



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

TOM BATES – CHAIRPERSON  
JOHN AVALOS  
JENNIFER HOSTERMAN  
ASH KALRA

SUSAN GARNER – VICE CHAIRPERSON  
SCOTT HAGGERTY  
DAVID HUDSON  
NATE MILEY

WEDNESDAY  
MARCH 21, 2012  
9:00 A.M.

4<sup>TH</sup> FLOOR CONFERENCE ROOM  
939 ELLIS STREET  
SAN FRANCISCO, CA 94109

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 Air 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 JANUARY 30, 2012**

4. **CONSIDERATION OF NEW BILLS**

T. Addison/5109  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*The Committee will discuss and review new bills, and adopt positions where appropriate.*

5. **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)*

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

7. **ADJOURNMENT**

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**(415) 749-5130  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://www.baaqmd.gov)**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94941, at the time such writing is made available to all, or a majority of all members of that body. Such writing may also be posted on the District's website ([www.baaqmd.gov](http://www.baaqmd.gov)) at that time.

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

**EXECUTIVE OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**

**MARCH 2012**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Advisory Council Regular Meeting</b> <i>(Meets 2<sup>nd</sup> Wednesday each Month)</i>	Wednesday	14	9:00 a.m.	Board Room
<b>Board of Directors Public Outreach Committee</b>	Thursday	15	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Executive Committee</b> <i>(Meets 3<sup>rd</sup> Monday of each Month)</i>	Monday	19	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets 3<sup>rd</sup> Monday Every Other Month)</i>	Monday	19	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Legislative Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	21	9:00 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i> - CANCELLED AND RESCHEDULED TO THURSDAY, MARCH 29, 2012	Thursday	22	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Personnel Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	28	11:00 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i> - CANCELLED	Thursday	29	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**APRIL 2012**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b> <i>(Meets 2<sup>nd</sup> Wednesday each Month)</i>	Wednesday	11	9:00 a.m.	Board Room

## APRIL 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Executive Committee</b> <i>(Meets 3<sup>rd</sup> Monday of each Month)</i>	Monday	16	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Climate Protection Committee</b> <i>(At the Call of the Chair)</i>	Monday	16	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	26	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## MAY 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b> <i>(Meets 2<sup>nd</sup> Wednesday each Month)</i>	Wednesday	9	9:00 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets 3<sup>rd</sup> Monday of each Month)</i>	Monday	21	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets 3<sup>rd</sup> Monday Every Other Month)</i>	Monday	21	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

VJ – 3/12/12 (3:10 p.m.)

P/Library/Forms/Calendar/Calendar/Moncal

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Bates and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 6, 2012

Re: Legislative Committee Draft Meeting Minutes

RECOMMENDED ACTION

Approve attached draft minutes of the Legislative Committee meeting of January 30, 2012.

DISCUSSION

Attached for your review and approval are the draft minutes of the January 30, 2012 Legislative Committee meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared By: Sean Gallagher  
Reviewed by: Jennifer C. Cooper

Attachment

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, January 30, 2012

**1. Call to Order – Roll Call**

Committee Chairperson Tom Bates called the meeting to order at 9:33 a.m.

Present: Committee Chairperson Tom Bates; Vice Chairperson Susan Garner; and Directors John Avalos, Scott Haggerty, Jennifer Hosterman, David Hudson, Ash Kalra and Nate Miley.

Absent: Director Johanna Partin.

Also Present: Board of Directors Chairperson John Gioia.

**2. Public Comment Period: None.**

**3. Approval of Minutes of September 26, 2011**

Director Hudson requested an amendment to the roll call portion of the minutes to reflect his being present.

**Committee Action:** Director Hudson made a motion to approve the Minutes of September 26, 2011, as amended; Director Haggerty seconded the motion; carried unanimously without objection.

NOTED PRESENT: Director Avalos was noted present at 9:37 a.m. and Director Miley was noted present at 9:38 a.m.

**4. District 2012 Legislative Agenda**

Thomas Addison, Senior Advanced Projects Advisor, gave the staff presentation regarding the District 2012 Legislative Agenda, a proposed two-part agenda. Part one of the agenda is a prioritization of efforts to prevent changes in policy or funding that will weaken existing air quality regulations or programs. Part two of the agenda is District sponsorship of Senate Bill 582, dealing with transit commute benefit options, with two primary amendments to last year's failed bill. The first amendment limits the pilot program to the Bay Area. The second amendment increases the minimum employer to which it applies, from the 20 or more employees in last year's bill to 50 or more.

NOTED PRESENT: Director Kalra was noted present at 9:49 a.m.

The Committee discussed focusing on defending against the assuredly aggressive stance that opposition interests will take in the coming year and doing so by continuing its analysis of critical programs in potential peril over the coming years and the development of corresponding strategies to address each.

Committee Comments/Discussion:

Director Hudson noted the disappointing absence of the other regional agencies as co-sponsors of Senate Bill 582 and the current limitations of the Clipper Card program. Director Hudson requested clarification of the two proposed amendments. Committee Chairperson Bates expressed a desire to see the second amendment, regarding applicable employers, done away with for the time being. Director Haggerty suggested some limitations of the Clipper Card program may be a function of Internal Revenue Service rules.

Public Comments: None.

Committee Action: The Committee approved the proposed legislative agenda, with Committee Chairperson Bates and Director Avalos in opposition only as to the second amendment to Senate Bill 582 regarding the change from a 20- to 50-employee minimum.

NOTED PRESENT: Director Garner was noted present at 9:57 a.m.

**5. Discussion of Governor’s Proposed Budget for 2012-2013 Fiscal Year**

Committee Chairperson Bates gave the staff presentation in brief regarding the Governor’s Proposed Budget for 2012-2013 Fiscal Year.

Committee Comments/Questions: None.

Public Comments: None.

Committee Action: None; informational only.

**6. Discussion of New Bills**

Mr. Addison gave the staff presentation regarding a Discussion of New Bills, including a comprehensive look at Senate Bill 878, dealing primarily with the Joint Policy Committee (JPC) as amended last summer to address regional government issues in the Bay Area. Mr. Addison reported that the bill passed the Senate on January 26, 2012. Mr. Addison indicated that the District should expect to see more bills from Senator DeSaulnier regarding various aspects of regional government in the Bay Area.

Committee Comments/Questions: Director Haggerty expressed his perception of the Metropolitan Transportation Commission’s take on the bill and urged the District to follow suit by neither supporting nor opposing the bill at this time. Chairperson Gioia suggested the time

required to pass this bill will make the deadline it imposes an impossible one to satisfy and urged staff to establish a collective dialogue between Senator DeSaulnier and the chairpersons of the four involved agencies to address this issue and others like it. Committee Chairperson Bates and Mr. Addison discussed the bill's imposition of requirements on the JPC and the appropriateness of this body as the appointed party. Director Hudson expressed his opinion that the bill is in need of several modifications, beginning with the timeline imposed.

Public Comments: None.

Committee Action: None; informational only.

7. **Committee Member Comments/Other Business:** None.
8. **Time and Place of Next Meeting:** At the Call of the Chairperson.
9. **Adjournment:** The meeting adjourned at 10:40 a.m.

Sean Gallagher  
Clerk of the Boards



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Bates and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 6, 2012

Re: DISCUSSION OF NEW BILLS

RECOMMENDED ACTION:

The Committee will discuss new bills, and consider recommending positions on them to the Board of Directors.

BACKGROUND

The Legislature responded to its February 24, 2012 bill introduction deadline with close to 2,000 new bills. Staff have reviewed these bills, and will bring the most significant to the Committee for its consideration. Generally, bills have to be in print for 30 days prior to their first hearing. April is the busiest month for policy committees, since authors face either an April 27, 2012 or May 11, 2012 deadline for their bills to be passed out of policy committees.

DISCUSSION

Staff has prepared and attached a lengthy list of all bills with potential air quality implications. Staff is bringing some of these measures to the Committee with recommended positions, as noted on the list. Staff may present additional measures for the Committee to consider, as more information becomes available from the author's offices and sponsors between the date of the preparation of this memorandum and the Committee's meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison

Attachments

# BAAQMD BILL DISCUSSION LIST

March 2012

BILL NO.	AUTHOR	SUBJECT	POSITION (Positions in italics are staff recommendations)
AB 819	Wieckowski	Allows non-standard bikeways to be constructed in some circumstances	
AB 1532	Perez	Establishes Greenhouse Gas Reduction Account for cap-and-trade moneys	
AB 1537	Cook	Would sunset new state regulations with economic costs over \$1M after two years, unless Legislature passes a bill deciding otherwise	<i>Oppose</i>
AB 1549	Gatto	Assigns new tasks on permit streamlining to Office of Permit Assistance, including mediation of disputes, and would require their involvement in local agency decisions	
AB 1608	Wieckowski	Clean Vehicle Rebate Project	
AB 1613	Donnelly	Eliminates smog check on transfer of vehicle ownership	<i>Oppose</i>
AB 1627	Dickinson	Requires new CEC standards for reducing vehicle miles traveled (VMT)	
AB 1702	Logue	AB 32 spot bill	
AB 1721	Donnelly	Requires first violations of air quality laws to result only in a warning	<i>Oppose</i>
AB 1836	Fletcher	Air Quality Improvement Program spot bill	
AB 1900	Gatto	Affects PUC and CEC and requirements around methane gas from landfills	
AB 1906	Nestande	AB 32 market-based compliance mechanisms spot bill	
AB 1922	Lara	Exempts certain heavy-duty commercial vehicles from regular smoke inspections	<i>Oppose</i>
AB 1959	Williams	Would require California Building Stds. Commission to consider adopting standards for toxic air contaminants as part of mandatory minimum building standards	
AB 2024	Mendoza	Reduces the number of vehicles subject to ARB's In-Use On-Road diesel regulation	<i>Oppose</i>
AB 2045	Perea	Applies to expedited permits and fees in the San Joaquin Valley Air District	
AB 2091	B. Berryhill	Imposes new requirements on state agencies with regulations using new or emerging technology or equipment	<i>Oppose</i>

AB 2135	Blumenfield	Requires CA Building Standards Commission to adopt model ordinance and guidelines for solar electric residential and commercial installations	
AB 2173	Skinner	Liberalizes existing MTC regional gas tax authority in several ways	
AB 2200	Ma	States legislative intent to enact legislation on HOV lanes	
AB 2234	Hill	Would extend net energy metering for solar to public agencies	
AB 2245	Smyth	Would exempt bikeways within existing right-of-way from CEQA review	
AB 2249	Buchanan	Allows existing incentives for solar thermal non-residential pool heating	
AB 2257	Achadjian	Narrows the circumstances in which a landfill can be called a nuisance	
AB 2289	Jeffries	Changes exemption process for kit cars exempted from Smog Check	
AB 2339	Williams	Requires PUC, in consultation with CEC and ARB, to work to increase solar and geothermal heating and cooling	
AB 2347	Achadjian	AB 32 spot bill	
AB 2390	Chesbro	Intent bill to create incentives for forest thinning used for biomass and electrical generation	
AB 2404	Fuentes	Creates Local Emission Reduction Fund with cap-and-trade AB 32 funds	
AB 2405	Blumenfield	Would allow "green stickered" vehicles (plug-in hybrids) into High Occupancy Toll lanes without charge, regardless of occupancy	
AB 2412	Swanson	Air Quality Improvement Program spot bill	
AB 2488	Williams	Smog Check gross polluters spot bill	
AB 2499	Conway	Heavy duty vehicle smoke inspection spot bill	
AB 2563	Smyth	Requires ARB to consider adopting compliance offset protocols for AB 32, and sets limits on percentages of compliance obligations that can be met with offsets	
AB 2581	Conway	HOV lane spot bill	
AB 2583	Blumenfield	Has CEC fund alternative fuel infrastructure in public parking lots	
AB 2605	Cedillo	Allows certain city attorneys to enforce stationary source air pollution requirements	<i>Oppose</i>
AB 2631	Fletcher	Electric vehicle parking and charging spot bill	
AB 2644	Butler	Require EV parking standards to be included in next building standards update	
AB 2652	Furutani	Smog Check spot bill	
SB 52	Steinberg	CEQA streamlining for beneficial greenhouse gas reduction projects	

