



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS MEETING July 6, 2022

THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY ASSEMBLY BILL 361 (RIVAS 2021) ALLOWING REMOTE MEETINGS. THIS MEETING WILL BE ACCESSIBLE VIA WEBCAST, TELECONFERENCE, AND ZOOM, AS WELL AS IN PERSON. A ZOOM PANELIST LINK WILL BE SENT SEPARATELY TO COMMITTEE OR BOARD MEMBERS

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY CLICKING THE LINK AVAILABLE ON THE AIR DISTRICT'S AGENDA WEBPAGE AT**

www.baaqmd.gov/bodagendas

- **MEETING ATTENDEES MAY, IN LIEU OF REMOTE PARTICIPATION, ATTEND IN PERSON FOR PUBLIC COMMENT AND/OR OBSERVATION AT 375 BEALE STREET, BOARD ROOM (1ST FLOOR). IN-PERSON ATTENDEES MUST PASS REQUIRED HEALTH SCREENINGS AND ADHERE TO POSTED PUBLIC HEALTH PROTOCOLS WHILE IN THE BUILDING. THE PUBLIC MAY PARTICIPATE REMOTELY VIA ZOOM AT THE FOLLOWING LINK OR BY PHONE**

<https://bayareametro.zoom.us/j/82740029827>

(669) 900-6833 or (408) 638-0968

WEBINAR ID: 827 4002 9827

- **THOSE PARTICIPATING BY PHONE WHO WOULD LIKE TO MAKE A COMMENT CAN USE THE "RAISE HAND" FEATURE BY DIALING "*9". IN ORDER TO RECEIVE THE FULL ZOOM EXPERIENCE, PLEASE MAKE SURE YOUR APPLICATION IS UP TO DATE**

BOARD OF DIRECTORS MEETING AGENDA

WEDNESDAY, JULY 6, 2022

9:00 AM

Chairperson, John J. Bauters

1. **Call to Order - Roll Call**
2. **Pledge of Allegiance**
3. **Public Meeting Procedure**

The Board Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Board members.

This meeting will be webcast. To see the webcast, please visit www.baaqmd.gov/bodagendas at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.

Public Comment on Agenda Items: *The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on matters on the agenda for the meeting, will have three minutes each to address the Board. No speaker who has already spoken on that item will be entitled to speak to that item again.*

4. **Special Orders of the Day**

CONSENT CALENDAR (Items 5 - 13)

5. **Approval of the Minutes of June 15, 2022**

The Board of Directors will consider approving the draft minutes of the Board of Directors meeting of June 15, 2022.

6. **Board Communications Received from June 15, 2022 through July 5, 2022.**

A copy of communications directed to the Board of Directors received by the Air District from June 15, 2022 through July 5, 2022, if any, will be distributed to the Board Members by way of email.

7. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)

The Board of Directors will consider approving a resolution reauthorizing Air District Board and Committee meetings using remote teleconferencing through August 5, 2022.

8. Authorization to Execute a Master Service Agreement (MSA) with InterEthnica

The Board of Directors will consider authorizing the Interim Executive Officer/APCO to execute a Master Service Agreement (MSA) with InterEthnica to support the Community Advisory Council, the James Cary Smith Community Grant Program, and the Air District's Community Engagement Work.

9. Notice of Proposed Amendments to Division I, Section 6.4, of the Administrative Code Regarding the Functions of the Administration Committee

The Board of Directors will receive notice that it will consider at its next regular meeting an amendment to the Administrative Code to add two sentences to Division I, Section 6.4, to clarify that the functions of the previous Executive Committee and Personnel Committee, which were eliminated in 2021, have been taken over by the Administration Committee.

10. Authorization to Execute a Legal Services Agreement with Shute Mihaly & Weinberger to Represent the Air District in Ongoing Litigation Regarding Regulation 6-5

The Board of Directors will consider authorizing the Interim Executive Officer/APCO to execute a legal retainer agreement with Shute Mihaly & Weinberger LLP for a total amount not to exceed \$425,000 to represent the Air District in ongoing litigation regarding District Regulation 6, Rule 5; and will consider authorizing the transfer of \$425,000 from the Litigation Contingency General Fund Reserves to amend the Fiscal Year (FY) 2023 Legal Office's Litigation program budget.

11. Report of the Legislative Committee Meeting of June 13, 2022

The Board of Directors will receive a report of the Legislative Committee Meeting of June 13, 2022.

12. Report of the Stationary Source and Climate Impacts Committee Meeting of June 13, 2022

The Board of Directors will receive a report of the Stationary Source and Climate Impacts Committee Meeting of June 13, 2022.

13. Report of the Administration Committee Meeting of June 15, 2022

The Board of Directors will receive a report of the Administration Committee Meeting June 15, 2022.

DISCUSSION (Items 14 - 16)

14. Management Audit Report on Priority Recruitments

This item is informational only and will be presented by John Chiladakis, Director of Information Services, and George Skiles and Lynda McCallum of Sjoberg Evashenk.

15. Current Legislation on Potential Amendments to the Brown Act

This is an action item to recommend the Board of Directors discuss and vote on taking a position on AB 2449 (Rubio) – Open meetings: local agencies: teleconferences, and will be presented by Alan Abbs, Legislative Officer.

16. Vendor Selection for Financial and Compliance Audits

The Board of Directors will consider approving the vendor selection for the Financial Audits and Compliance Audits of the Transportation Fund for Clean Air programs and projects and authorize the Interim Executive Officer/APCO to execute a contract with Simpson & Simpson, LLP for up to a five-year term. This item will be presented by Stephanie Osaze, Director of the Finance Division.

OTHER BUSINESS

17. Public Comment on Non-Agenda Matters

Pursuant to Government Code Section 54954.3

Members of the public who wish to speak on matters not on the agenda for the meeting, will have three minutes each to address the Board.

18. Board Member Comments

Any member of the Board, 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)

19. Report of the Interim Executive Officer/APCO

20. Chairperson's Report

21. Time and Place of Next Meeting

Wednesday, July 20, 2022, at 9:00 a.m., in person or via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION

22. Public Employee Appointment and Employment (Gov't Code § 54957(b))

Title: Executive Officer/Air Pollution Control Officer

OPEN SESSION

23. Adjournment

The Board meeting shall be adjourned by the Board Chair.

CONTACT:
MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- 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 Air District's offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs, and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Suma Peesapati, at (415) 749-4967 or by email at speesapati@baaqmd.gov.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

375 BEALE STREET, SAN FRANCISCO, CA 94105

FOR QUESTIONS PLEASE CALL (415) 749-4941

EXECUTIVE OFFICE: MONTHLY CALENDAR OF AIR DISTRICT MEETINGS

JULY 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	6	9:00 a.m.	1 st Floor, Board Room (In person option available) <u>and</u> REMOTE pursuant to Assembly Bill 361
Board of Directors Community Equity, Health and Justice Committee	Thursday	7	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Advisory Council Meeting	Monday	11	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Legislative Committee	Monday	11	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee - CANCELLED	Monday	18	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	18	5:30 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	20	9:00 a.m.	1 st Floor, Board Room (In person option available) <u>and</u> REMOTE pursuant to Assembly Bill 361
Board of Directors Administration Committee	Wednesday	20	11:00 a.m.	1 st Floor, Board Room (In person option available) <u>and</u> REMOTE pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	27	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	28	9:30 a.m.	Webcast only pursuant to Assembly Bill 361

ADG 7/1/22 – 8:19 a.m.

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Approval of the Minutes of June 15, 2022

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors meeting of June 15, 2022.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors meeting of June 15, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Board of Directors Meeting of June 15, 2022

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

DRAFT MINUTES

Board of Directors Regular Meeting
Wednesday, June 15, 2022

*Note: Audio recordings of the meeting are available on the website of the
Bay Area Air Quality Management District at
www.baaqmd.gov/bodagendas*

This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021), allowing remote meetings. Members of the Board of Directors participated both by teleconference (via Zoom) and in person.

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, John J. Bauters, called the meeting to order at 9:00 a.m.

Roll Call:

Present: Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Teresa Barrett; and Directors Margaret Abe-Koga (Zoom), David Canepa (Zoom), Pauline Russo Cutter (Zoom), John Gioia (Zoom), Carole Groom (Zoom), Erin Hannigan (Zoom), David Haubert (Zoom), David Hudson, Tyrone Jue (Zoom), Otto Lee (Zoom), Sergio Lopez (Zoom), Karen Mitchoff (Zoom), Rob Rennie, Katie Rice (Zoom), Mark Ross (Zoom), Brad Wagenknecht (Zoom), Shamann Walton (Zoom), and Steve Young (Zoom).

Absent: Directors Lynda Hopkins and Nate Miley.

