
33 longer worthy of funding.

34 1751. (a) Beginning January 1, 2008, the commission shall
35 develop a list of projects that would improve the overall efficiency
36 of container cargo movement to and from the Port of Oakland by
37 improving the rail and container transportation systems that
38 transport container cargo from and to that port and the ondock rail
39 facilities at that port. In the process for selecting projects, the
40 commission shall consult with the transportation commissions for

1 the Counties of Alameda and Contra Costa, the Port of Oakland,
2 the City of Oakland, and the Bay Area Association of
3 Governments. The commission shall hold public hearings to seek
4 further input on developing these projects, including at least one
5 hearing in the City of Oakland.

6 (b) No later than September 1, 2008, the commission, at a public
7 hearing, shall finalize a list of projects that would improve the
8 overall efficiency of container cargo movement to and from the
9 Port of Oakland by improving the rail and container transportation
10 systems that transport container cargo from and to that port and
11 the ondock rail facilities at that port. This will be the final list, of
12 infrastructure projects at the Port of Oakland, eligible to be funded
13 by the user fee authorized pursuant to this chapter.

14 (c) Projects eligible to be on the final list shall not be used to
15 construct, maintain, or improve highways, unless the highway or
16 road improvement is part of a rail grade separation, or the highway
17 improvement is done to separate container cargo from motor
18 vehicle traffic by creating on-ramps or off-ramps for port container
19 truck traffic.

20 (d) In awarding funds pursuant to this section, the commission
21 shall give priority to those projects that have been designed to
22 measurably reduce air pollution and environmental impacts to
23 local communities, to assist in attaining state and federal air quality
24 goals and enhance environmental performance while addressing
25 the overall efficiency of container cargo movement.

26 (e) For all construction projects funded pursuant to this section,
27 a contractor shall ensure that all mobile nonroad equipment used
28 on the project will be equipped with a California Air Resources
29 Board (CARB) verified diesel particulate filter that obtains at least
30 an 85 percent reduction in emissions, unless any of the following
31 circumstances exists, and the contractor is able to provide proof
32 that any of these circumstances exists:

33 (1) A piece of specialized equipment is unavailable in a
34 controlled form within the state, including through a leasing
35 arrangement.

36 (2) A contractor has applied for incentive funds to put controls
37 on a piece of uncontrolled equipment planned for use on the
38 project, but the application is not yet approved, or the application
39 has been approved, but funds are not yet available.

1 (3) A contractor has ordered a control device for a piece of
2 equipment planned for use on the project, or has ordered a new
3 piece of controlled equipment to replace the uncontrolled
4 equipment, but that order has not been completed by the
5 manufacturer or dealer, and the contractor has attempted to lease
6 controlled equipment, but no dealer within 200 miles of the project
7 has the controlled equipment available for lease.

8 (f) Projects eligible to be considered by the commission include,
9 but are not limited to, projects to separate at-grade crossings to
10 reduce conflicts between trains and motor vehicles and ondock
11 rail improvements at the Port of Oakland.

12 (g) In determining which projects to select, the commission
13 shall also take into account the entire rail and trade corridor
14 servicing the Port of Oakland.

15 (h) The commission shall only use the funds received from the
16 Northern California Congestion Fund to fund projects authorized
17 pursuant to this section.

18 (i) Once the projects on the final list are completed and fully
19 funded, the commission shall notify the Port of Oakland, that the
20 infrastructure projects are completed and to no longer collect the
21 one-half of the user fee for infrastructure projects. The commission
22 may also make a finding that a project on the final list has either
23 been funded by another source or is no longer worthy of funding.

24 1752. (a) Beginning January 1, 2008, the board shall develop
25 a list of projects that reduce air pollution caused by the movement
26 of container cargo to and from the Ports of Los Angeles and Long
27 Beach. The projects on the list shall be consistent with the Emission
28 Reduction Plan (ERP) adopted April 2006, and shall be designed
29 to reduce air pollution at those ports in order to reach federal air
30 quality attainment standards and to meet the ERP's goals for 2010,
31 2015, and 2020. In developing the list, the board shall consult with
32 the South Coast Air Quality Management District, the Gateway
33 Council of Governments, and the Ports of Los Angeles and Long
34 Beach.