SB 878	DeSaulnier	Requires the Bay Area regional agencies and the Joint Policy Committee to report to the Legislature on certain things	Watch
SB 901	Steinberg	Targets AB 118 vehicle retirement funding to dirtiest vehicles in federal non-attainment areas	
SB 1076	Emmerson	Makes changes to ARB's greenhouse gas tire pressure regulation	
SB 1127	Vargas	Requires South Coast AQMD to weaken an industrial metal lubrication rule	<i>Oppose</i>
SB 1128	Padilla	Expands grants from CA Alternative Energy and Advanced Transportation Financing Authority to also allow 'advanced manufacturing' projects	
SB 1130	DeLeon	Enacts Commercial Building Energy Retrofit Financing Act of 2012	
SB 1139	Rubio	Carbon Capture and Storage Act of 2012	
SB 1149	DeSaulnier	Spot bill on the Metropolitan Transportation Commission	
SB 1221	Lieu	States legislative intent to reduce health impacts from air pollution from regional sources such as ports, airports, and highways	
SB 1222	Leno	States legislative intent to streamline local permitting of solar electric installations	
SB 1224	La Malfa	Ends smog checks for 1976 through 1981 vehicles	<i>Oppose</i>
SB 1230	Runner	Requires Occupational Safety and Health Standards Board to adopt standards for diesel emission reduction control equipment required by ARB regulation	<i>Oppose</i>
SB 1257	Hernandez	Eliminates utility user tax for electric transit bus fast chargers	
SB 1283	Alquist	San Francisco Bay Area Sea Level Rise Planning Act	
SB 1339	Yee	Authorizes BAAQMD and MTC to enact a transit commute benefits requirement	Sponsor
SB 1394	Lowenthal	Eliminates some biennial reporting requirements for CalEPA and related agencies	
SB 1414	Dutton	Office of Administrative Law regulatory review spot bill	
SB 1417	Hancock	Transit Priority Project spot bill	
SB 1445	Cannella	Motor vehicle registration fee spot bill	
SB 1455	Kehoe	Has ARB and CEC work together on state alternative fuel plan	
SB 1545	DeSaulnier	Prohibits spending of public funds on development or improvement of 390 Main St. until state audit is completed, and the issues raised are addressed	<i>Oppose</i>
SB 1572	Pavley	Establishes Greenhouse Gas Reduction Account for spending cap-and-trade funds	

**ASSEMBLY BILL**

**No. 1537**

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**Introduced by Assembly Member Cook**

January 24, 2012

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An act to amend Section 11349.1 of, and to add Section 11346.15 to, the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1537, as introduced, Cook. Regulations: sunset date.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would require that a regulation proposed on or after January 1, 2013, that is estimated to have an adverse economic impact of more than \$1,000,000 in a year on businesses or individuals subject to the proposed regulation include a provision to repeal the regulation 2 years after the date that the regulation is approved by the office. The bill would require the office to return to an agency any proposed regulation that does not include the repeal provision. The bill would provide that the repeal date shall be void if the Legislature enacts a statute that expressly validates and approves the content of the regulation, as specified.

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 11346.15 is added to the Government  
2 Code, to read:

3 11346.15. (a) This section shall apply to any regulation  
4 proposed on or after January 1, 2013, that is estimated to have an  
5 adverse economic impact of more than one million dollars  
6 (\$1,000,000) in a year on businesses or individuals subject to the  
7 proposed regulation, as estimated pursuant to Section 11346.3.

8 (b) Every regulation described in subdivision (a) shall include  
9 a provision that repeals the regulation two years after the date that  
10 the regulation is approved by the office.

11 (c) If the Legislature enacts a statute expressly validating and  
12 approving the content of a regulation, and the statute takes effect  
13 prior to the repeal date designated for the regulation, then the repeal  
14 date shall be void and the regulation shall continue in effect until  
15 any later time as may be provided by the validating statute.

16 SEC. 2. Section 11349.1 of the Government Code, as amended  
17 by Section 9 of Chapter 496 of the Statutes of 2011, is amended  
18 to read:

19 11349.1. (a) The office shall review all regulations adopted,  
20 amended, or repealed pursuant to the procedure specified in Article  
21 5 (commencing with Section 11346) and submitted to it for  
22 publication in the California Code of Regulations Supplement and  
23 for transmittal to the Secretary of State and make determinations  
24 using all of the following standards:

- 25 (1) Necessity.
- 26 (2) Authority.
- 27 (3) Clarity.
- 28 (4) Consistency.
- 29 (5) Reference.
- 30 (6) Nonduplication.

31 In reviewing regulations pursuant to this section, the office shall  
32 restrict its review to the regulation and the record of the rulemaking  
33 proceeding. The office shall approve the regulation or order of  
34 repeal if it complies with the standards set forth in this section and  
35 with this chapter.

36 (b) In reviewing proposed regulations for the criteria in  
37 subdivision (a), the office may consider the clarity of the proposed  
38 regulation in the context of related regulations already in existence.

1 (c) The office shall adopt regulations governing the procedures  
2 it uses in reviewing regulations submitted to it. The regulations  
3 shall provide for an orderly review and shall specify the methods,  
4 standards, presumptions, and principles the office uses, and the  
5 limitations it observes, in reviewing regulations to establish  
6 compliance with the standards specified in subdivision (a). The  
7 regulations adopted by the office shall ensure that it does not  
8 substitute its judgment for that of the rulemaking agency as  
9 expressed in the substantive content of adopted regulations.

10 (d) The office shall return any regulation subject to this chapter  
11 to the adopting agency if any of the following occur:

12 (1) The adopting agency has not prepared the estimate required  
13 by paragraph (6) of subdivision (a) of Section 11346.5 and has not  
14 included the data used and calculations made and the summary  
15 report of the estimate in the file of the rulemaking.

16 (2) The agency has not complied with Section 11346.3.  
17 “Noncompliance” means that the agency failed to complete the  
18 economic impact assessment or standardized regulatory impact  
19 analysis required by Section 11346.3 or failed to include the  
20 assessment or analysis in the file of the rulemaking proceeding as  
21 required by Section 11347.3.

22 (3) The adopting agency has prepared the estimate required by  
23 paragraph (6) of subdivision (a) of Section 11346.5, the estimate  
24 indicates that the regulation will result in a cost to local agencies  
25 or school districts that is required to be reimbursed under Part 7  
26 (commencing with Section 17500) of Division 4, and the adopting  
27 agency fails to do any of the following:

28 (A) Cite an item in the Budget Act for the fiscal year in which  
29 the regulation will go into effect as the source from which the  
30 Controller may pay the claims of local agencies or school districts.

31 (B) Cite an accompanying bill appropriating funds as the source  
32 from which the Controller may pay the claims of local agencies  
33 or school districts.

34 (C) Attach a letter or other documentation from the Department  
35 of Finance which states that the Department of Finance has  
36 approved a request by the agency that funds be included in the  
37 Budget Bill for the next following fiscal year to reimburse local  
38 agencies or school districts for the costs mandated by the  
39 regulation.

1 (D) Attach a letter or other documentation from the Department  
 2 of Finance which states that the Department of Finance has  
 3 authorized the augmentation of the amount available for  
 4 expenditure under the agency’s appropriation in the Budget Act  
 5 which is for reimbursement pursuant to Part 7 (commencing with  
 6 Section 17500) of Division 4 to local agencies or school districts  
 7 from the unencumbered balances of other appropriations in the  
 8 Budget Act and that this augmentation is sufficient to reimburse  
 9 local agencies or school districts for their costs mandated by the  
 10 regulation.

11 (4) The proposed regulation conflicts with an existing state  
 12 regulation and the agency has not identified the manner in which  
 13 the conflict may be resolved.

14 (5) The agency did not make the alternatives determination as  
 15 required by paragraph (4) of subdivision (a) of Section 11346.9.

16 (6) *The regulation does not include provisions for the repeal of*  
 17 *the regulation, as required by Section 11346.15.*

18 (e) The office shall notify the Department of Finance of all  
 19 regulations returned pursuant to subdivision (d).

20 (f) The office shall return a rulemaking file to the submitting  
 21 agency if the file does not comply with subdivisions (a) and (b)  
 22 of Section 11347.3. Within three state working days of the receipt  
 23 of a rulemaking file, the office shall notify the submitting agency  
 24 of any deficiency identified. If no notice of deficiency is mailed  
 25 to the adopting agency within that time, a rulemaking file shall be  
 26 deemed submitted as of the date of its original receipt by the office.  
 27 A rulemaking file shall not be deemed submitted until each  
 28 deficiency identified under this subdivision has been corrected.

29 (g) Notwithstanding any other law, return of the regulation to  
 30 the adopting agency by the office pursuant to this section is the  
 31 exclusive remedy for a failure to comply with subdivision (c) of  
 32 Section 11346.3 or paragraph (10) of subdivision (a) of Section  
 33 11346.5.

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**ASSEMBLY BILL**

**No. 1613**

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**Introduced by Assembly Member Donnelly**

February 8, 2012

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An act to amend Section 44015 of the Health and Safety Code, and to amend Section 4000.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as introduced, Donnelly. Motor vehicle inspection and maintenance program.

Existing law establishes a motor vehicle inspection and maintenance (smog-check) program, administered by the Department of Consumer Affairs and the State Air Resources Board, which provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law requires the Department of Motor Vehicles (DMV) to require, upon initial registration, and, except as specified, upon transfer of ownership and registration, of a motor vehicle, and upon registration of a motor vehicle previously registered outside this state that is subject to those provisions, a valid certificate of compliance or a certificate of noncompliance, as appropriate, with respect to smog certification. Existing law specifies that a certificate of compliance or noncompliance is valid for 90 days, except as provided.

This bill would delete the requirement that the DMV require a certificate of compliance or a certificate of noncompliance with respect to smog certification upon any transfer of ownership and registration of a motor vehicle.

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 44015 of the Health and Safety Code is  
2 amended to read:  
3 44015. (a) A licensed smog check station shall not issue a  
4 certificate of compliance, except as authorized by this chapter, to  
5 any a vehicle that meets the following criteria:  
6 (1) A vehicle that has been tampered with.  
7 (2) A vehicle identified pursuant to subparagraph (K) of  
8 paragraph (3) of subdivision (b) of Section 44036. A vehicle  
9 identified pursuant to subparagraph (K) of paragraph (3) of  
10 subdivision (b) of Section 44036 shall be directed to the department  
11 to determine whether an inadvertent error can explain the  
12 irregularity, or whether the vehicle otherwise meets smog check  
13 requirements, allowing the certificate for compliance to be issued,  
14 or the vehicle shall be reinspected by a referee or another smog  
15 check station.  
16 (3) A vehicle that, prior to repairs, has been initially identified  
17 by the smog check station as a gross polluter. Certification of a  
18 gross polluting vehicle shall be conducted by a designated test-only  
19 facility, or a test-and-repair station that is both licensed and  
20 certified pursuant to Sections 44014 and 44014.2.  
21 (4) A vehicle described in subdivision (c).  
22 (b) If a vehicle meets the requirements of Section 44012, a smog  
23 check station licensed to issue certificates shall issue a certificate  
24 of compliance or a certificate of noncompliance.  
25 (c) (1) A repair cost waiver shall be issued, upon request of the  
26 vehicle owner, by an entity authorized to perform referee functions  
27 for a vehicle that has been properly tested but does not meet the  
28 applicable emission standards when it is determined that no  
29 adjustment or repair can be made that will reduce emissions from  
30 the inspected motor vehicle without exceeding the applicable repair  
31 cost limit established under Section 44017 and that every defect  
32 specified by paragraph (2) of subdivision (a) of Section 43204,  
33 and by paragraphs (2) and (3) of subdivision (a) of Section 43205,  
34 has been corrected. A repair cost waiver issued pursuant to this  
35 paragraph shall be accepted in lieu of a certificate of compliance

1 for the purposes of compliance with Section 4000.3 of the Vehicle  
2 Code. ~~No~~ A repair cost waiver shall *not* exceed two years' duration.  
3 ~~No~~ A repair cost waiver shall *not* be issued until the vehicle owner  
4 has expended an amount equal to the applicable repair cost limit  
5 specified in Section 44017.