2. **PUBLIC MEETING PROCEDURE (OUT OF ORDER, ITEM 3)**
3. **SPECIAL ORDERS OF THE DAY (ITEM 4)**

Chair Bauters announced that this is a new standing item on Board meeting agendas, during which, new and/or recently promoted Air District employees will be introduced to the Board. Jamesine Rogers Gibson, Senior Advanced Projects Advisor, in the Air District's Planning Division, introduced herself.

4. **PLEDGE OF ALLEGIANCE (ITEM 2)**

CONSENT CALENDAR (ITEMS 5 – 13)

5. Approval of the Budget Hearing Minutes of May 4, 2022
6. Approval of the Minutes of June 1, 2022
7. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)
8. Board Communications Received from June 2, 2022, through June 14, 2022
9. Personnel Out-of-State Business Travel Report for May 2022
10. Authorization to Accept Grant Funding from the California Energy Commission
11. Authorization to Amend Contract with Environmental Consultant, PlaceWorks
12. Authorization to Establish and Amend Existing Air District Job Classifications and Salary Ranges
13. Report of the Community Equity, Health and Justice Committee Meeting of June 2, 2022

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Hudson made a motion, seconded by Vice Chair Hurt, to **approve** Consent Calendar Items 5 through 13, inclusive; and the motion **carried** by the following vote of the Board:

AYES: Teresa Barrett, John J. Bauters, David Canepa, Pauline Russo Cutter, Carole Groom, Erin Hannigan, David Haubert, David Hudson, Davina Hurt, Tyrone Jue, Otto Lee, Sergio Lopez, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.

NOES: None.

ABSTAIN: None.

ABSENT: Margaret Abe-Koga, John Gioia, Lynda Hopkins, Nate Miley.

PUBLIC HEARINGS

14. FINAL PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO AIR DISTRICT REGULATION 3: FEES

The Board of Directors held the second of two required public hearings for the exclusive purpose of considering testimony on the Air District's proposed amendments to Air District Regulation 3 (Fees) that would become effective on July 1, 2022.

Damian Breen, Senior Deputy Executive Officer of Operations, introduced Fred Tanaka, Engineering Manager, who gave the staff presentation *Amendments to Regulation 3: Fees*, including: outcome; outline; requested action; cost recovery background; proposed changes to fee schedules (15% increase); schedules not being increased; other proposed amendments (Regulations 2-1 & 2-5 and naturally

occurring asbestos); impact of large facilities (power plants and petroleum refineries); impact on small businesses (renewal fees and impact); rule development schedule; feedback requested/prompt.

NOTED PRESENT: Director Gioia was noted present at 9:30 a.m.

Chair Bauters opened the public hearing.

Public Comments

Public comments were given by Kevin Buchan, Western States Petroleum Association; Jed Holtzman, San Francisco resident; Veronica Pardo, Resource Recovery Coalition of California; Christine Wolfe, California Council for Environmental and Economic Balance; and Jan Warren, Interfaith Climate Action Network of Contra Costa County.

Board Comments

The Board and staff discussed the Air District's cost and fee schedule structures, compared to those of other California air districts; the difference in fee schedule increases, depending upon whether the fee is existing or new; ways in which the proposed fee changes have been revised and altered since the beginning of 2022; the historical timing of Regulation 3 (fee amendment) implementation; how proposing a new set of fee amendments (beyond this meeting) might impact the fee schedule and FYE 2023 Budget implementation timeline; the Air District's historical rate of cost recovery, and the rate of cost recovery associated with the proposed fee amendments for FYE 2023; concern about fee increases for small businesses in overburdened communities; whether the Air District's current workload justifies the proposed fee increases; and the desire to have a report back within the next 60 days on the causes of backlogs in permit issuance and solutions to reducing and eliminating such delays in the future.

Chair Bauters closed the public hearing.

Board Action

Secretary Barrett made a motion, seconded by Director Gioia, to **adopt** proposed amendments to Air District Regulation 3: Fees (effective on July 1, 2022); and the motion **carried** by the following vote of the Board:

AYES:	Teresa Barrett, John J. Bauters, David Canepa, John Gioia, Carole Groom, Erin Hannigan, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht.
NOES:	Pauline Russo Cutter.
ABSTAIN:	David Haubert, Otto Lee.
ABSENT:	Margaret Abe-Koga, Lynda Hopkins, Nate Miley, Shamann Walton, Steve Young.

15. FINAL PUBLIC HEARING TO CONSIDER ADOPTION OF THE AIR DISTRICT'S PROPOSED BUDGET FOR FISCAL YEAR ENDING (FYE) 2023

The Board of Directors held the second of two required public hearings for the exclusive purpose of considering testimony on the Air District's Proposed Budget for the FYE 2023 and various budget-related actions.

Dr. Jeff McKay, Chief Financial Officer, introduced Stephanie Osaze, Finance Director and Rex Sanders, Chief Administration Officer, who gave the staff presentation *Conduct Second Public Hearing to Consider Adoption of the Air District's Proposed Budget for Fiscal Year 2022- 2023*, including: outcome; outline; requested action; FY 2022-2023 Proposed Budget overview; breakdown of \$15.2 million budget increase; proposed 20 new staff; budget options (6.4% vs. 10.9% blended rate); capital budget detail; funding of retirement liabilities; Other Post-Employment Benefits funded status; reserves designations; FYE 2023 authorized staff; FY 2022-2023 Proposed Budget summary; and feedback requested/prompt.

Chair Bauters opened the public hearing.

Public Comments

Public comments were given by Jed Holtzman, San Francisco resident.

Board Comments

None.

Chair Bauters closed the public hearing.

Board Action

Director Groom made a motion, seconded by Director Wagenknecht, to **approve** the Proposed Budget for the Fiscal Year Ending 2023 and various budget-related actions; and the motion **carried** by the following vote of the Board:

AYES:	Teresa Barrett, John J. Bauters, David Canepa, Pauline Russo Cutter, John Gioia, Carole Groom, Erin Hannigan, David Hudson, Davina Hurt, Tyrone Jue, Otto Lee, Sergio Lopez, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Steve Young.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Margaret Abe-Koga, David Haubert, Lynda Hopkins, Nate Miley, Shamann Walton.

16. WILDFIRE SEASON PREVIEW

Mr. Breen introduced Michael Flagg, Principal Air Quality Specialist, and Tracy Lee, Compliance & Enforcement Manager, who gave the staff presentation *Wildfire Season Preview*, including: outcome;

outline; requested action; wildfires in California have intensified; 2022 fire season outlook; 2022 fire season started June 1; air monitoring; air quality forecasting; air quality data sites; Wildfire Air Quality Response Program; communications; wildfire preparedness tips; mask messaging; reducing wildfire risk; wildfire smoke preparedness; Assembly Bill 836; air filtration for schools; Home Air Filtration Program; and actions requested.

Public Comments

No requests received.

Board Comments

The Board and staff discussed the cause of changing air quality during the wildfire season (why conditions may improve and then become worse.)

Board Action

None; receive and file

OTHER BUSINESS

17. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County.

18. BOARD MEMBER COMMENTS

Director Hudson reported that he attended the California Hydrogen Leadership Summit in early June and said that he believes that there will be an increase in hydrogen-related legislation in the future. He suggested that the Air District begins monitoring hydrogen bills, moving forward.

19. REPORT OF THE INTERIM EXECUTIVE OFFICER/AIR POLLUTION CONTROL OFFICER (APCO)

Sharon Landers, Interim Executive Officer/APCO, asked Dr. Ranyee Chiang, Director of Meteorology and Measurement, to provide a summary on recent air quality.

20. CHAIRPERSON'S REPORT

Chair Bauters recognized and explained the history of the federal holiday, Juneteenth, which will take place on Sunday, June 19, 2022.

21. TIME AND PLACE OF NEXT MEETING

Wednesday, July 6, 2022, at 9:00 a.m., in person or via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION (11:16 a.m.)

22. PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT

Pursuant to Government Code Section 54957(b)

Title: Executive Officer/Air Pollution Control Officer

Reportable Action: Alexander Crockett, District Counsel, had nothing to report.

23. EXISTING LITIGATION (GOVERNMENT CODE SECTION 54956.9(a))

Pursuant to Government Code Section 54956.9(a), the Board will meet in closed session with legal counsel to discuss the following cases:

South Coast Air Quality Management District v. Chao, D.C. District Court, Case No. 19-CV-3436 (consolidated under lead Case No. 19-CV-2826);

Reportable Action: Mr. Crockett reported that the Board authorized the voluntary dismissal of this case.

South Coast Air Quality Management District v. EPA, D.C. Circuit, Case No. 19-1241 (consolidated under lead Case No. 19-1230); and

Reportable Action: Mr. Crockett had nothing to report.