35 (b) The board shall work with the South Coast Air Quality
36 Management District, the Port of Long Beach, and the Port of Los
37 Angeles in order to ensure that projects within the San Pedro Bay
38 Clean Air Action Plan are completed or implemented. The board
39 may provide funding to the district or the ports in order to achieve
40 the goals of the plan.

1 (c) No later than September 1, 2008, the board, at a public
2 hearing, shall finalize a list of projects that meet the ERP's goals
3 for 2010, 2015, and 2020, in order to meet federal air quality
4 attainment standards.

5 (d) The board may determine, at a public hearing, that the
6 emission reduction goals for 2020 have been met or exceeded and
7 that federal air quality standards have been met in the South Coast
8 Air Basin, and once the determination is made, and ensuring that
9 all approved projects have been funded, the board shall notify the
10 Port of Los Angeles of this determination, and the Port of Los
11 Angeles shall no longer collect the one-half of the user fee for air
12 quality projects meant to reach these goals and federal air quality
13 attainment standards.

14 (e) The board may determine, at a public hearing, that the
15 emission reduction goals for 2020 have been met or exceeded and
16 that federal air quality standards have been met in the South Coast
17 Air Basin, and once the determination is made, and ensuring that
18 all approved projects have been funded, the board shall notify the
19 Port of Long Beach of this determination, and the Port of Long
20 Beach shall no longer collect the one-half of the user fee for air
21 quality projects meant to reach these goals and federal air quality
22 attainment standards.

23 (f) The board shall only use the funds received from the
24 Southern California Mitigation Fund to fund projects authorized
25 pursuant to this section.

26 1753. (a) Beginning January 1, 2008, the board shall develop
27 a list of projects that reduce air pollution caused by the movement
28 of container cargo to and from the Port of Oakland. The projects
29 on the list shall be consistent with the Emission Reduction Plan
30 (ERP) adopted April 2006, and shall be designed to reduce air
31 pollution at the port in order to reach federal air quality attainment
32 standards and to meet the ERP's goals for 2010, 2015, and 2020.
33 In developing the list, the board shall consult with the Bay Area
34 Air Quality Management District and the Port of Oakland.

35 (b) If the Bay Area Air Quality Management District and the
36 Port of Oakland develop a plan to reduce emissions from the Port
37 of Oakland, then the board shall work with the district and the Port
38 of Oakland in order to ensure that projects within the plan are
39 completed or implemented. The board may provide funding to the
40 district or the port in order to achieve the goals of the plan.

1 (c) No later than September 1, 2008, the board, at a public
2 hearing, shall finalize a list of projects that meet the ERP's goals
3 for 2010, 2015, and 2020, in order to meet federal air quality
4 attainment standards.

5 (d) The board may determine, at a public hearing, that the
6 emission reduction goals for 2020 have been met or exceeded and
7 that federal air quality standards have been met within the Bay
8 Area Air Quality Management District, and once the determination
9 is made, and ensuring that all approved projects have been funded,
10 the board shall notify the Port of Oakland of this determination,
11 and the Port of Oakland shall no longer collect the one-half of the
12 user fee for air quality projects meant to reach these goals and
13 federal air quality attainment standards.

14 (e) The board shall only use the funds received from the
15 Northern California Mitigation Fund to fund projects authorized
16 pursuant to this section.

17 SEC. 4. Section 1760 of the Harbors and Navigation Code is
18 amended and renumbered to read:

19 ~~1760.~~

20 1730. (a) For purposes of this section, "council" means the
21 California Marine and Intermodal Transportation System Advisory
22 Council, a regional subunit of the Marine Transportation System
23 National Advisory Council chartered by the federal Secretary of
24 Transportation under the Federal Advisory Council Act (P.L.
25 92-463).

26 (b) The council is requested to do all of the following:

27 (1) Meet, hold public hearings, and compile data on issues that
28 include, but need not be limited to, all of the following:

29 (A) The projected growth of each maritime port in the state.