6 (2) An economic hardship extension shall be issued, upon  
7 request of a qualified low-income motor vehicle owner, by an  
8 entity authorized to perform referee functions, for a motor vehicle  
9 that has been properly tested but does not meet the applicable  
10 emission standards when it is determined that no adjustment or  
11 repair can be made that will reduce emissions from the inspected  
12 motor vehicle without exceeding the applicable repair cost limit,  
13 as established pursuant to Section 44017.1, that every defect  
14 specified in paragraph (2) of subdivision (a) of Section 43204, and  
15 in paragraphs (2) and (3) of subdivision (a) of Section 43205, has  
16 been corrected, that the low-income vehicle owner would suffer  
17 an economic hardship if the extension is not issued, and that all  
18 appropriate emissions-related repairs up to the amount of the  
19 applicable repair cost limit in Section 44017.1 have been  
20 performed.

21 (d) ~~No~~ A repair cost waiver or economic hardship extension  
22 shall *not* be issued under any of the following circumstances:

23 (1) If a motor vehicle was issued a repair cost waiver or  
24 economic hardship extension in the previous biennial inspection  
25 of that vehicle. A repair cost waiver or economic hardship  
26 extension may be issued to a motor vehicle owner only once for  
27 a particular motor vehicle belonging to that owner. However, a  
28 repair cost waiver or economic hardship extension may be issued  
29 for a motor vehicle that participated in a previous waiver or  
30 extension program prior to January 1, 1998, as determined by the  
31 department. For waivers or extensions issued in the program  
32 operative on or after January 1, 1998, a waiver or extension may  
33 be issued for a motor vehicle only once per owner.

34 (2) Upon initial registration of all of the following:

35 (A) A direct import motor vehicle.

36 (B) A motor vehicle previously registered outside this state.

37 (C) A dismantled motor vehicle pursuant to Section 11519 of  
38 the Vehicle Code.

39 (D) A motor vehicle that has had an engine change.

40 (E) An alternate fuel vehicle.

1 (F) A specially constructed vehicle.

2 (e) Except as provided in subdivision (f), a certificate of  
3 compliance or noncompliance shall be valid for 90 days.

4 ~~(f) Excluding any vehicle whose transfer of ownership and~~  
5 ~~registration is described in subdivision (d) of Section 4000.1 of~~  
6 ~~the Vehicle Code, and except~~ *Except* as otherwise provided in  
7 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code,  
8 a licensed motor vehicle dealer shall be responsible for having a  
9 smog check inspection performed on, and a certificate of  
10 compliance or noncompliance issued for, every motor vehicle  
11 offered for retail sale. A certificate issued to a licensed motor  
12 vehicle dealer shall be valid for a two-year period, or until the  
13 vehicle is sold and registered to a retail buyer, whichever occurs  
14 first.

15 (g) A test may be made at any time within 90 days prior to the  
16 date otherwise required.

17 SEC. 2. Section 4000.1 of the Vehicle Code is amended to  
18 read:

19 4000.1. (a) Except as otherwise provided in subdivision (b);  
20 ~~(e), or (d) or (c)~~ of this section, or subdivision (b) of Section 43654  
21 of the Health and Safety Code, the department shall require upon  
22 initial registration, ~~and upon transfer of ownership and registration,~~  
23 of any motor vehicle subject to Part 5 (commencing with Section  
24 43000) of Division 26 of the Health and Safety Code, a valid  
25 certificate of compliance or a certificate of noncompliance, as  
26 appropriate, issued in accordance with Section 44015 of the Health  
27 and Safety Code.

28 (b) With respect to new motor vehicles certified pursuant to  
29 Chapter 2 (commencing with Section 43100) of Part 5 of Division  
30 26 of the Health and Safety Code, the department shall accept a  
31 statement completed pursuant to subdivision (b) of Section 24007  
32 in lieu of the certificate of compliance.

33 (c) For purposes of determining the validity of a certificate of  
34 compliance or noncompliance submitted in compliance with the  
35 requirements of this section, the definitions of new and used motor  
36 vehicle contained in Chapter 2 (commencing with Section 39010)  
37 of Part 1 of Division 26 of the Health and Safety Code shall control.

38 ~~(d) Subdivision (a) does not apply to a transfer of ownership~~  
39 ~~and registration under any of the following circumstances:~~

1 ~~(1) The initial application for transfer is submitted within the~~  
2 ~~90-day validity period of a smog certificate as specified in Section~~  
3 ~~44015 of the Health and Safety Code.~~

4 ~~(2) The transferor is the parent, grandparent, sibling, child,~~  
5 ~~grandchild, or spouse of the transferee.~~

6 ~~(3) A motor vehicle registered to a sole proprietorship is~~  
7 ~~transferred to the proprietor as owner.~~

8 ~~(4) The transfer is between companies the principal business of~~  
9 ~~which is leasing motor vehicles, if there is no change in the lessee~~  
10 ~~or operator of the motor vehicle or between the lessor and the~~  
11 ~~person who has been, for at least one year, the lessee's operator~~  
12 ~~of the motor vehicle.~~

13 ~~(5) The transfer is between the lessor and lessee of the motor~~  
14 ~~vehicle, if there is no change in the lessee or operator of the motor~~  
15 ~~vehicle.~~

16 ~~(6) The motor vehicle was manufactured prior to the 1976~~  
17 ~~model-year.~~

18 ~~(7) Except for diesel-powered vehicles, the transfer is for a~~  
19 ~~motor vehicle that is four or less model-years old. The department~~  
20 ~~shall impose a fee of eight dollars (\$8) on the transferee of a motor~~  
21 ~~vehicle that is four or less model-years old. Revenues generated~~  
22 ~~from the imposition of that fee shall be deposited into the Vehicle~~  
23 ~~Inspection and Repair Fund.~~

24 ~~(e)~~

25 ~~(d) The State Air Resources Board, under Part 5 (commencing~~  
26 ~~with Section 43000) of Division 26 of the Health and Safety Code,~~  
27 ~~may exempt designated classifications of motor vehicles from~~  
28 ~~subdivision (a) as it deems necessary, and shall notify the~~  
29 ~~department of that action.~~

30 ~~(f)~~

31 ~~(e) Subdivision (a) does not apply to a motor vehicle when if~~  
32 ~~an additional individual is added as a registered owner of the motor~~  
33 ~~vehicle.~~

34 ~~(g)~~

35 ~~(f) For purposes of subdivision (a), any a collector motor vehicle,~~  
36 ~~as defined in Section 259, is exempt from those portions of the~~  
37 ~~test required by subdivision (f) of Section 44012 of the Health and~~  
38 ~~Safety Code; if the collector motor vehicle meets all of the~~  
39 ~~following criteria:~~

1 (1) Submission of proof that the motor vehicle is insured as a  
2 collector motor vehicle, as shall be required by regulation of the  
3 bureau.

4 (2) The motor vehicle is at least 35 model-years old.

5 (3) The motor vehicle complies with the exhaust emissions  
6 standards for that motor vehicle's class and model year as  
7 prescribed by the department; and the motor vehicle passes a  
8 functional inspection of the fuel cap and a visual inspection for  
9 liquid fuel leaks.

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**ASSEMBLY BILL**

**No. 1721**

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**Introduced by Assembly Member Donnelly**

February 16, 2012

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An act to add Section 39602.8 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1721, as introduced, Donnelly. Air pollution: violations.

(1) Existing law establishes the State Air Resources Board as the state agency with primary jurisdiction over the regulation of air pollution. Existing law grants to air pollution control and air quality management districts the primary authority for the control of air pollution from all sources other than vehicular sources. Existing law subjects violators of air pollution laws to specified civil and criminal penalties.

This bill would require the state board and all air pollution control and air quality management districts to issue a warning for the first violation of any state air pollution control law. By adding to the duties of air pollution control and air quality management districts, 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, 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. Section 39602.8 is added to the Health and Safety
- 2 Code, to read:
- 3 39602.8. Notwithstanding any other law, the state board and
- 4 all districts shall only issue a warning for the first violation of any
- 5 state air pollution control law.
- 6 SEC. 2. If the Commission on State Mandates determines that
- 7 this act contains costs mandated by the state, reimbursement to
- 8 local agencies and school districts for those costs shall be made
- 9 pursuant to Part 7 (commencing with Section 17500) of Division
- 10 4 of Title 2 of the Government Code.



**ASSEMBLY BILL**

**No. 1922**

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**Introduced by Assembly Member Lara**

February 22, 2012

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An act to amend Section 43701 of the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1922, as introduced, Lara. Heavy-duty vehicles: smoke emissions.

Existing law requires the State Air Resources Board to adopt regulations requiring owners or operators of heavy-duty diesel motor vehicles to perform regular inspections of their vehicles for excessive emissions of smoke.

This bill would require the state board to amend a specified regulation relating to the inspection of heavy-duty diesel motor vehicles for excessive emissions of smoke.

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 43701 of the Health and Safety Code is
- 2 amended to read:
- 3 43701. (a) (1) Not later than July 15, 1992, the state board,
- 4 in consultation with the bureau and the review committee
- 5 established pursuant to subdivision (a) of Section 44021, shall,
- 6 after a public hearing, adopt regulations that require that owners
- 7 or operators of heavy-duty diesel motor vehicles perform regular
- 8 inspections of their vehicles for excessive emissions of smoke.

1 The inspection procedure, the frequency of inspections, the  
2 emission standards for smoke, and the actions the vehicle owner  
3 or operator is required to take to remedy excessive smoke emissions  
4 shall be specified by the state board. Those standards shall be  
5 developed in consultation with interested parties. The smoke  
6 standards adopted under this subdivision shall not be more stringent  
7 than those adopted under Chapter 5 (commencing with Section  
8 44000).

9 *(2) The state board shall amend Sections 2190 to 2194,*  
10 *inclusive, of Title 13 of the California Code of Regulations to*  
11 *provide for all of the following:*

12 *(A) Commercial motor vehicles with a gross vehicle weight*  
13 *rating (GVWR) of 14,000 pounds or higher with 2007 and newer*  
14 *model-year engines shall be exempt beginning January 1, 2013.*

15 *(B) Commercial motor vehicles with a GVWR of 14,000 pounds*  
16 *or higher shall be exempt beginning January 1, 2023.*

17 (b) Not later than December 15, 1993, the state board shall, in  
18 consultation with the State Energy Resources Conservation and  
19 Development Commission, and after a public hearing, adopt  
20 regulations that require that heavy-duty diesel motor vehicles  
21 subject to subdivision (a) utilize emission control equipment and  
22 alternative fuels. The state board shall consider, but not be limited  
23 to, the use of cleaner burning diesel fuel, or other methods ~~which~~  
24 *that* will reduce gaseous and smoke emissions to the greatest extent  
25 feasible, taking into consideration the cost of compliance. The  
26 regulations shall provide that any significant modification of the  
27 engine necessary to meet these requirements shall be made during  
28 a regularly scheduled major maintenance or overhaul of the  
29 vehicle's engine. If the state board requires the use of alternative  
30 fuels, it shall do so only to the extent those fuels are available.