South Coast Air Quality Management District v. NHTSA, D.C. Circuit, Case No. 20-1173 (consolidated under lead Case No. 20-1145)

Reportable Action: Mr. Crockett had nothing to report.

OPEN SESSION (12:32 p.m.)

24. ADJOURNMENT

The meeting adjourned at 12:33 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Board Communications Received from June 15, 2022 through July 5, 2022.

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from June 15, 2022 through July 5, 2022, if any, will be distributed to the Board Members by way of email.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Aloha de Guzman
Reviewed by: Vanessa Johnson

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)

RECOMMENDED ACTION

The Board of Directors will consider approving a resolution reauthorizing Air District Board and Committee meetings using remote teleconferencing through August 5, 2022.

BACKGROUND

AB 361 (R. Rivas 2021) (Open meetings: state and local agencies: teleconferences) allows the Board of Directors, Board committees, and other legislative bodies of the District to conduct public meetings using teleconferencing without complying with certain requirements imposed by the Ralph M. Brown Act during the COVID-19 state of emergency proclaimed by Governor Newsom. The Board has adopted a series of resolutions since October 6, 2021, authorizing such meetings under AB 361. AB 361 requires the Board to adopt further resolutions every 30 days in order to continue conducting such meetings.

DISCUSSION

When the COVID-19 pandemic started, local agency boards struggled to conduct their meetings in compliance with the Brown Act's public accessibility requirements while still abiding by stay-at-home orders. As a result, Governor Newsom signed several executive orders to grant local agencies the flexibility to meet remotely during the COVID-19 pandemic. The Governor's executive orders allowed public agencies to meet remotely and did not require physical public access to those meeting locations. Those executive orders expired on September 30, 2021. AB 361 provides additional flexibility for local agencies looking to meet remotely during a proclaimed state of emergency. Agencies are required to consider and vote on this flexibility every 30 days in order to continue this practice under AB 361.

In order to continue conducting remote meetings without complying with all of the Brown Act's public accessibility requirements while the state of emergency remains active, or while state or local officials have imposed or recommended measures to promote social distancing, the Board must make the following findings by majority vote:

(A) That the Board has reconsidered the circumstances of the state of emergency; and

(B) That any of the following circumstances exist: (i) The state of emergency continues to directly impact the ability of the members to meet safely in person; or (ii) State or local officials continue to impose or recommend measures to promote social distancing.

The circumstances set forth in (B) are present here, and upon reconsideration of the circumstances of the state of emergency, the Board has grounds to make the requisite AB 361 findings. First, although the COVID-19 public health emergency has abated sufficiently to allow many members to participate safely in in-person meetings, it continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household in close proximity with such persons. As such, the health emergency continues to directly impact the ability of members to meet safely in person. Second, state and local officials continue to impose or recommend measures to promote social distancing.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Alexander G. Crockett

ATTACHMENTS:

1. Draft AB 361 Subsequent Resolution

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS FOR THE PERIOD JULY 6 TO AUGUST 5, 2022

WHEREAS, the Bay Area Air Quality Management District (District) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors, Board Committees, and all other legislative bodies of the District; and

WHEREAS, all meetings of District legislative bodies are open and public, as required by the Ralph M. Brown Act (Brown Act), Cal. Gov. Code §§ 54950- 54963, so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, beginning in 2020, the COVID-19 pandemic gave rise to significant health risks that made it unduly risky for the District's legislative bodies to hold in-person public meetings; and

WHEREAS, the Brown Act authorizes remote teleconferencing participation in meetings by members of a legislative body, but as of the beginning of the pandemic, it included certain restrictions in Government Code section 54953(b)(3) that made fully remote meetings impractical; and

WHEREAS, in response to this situation, and in order to facilitate remote meetings to promote public health and allow for social distancing during the COVID-19 pandemic, the Legislature enacted AB 361 (Rivas), which (among other things) created Government Code section 54953(e); and

WHEREAS, Government Code section 54953(e) makes provision for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, the Board of Directors adopted Resolutions on October 6, 2021 and thereafter, finding that the requisite conditions exist for the legislative bodies of the District to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), including (i) that there was and is a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and (ii) that as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, as a condition of continuing the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, the COVID-19 state of emergency remains active and Governor Newsom's COVID-19 Emergency Proclamation of March 4, 2020 remains in effect to prevent, mitigate, and respond to the spread of COVID-19; and

WHEREAS, measures to promote social distancing have been ordered or recommended by state and local public health authorities; and

WHEREAS, the Board of Directors does hereby find that although the COVID-19 public health emergency has abated sufficiently to allow many members to participate safely in in-person meetings, it continues to present imminent risks to the health or safety of other members, including but not limited to those who may have weakened immune systems, those who may have reasons preventing them from being vaccinated, and those who may live in a household with such persons, and as such, the health emergency continues to directly impact the ability of members to meet safely in person;

WHEREAS, state and local officials continue to impose or recommend measures to promote social distancing;

WHEREAS, the Board of Directors desires to affirm that a state of emergency exists and re-ratify the Governor's proclamation of state of emergency; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of the District shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the District is publicizing in its meeting agendas zoom and webcast links and phone numbers for members of the public to participate remotely in meetings of the District's legislative bodies.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Persists. The Board of Directors hereby finds that the state of emergency related to COVID-19 in the District remains active, that measures to promote social distancing have been ordered or recommended by public health authorities, and that the state of emergency continues to directly impact the ability of members to meet safely in person by presenting imminent risks to the health or safety of some attendees.

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of

State of Emergency, effective as of its issuance date of March 4, 2020. Section 4. Remote Teleconference Meetings. The staff and legislative bodies of the District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) August 5, 2022, or (ii) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconference without compliance with section 54953(b)(3).

The foregoing resolution was duly regularly introduced, passed, and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the motion of _____, seconded by _____, on the 6th day of JULY 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

John Bauters
Chair of the Board of Directors

Teresa Barrett
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Authorization to Execute a Master Service Agreement (MSA) with InterEthnica

RECOMMENDED ACTION

Authorize the Interim Executive Officer/ APCO to execute a Master Service Agreement (MSA) with InterEthnica for a total amount, not-to-exceed \$265,000, from August 1, 2022 to June 30, 2024 to support the Community Advisory Council, the James Cary Smith Community Grant Program and the District's community engagement work.

BACKGROUND

InterEthnica has served as a facilitation consultant to the District since 2020, supporting District workshops, the Community Advisory Council, and the James Cary Smith Community Grant Program. InterEthnica provides highly specialized services, such as engagement strategies for polluted-burdened communities, multilingual communications, meeting and workshop design (virtual and in-person), and supporting the District in meeting our accessibility standards, and culturally appropriate engagement strategies (outreaching in a culturally sensitive manner to linguistically and ethnically diverse communities). InterEthnica is a minority and women-owned business.

InterEthnica currently has a Master Service Agreement (MSA) (Contract No. 2020.024) with the Air District where they provide the following services: interpretation services during virtual meetings, project planning assistance and support, strategic advice and webinar assistance as well as design equitable funding methodology on the James Cary Smith Community Grant Program, technical assistance and support for the Community Advisory Council (CAC) virtual meetings, translation of meeting materials, and host logistical support/technical assistance in virtual public meetings and workshops. They have been instrumental in navigating the virtual engagement environment and bridging the gap between the District and environmental justice communities in the Bay Area.

In 2021, the District released a Request for Quotation (RFQ) 2021-014, which sought to create a facilitator bench that would provide staff with the ability to select specialized and qualified consultants to support the District in engaging overburdened communities throughout the Bay

Area. InterEthnica applied and was selected amongst eleven (11) applicants (out of 23 firms) to provide facilitation services to the District, as well as conduct multi-stakeholder group coordination, stakeholder outreach and event promotion, logistics for public meetings and workshops, and neutral meeting facilitation (see attached RFQ recommendation memo). These services became particularly important during the COVID-19 pandemic, which forced the District to pivot and not only learn to hold meetings in a virtual setting, but more broadly, learn new ways to engage community members in key Air District programs, planning, and decision-making.

DISCUSSION

The new MSA will replace the current MSA and will carryover any remaining and ongoing technical and logistical support work to ensure the continuing success of the Community Advisory Council and James Cary Smith Community Grant Program. InterEthnica's expertise has proven to be an asset to the District, especially in engaging overburdened communities, in consistently and reliably supporting the District's community-led projects, and in continuing to build trust with communities.