30 (B) The costs and benefits of developing a coordinated state
31 program to obtain federal funding for maritime port growth,
32 security, and congestion relief.

33 (C) Impacts of maritime port growth on the state's transportation
34 system.

35 (D) Air pollution caused by movement of goods through the
36 state's maritime ports, and proposed methods of mitigating or
37 alleviating that pollution.

38 (E) Maritime port security, including, but not limited to, training,
39 readiness, certification of port personnel, exercise planning and

1 conduct, and critical marine transportation system infrastructure
2 protection.

3 (F) A statewide plan for continuing operation of maritime ports
4 in cooperation with the United States Coast Guard, the federal
5 Department of Homeland Security, the Office of Emergency
6 Services, the state Office of Homeland Security, and the California
7 National Guard, consistent with the state's emergency management
8 system and the national emergency management system, in the
9 event of a major incident or disruption of port operations in one
10 or more of the state's maritime ports.

11 (G) State marine transportation policy, legislation, and planning;
12 regional infrastructure project funding; competitiveness;
13 environmental impacts; port safety and security; and any other
14 matters affecting the marine transportation system of the United
15 States within, or affecting, the state.

16 (2) Identify all state agencies that are involved with the
17 development, planning, or coordination of maritime ports in the
18 state.

19 (3) Identify other states that have a statewide port master plan
20 and determine whether that plan has assisted those states in
21 improving their maritime ports.

22 (4) Compile all information obtained pursuant to paragraphs
23 (1) to (3), inclusive, and submit its findings in a report to the
24 Legislature not later than January 1, 2006. The report should
25 include, but need not be limited to, recommendations on methods
26 to better manage the growth of maritime ports and address the
27 environmental impacts of moving goods through those ports.

28 (c) The activities of the council pursuant to this section shall
29 not be funded with appropriations from the General Fund.

30 SEC. 5. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and
Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 28, 2007

Re: Update on Proposition 1B Highway Safety, Traffic Reduction, Air Quality, and
Port Security Bond Act of 2006

RECOMMENDED ACTION:

None; informational item.

DISCUSSION

In November of 2006, the voters approved Proposition 1B. Essentially, this lets the State sell \$20 billion of general obligation bonds for projects to cut congestion, move goods more efficiently, improve the transportation system's security and safety, and most notably for the District, improve air quality. The bond language on the air quality program reads:

"One billion dollars... shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. Funds made available by this paragraph are intended to supplement existing funds used to finance strategies and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the state's airports, seaports, and land ports of entry."

While the Administration has released a plan for spending the majority of the bond funds, there has not yet been a concrete proposal from the Air Resources Board (ARB) on how to spend the air quality funds. ARB staff have to date indicated that reducing truck emissions will be a primary focus of the funds, although they also hope to spend some funds on reducing locomotive, harborcraft, and port off-road equipment, and 'cold ironing' (a strategy to reduce emissions from ships' production of electric power while docked). Given the magnitude of emissions from the Port of Oakland, District staff believe that an appropriate level of mitigation funds must be spent in this region.

A bill has been introduced in the Senate (SB 9, Lowenthal) to provide guidance on how the funds should be spent. At the time of this writing, however, the bill does not yet have content. On March 6, the Senate committees on Environmental Quality and Transportation and Housing will have a joint hearing to begin the legislative deliberation on how these funds are best spent.

In the other house, two bills have been introduced that would shape how these funds are spent. Assemblymember Arambula's AB 575 would prioritize funding projects in the South Coast and San Joaquin air basins. This would dramatically reduce funding to the Port of Oakland and the Bay Area. Assemblymember Karnette's AB 1208 also contains extensive criteria on the distribution of these funds. The general effect of her bill would be that the funding would go to cut emissions at the southern California ports, and Oakland would receive very little funding.

AGENDA : 5

There is also \$200 million in Proposition 1B funds for “schoolbus retrofit and replacement to reduce air pollution and to reduce children’s exposure to diesel exhaust.” Here again the bond was silent on how these funds are to be distributed.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
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