31 (c) The state board shall adopt emissions standards and  
32 procedures for the qualification of any equipment used to meet the  
33 requirements of subdivision (b), and only qualified equipment  
34 shall be used.

35 (d) To the extent permissible under federal law, commencing  
36 January 1, 2006, the owner or operator of any commercial motor  
37 truck, as defined in Section 410 of the Vehicle Code, with a ~~gross~~  
38 ~~vehicle weight rating (GVWR)~~ *GVWR* greater than 10,000 pounds  
39 that enters the state for the purposes of operating in the state shall  
40 maintain, and provide upon demand to enforcement authorities,

1 evidence demonstrating that its engine met the federal emission  
2 standards applicable to commercial heavy-duty engines for that  
3 engine's model-year at the time it was manufactured, pursuant to  
4 the protocol and regulations developed and implemented pursuant  
5 to subdivision (e).

6 (e) The state board, not later than January 1, 2006, in  
7 consultation with the California Highway Patrol, shall develop,  
8 adopt, and implement regulations establishing an inspection  
9 protocol for determining whether the engine of a truck subject to  
10 the requirements of subdivision (d) met the federal emission  
11 standard applicable to heavy-duty engines for that engine's  
12 model-year at the time it was manufactured.

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**ASSEMBLY BILL**

**No. 2024**

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**Introduced by Assembly Member Mendoza**

February 23, 2012

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An act to add Section 43018.3 to the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2024, as introduced, Mendoza. Vehicular air pollution: exemption: low-use vehicles: nonprofit organizations.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants, including standards for off-road and nonvehicle engine categories.

This bill would require the state board to amend a specified regulation relating to the emissions restrictions of diesel particulate matter, oxides of nitrogen, and other criteria pollutants from in-use, on-road, diesel-fueled vehicles.

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 43018.3 is added to the Health and Safety
- 2 Code, to read:
- 3 43018.3. The state board shall amend Section 2025 of Title 13
- 4 of the California Code of Regulations to do all of the following:
- 5 (a) Modify the definition of “low-use vehicle” to mean a vehicle
- 6 that will be operated fewer than 5,000 miles in California in any
- 7 compliance year. If that vehicle has an engine that powers other
- 8 equipment that can only be used while stationary, the engine or
- 9 power take off must also operate less than 100 hours in any
- 10 compliance year. The hour limitation does not apply for vehicles
- 11 where the engine is used to power an auxiliary mechanism that
- 12 strictly loads and unloads cargo from the vehicle.
- 13 (b) Exempt all tax-exempt nonprofit organizations.

**ASSEMBLY BILL**

**No. 2091**

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**Introduced by Assembly Member Bill Berryhill**

February 23, 2012

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An act to amend Sections 11346.2 and 11349.1 of, and to add Section 11346.10 to, the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2091, as introduced, Bill Berryhill. Regulations: new or emerging technology.

The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies, and for review of those regulatory actions by the Office of Administrative Law. The act requires an agency that is proposing an administrative regulation to prepare and submit to the office, and make available to the public upon request, specific information. The act requires the office to return to an agency any proposed regulation that does not meet certain requirements.

This bill would require a state agency proposing an administrative regulation that would require a person or entity to use a new or emerging technology or equipment in order to achieve the identified purpose of the regulation to determine if that technology is available and effective in accordance with certain requirements. The bill would also require the state agency that is proposing the regulation to include certain provisions in the regulation. The bill would require the state agency to submit to the office, and make available to the public upon request, a statement that the agency has complied with the requirements of this act. The bill would require the office to return to the agency the proposed

regulation if the agency has not complied with the prescribed requirements.

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 11346.2 of the Government Code, as  
2 amended by Section 2 of Chapter 496 of the Statutes of 2011, is  
3 amended to read:

4 11346.2. Every agency subject to this chapter shall prepare,  
5 submit to the office with the notice of the proposed action as  
6 described in Section 11346.5, and make available to the public  
7 upon request, all of the following:

8 (a) A copy of the express terms of the proposed regulation.

9 (1) The agency shall draft the regulation in plain, straightforward  
10 language, avoiding technical terms as much as possible, and using  
11 a coherent and easily readable style. The agency shall draft the  
12 regulation in plain English.

13 (2) The agency shall include a notation following the express  
14 terms of each California Code of Regulations section, listing the  
15 specific statutes or other provisions of law authorizing the adoption  
16 of the regulation and listing the specific statutes or other provisions  
17 of law being implemented, interpreted, or made specific by that  
18 section in the California Code of Regulations.

19 (3) The agency shall use underline or italics to indicate additions  
20 to, and strikethrough to indicate deletions from, the California Code  
21 of Regulations.

22 (b) An initial statement of reasons for proposing the adoption,  
23 amendment, or repeal of a regulation. This statement of reasons  
24 shall include, but not be limited to, all of the following:

25 (1) A statement of the specific purpose of each adoption,  
26 amendment, or repeal, the problem the agency intends to address,  
27 and the rationale for the determination by the agency that each  
28 adoption, amendment, or repeal is reasonably necessary to carry  
29 out the purpose and address the problem for which it is proposed.  
30 The statement shall enumerate the benefits anticipated from the  
31 regulatory action, including the benefits or goals provided in the  
32 authorizing statute. The benefits may include, to the extent  
33 applicable, nonmonetary benefits such as the protection of public

1 health and safety, worker safety, or the environment, the prevention  
2 of discrimination, the promotion of fairness or social equity, and  
3 the increase in openness and transparency in business and  
4 government, among other things.

5 (2) For a major regulation proposed on or after January 1, 2013,  
6 the standardized regulatory impact analysis required by Section  
7 11346.3.

8 (3) An identification of each technical, theoretical, and empirical  
9 study, report, or similar document, if any, upon which the agency  
10 relies in proposing the adoption, amendment, or repeal of a  
11 regulation.

12 (4) Where the adoption or amendment of a regulation would  
13 mandate the use of specific technologies or equipment, a statement  
14 of the reasons why the agency believes these mandates or  
15 prescriptive standards are required.

16 (5) (A) A description of reasonable alternatives to the regulation  
17 and the agency's reasons for rejecting those alternatives.  
18 Reasonable alternatives to be considered include, but are not  
19 limited to, alternatives that are proposed as less burdensome and  
20 equally effective in achieving the purposes of the regulation in a  
21 manner that ensures full compliance with the authorizing statute  
22 or other law being implemented or made specific by the proposed  
23 regulation. In the case of a regulation that would mandate the use  
24 of specific technologies or equipment or prescribe specific actions  
25 or procedures, the imposition of performance standards shall be  
26 considered as an alternative.

27 (B) A description of reasonable alternatives to the regulation  
28 that would lessen any adverse impact on small business and the  
29 agency's reasons for rejecting those alternatives.

30 (C) Notwithstanding subparagraph (A) or (B), an agency is not  
31 required to artificially construct alternatives or describe  
32 unreasonable alternatives.

33 (6) Facts, evidence, documents, testimony, or other evidence  
34 on which the agency relies to support an initial determination that  
35 the action will not have a significant adverse economic impact on  
36 business.

37 (7) A department, board, or commission within the  
38 Environmental Protection Agency, the Natural Resources Agency,  
39 or the Office of the State Fire Marshal shall describe its efforts, in  
40 connection with a proposed rulemaking action, to avoid



1 unnecessary duplication or conflicts with federal regulations  
2 contained in the Code of Federal Regulations addressing the same  
3 issues. These agencies may adopt regulations different from federal  
4 regulations contained in the Code of Federal Regulations  
5 addressing the same issues upon a finding of one or more of the  
6 following justifications:

7 (A) The differing state regulations are authorized by law.

8 (B) The cost of differing state regulations is justified by the  
9 benefit to human health, public safety, public welfare, or the  
10 environment.

11 (c) A state agency that adopts or amends a regulation mandated  
12 by federal law or regulations, the provisions of which are identical  
13 to a previously adopted or amended federal regulation, shall be  
14 deemed to have complied with subdivision (b) if a statement to  
15 the effect that a federally mandated regulation or amendment to a  
16 regulation is being proposed, together with a citation to where an  
17 explanation of the provisions of the regulation can be found, is  
18 included in the notice of proposed adoption or amendment prepared  
19 pursuant to Section 11346.5. However, the agency shall comply  
20 fully with this chapter with respect to any provisions in the  
21 regulation that the agency proposes to adopt or amend that are  
22 different from the corresponding provisions of the federal  
23 regulation.

24 *(d) If an agency is proposing to adopt, amend, or repeal a*  
25 *regulation that requires a person or entity to use a new or emerging*  
26 *technology or equipment in order to achieve the identified purpose*  
27 *of the regulation, a statement that the agency has complied with*  
28 *the requirements of Section 11346.10.*

29 ~~(d)~~

30 (e) This section shall become operative on January 1, 2012.

31 ~~(e)~~

32 (f) This section shall remain in effect only until January 1, 2014,  
33 and as of that date is repealed, unless a later enacted statute, that  
34 is enacted before January 1, 2014, deletes or extends that date.

35 SEC. 2. Section 11346.2 of the Government Code, as amended  
36 by Section 3 of Chapter 496 of the Statutes of 2011, is amended  
37 to read:

38 11346.2. Every agency subject to this chapter shall prepare,  
39 submit to the office with the notice of the proposed action as

1 described in Section 11346.5, and make available to the public  
2 upon request, all of the following:

3 (a) A copy of the express terms of the proposed regulation.

4 (1) The agency shall draft the regulation in plain, straightforward  
5 language, avoiding technical terms as much as possible, and using  
6 a coherent and easily readable style. The agency shall draft the  
7 regulation in plain English.

8 (2) The agency shall include a notation following the express  
9 terms of each California Code of Regulations section, listing the  
10 specific statutes or other provisions of law authorizing the adoption  
11 of the regulation and listing the specific statutes or other provisions  
12 of law being implemented, interpreted, or made specific by that  
13 section in the California Code of Regulations.

14 (3) The agency shall use underline or italics to indicate additions  
15 to, and ~~strikeout~~ to indicate deletions from, the California Code  
16 of Regulations.

17 (b) An initial statement of reasons for proposing the adoption,  
18 amendment, or repeal of a regulation. This statement of reasons  
19 shall include, but not be limited to, all of the following:

20 (1) A statement of the specific purpose of each adoption,  
21 amendment, or repeal, the problem the agency intends to address,  
22 and the rationale for the determination by the agency that each  
23 adoption, amendment, or repeal is reasonably necessary to carry  
24 out the purpose and address the problem for which it is proposed.  
25 The statement shall enumerate the benefits anticipated from the  
26 regulatory action, including the benefits or goals provided in the  
27 authorizing statute. These benefits may include, to the extent  
28 applicable, nonmonetary benefits such as the protection of public  
29 health and safety, worker safety, or the environment, the prevention  
30 of discrimination, the promotion of fairness or social equity, and  
31 the increase in openness and transparency in business and  
32 government, among other things. Where the adoption or  
33 amendment of a regulation would mandate the use of specific  
34 technologies or equipment, a statement of the reasons why the  
35 agency believes these mandates or prescriptive standards are  
36 required.

37 (2) For a major regulation proposed on or after November 1,  
38 2013, the standardized regulatory impact analysis required by  
39 Section 11346.3.