Pending approval, the new MSA will include the following:

- Community Advisory Council (approximately \$96,000):
 - Technical assistance and support for virtual meetings, including post-meeting support and live captioning and accessibility services
 - Translation and interpretation services
 - Drafting meeting minutes
- James Cary Smith Community Grant Program (approximately \$73, 000):
 - Strategic advice
 - Funding methodology design
 - Web-based and meeting logistics support
- The remainder of the MSA will be available for future workshops, meetings and other engagement for Rules Division and other Divisions (approximately \$97,000):
 - Facilitation advice
 - Development of materials
 - Translation and simultaneous interpretation services
 - Project planning assistance and support

The new MSA (See Attachment) will replace the current MSA and will be implemented from August 1, 2022 to June 30, 2024 with a Not-To-Exceed (NTE) amount of \$265,000.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the new MSA contract \$265,000 comes from the following: \$72,510 for ongoing James Cary Smith Community Grant support approved in the 2022 Fiscal Year Ending (FYE) Community Engagement Office budget using Assembly Bill (AB) 617 20 CAPP Implementation Funds; \$137,490 for Community Advisory Council and general workshop support will come

from 2023 FYE Community Engagement Office General Fund budget; \$25,000 for AB 617 workshop support will be funded using 2023 FYE Community Engagement Office Assembly Bill (AB) 617 20 CAPP Implementation Funds; and \$30,000 for Rules Division workshops will come from 2023 FYE Rules Division General Fund budget.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Lisa Flores
Reviewed by: Veronica Eady

ATTACHMENTS:

1. Draft InterEthnica MSA
2. Original Approved MSA Contract No. 2020.024
3. RFQ 2021-014

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2022.147

1. **PARTIES** – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **InterEthnica, Inc.** (“CONTRACTOR”) whose address is 60 Rausch Street, Suite 307, San Francisco, CA 94103.
2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.
4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraph D above.

5. TERM – The term of this Contract is from August 1, 2022 to June 30, 2024, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.

6. TERMINATION

- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

7. INSURANCE

- A. CONTRACTOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a

business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.

- iv) Professional liability insurance with limits not less than one million dollars (\$1,000,000) each claim.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

8. INDEMNIFICATION

- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
- B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

9. AGREEMENT TO PROVIDE SERVICES

- A. CONTRACTOR hereby agrees to provide to DISTRICT, as DISTRICT may from time to time designate, such services as DISTRICT may order by Task Order, all in accordance with and subject to the terms, covenants and conditions of this Contract. DISTRICT agrees to pay for these services ordered by DISTRICT in accordance with and subject to the terms, covenants and conditions of this Contract.
- B. All Task Orders issued by DISTRICT to CONTRACTOR for services during the term of this Contract are subject to the provisions of this Contract as though fully set forth in such Task Order. In the event that the provisions of this Contract conflict with any Task Order issued by DISTRICT to CONTRACTOR, the provisions of this Contract shall govern. No other terms and conditions, including, but not limited to, those contained in CONTRACTOR's standard printed terms and conditions, on CONTRACTOR's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Contract, any Task Order, or any transactions occurring pursuant hereto or thereto, unless this Contract shall be specifically amended to adopt such other terms and conditions in writing by the parties.

- C. Notwithstanding any other provision of this Contract to the contrary, DISTRICT shall have no obligation to order or purchase any services hereunder and the placement of any Task Order shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed \$265,000. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.
10. TASK ORDERS – Each Task Order will specify the following items, as relevant: specific services requested, schedule for services, location where services are to be performed (with contact person), and cost or estimated cost of services. Each Task Order issued under this Contract shall be made part of, and be incorporated into this Contract, and shall reference this Contract on the face of each Task Order. Should any Task Order not conform to or satisfy the terms of this Contract, CONTRACTOR shall have five (5) business days after receipt to reject the Task Order. By not rejecting the Task Order within five (5) business days, CONTRACTOR will have accepted the Task Order. Acceptance by CONTRACTOR is limited to the provisions of this Contract and the Task Order. No additional or different provisions proposed by CONTRACTOR or DISTRICT shall apply. In addition, the parties agree that this Contract and accepted Task Orders constitute a contract for services and satisfy all statutory and legal formalities of a contract.
11. PRICING, INVOICES, AND PAYMENT
- A. DISTRICT shall pay CONTRACTOR for all services ordered and provided in compliance with the terms and conditions of this Contract and with Task Orders issued under this Contract.
 - B. CONTRACTOR shall submit original invoices to DISTRICT in form and substance and format reasonably acceptable to DISTRICT. Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, Purchase Order Number, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
 - C. Except as specifically set forth in Attachment A or in Task Orders under this Contract, DISTRICT shall not be responsible for any additional costs or expenses of any nature incurred by CONTRACTOR in connection with the provision of the services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc.
 - D. CONTRACTOR represents, warrants and covenants that the prices, charges and fees for services set forth in this Contract (on the whole) are at least as favorable as the prices, charges and fees CONTRACTOR charges (on the whole) to other of its customers or clients for the same or substantially similar services provided under the same or substantially similar circumstances, terms, and conditions. If CONTRACTOR agrees or contracts with other clients or customers similarly situated during the Term of this Contract, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), CONTRACTOR hereby agrees that it will reduce the prices, charges and/or fees charged to DISTRICT in respect of the services hereunder to the most favorable rates received by those other clients or customers.
12. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.

- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT's office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to the total value of all Task Orders issued under this Contract. The mediation costs shall not reduce the maximum amount recoverable under this section.
13. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Anna Lee

CONTRACTOR: InterEthnica, Inc.
60 Rausch Street, Suite 307
San Francisco, CA 94103
Attn: Lisa Abboud

14. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.
15. EMPLOYEES OF CONTRACTOR
- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
 - B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.

- C. CONTRACTOR shall assign the employees listed under the Task Orders to perform services under this Contract. CONTRACTOR shall not assign different employees to perform these services without the express written permission of DISTRICT, which DISTRICT will not unreasonably withhold.
 - D. DISTRICT reserves the right to review the credentials to perform the services for any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.
16. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:
- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
 - B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
 - C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
 - D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
 - E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
 - F. Prevent access to such materials by a person or entity not authorized under this Contract.
 - G. Establish specific procedures in order to fulfill the obligations of this section.
17. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed to in writing.
18. PUBLICATION
- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such

report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.

- B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.
- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the Bay Area Air Quality Management District (District). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of the District. The District, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report."

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.
- 19. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing services in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
 - 20. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT's premises.
 - 21. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
 - 22. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to

enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

23. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
24. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
28. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
29. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.

30. SURVIVAL OF TERMS – The provisions of sections 8 (Indemnification), 16 (Confidentiality), 17 (Intellectual Property Rights), and 18 (Publication) shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

INTERETHNICA, INC.

By: _____
Sharon Landers
Interim Executive Officer/APCO

By: _____
Lisa Abboud
Principal

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Alexander Crockett
District Counsel

Attachment A

General Description of Services

CONTRACTOR shall provide community engagement support and facilitation services to DISTRICT. DISTRICT regularly convenes meetings with community groups and public forums to inform the community about DISTRICT activities and to provide the public the opportunity to engage with DISTRICT staff, provide comments, ask questions, and shape new policy, planning processes and decision-making. Community engagement activities at the DISTRICT range in level of engagement from focus groups and meetings with small groups of community members to larger public meetings, open houses, interactive workshops on specific topics of interest, and ongoing stakeholder workgroups and advisory bodies to the Board of Directors. Activities may be in-person, virtual, or hybrid, throughout the Bay Area and may include a single event or a series of workshops or meetings and may include logistics to support accessibility and reduce barriers to participation by communities directly affected by a high burden of air pollution. Meetings may be during typical business hours (before 5pm) as well as in the evenings and, less often, on weekends. Upon request, CONTRACTOR shall provide written estimates or proposals to DISTRICT for community engagement and facilitation services.

CONTRACTOR services may include but are not limited to:

- a) Provide culturally relevant information in appropriate languages (arrange for interpretation and translation of materials as needed);
- b) Identify and share local stakeholder contacts with DISTRICT;
- c) When relevant, design meeting flyers, promote meetings, workshops, events, and program progress. Advertise and send targeted invitations, track responses;
- d) Identify and secure ADA accessible community-friendly meeting facilities with low to zero facility rental costs - prefer venues that are transit accessible;
- e) For virtual and hybrid meetings, host virtual platform, ensure accessibility needs meet the requirements of the DISTRICT and provide technical assistance to DISTRICT and public, as requested;
- f) Identify and secure appropriate child watch as requested;
- g) Provide healthy refreshments - prefer local vendors;
- h) When relevant and appropriate, provide stipends/grants to participants (individuals/organizations);
- i) Ensure audiovisual needs are met and virtual participation tools are supplied as requested;
- j) Work with DISTRICT and identified partners or community groups to consult on meeting design and how to convene and run successful in-person, virtual, and hybrid meetings;
- k) Provide technical assistance to DISTRICT staff on various tools and techniques to support engagement efforts as requested;
- l) Provide follow-up between meetings as needed; and
- m) Provide post meeting recap summaries, recordings and transcripts, survey data as needed to DISTRICT staff and identified partners and community groups to document meeting outcomes.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2020.024

1. **PARTIES** – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **InterEthnica, Inc.** (“CONTRACTOR”) whose address is 60 Rausch Street, Suite 307, San Francisco, CA 94103.
2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.
4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraph D above.

5. TERM – The term of this Contract is from date of execution by the Parties to December 31, 2020, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
6. TERMINATION
- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.
7. INSURANCE
- A. CONTRACTOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may

meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.

- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

8. INDEMNIFICATION

- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
- B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

9. AGREEMENT TO PROVIDE SERVICES

- A. CONTRACTOR hereby agrees to provide to DISTRICT, as DISTRICT may from time to time designate, such services as DISTRICT may order by Task Order, all in accordance with and subject to the terms, covenants and conditions of this Contract. DISTRICT agrees to pay for these services ordered by DISTRICT in accordance with and subject to the terms, covenants and conditions of this Contract.
- B. All Task Orders issued by DISTRICT to CONTRACTOR for services during the term of this Contract are subject to the provisions of this Contract as though fully set forth in such Task Order. In the event that the provisions of this Contract conflict with any Task Order issued by DISTRICT to CONTRACTOR, the provisions of this Contract shall govern. No other terms and conditions, including, but not limited to, those contained in CONTRACTOR's standard printed terms and conditions, on CONTRACTOR's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Contract, any Task Order, or any transactions occurring pursuant hereto or thereto, unless this Contract shall be specifically amended to adopt such other terms and conditions in writing by the parties.

- C. Notwithstanding any other provision of this Contract to the contrary, DISTRICT shall have no obligation to order or purchase any services hereunder and the placement of any Task Order shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed \$25,000. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.
10. TASK ORDERS – Each Task Order will specify the following items, as relevant: specific services requested, schedule for services, location where services are to be performed (with contact person), and cost or estimated cost of services. Each Task Order issued under this Contract shall be made part of, and be incorporated into this Contract, and shall reference this Contract on the face of each Task Order. Should any Task Order not conform to or satisfy the terms of this Contract, CONTRACTOR shall have five (5) business days after receipt to reject the Task Order. By not rejecting the Task Order within five (5) business days, CONTRACTOR will have accepted the Task Order. Acceptance by CONTRACTOR is limited to the provisions of this Contract and the Task Order. No additional or different provisions proposed by CONTRACTOR or DISTRICT shall apply. In addition, the parties agree that this Contract and accepted Task Orders constitute a contract for services and satisfy all statutory and legal formalities of a contract.
11. PRICING, INVOICES, AND PAYMENT
- A. DISTRICT shall pay CONTRACTOR for all services ordered and provided in compliance with the terms and conditions of this Contract and with Task Orders issued under this Contract.
 - B. CONTRACTOR shall submit original invoices to DISTRICT in form and substance and format reasonably acceptable to DISTRICT. Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, Purchase Order Number, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
 - C. Except as specifically set forth in Attachment A or in Task Orders under this Contract, DISTRICT shall not be responsible for any additional costs or expenses of any nature incurred by CONTRACTOR in connection with the provision of the services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc.
 - D. CONTRACTOR represents, warrants and covenants that the prices, charges and fees for services set forth in this Contract (on the whole) are at least as favorable as the prices, charges and fees CONTRACTOR charges (on the whole) to other of its customers or clients for the same or substantially similar services provided under the same or substantially similar circumstances, terms, and conditions. If CONTRACTOR agrees or contracts with other clients or customers similarly situated during the Term of this Contract, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), CONTRACTOR hereby agrees that it will reduce the prices, charges and/or fees charged to DISTRICT in respect of the services hereunder to the most favorable rates received by those other clients or customers.
12. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.

- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT's office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to the total value of all Task Orders issued under this Contract. The mediation costs shall not reduce the maximum amount recoverable under this section.
13. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Kristen Law

CONTRACTOR: InterEthnica, Inc.
60 Rausch Street, Suite 307
San Francisco, CA 94103
Attn: Lisa Abboud

14. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.
15. EMPLOYEES OF CONTRACTOR
- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
 - B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.

- C. DISTRICT reserves the right to review the credentials to perform the services for any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.
16. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:
- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
 - B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
 - C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
 - D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
 - E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
 - F. Prevent access to such materials by a person or entity not authorized under this Contract.
 - G. Establish specific procedures in order to fulfill the obligations of this section.
17. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed to in writing.
18. PUBLICATION
- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.
 - B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not

Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.

- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the Bay Area Air Quality Management District (District). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of the District. The District, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report."

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.
19. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing services in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
20. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT's premises.
21. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
22. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

23. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
24. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
28. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
29. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
30. SURVIVAL OF TERMS – The provisions of sections 8 (Indemnification), 16 (Confidentiality), 17 (Intellectual Property Rights), and 18 (Publication) shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

INTERETHNICA, INC.

By:



Jack P. Broadbent
Executive Officer/APCO

By:



Lisa Abboud
Principal

Date:

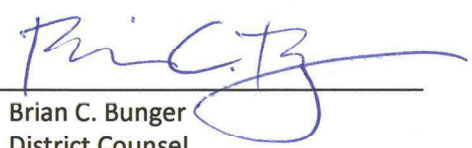
3/2/20

Date:

February 4, 2020

Approved as to form:
District Counsel

By:



Brian C. Bunker
District Counsel

Attachment A
General Description of Services

CONTRACTOR shall provide community engagement support and facilitation services to DISTRICT. DISTRICT regularly participates in meetings with community groups and hosts open public forums to inform the community about DISTRICT activities and to provide the public the opportunity to engage with DISTRICT staff, provide comments, ask questions and shape new policy directions. Community engagement activities range from meetings with small groups of community members to larger public meetings, open houses and interactive workshops on specific topics of interest. Activities may be a single event or include a series of workshops throughout the Bay Area. Upon request, CONTRACTOR shall provide written estimates or proposals to DISTRICT for community engagement and facilitation services.

CONTRACTOR services include but are not limited to:

- a) Provide culturally-relevant information in appropriate languages (arrange for translation of materials as needed);
- b) Identify and share local stakeholder contacts with DISTRICT;
- c) When relevant, promote meetings, workshops, events and program progress. Advertise and send targeted invitations, track responses;
- d) Identify and secure ADA accessible meeting facilities with low to zero facility rental costs - prefer venues that are transit accessible;
- e) Identify and secure child watch as requested;
- f) Identify and secure translation services as requested;
- g) Provide healthy refreshments;
- h) Ensure the audiovisual needs are met;
- i) Work with DISTRICT and identified partners or community groups to design and run successful meetings; and
- j) Provide post meeting recap summaries to DISTRICT staff and identified partners and community groups to document meeting outcomes.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

January 26, 2022

TO: Jack P. Broadbent, Executive Officer/APCO DS 1/27/2022

VIA: Rex Sanders, Chief Administrative Officer DS 1/27/2022
 Maricela Martinez, Director of Administrative Resources DS 1/26/2022

FROM: Kristen Law, Community Engagement Manager DS 1/26/2022
 Wendy Goodfriend, Air Quality Planning Manager DS 1/26/2022

SUBJECT: Request for Qualifications (RFQ) No. 2021-014 for Community Engagement Support and Facilitation Services Bid Evaluation and Recommendation of Award

RECOMMENDED ACTION

Based on the evaluation criteria set forth in the RFQ, staff recommends selecting and awarding RFQ No. 2021-014 to the following firms to constitute the environmental justice and equity bench for the Air District:

1. Sound of Hope Radio Network, Inc.
2. Just Cities LLC
3. InterEthnica
4. Rose Foundation for Communities and the Environment
5. Estolano Advisors
6. Equity and Wellness Institute, LLC
7. Kearns & West
8. Breathe California of the Bay Area, Golden Gate, and Central Coast
9. RSCA Corporation dba Redwood Resources
10. Nuestra Casa de East Palo Alto
11. Imprenta Communications Group, Inc.

BACKGROUND

During 2021, the community engagement team supported numerous workshops and events for Air District Divisions. We relied on our current bench of four organizations to successfully run those meetings and will see a continued need for that support, especially as we continue to offer engaging online engagement and begin to include hybrid online and in-person meetings. Access to a suite of consultants experienced in working with overburdened communities is necessary given the large number of requests for support from our various Divisions and partners.