1 (3) An identification of each technical, theoretical, and empirical  
2 study, report, or similar document, if any, upon which the agency  
3 relies in proposing the adoption, amendment, or repeal of a  
4 regulation.

5 (4) (A) A description of reasonable alternatives to the regulation  
6 and the agency’s reasons for rejecting those alternatives.  
7 Reasonable alternatives to be considered include, but are not  
8 limited to, alternatives that are proposed as less burdensome and  
9 equally effective in achieving the purposes of the regulation in a  
10 manner that ensures full compliance with the authorizing statute  
11 or other law being implemented or made specific by the proposed  
12 regulation. In the case of a regulation that would mandate the use  
13 of specific technologies or equipment or prescribe specific actions  
14 or procedures, the imposition of performance standards shall be  
15 considered as an alternative.

16 (B) A description of reasonable alternatives to the regulation  
17 that would lessen any adverse impact on small business and the  
18 agency’s reasons for rejecting those alternatives.

19 (C) Notwithstanding subparagraph (A) or (B), an agency is not  
20 required to artificially construct alternatives or describe  
21 unreasonable alternatives.

22 (5) Facts, evidence, documents, testimony, or other evidence  
23 on which the agency relies to support an initial determination that  
24 the action will not have a significant adverse economic impact on  
25 business.

26 (6) A department, board, or commission within the  
27 Environmental Protection Agency, the Natural Resources Agency,  
28 or the Office of the State Fire Marshal shall describe its efforts, in  
29 connection with a proposed rulemaking action, to avoid  
30 unnecessary duplication or conflicts with federal regulations  
31 contained in the Code of Federal Regulations addressing the same  
32 issues. These agencies may adopt regulations different from federal  
33 regulations contained in the Code of Federal Regulations  
34 addressing the same issues upon a finding of one or more of the  
35 following justifications:

36 (A) The differing state regulations are authorized by law.

37 (B) The cost of differing state regulations is justified by the  
38 benefit to human health, public safety, public welfare, or the  
39 environment.

1 (c) A state agency that adopts or amends a regulation mandated  
2 by federal law or regulations, the provisions of which are identical  
3 to a previously adopted or amended federal regulation, shall be  
4 deemed to have complied with subdivision (b) if a statement to  
5 the effect that a federally mandated regulation or amendment to a  
6 regulation is being proposed, together with a citation to where an  
7 explanation of the provisions of the regulation can be found, is  
8 included in the notice of proposed adoption or amendment prepared  
9 pursuant to Section 11346.5. However, the agency shall comply  
10 fully with this chapter with respect to any provisions in the  
11 regulation that the agency proposes to adopt or amend that are  
12 different from the corresponding provisions of the federal  
13 regulation.

14 *(d) If an agency is proposing to adopt, amend, or repeal a*  
15 *regulation that requires a person or entity to use a new or emerging*  
16 *technology or equipment in order to achieve the identified purpose*  
17 *of the regulation, a statement that the agency has complied with*  
18 *the requirements of Section 11346.10.*

19 ~~(d)~~

20 (e) This section shall be inoperative from January 1, 2012, until  
21 January 1, 2014.

22 SEC. 3. Section 11346.10 is added to the Government Code,  
23 to read:

24 11346.10. (a) State agencies proposing to adopt, amend, or  
25 repeal any administrative regulation that would require a person  
26 or entity to use a new or emerging technology or equipment in  
27 order to achieve the identified purpose of the regulation shall  
28 determine if that technology is available and effective. A  
29 technology is available and effective if the agency provides  
30 findings and evidence that both of the following conditions are  
31 met:

32 (1) (A) The technology is currently commercially available, or  
33 will be commercially available by the time that the regulation is  
34 effective.

35 (B) For purposes of this section, “commercially available”  
36 means that the technology is available on the market from at least  
37 two providers or manufacturers.

38 (2) The technology has been available, and has been proven to  
39 be effective, for at least two years.

1 (b) Any regulation proposed to be adopted, amended, or  
2 repealed, pursuant to this section, shall include the following  
3 provisions:

4 (1) If the new technology is not commercially available on the  
5 effective date of the regulation, the adopting agency shall not  
6 enforce a violation of that regulation with respect to the use of that  
7 technology until at least six months after the required technology  
8 becomes commercially available, and the agency posts on its  
9 Internet Web site, and in the California Regulatory Notice Register,  
10 that the required technology has become commercially available.

11 (2) If a person or entity incurs any costs purchasing a new  
12 technology required by the regulation, and the agency ultimately  
13 determines that the regulatory program is unfeasible because the  
14 new technology does not function as intended by the agency, the  
15 agency shall reimburse the person or entity for any costs incurred  
16 in complying with the regulation.

17 (c) This section shall not apply to a regulation proposed to be  
18 adopted, amended, or repealed by a state agency that requires the  
19 use of a new or emerging technology or equipment in order to  
20 achieve the identified purpose of the regulation if that requirement  
21 is only being imposed on the industry that is directly responsible  
22 for developing or manufacturing the new or emerging technology  
23 as a part of that industry's core business.

24 (d) Nothing in this section shall be construed to prohibit an  
25 agency from adopting new or additional standards for new or  
26 emerging technology or other equipment.

27 SEC. 4. Section 11349.1 of the Government Code is amended  
28 to read:

29 11349.1. (a) The office shall review all regulations adopted,  
30 amended, or repealed pursuant to the procedure specified in Article  
31 5 (commencing with Section 11346) and submitted to it for  
32 publication in the California Code of Regulations Supplement and  
33 for transmittal to the Secretary of State and make determinations  
34 using all of the following standards:

- 35 (1) Necessity.
- 36 (2) Authority.
- 37 (3) Clarity.
- 38 (4) Consistency.
- 39 (5) Reference.
- 40 (6) Nonduplication.

1 In reviewing regulations pursuant to this section, the office shall  
2 restrict its review to the regulation and the record of the rulemaking  
3 proceeding. The office shall approve the regulation or order of  
4 repeal if it complies with the standards set forth in this section and  
5 with this chapter.

6 (b) In reviewing proposed regulations for the criteria in  
7 subdivision (a), the office may consider the clarity of the proposed  
8 regulation in the context of related regulations already in existence.

9 (c) The office shall adopt regulations governing the procedures  
10 it uses in reviewing regulations submitted to it. The regulations  
11 shall provide for an orderly review and shall specify the methods,  
12 standards, presumptions, and principles the office uses, and the  
13 limitations it observes, in reviewing regulations to establish  
14 compliance with the standards specified in subdivision (a). The  
15 regulations adopted by the office shall ensure that it does not  
16 substitute its judgment for that of the rulemaking agency as  
17 expressed in the substantive content of adopted regulations.

18 (d) The office shall return any regulation subject to this chapter  
19 to the adopting agency if any of the following occur:

20 (1) The adopting agency has not prepared the estimate required  
21 by paragraph (6) of subdivision (a) of Section 11346.5 and has not  
22 included the data used and calculations made and the summary  
23 report of the estimate in the file of the rulemaking.

24 (2) The *adopting* agency has not complied with Section 11346.3.  
25 “Noncompliance” means that the agency failed to complete the  
26 economic impact assessment or standardized regulatory impact  
27 analysis required by Section 11346.3 or failed to include the  
28 assessment or analysis in the file of the rulemaking proceeding as  
29 required by Section 11347.3.

30 (3) The adopting agency has prepared the estimate required by  
31 paragraph (6) of subdivision (a) of Section 11346.5, the estimate  
32 indicates that the regulation will result in a cost to local agencies  
33 or school districts that is required to be reimbursed under Part 7  
34 (commencing with Section 17500) of Division 4, and the adopting  
35 agency fails to do any of the following:

36 (A) Cite an item in the Budget Act for the fiscal year in which  
37 the regulation will go into effect as the source from which the  
38 Controller may pay the claims of local agencies or school districts.

1 (B) Cite an accompanying bill appropriating funds as the source  
2 from which the Controller may pay the claims of local agencies  
3 or school districts.

4 (C) Attach a letter or other documentation from the Department  
5 of Finance which states that the Department of Finance has  
6 approved a request by the agency that funds be included in the  
7 Budget Bill for the next following fiscal year to reimburse local  
8 agencies or school districts for the costs mandated by the  
9 regulation.

10 (D) Attach a letter or other documentation from the Department  
11 of Finance which states that the Department of Finance has  
12 authorized the augmentation of the amount available for  
13 expenditure under the agency's appropriation in the Budget Act  
14 which is for reimbursement pursuant to Part 7 (commencing with  
15 Section 17500) of Division 4 to local agencies or school districts  
16 from the unencumbered balances of other appropriations in the  
17 Budget Act and that this augmentation is sufficient to reimburse  
18 local agencies or school districts for their costs mandated by the  
19 regulation.

20 (4) The proposed regulation conflicts with an existing state  
21 regulation and the agency has not identified the manner in which  
22 the conflict may be resolved.

23 (5) The *adopting* agency did not make the alternatives  
24 determination as required by paragraph (4) of subdivision (a) of  
25 Section 11346.9.

26 (6) *If an agency is proposing to adopt, amend, or repeal a*  
27 *regulation that requires a person or entity to use a new or emerging*  
28 *technology or equipment in order to achieve the identified purpose*  
29 *of the regulation, the adopting agency has not complied with the*  
30 *requirements of Section 11346.10.*

31 (e) The office shall notify the Department of Finance of all  
32 regulations returned pursuant to subdivision (d).

33 (f) The office shall return a rulemaking file to the submitting  
34 agency if the file does not comply with subdivisions (a) and (b)  
35 of Section 11347.3. Within three state working days of the receipt  
36 of a rulemaking file, the office shall notify the submitting agency  
37 of any deficiency identified. If no notice of deficiency is mailed  
38 to the adopting agency within that time, a rulemaking file shall be  
39 deemed submitted as of the date of its original receipt by the office.

1 A rulemaking file shall not be deemed submitted until each  
2 deficiency identified under this subdivision has been corrected.  
3 (g) Notwithstanding any other law, return of the regulation to  
4 the adopting agency by the office pursuant to this section is the  
5 exclusive remedy for a failure to comply with subdivision (c) of  
6 Section 11346.3 or paragraph (10) of subdivision (a) of Section  
7 11346.5.

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**ASSEMBLY BILL**

**No. 2605**

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**Introduced by Assembly Member Cedillo**

February 24, 2012

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An act to amend Sections 42403, 42403.5, and 42405 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as introduced, Cedillo. Air pollution control: penalties.

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law also designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to identify toxic air contaminants that are emitted into the ambient air of the state, and requires the state board to establish toxic control measures for toxic air contaminants. Existing law requires specified civil penalties be assessed and recovered in a civil action for specified violations to be brought by the Attorney General, by any district attorney, or by the attorney for any air pollution control or air quality management district in which the violation occurs. Existing law requires, if the action for civil penalties resulting from specified violations is brought by a district attorney or by an attorney for a district, the entire amount of the penalty collected be paid to the treasurer of the district on whose behalf judgment was entered.

This bill would require any city attorney of a city having a population in excess of 750,000, any city attorney of a city and county, or a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney, to recover specified civil penalties in a civil

action for specified violations. The bill would require, if the action for civil penalties resulting from specified violations is brought by a district attorney, an attorney for a district, a city attorney of a city having a population in excess of 750,000, a city attorney of a city and county, or a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney, the entire amount of the penalty collected be paid to the treasurer of the city, county, or city and county in addition to the district on whose behalf judgment was entered.