This RFQ identified eleven organizations qualified to support the Air District with engagement efforts throughout the Bay Area, particularly overburdened communities. These organizations have been deemed qualified by the review panel to engage people living in low-income communities, communities of color, limited-English proficient communities, and Environmental Justice communities. The list includes women and

DS
CE

minority-owned businesses, and non-profit organizations. The qualified organizations are ready and eager to help the Air District meet our commitment to engage overburdened communities in actions that improve the air they breathe. Each of these organizations have specialized in engagement strategies or geographies that complement our team's efforts. For instance, some specialize in reaching specific ethnic groups in-language, another has a focused program on youth empowerment, while others have a specific or large geographic focus. Lastly, these 11 organizations have deep experience building trust with communities that we seek to engage.

With this bench of consultants on board, any Division in need of connecting with overburdened communities will now be able to quickly develop a Master Service Agreement with an organization to support their outreach and engagement efforts. This bench gives staff the ability to select from a broader base of consultants specialized in working with environmental justice communities, low-income communities and/or communities of color. Actual expenditures with each organization will vary depending on the Air District's needs and the scopes of the projects.

BID EVALUATION

The RFQ was open from October 4 through November 19, 2021. Staff held a Pre-Bid webinar on October 27, 2021 with over 30 participants in attendance. We received 23 proposals from the following organizations but only 22 were adequately submitted for evaluation.

1. Community Resources for Independent Living
2. All Positives Possible
3. Goodsides LLC
4. Nuestra Casa de East Palo Alto
5. Equity and Wellness Institute, LLC
6. Kearns & West
7. InterEthnica
8. Calm Waters Group, LLC
9. Sound of Hope Radio Network, Inc.
10. Critical Impact Consulting
11. Breathe California of the Bay Area, Golden Gate, and Central Coast
12. Casa Circulo Cultural, Inc in collaboration with Peninsula 360 Press
13. Acterra
14. Climate Resilient Communities
15. RSCA Corporation dba Redwood Resources
16. Fruition Consulting, LLC
17. Resource Development Associates
18. Just Cities LLC
19. Envirocom Communications Strategies, LLC
20. Rose Foundation for Communities and the Environment
21. Estolano Advisors
22. Imprenta Communications Group, Inc.
23. Beth Altshuler Muñoz, MPH/MCP

Following managements direction, the review panel consisted of one community member and three Air District Staff members.

Review panel:

1. Laura Cackette, Senior Air Quality Specialist, Rules & Strategic Policy
2. Jhamere Howard, Staff Specialist I, Diversity, Equity & Inclusion
3. Phillip Mitchell, Richmond resident and member of the Richmond-North Richmond, San Pablo Community Steering Committee.
4. Miriam Torres, Principal Environmental Planner, Planning and Climate Protection

The reviewers met to discuss their individual scores and agreed on the organizations that are most qualified to provide the services outlined in the RFQ. See attached scoring summary. Since this RFQ is building a bench, the review panel did not find it necessary to conduct interviews. Staff recommends selecting the following 11 organizations for the environmental justice and equity bench:

1. Sound of Hope Radio Network, Inc.
2. Just Cities LLC
3. InterEthnica
4. Rose Foundation for Communities and the Environment
5. Estolano Advisors
6. Equity and Wellness Institute, LLC
7. Kearns & West
8. Breathe California of the Bay Area, Golden Gate, and Central Coast
9. RSCA Corporation dba Redwood Resources
10. Nuestra Casa de East Palo Alto
11. Imprenta Communications Group, Inc.

Attachments

1. RFQ 2021-014 Scoring Summary



2021-014 - Community Engagement Support and Facilitation Services

Scoring Summary

Active Submissions

	Total	A - SOQ	A-1 - Minimum qualifications are met.	A-2 - Demonstrated understanding of and ability to provide services to the Air District and the communities we serve.	A-3 - Quality and diversity of work product as demonstrated through submitted work samples, if applicable.	A-4 - Experience with comparable organizations and types of services.	A-5 - Conformity with applicable Air District policies as noted in the RFQ.	A-6 - Proposed fee structure relating to services that would be provided.
Supplier	/ 30 pts	/ 30 pts	/ 5 pts	/ 5 pts	/ 5 pts	/ 5 pts	/ 5 pts	/ 5 pts
Just Cities	28.5	28.5	5	4.75	5	5	4.5	4.25
InterEthnica, Inc.	28.25	28.25	5	4.25	5	4.75	4.5	4.75
Imprenta Communications Group	27.75	27.75	4.75	4	5	5	4.5	4.5
Equity and Wellness Institute	27.75	27.75	5	4.75	4.5	5	4.5	4
Estolano Advisors	27.75	27.75	5	4.5	5	4.75	4.5	4
Rose Foundation for Communities and the Environment	27.5	27.5	5	4.25	4.5	4.75	4.5	4.5
Kearns & West	27.25	27.25	5	4.25	5	4.5	4.5	4
RSCA Corporation dba Redwood Resources	27	27	5	4.25	4.5	5	4.25	4
Sound of Hope Radio Network, Inc.	27	27	4.5	3.75	4.75	4.5	4.5	5
Breathe California of the Bay Area	27	27	4.75	4.5	4.5	4.25	4.25	4.75
Nuestra Casa de East Palo Alto	26.75	26.75	5	4.5	3.5	4.75	4.5	4.5
Envirocom Communications Strategies, LLC	26	26	4.75	4.5	4	4.5	4	4.25
Calm Waters Group	25.75	25.75	4.5	4	4.25	3.75	4.5	4.75
Acterra: Action for a Healthy Planet	25	25	4.75	3.75	4.25	4	4	4.25
Climate Resilient Communities	24.25	24.25	4.25	3.75	3.5	4	4	4.75
Resource Development Associates	24.25	24.25	4.5	3.5	4	4	4.25	4
Critical Impact Consulting	24	24	4.25	3.75	4	4.5	4	3.5
Beth Altshuler Munoz	22.25	22.25	4.5	4	2.75	4.25	3	3.75
Fruition Consulting LLC	22.25	22.25	4	3	3	4	4	4.25
Goodsides LLC	22.25	22.25	4.5	2.5	4	3.75	4	3.5
All Positives Possible	20.75	20.75	4	3.25	3	3.75	3.75	3
Casa Circulo Cultural	13.5	13.5	4	2.5	1	1.75	2.25	2
CRIL	6.75	6.75	1	1.25	1	1	1.5	1

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Notice of Proposed Amendments to Division I, Section 6.4, of the Administrative
Code Regarding the Functions of the Administration Committee

RECOMMENDED ACTION

The Board of Directors will receive notice that it will consider at its next regular meeting an amendment to the Administrative Code to add two sentences to Division I, Section 6.4, to clarify that the functions of the previous Executive Committee and Personnel Committee, which were eliminated in 2021, have been taken over by the Administration Committee.

BACKGROUND

The Board of Directors consolidated its committee structure on January 20, 2021. One change was to combine the functions of the Executive Committee and Personnel Committee into a new Administration Committee. The description of the functions of those two committees was copied verbatim to describe the functions of the new Administration Committee, as set forth in the current version of the Administrative Code in Division I, Section 6.4 – Administration Committee. The January 20, 2021 revisions are shown in Attachment A, which is a redline version showing the made to Section 6.4. The clear intent of this change was to have the new Administration Committee take over all of the functions of the former Executive Committee and Personnel Committee.

When this change was made, however, certain other sections of the Administrative Code that refer to the Executive Committee and Personnel Committee were not revised to reflect the change. Those Code provisions still refer to the Executive Committee and Personnel Committee, even though those committees were discontinued after January 20, 2021. This situation could create confusion when applying those other provisions, as the language refers to committees that no longer exist.

DISCUSSION

To eliminate any potential confusion that could arise from this artefact, staff propose adding two sentences to the description of the Administration Committee's functions in Section 6.4 of Part I of the Administrative Code, as follows:

The Administration Committee performs all of the functions of the Executive Committee and Personnel Committee as those committees existed prior to January 20, 2021. Any function assigned to the Executive Committee or Personnel Committee under this Code shall be performed by the Administration Committee.

These sentences will make clear that whenever the Administrative Code refers to an action to be taken by the Executive Committee or Personnel Committee, that action shall be taken by the Administration Committee. The proposed changes are shown in redline format in Attachments B (clean version) and C (redline version).

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alexander G. Crockett

ATTACHMENTS:

1. Excerpt from 12-20-2021 Board Memo re amending Admin Code to reorganize committees
2. Admin. Code - Section 6.4 Administration Committee
3. Admin. Code - Section 6.4 Administration Committee Redline Version

Proposed Amended Administrative Code, Division I, Operating Policies and Procedures, Section 6 Board of Directors Committees - Redline

SECTION 6 BOARD OF DIRECTORS, COMMITTEES

6.1 SPECIAL COMMITTEES.

All special committees shall be appointed by the Chairperson, unless otherwise directed by the Board.