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 42403 of the Health and Safety Code is  
2 amended to read:

3 42403. (a) The civil penalties prescribed in Sections 39674,  
4 42401, 42402, 42402.1, 42402.2, ~~and~~ 42402.3, *and* 42402.4 shall  
5 be assessed and recovered in a civil action brought in the name of  
6 the people of the State of California by the Attorney General;; by  
7 any district attorney;; *by any city attorney of a city having a*  
8 *population in excess of 750,000; by any city attorney of a city and*  
9 *county; by a city prosecutor in any city with a full-time city*  
10 *prosecutor, with the consent of the district attorney; or by the*  
11 *attorney for any district in which the violation occurs in any court*  
12 *of competent jurisdiction.*

13 (b) In determining the amount assessed, the court, or in reaching  
14 any settlement, the district, shall take into consideration all relevant  
15 circumstances, including, but not limited to, the following:

- 16 (1) The extent of harm caused by the violation.
- 17 (2) The nature and persistence of the violation.
- 18 (3) The length of time over which the violation occurs.
- 19 (4) The frequency of past violations.
- 20 (5) The record of maintenance.
- 21 (6) The unproven or innovative nature of the control equipment.
- 22 (7) Any action taken by the defendant, including the nature,  
23 extent, and time of response of the cleanup and construction  
24 undertaken, to mitigate the violation.
- 25 (8) The financial burden to the defendant.

26 SEC. 2. Section 42403.5 of the Health and Safety Code is  
27 amended to read:

1 42403.5. (a) Notwithstanding Section 42407, any violation of  
 2 Section 41700 resulting from the engine of any diesel-powered  
 3 bus while idling shall subject the owner to civil penalties assessed  
 4 under this article, which may be recovered pursuant to Section  
 5 42403 by the Attorney General;; by any district attorney;; *by any*  
 6 *city attorney of a city having a population in excess of 750,000;*  
 7 *by any city attorney of a city and county; by a city prosecutor in*  
 8 *any city with a full-time city prosecutor, with the consent of the*  
 9 *district attorney;* or by the attorney for any district in which the  
 10 violation occurs in any court of competent jurisdiction.

11 (b) There is no liability under subdivision (a) if the person  
 12 accused of the violation establishes by affirmative defense that the  
 13 extent of the harm caused does not exceed the benefit accrued to  
 14 bus passengers as a result of idling the engine.

15 SEC. 3. Section 42405 of the Health and Safety Code is  
 16 amended to read:

17 42405. In an action brought pursuant to Section 42403 by the  
 18 Attorney General on behalf of a district, one-half of the penalty  
 19 collected shall be paid to the treasurer of the district on whose  
 20 behalf judgment was entered, and one-half of the penalty collected  
 21 shall be paid to the ~~State~~ Treasurer for deposit in the General Fund.

22 If the action is brought by the Attorney General on behalf of the  
 23 state board, the entire penalty collected shall be paid to the ~~State~~  
 24 Treasurer for deposit in the General Fund.

25 If the action is brought by a district attorney; *by any city attorney*  
 26 *of a city having a population in excess of 750,000; by any city*  
 27 *attorney of a city and county; by a city prosecutor in any city with*  
 28 *a full-time city prosecutor, with the consent of the district attorney;*  
 29 or by an attorney for a district, the entire amount of the penalty  
 30 collected shall be paid to the treasurer of the *city, county, city and*  
 31 *county, or* district on whose behalf judgment was entered.

AMENDED IN SENATE JUNE 9, 2011

**SENATE BILL**

**No. 878**

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**Introduced by Senator DeSaulnier**

February 18, 2011

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~~An act to amend Section 24409 of the Vehicle Code, relating to vehicles.~~ *An act to add Section 66536.3 to the Government Code, relating to regional planning.*

LEGISLATIVE COUNSEL'S DIGEST

SB 878, as amended, DeSaulnier. ~~Vehicles: headlights: use of multiple beams.~~ *Regional planning: Bay Area.*

*(1) The Metropolitan Transportation Commission Act creates the Metropolitan Transportation Commission as a regional agency in the 9-county Bay Area with comprehensive regional transportation planning and other related responsibilities, including development of a regional transportation plan with a sustainable communities strategy. Existing law requires a joint policy committee of the commission, the Association of Bay Area Governments, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission to coordinate the development and drafting of major planning documents prepared by the 4 agencies.*

*This bill would require the joint policy committee to submit a report to the Legislature by January 31, 2013, on, among other things, methods and strategies for developing and implementing a multiagency set of policies and guidelines relative to the Bay Area region's sustainable communities strategy, including recommendations on organizational reforms for the regional agencies. The bill would require preparation of a work plan for a regional economic development strategy to be submitted to the Legislature on that date. The bill would also require*

*the member agencies to report on public outreach efforts that they individually or jointly perform. The bill would require public meetings in each of the region's 9 counties and creation of advisory committees, as specified. By imposing new duties on local agencies, the 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, 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.*

~~(1) Existing law requires, whenever a motor vehicle is being operated during darkness, a driver to use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the specified requirements and limitations. A violation of the Vehicle Code is a crime.~~

~~This bill would revise these specified requirements and limitations to prohibit the use of light of such an intensity that it poses a distraction to drivers of oncoming vehicles and to drivers of vehicles being followed. By expanding the scope of an existing crime, the 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 Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *The Counties of Alameda, Contra Costa, Marin, Napa, San*
- 4     *Francisco, San Mateo, Santa Clara, Solano, and Sonoma share*
- 5     *the shoreline of the San Francisco Bay estuary system.*

1     **(b)** *The transportation technologies of the 19th and 20th*  
2 *centuries progressively integrated the movement of people and*  
3 *goods among the nine counties, beginning with ferryboats plying*  
4 *the San Francisco Bay and the rivers flowing into it; the passenger*  
5 *railroad service between San Jose and San Francisco beginning*  
6 *in 1864; the interurban rail networks linking the communities*  
7 *within the East Bay and the communities of the North Bay; the*  
8 *Golden Gate Bridge and the San Francisco-Oakland Bay Bridge,*  
9 *erected as public works projects during the Great Depression to*  
10 *facilitate the movement of motor vehicles throughout the region;*  
11 *the construction of the regional freeway network after World War*  
12 *II; and the creation of the Bay Area Rapid Transit District in 1957*  
13 *and the inauguration of BART transit service in 1972.*

14     **(c)** *The investments in a multimodal transportation network*  
15 *created an integrated regional manufacturing, financial, and*  
16 *technology economy as well as opportunities for housing a growing*  
17 *population. Regional business, governmental, and conservation*  
18 *interests recognized that the infrastructure investments and the*  
19 *dynamic economy they support created unintended consequences,*  
20 *including the degradation of the atmosphere, despoiling of the*  
21 *shoreline shared by the counties, land use decisions often*  
22 *inconsistent and at cross purposes with neighboring communities,*  
23 *and a continuing need to rationalize the transportation system and*  
24 *to marshal resources for its expansion, maintenance, and*  
25 *operations.*

26     **(d)** *Various institutional reforms were initiated during the*  
27 *mid-20th century to address the unintended consequences of*  
28 *economic development, including the formation of the Bay Area*  
29 *Air Quality Management District in 1955; the formation of a*  
30 *voluntary council of governments, the Association of Bay Area*  
31 *Governments, in 1961 to enhance the coordination of policy*  
32 *decision across municipal and county boundaries; the formation*  
33 *of the Bay Conservation and Development Commission in 1965*  
34 *with the mission of persevering in protection of San Francisco Bay*  
35 *and its estuary system from destructive and ill-planned*  
36 *encroachment; and the establishment of the Metropolitan*  
37 *Transportation Commission in 1970, California's first statutorily*  
38 *created regional transportation planning agency, to plan the*  
39 *region's transportation infrastructure, to prioritize transportation*

1 *investments, and to organize and manage the allocation of financial*  
2 *resources necessary to implement the regional transportation plan.*

3 *(e) The accomplishments of the above-referenced regional*  
4 *institutions are among the most significant in the state and nation*  
5 *and have been acknowledged by emulation or peer recognition.*  
6 *The Legislature recognized that the accomplishments of the special*  
7 *purpose regional institutions are noteworthy, but a new benchmark,*  
8 *the integration of regional planning and environmental regulations,*  
9 *is necessary to achieve the goals of sustainable communities as*  
10 *called for in SB 375 of the 2007–2008 Regular Session (Chapter*  
11 *728, Statutes of 2008). To this end, it is necessary to direct the*  
12 *imagination and talent of the San Francisco Bay Area’s most*  
13 *significant regional institutions to addressing the new benchmarks*  
14 *and expectations established by SB 375.*

15 *SEC. 2. Section 66536.3 is added to the Government Code, to*  
16 *read:*

17 *66536.3. (a) The joint policy committee shall prepare a report*  
18 *for submission to the Senate Committee on Transportation and*  
19 *Housing and the Assembly Committee on Transportation on or*  
20 *before January 31, 2013, addressing all of the following:*

21 *(1) Methods and strategies for developing and promulgating a*  
22 *multiagency set of policies and guidelines governing the*  
23 *sustainable communities strategy required pursuant to*  
24 *subparagraph (B) of paragraph (2) of subdivision (b) of Section*  
25 *65080.*

26 *(2) Methods and strategies for improving the efficiency and*  
27 *effectiveness of policy setting and managerial coordination among*  
28 *the regional agencies constituting the joint policy committee.*

29 *(3) Methods and strategies for ensuring that the public in the*  
30 *nine counties of the region has an opportunity to comment on the*  
31 *proposed polices and standards that will be promulgated by the*  
32 *joint policy committee for implementing the sustainable*  
33 *communities strategies. When preparing the strategies, there shall*  
34 *be included criteria to assess the transparency in regional*  
35 *decisionmaking.*

36 *(4) Recommendations on organizational reform to effectuate*  
37 *the above requirements, including recommendations as to whether*  
38 *such a regional organization shall be established by legislation,*  
39 *a joint exercise of power agreement, or some other institutional*  
40 *arrangement specifying the terms of interagency collaboration*

1 *that address the sustainable communities requirements. The report*  
2 *should include the criteria for selecting the recommended*  
3 *institutional arrangement.*

4 *(b) The joint policy committee shall prepare a work plan for a*  
5 *nine-county economic development strategy to be submitted to the*  
6 *Senate Committee on Transportation and Housing and the*  
7 *Assembly Committee on Transportation on or before January 31,*  
8 *2013. The report shall include, but not be limited to, the following:*

9 *(1) Coordination of the regional sustainable communities*  
10 *strategy with local goals for the recruitment and retention of*  
11 *manufacturing, production facilities, business services, and other*  
12 *business enterprises providing high quality jobs that will*  
13 *remunerate employees sufficiently so that their household incomes*  
14 *will allow them to live in the Bay Area, educate their children, and*  
15 *enjoy the region's amenities.*

16 *(2) Regional strategies to ensure the coordination of*  
17 *infrastructure investments, including transportation facilities and*  
18 *services, for planned employment centers.*

19 *(3) Strategies for ensuring a common regulatory system for*  
20 *deployment and permitting of energy conservation facilities and*  
21 *improvements.*

22 *(4) Regional strategies for adaptation to climate change.*

23 *(c) The activities associated with development of the reports in*  
24 *subdivisions (a) and (b) shall include public meetings in each of*  
25 *the region's counties. In addition, communication with the public*  
26 *in that regard shall include the use of conventional media as well*  
27 *as social media. Advisory committees shall be formed that include*  
28 *representation from the regional business community, labor, and*  
29 *other interests.*

30 *(d) The member agencies of the joint policy committee shall*  
31 *also prepare a report identifying the public outreach and*  
32 *community outreach efforts that they individually or jointly perform*  
33 *under federal and state law when carrying out the respective*  
34 *missions of their agencies. The report shall identify the criteria*  
35 *they use to determine the communities and groups that will be the*  
36 *subject of outreach. The report shall identify the actions and*  
37 *methods that the agencies employ to ensure that policy decisions*  
38 *are made in a transparent and accessible fashion. The report*  
39 *prepared by each agency shall be submitted to the Senate*  
40 *Committee on Transportation and Housing and the Assembly*