6.2 STANDING COMMITTEES. ~~(Revised 3/6/2015)~~

Standing Committees of the Board of Directors shall be the following:

- (a) ~~Executive~~Administration Committee, consisting of the Chairperson of the Board, who shall be Chairperson of the Committee, the Vice-Chairperson of the Board, the Board Secretary, the last past Chairperson and ~~five (5)~~up to seven (7) other Directors appointed by the Chairperson.
- (b) ~~Budget and Finance~~Legislative Committee, consisting of ~~nine (9)~~up to eleven (11) Directors appointed by the Chairperson.
- (c) ~~Personnel~~Mobile Source and Climate Impacts Committee, consisting of ~~nine (9)~~up to eleven (11) Directors appointed by the Chairperson.
- (d) ~~Legislative~~Community Equity Health and Justice Committee, consisting of ~~nine (9)~~up to eleven (11) Directors appointed by the Chairperson.
- (e) ~~Mobile~~Stationary Source and Climate Impacts Committee, consisting of ~~nine (9)~~up to eleven (11) Directors appointed by the Chairperson.
- ~~(f) Public Engagement Committee, consisting of (9) Directors appointed by the Chairperson.~~
- ~~(g) Stationary Source Committee, consisting of nine (9) Directors appointed by the Chairperson. (f~~
- ~~(h) Climate Protection Committee, consisting of nine (9) Directors appointed by the Chairperson.~~
- (i) The Chairperson shall be an ex-officio member of all Standing Committees of the Board of Directors.
- (j) Each Standing Committee shall have authority to make recommendations to the Board of Directors for action regarding matters within the scope of the Committee's jurisdiction. A standing committee may discuss but may not make recommendations to the Board of Directors regarding issues outside of its jurisdiction and shall refer such matters to the appropriate committee. Except as specified in this Division or as otherwise specified by the Board of Directors, Standing Committees are not delegated decision-making authority.
- (h) In no event shall the number of members, including the Chairperson of the Board, appointed to a Committee, constitute a quorum of the Board of Directors.

6.3 ROTATION OF COMMITTEES.

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

6.4 ~~DUTIES OF EXECUTIVE~~ADMINISTRATION COMMITTEE.

~~It is the function of the Executive~~The Administration Committee ~~to will~~ consider such matters of policy affecting the affairs of the District as may arise from time to time when the Board of Directors is not in session. The ~~Executive~~Administration Committee shall consult with the officers of the

District and, within the scope and limitations of resolutions or other policies adopted by the Board of Directors, shall implement and make more specific the policies and programs of the District and, within such limits determine policies for the officers of the District. The ~~Executive Administration~~ Committee shall not have authority to authorize the expenditure of any moneys otherwise than is appropriated by the budget adopted by the Board of Directors or to alter, change or reverse any policy established by the Board of Directors. (See Section I-6.7) The ~~Executive Administration~~ Committee ~~shall have~~ shall have the responsibility for overseeing and guiding staff activities relative to long range planning and for receiving short range and long range plan proposals submitted by the District staff, as well as goals and objectives of the District; and for endorsing each year a long range plan to be submitted to the Board for its approval, and ~~to the Budget and Finance Committee~~ for its use in reviewing the Budget. The ~~Executive Administration~~ Committee should review the goals and objectives, short- and long-range plans of the California Air Resources Board to the extent that they are known. The ~~Executive Administration~~ Committee may receive and consider staff reports, presentations by staff members or other persons, and any other matter not requiring action by the Board. The ~~Executive Administration~~ Committee shall subsequently report on such matters to the Board at a regular meeting of the Board.

~~6.5 BUDGET AND FINANCE COMMITTEE. (Revised 5/3/00)~~

~~It is the function of the Budget and Finance~~ The Administration Committee ~~to will also~~ assist in the preparation of the annual budget for the District and to present the annual budget with recommendations to the District Board of Directors. The ~~Budget and Finance Administration~~ Committee also is responsible for approving administrative policy proposed by the APCO in the area of finance, procurement, insurance and related matters. At Budget review time each year the Committee shall evaluate District goals and objectives and recommend to the Board of Directors any changes, deletions and additions which it determines to be appropriate.

~~6.6 PERSONNEL COMMITTEE.~~

~~It is the function of the Personnel~~ The Administration Committee ~~to will also~~ consider and recommend policies of the District relating to procurement of officers and employees, employment of officers and employees, discharge of officers and employees, salaries and working conditions, and the retaining of consultants. The ~~Personnel Administration~~ Committee shall keep itself informed as to the work of the Advisory Council and Hearing Board, to be informed about persons in the community who may be qualified to serve on the Advisory Council and Hearing Board, and to recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur in the Advisory Council and Hearing Board.

~~6.7~~ LEGISLATIVE COMMITTEE.

~~It is the function of the~~ The Legislative Committee ~~to will~~ consider and recommend legislative proposals for the District and ~~to~~ consider and recommend a District position on all proposed legislation affecting the District. The Legislative Committee, in conjunction with District staff and the District Legislative Advocate, will keep itself informed on pending legislative matters and will meet and/or confer with appropriate legislators as necessary.

~~6.8~~ NOMINATING COMMITTEE. (Revised 10/4/95)

The Nominating Committee will consist of the Chairperson of the Board, the past Chairperson of the Board and three (3) appointees of the Chairperson of the Board, or in the event the past

6.3 ROTATION OF COMMITTEES.

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

6.4 ADMINISTRATION COMMITTEE. (REVISED 2/16/22)

The Administration Committee will consider such matters of policy affecting the affairs of the District as may arise from time to time when the Board of Directors is not in session. The Administration Committee shall consult with the officers of the District and, within the scope and limitations of resolutions or other policies adopted by the Board of Directors, shall implement and make more specific the policies and programs of the District and, within such limits determine policies for the officers of the District. The Administration Committee shall not have authority to authorize the expenditure of any moneys otherwise than is appropriated by the budget adopted by the Board of Directors or to alter, change or reverse any policy established by the Board of Directors. (See Section I-6.7) The Administration Committee shall have the responsibility for overseeing and guiding staff activities relative to long range planning and for receiving short range and long range plan proposals submitted by the District staff, as well as goals and objectives of the District; and for endorsing each year a long range plan to be submitted to the Board for its approval, and for its use in reviewing the Budget. The Administration Committee should review the goals and objectives, short and long range plans of the California Air Resources Board to the extent that they are known. The Administration Committee may receive and consider staff reports, presentations by staff members or other persons, and any other matter not requiring action by the Board. The Administration Committee shall subsequently report on such matters to the Board at a regular meeting of the Board.

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The Administration Committee performs all of the functions of the Executive Committee and Personnel as those committees existed prior to January 20, 2021. Any function assigned to the Executive Committee or Personnel Committee under this Code shall be performed by the Administration Committee.

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BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Authorization to Execute a Legal Services Agreement with Shute Mihaly &
Weinberger to Represent the Air District in Ongoing Litigation Regarding Regulation
6-5

RECOMMENDED ACTION

Authorize the Interim Executive Officer/APCO to execute a legal retainer agreement with Shute Mihaly & Weinberger LLP for a total amount not to exceed \$425,000 to represent the Air District in ongoing litigation regarding District Regulation 6, Rule 5; and authorize the transfer of \$425,000 from the Litigation Contingency General Fund Reserves to amend the Fiscal Year (FY) 2023 Legal Office's Litigation program budget.

BACKGROUND

In July of 2021, the Board of Directors adopted amendments to Air District Regulation 6, Rule 5 – Particulate Emissions From Petroleum Refinery Fluidized Catalytic Cracking Units (Regulation 6-5). These amendments were a very high-profile and important regulatory effort by the Air District. The amendments will achieve significant public health benefits by reducing the amount of fine particulate matter emitted from Bay Area petroleum refineries. The amendments also fulfilled a commitment the Board of Directors made in its 2018 AB 617 Expedited BARCT Implementation Schedule to update this regulation.

In September of 2021, two affected petroleum refineries filed Petitions for Writ of Mandate in Contra Costa County Superior Court challenging the Board's adoption of the Regulation 6-5 amendments. The two cases are Martinez Refining Co. LLC v. BAAQMD (Case No. N-21-1568) and Chevron U.S.A., Inc. v. BAAQMD (Case No. N21-1739). The cases allege that the Air District violated requirements of the California Environmental Quality Act (CEQA) and the California Health & Safety Code in adopting these amendments to Regulation 6-5. The Chevron U.S.A., Inc. case also alleges violations of the California Public Records Act. The Air District strongly denies that it violated any legal requirements in connection with these amendments.