1 *Committee on Transportation on or before January 31, 2013, and*  
2 *may be incorporated with the other reports required by*  
3 *subdivisions (a) and (b).*

4 *SEC. 3. If the Commission on State Mandates determines that*  
5 *this act contains costs mandated by the state, reimbursement to*  
6 *local agencies and school districts for those costs shall be made*  
7 *pursuant to Part 7 (commencing with Section 17500) of Division*  
8 *4 of Title 2 of the Government Code.*

9 ~~SECTION 1. Section 24409 of the Vehicle Code is amended~~  
10 ~~to read:~~

11 ~~24409. Whenever a motor vehicle is being operated during~~  
12 ~~darkness, the driver shall use a distribution of light, or composite~~  
13 ~~beam, directed high enough and of sufficient intensity to reveal~~  
14 ~~persons and vehicles at a safe distance in advance of the vehicle,~~  
15 ~~subject to the following requirements and limitations:~~

16 ~~(a) Whenever the driver of a vehicle approaches an oncoming~~  
17 ~~vehicle within 500 feet, the driver shall use a distribution of light~~  
18 ~~or composite beam so aimed that the glaring rays are not projected~~  
19 ~~into the eyes of the oncoming driver and shall not use a light of~~  
20 ~~such intensity that it poses a distraction to drivers of oncoming~~  
21 ~~vehicles. The lowermost distribution of light specified in this article~~  
22 ~~shall be deemed to avoid glare at all times regardless of road~~  
23 ~~contour.~~

24 ~~(b) Whenever the driver of a vehicle follows another vehicle~~  
25 ~~within 300 feet to the rear, he shall use the lowermost distribution~~  
26 ~~of light specified in this article and shall ensure that it is not of~~  
27 ~~such an intensity as to pose a distraction to the driver of the vehicle~~  
28 ~~being followed.~~

29 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
30 ~~Section 6 of Article XIII B of the California Constitution because~~  
31 ~~the only costs that may be incurred by a local agency or school~~  
32 ~~district will be incurred because this act creates a new crime or~~  
33 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
34 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
35 ~~the Government Code, or changes the definition of a crime within~~  
36 ~~the meaning of Section 6 of Article XIII B of the California~~  
37 ~~Constitution.~~

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**Introduced by Senator Vargas**February 21, 2012

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An act to add Section 41712.5 to the Health and Safety Code, relating to nonvehicular air pollution.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1127, as introduced, Vargas. Volatile organic compounds: consumer products.

(1) Existing law requires the State Air Resources Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, as defined, if the state board determines adequate data exist to establish the regulations are necessary to attain state and federal ambient air quality standards, and the regulations are commercially and technologically feasible and necessary. Existing law prohibits an air pollution control district or air quality management district from adopting any regulation pertaining to disinfectants or any regulation pertaining to a consumer product that is different from any regulation adopted by the state board for that purpose.

This bill would require the South Coast Air Quality Management District to amend a specified regulation relating to consumer products. By adding to the duties of the South Coast Air Quality Management District, this bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the South Coast Air Quality Management District.

(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, 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. Section 41712.5 is added to the Health and Safety
- 2 Code, to read:
- 3 41712.5. The South Coast Air Quality Management District
- 4 shall amend Rule 1144 to exempt consumer products regulated by
- 5 the state board pursuant to Section 41712.
- 6 SEC. 2. The Legislature finds and declares that a special law
- 7 is necessary and that a general law cannot be made applicable
- 8 within the meaning of Section 16 of Article IV of the California
- 9 Constitution because of the unique need of those subject to
- 10 regulations in the South Coast Air Quality Management District.
- 11 SEC. 3. If the Commission on State Mandates determines that
- 12 this act contains costs mandated by the state, reimbursement to
- 13 local agencies and school districts for those costs shall be made
- 14 pursuant to Part 7 (commencing with Section 17500) of Division
- 15 4 of Title 2 of the Government Code.

**Introduced by Senators La Malfa and Vargas**

February 23, 2012

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An act to amend Section 44011 of the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1224, as introduced, La Malfa. Smog check: biennial inspection: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model-year.

This bill instead would exempt all motor vehicles prior to the 1981 model-year from being inspected biennially upon renewal of registration.

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 44011 of the Health and Safety Code is
- 2 amended to read:
- 3 44011. (a) All motor vehicles powered by internal combustion
- 4 engines that are registered within an area designated for program
- 5 coverage shall be required biennially to obtain a certificate of
- 6 compliance or noncompliance, except for the following:

1 (1) All motorcycles until the department, pursuant to Section  
2 44012, implements test procedures applicable to motorcycles.

3 (2) All motor vehicles that have been issued a certificate of  
4 compliance or noncompliance or a repair cost waiver upon a change  
5 of ownership or initial registration in this state during the preceding  
6 six months.

7 (3) All motor vehicles manufactured prior to the ~~1976~~ 1981  
8 model-year.

9 (4) (A) Except as provided in subparagraph (B), all motor  
10 vehicles four or less model-years old.

11 (B) Beginning January 1, 2005, all motor vehicles six or less  
12 model-years old, unless the state board finds that providing an  
13 exception for these vehicles will prohibit the state from meeting  
14 the requirements of Section 176(c) of the federal Clean Air Act  
15 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with  
16 respect to the state implementation plan required by the federal  
17 Clean Air Act.

18 (C) All motor vehicles excepted by this paragraph shall be  
19 subject to testing and to certification requirements as determined  
20 by the department, if any of the following apply:

21 (i) The department determines through remote sensing activities  
22 or other means that there is a substantial probability that the vehicle  
23 has a tampered emission control system or would fail for other  
24 cause a smog check test as specified in Section 44012.

25 (ii) The vehicle was previously registered outside this state and  
26 is undergoing initial registration in this state.

27 (iii) The vehicle is being registered as a specially constructed  
28 vehicle.

29 (iv) The vehicle has been selected for testing pursuant to Section  
30 44014.7 or any other provision of this chapter authorizing  
31 out-of-cycle testing.

32 (D) This paragraph does not apply to diesel-powered vehicles.

33 (5) In addition to the vehicles exempted pursuant to paragraph  
34 (4), any motor vehicle or class of motor vehicles exempted pursuant  
35 to subdivision (b) of Section 44024.5. It is the intent of the  
36 Legislature that the department, pursuant to the authority granted  
37 by this paragraph, exempt at least 15 percent of the lowest emitting  
38 motor vehicles from the biennial smog check inspection.

39 (6) All motor vehicles that the department determines would  
40 present prohibitive inspection or repair problems.

1 (7) Any vehicle registered to the owner of a fleet licensed  
2 pursuant to Section 44020 if the vehicle is garaged exclusively  
3 outside the area included in program coverage, and is not primarily  
4 operated inside the area included in program coverage.

5 (8) (A) All diesel-powered vehicles manufactured prior to the  
6 1998 model-year.

7 (B) All diesel-powered vehicles that have a gross vehicle weight  
8 rating of 8,501 to 10,000 pounds, inclusive, until the department,  
9 in consultation with the state board, pursuant to Section 44012,  
10 implements test procedures applicable to these vehicles.

11 (C) All diesel-powered vehicles that have a gross vehicle weight  
12 rating from 10,001 pounds to 14,000 pounds, inclusive, until the  
13 state board and the Department of Motor Vehicles determine the  
14 best method for identifying these vehicles, and until the department,  
15 in consultation with the state board, pursuant to Section 44012,  
16 implements test procedures applicable to these vehicles.

17 (D) All diesel-powered vehicles that have a gross vehicle weight  
18 rating of 14,001 pounds or greater.

19 (b) Vehicles designated for program coverage in enhanced areas  
20 shall be required to obtain inspections from appropriate smog  
21 check stations operating in enhanced areas.

22 (c) For purposes of subdivision (a), a collector motor vehicle,  
23 as defined in Section 259 of the Vehicle Code, is exempt from  
24 those portions of the test required by subdivision (f) of Section  
25 44012 if the collector motor vehicle meets all of the following  
26 criteria:

27 (1) Submission of proof that the motor vehicle is insured as a  
28 collector motor vehicle, as shall be required by regulation of the  
29 bureau.

30 (2) The motor vehicle is at least 35 model-years old.

31 (3) The motor vehicle complies with the exhaust emissions  
32 standards for that motor vehicle's class and model-year as  
33 prescribed by the department, and the motor vehicle passes a  
34 functional inspection of the fuel cap and a visual inspection for  
35 liquid fuel leaks.

36 (d) This section shall become operative on January 1, 2010.

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**Introduced by Senators Runner and Wright**February 23, 2012

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An act to add Section 144.9 to the Labor Code, relating to occupational safety.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1230, as introduced, Runner. Occupational Safety and Health Standards Board: emissions control.

(1) Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations and requires the standards board to adopt occupational safety and health standards. Certain violations of these standards are crimes.

Existing law requires the State Air Resources Board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution that the state board has found to be necessary, cost effective, and technologically feasible.

This bill would require the Occupational Safety and Health Standards Board to adopt standards designed to ensure the safety of the operator and public in the installation, use, and operation of a verified diesel emission control strategy, as defined, required by a regulation adopted by the State Air Resources Board to be installed on an on-road heavy-duty diesel-fueled motor vehicle. The bill would require the certification of each strategy and would prohibit the installation of the strategy before certification. A person or entity required to comply with the State Air Resources Board regulation would be deemed to be in compliance with the State Air Resources Board regulation if an inadequate number of verified diesel emission control strategies have been certified before the compliance date of the State Air Resources

Board regulatory requirement. Because certain violations of the safety standard adopted by the Occupational Safety and Health Standards Board would be a crime pursuant to provisions of existing law, the 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 Legislature finds and declares all of the  
2 following:

3 (a) Article 4.8 (commencing with Section 2449) of Chapter 9  
4 of Division 3 of Title 13 of the California Code of Regulations  
5 implements a regulation governing in-use off-road diesel equipment  
6 in a phased approach designed to reduce the financial impact on  
7 the owners of off-road diesel equipment by providing them ample  
8 time to prepare for implementation of the regulation. The regulation  
9 will significantly reduce the public's exposure to particulate matter  
10 (PM) and oxides of nitrogen (NO<sub>x</sub>) from in-use off-road diesel  
11 vehicles once it is fully implemented.

12 (b) The Occupational Safety and Health Standards Board has  
13 promulgated standards to ensure the safe installation and safe  
14 operation of vehicle exhaust retrofits for in-use off-road diesel  
15 equipment.

16 (d) A similar regulation contained in Section 2025 of Title 13  
17 of the California Code of Regulations seeks to reduce the public's  
18 exposure to PM and NO<sub>x</sub> from in-use on-road diesel vehicles. Its  
19 implementation is also phased in over time to provide the owners  
20 of these vehicles ample time to prepare. The regulation relies on  
21 the installation of verified diesel emission control systems.

22 (e) Chapter 14 (commencing with Section 2700) of Division 3  
23 of Title 13 of the California Code of Regulations requires any  
24 system designed to reduce the emissions of PM and NO<sub>x</sub> from  
25 diesel engines to be verified by the State Air Resources Board.



1 The verification process extensively tests the emissions and  
2 durability of the system.

3 (f) Because the verification process is primarily focused on the  
4 amount and type of exhaust emissions but not specifically designed  
5 to ensure the safety of the public and operator, there is a need for  
6 the Occupational Safety and Health Standards Board to develop  
7 standards to ensure the safety of the public and the individual  
8 operating the vehicle.

9 (g) The unique phased-in implementation period of the on-road  
10 rule grants the Occupational Safety and Health Standards Board  
11 ample time to develop standards governing the safe use of verified  
12 diesel emission control systems.

13 SEC. 2. Section 144.9 is added to the Labor Code, to read:

14 144.9. (a) By January 1, 2014, the board shall adopt standards  
15 designed to ensure the safety of the operator and public in the  
16 installation, use, and operation of a verified diesel emission control  
17 strategy on on-road heavy-duty diesel-fueled motor vehicles. The  
18 standards shall, at a minimum, ensure all of the following:

19 (1) The strategy shall not reduce the capacity, structural  
20 integrity, or safe performance of a vehicle.

21 (2) The strategy shall not reduce an operator's ability to enter  
22 or exit a vehicle safely.

23 (3) The strategy shall not increase the risk of a vehicle fire.

24 (4) The strategy shall not, through routine maintenance,  
25 emergency maintenance, or normal operations, burn or harm the  
26 operator.

27 (5) To the extent feasible, the strategy shall not cause the vehicle  
28 to stop operating while traveling on the highway or roadway.

29 (b) To implement subdivision (a), the board may require a  
30 manufacturer of a verified diesel emission control strategy to  
31 provide detailed test results.

32 (c) Upon the adoption of standards as required by subdivision  
33 (a), the board shall develop a certification process for every verified  
34 diesel emission control strategy. The \_\_\_\_ shall administer the  
35 certification program. The \_\_\_\_ may assess a fee to offset the  
36 agency's costs in administering the program.

37 (d) A person or entity required by a regulation adopted by the  
38 State Air Resources Board to install a verified diesel emission  
39 control strategy on an on-road heavy-duty diesel-fueled motor

1 vehicle shall not install that strategy until it is certified pursuant  
2 to subdivision (c).

3 (e) A person or entity described in subdivision (d) shall be  
4 deemed to be in compliance with the State Air Resources Board  
5 regulation if an inadequate number of verified diesel emission  
6 control strategies have been certified before the compliance date  
7 of the State Air Resources Board regulatory requirement.

8 (f) As used in this section, the following terms have the  
9 following meanings:

10 (1) “Inadequate” means \_\_\_\_\_.

11 (2) “Verified diesel emission control strategy” means an  
12 emissions control strategy designed primarily for the reduction of  
13 diesel particulate matter emissions, and verified pursuant to State  
14 Air Resources Board verification procedures, that is required to  
15 comply with a regulation adopted by the State Air Resources  
16 Board.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.

**Introduced by Senator Yee**February 24, 2012

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An act to add and repeal Section 65081 of the Government Code, relating to transportation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1339, as introduced, Yee. Commute benefit policies.

Existing law creates the Metropolitan Transportation Commission, with various transportation planning and programming responsibilities in the 9-county San Francisco Bay Area. Existing law creates the Bay Area Air Quality Management District, with various responsibilities relative to the reduction of air pollution in the area of its jurisdiction, which incorporates a specified portion of the jurisdiction of the Metropolitan Transportation Commission.

This bill would authorize the Metropolitan Transportation Commission and the Bay Area Air Quality Management District to jointly adopt a commute benefit ordinance that requires covered employers operating within the common area of the 2 agencies with a specified number of covered employees to offer those employees certain commute benefits. The bill would require that the ordinance specify certain matters, including any consequences for noncompliance, and would impose a specified reporting requirement. The bill would make its provisions inoperative on January 1, 2017.

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 65081 is added to the Government Code,  
2 to read:

3 65081. (a) It is the intent of the Legislature to encourage  
4 metropolitan planning organizations and local air quality  
5 management districts or air pollution control districts to work with  
6 local employers to adopt policies that encourage commuting by  
7 means other than driving alone. To encourage this, the Legislature  
8 hereby establishes a pilot program in that regard in the greater San  
9 Francisco Bay Area.

10 (b) Notwithstanding Section 40717.9 of the Health and Safety  
11 Code, the Bay Area Air Quality Management District and the  
12 Metropolitan Transportation Commission with respect to the  
13 common area within their respective jurisdictions may jointly adopt  
14 a commute benefit ordinance that requires covered employers  
15 operating within the common area of the district and commission  
16 to offer all covered employees one of the following choices:

17 (1) A pretax option: a program, consistent with Section 132(f)  
18 of the Internal Revenue Code, allowing covered employees to elect  
19 to exclude from taxable wages employee commuting costs incurred  
20 for transit passes or vanpool charges, or bicycle commuting, up to  
21 the maximum amount allowed by federal tax law.

22 (2) Employer-paid benefit: a program whereby the covered  
23 employer offers employees a subsidy to offset the monthly cost  
24 of commuting via public transit or by vanpool. In 2013, the subsidy  
25 shall be equal to either the monthly cost of commuting via transit  
26 or vanpool, or seventy-five dollars (\$75), whichever is lower. This  
27 amount shall be adjusted annually consistent with the California  
28 Consumer Price Index.

29 (3) Employer-provided transit: transportation furnished by the  
30 covered employer at no cost, or low cost as determined by the  
31 district or commission, to the covered employee in a vanpool or  
32 bus, or similar multipassenger vehicle operated by or for the  
33 employer.

34 (c) Nothing in this section shall prevent a covered employer  
35 from offering a more generous commuter benefit that is otherwise  
36 consistent with the requirements of the applicable commute benefit  
37 ordinance. Nothing in this section shall require employees to  
38 change their behavior.

1 (d) An employer offering, or proposing to offer, an alternative  
2 commuter benefit on the employer’s own initiative, or an employer  
3 otherwise required to offer an alternative commuter benefit as a  
4 condition of a lease, original building permit, or other similar  
5 requirement, if the alternative is not one of the options identified  
6 in subdivision (b), may seek approval of the alternative from the  
7 district or commission. The district or commission may approve  
8 an alternative if it determines that the alternative provides at least  
9 the same benefit in terms of reducing single-occupant vehicle trips  
10 as any of the options in subdivision (b). An employer that offers  
11 an approved alternative to covered employees in a manner  
12 otherwise consistent with this section is not required to offer one  
13 of the options in subdivision (b).

14 (e) The commute benefit ordinance shall provide covered  
15 employers with at least six months to comply after the ordinance  
16 is adopted.

17 (f) An employer that participates in or is represented by a  
18 transportation management association that provides the employer’s  
19 covered employees with any of the benefits in subdivision (b), or  
20 an alternative benefit determined by the district or commission  
21 pursuant to subdivision (d) to provide at least the same benefit in  
22 terms of reducing single-occupant vehicle trips as any of the  
23 options in subdivision (b), shall be deemed in compliance with the  
24 regional ordinance, and the transportation management association  
25 may act on behalf of those employers in that regard. The district  
26 or commission shall communicate directly with the transportation  
27 management association, rather than the participating employers,  
28 to determine compliance with the ordinance.

29 (g) A commute benefit ordinance adopted pursuant to this  
30 section shall specify all of the following: (1) how the implementing  
31 agencies will inform covered employers about the ordinance, (2)  
32 how compliance with the ordinance will be demonstrated, (3) the  
33 procedures for proposing and the criteria that will be used to  
34 evaluate an alternative commuter benefit pursuant to subdivision  
35 (d), and (4) any consequences for noncompliance.

36 (h) Nothing in this section shall limit or restrict the statutory or  
37 regulatory authority of the commission or district.

38 (i) On or before July 1, 2016, if the commission and district  
39 implement a commute benefit ordinance as provided under this  
40 section, the two agencies shall jointly submit a report to the

1 transportation policy committees of each house of the Legislature  
2 that includes, but is not limited to, the following elements:

3 (1) A description of the program, including enforcement  
4 procedures and any sanctions imposed.

5 (2) Number of employers complying with the ordinance that  
6 did not previously offer a commute benefit consistent with those  
7 required by the ordinance.

8 (3) Number of employees who stopped driving alone to work  
9 in order to take transit or a vanpool, or to commute by bicycle, as  
10 a result of the commute benefit ordinance.

11 (4) Number of single-occupant vehicle trips reduced per month,  
12 week, or day as a result of the commute benefit ordinance.

13 (5) Vehicle miles traveled (VMT) and greenhouse gas emission  
14 reductions associated with implementation of the commute benefit  
15 ordinance.

16 (6) Greenhouse gas emission reductions associated with  
17 implementation of the commute benefit ordinance as a percentage  
18 of the region’s greenhouse gas emission target established by the  
19 State Air Resources Board.

20 (j) The commission shall not use federal planning funds in the  
21 implementation of the commute benefit ordinance.

22 (k) As used in this section, the following terms have the  
23 following meanings:

24 (1) “Covered employer” means any employer for which an  
25 average of 50 or more employees per week perform work for  
26 compensation within the area where the ordinance adopted pursuant  
27 to this section operates. In determining the number of employees  
28 performing work for an employer during a given week, only  
29 employees performing work on a full-time basis shall be counted.

30 (2) “Covered employee” means an employee who performed  
31 at least an average of 20 hours of work per week within the  
32 previous calendar month within the area where the ordinance  
33 adopted pursuant to this section operates.

34 (3) “District” means the Bay Area Air Quality Management  
35 District.

36 (4) “Commission” means the Metropolitan Transportation  
37 Commission.

1     *(l)* This section shall remain in effect only until January 1, 2017,  
2     and as of that date is repealed, unless a later enacted statute, that  
3     is enacted before January 1, 2017, deletes or extends that date.

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**Introduced by Senator DeSaulnier  
(Principal coauthor: Senator Hancock)**

February 24, 2012

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An act to add Section 30951.1 to the Streets and Highways Code, relating to toll bridges, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1545, as introduced, DeSaulnier. Bay Area toll bridges.

Existing law designates the Metropolitan Transportation Commission as the regional transportation planning agency for the 9-county San Francisco Bay Area. Existing law creates the Bay Area Toll Authority with specified powers and duties relative to administration of certain toll revenues from state-owned toll bridges within the geographic jurisdiction of the Metropolitan Transportation Commission.

This bill would prohibit public money from being used on the development or improvement of an office building at 390 Main Street, San Francisco, until after the State Auditor has completed a specified audit relating to the move of the headquarters of the Metropolitan Transportation Commission. Upon completion of the audit, the bill would require the issues raised in the audit to be addressed and a report in that regard to be submitted to the Legislature prior to future expenditure of public money on the headquarters project. These provisions would apply to the Bay Area Toll Authority, the Metropolitan Transportation Commission, and the Bay Area Headquarters Authority. The bill would thereby 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, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 30951.1 is added to the Streets and  
2 Highways Code, to read:  
3 30951.1. (a) Notwithstanding any other provision of this  
4 chapter, or any other provision of law, public money may not be  
5 used on the development or improvement of an office building at  
6 390 Main Street, San Francisco, until after the State Auditor has  
7 completed the audit approved by the Joint Legislative Audit  
8 Committee of the move of the headquarters of the Metropolitan  
9 Transportation Commission.  
10 (b) Upon completion of the audit and prior to future expenditure  
11 of public money for the purposes described in subdivision (a), the  
12 issues raised in the audit shall first be addressed. A report shall be  
13 submitted to the Legislature in accordance with Section 9795 of  
14 the Government Code describing the manner in which those issues  
15 were addressed.  
16 (c) This section applies to the authority, the Metropolitan  
17 Transportation Commission, and the Bay Area Headquarters  
18 Authority.  
19 SEC. 2. If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 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.  
24 SEC. 3. This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or safety within  
26 the meaning of Article IV of the Constitution and shall go into  
27 immediate effect. The facts constituting the necessity are:

1 In order to prevent the potential misuse of toll and other public  
2 revenues, it is necessary that this act take effect immediately.

O