The parties are currently in the process of assembling the administrative record on which this case will be tried. It is anticipated that the administrative record in this case will be well in

excess of 100,000 pages of documents. The parties currently expect that the administrative record will be complete by mid-August. After the record is complete, the court will establish a briefing schedule, the parties will prepare and submit their briefs, and then the court will hold a hearing and render a decision.

DISCUSSION

Given the high-profile nature and importance of this litigation, the size of this case, and the current staffing needs in the Legal Division, the District Counsel's Office determined in March of this year that the cases would need to be handled by outside counsel. Given the nature of the litigation, Shute Mihaly & Weinberger LLP (Shute Mihaly) was the clear choice as the best firm to handle the case. Shute Mihaly is a public interest law firm of over 40 attorneys that represents public agencies, non-profits, tribes, and community groups on environmental law issues and related matters. It is one of the state's leading environmental law firms and has extensive experience in defending public agencies (including both the Bay Area and South Coast Air Quality Management Districts) in CEQA litigation and in litigation challenging complex government regulations. It has represented both of these air districts (and many other public agencies) at trial and in the California courts of appeal and Supreme Court, and it has also successfully represented the South Coast District and other public agencies in analogous cases at the U.S. Supreme Court. Notably, Shute Mihaly represented the Air District in the California Building Industry Association v. Bay Area Air Quality Management District case, which went to the California Supreme Court, and the District found the quality of the firm's representation to be first rate. The attorneys in the District Counsel's office are very familiar with all of the leading law firms in California with expertise in CEQA litigation, and they are not aware of any other firm that would be better suited to handle this matter.

When the District Counsel's office brought Shute Mihaly in to work on this case, it did so under a pre-existing Framework Agreement Regarding Representation (Framework Agreement). Under the Framework Agreement, the Air District retained Shute Mihaly to represent it on an as-requested basis for matters within the District's mission for which the District may need assistance or specialized expertise, and in particular in connection with complex CEQA matters. The Framework Agreement was set up to serve as a framework pursuant to which the District and Shute Mihaly could mutually agree to Shute Mihaly's representation of the District on particular matters.

Now that Shute Mihaly is getting extensively involved in the Regulation 6-5 litigation, it is appropriate to enter into a matter-specific retainer agreement for this particular matter, rather than continuing to operate under the Framework Agreement. District Counsel and Shute Mihaly have discussed and negotiated the terms of such an agreement, which are set forth in the Supplemental Legal Retainer Agreement included with this memorandum. Staff seek Board authorization to enter into this agreement.

The agreement contains a limit on authorized fees of \$425,000. This number is based on the estimated total cost for Shute Mihaly to represent the District in the two cases through conclusion of the trial court proceedings, based on the firm's experience in defending public agencies in comparable litigation. This is only an estimate, as litigation costs cannot be predicted

with certainty. Accordingly, it is possible that litigation expenses could exceed the projected estimate. Shute Mihaly will provide the District with advance notice if it expects the total litigation costs to exceed \$425,000. In the event that it looks like costs could exceed this amount, staff will come back to the Board to seek a supplemental authorization before exceeding the authorized limit of \$425,000.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Fiscal Year Ending (FYE) 2023 Approved Budget included \$3 million for litigation contingencies. This budget allocation is sufficient to cover the anticipated costs of this litigation. If authorized, the FY 2023 Legal Office's Program 205 – Litigation will be amended by \$425,000 with a transfer of \$425,000 from the \$3 million for Litigation Contingency General Fund Reserves.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alexander G. Crockett
Reviewed by: Sharon L. Landers

ATTACHMENTS:

1. Supplemental Legal Retainer Agreement with Shute Mihaly & Weinberger LLP

June 29, 2022

Via Electronic Mail Only

Alexander Crockett
District Counsel
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Email: ACrockett@baaqmd.gov

Re: Supplemental Legal Retainer Agreement Regarding Regulation 6-5
Litigation

Dear Sandy:

As we discussed, and pursuant to the March 7, 2022, “Framework Agreement” between Shute, Mihaly & Weinberger LLP (“Firm”) and the Bay Area Air Quality Management District (“District”), this supplemental legal retainer agreement provides for the Firm’s continued representation of the District in the two lawsuits that have been filed challenging the District’s July 21, 2021 adoption of amendments to Regulation 6-5.

1. Legal Services to Be Provided

The Firm shall defend the District in *Chevron U.S.A., Inc. v. Bay Area Air Quality Management District* (Contra Costa Superior Court Case No. N21-1739) and *Martinez Refining Company LLC. v. Bay Area Air Quality Management District* (Contra Costa Superior Court Case No. N21-1568) (“Litigation”), subject to and at the direction of the District’s General Counsel.

2. Legal Fees and Costs

Fees and costs shall be billed as set forth in the Framework Agreement.

3. Budget Estimate and Anticipated Timeline

At present, we estimate that the cost to represent the District in the Litigation through conclusion of the trial court proceedings will not exceed \$425,000. This estimate is based on our experience in defending public agencies in comparable litigation and assumes that this case will not involve unusual or unforeseen circumstances. However, and even absent such circumstances, litigation costs sometimes exceed expectations and accordingly this estimate is not a cap. That said, we will not exceed this estimate without prior written approval from the District.

At present, we anticipate that the trial court will issue a decision in this matter no later than the spring of 2023.

4. Additional Terms Governed by Framework Agreement

The additional terms governing the Firm's representation of the District shall be as set forth in the Framework Agreement, except that Alexander Crockett shall be the District's authorized representative to direct the Firm and to be the primary person to communicate with the Firm regarding the Litigation.

If this supplemental agreement ("Agreement") is satisfactory, please execute a copy and return it to me. This Agreement will be effective when it is signed by you.

We look forward to continue working with you to defend the District in this matter.

Alexander Crockett
June 29, 2022
Page 3

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Robert "Perl" Perlmutter

ACCEPTED AND AGREED:

Bay Area Air Quality Management District

Sharon Landers
District Interim Executive Officer/APCO

Alexander Crockett
District Counsel

Date: _____

Date: _____

1528021.3

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Report of the Legislative Committee Meeting of June 13, 2022

RECOMMENDED ACTION

None.

BACKGROUND

None.

DISCUSSION

The Legislative Committee met on Monday, June 13, 2022, and approved the minutes of May 9, 2022. This meeting was conducted under procedures in accordance with Assembly Bill 361. Members of the Committee participated by teleconference.

The Committee then received and discussed an oral presentation from Alan Abbs, Legislative Officer, regarding an update on the State Legislative Budget. This summary included items of interest to the Air District (Assembly Bill 617, Greenhouse Gas Reduction Fund, Carl Moyer Program.)

The Committee then received and discussed the staff presentation *Air District-Sponsored Bills*, summarizing bills that are being sponsored by the Air District. These bills included:

- Assembly Bill 1897 (Wicks) - Nonvehicular air pollution control: civil penalties: refineries;
- Assembly Bill 2214 (C. Garcia) - California Environmental Quality Act: schoolsites: acquisition of property; school districts, charter schools, and private schools;
- Assembly Bill 2721 (Lee) - Bay Area Air Quality Management District: district board: compensation; and
- Assembly Bill 2836 (E. Garcia) - Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

Finally, the Committee received status updates for the following bills during staff's oral report *State Legislative Update*:

- Assembly Bill (Lee) – Local government; open and public meetings;
- Assembly Bill 2449 (Rubio) - Open meetings: local agencies: teleconferences;
- Assembly Bill 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding;
- Assembly Bill 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles;
- Assembly Bill 2852 (Bloom) - Air pollution control districts and air quality management districts: independent special districts: funding; and
- Senate Bill 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.

Although this was not an action item, the consensus of the Committee members present was to give direction to staff to propose the Board adopt an “oppose unless amended” position regarding **Assembly Bill 2449 (Rubio)**. Mr. Abbs said that, while he might not be able to present on this bill to the Board prior to the bill's final legislative hearings, he would immediately communicate to the legislators and the bill's author the Air District's Legislative Committee members' concerns regarding the following language within the bill, *“The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda...”*

The next meeting of this Committee will be held on Monday, July 11, 2022 at 1:00 p.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021). This concludes the Chair's Report of the Legislative Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Legislative Committee June 13, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pauline Russo Cutter and Members
of the Legislative Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 13, 2022

Re: State Legislative Budget Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On January 10, 2022, Governor Newsom released his initial proposal for the fiscal year (FY) 2022-23 Budget. On May 13, 2022, the Governor released the May Revision (May Revise) to the proposed 2022-23 Budget. The Senate and Assembly must vote on and pass their proposed budget bill by June 15, 2022, to meet the state's constitutional deadline. The budget bill must be signed by the Governor by July 1, 2022.

Prior to the Assembly and Senate voting on a budget bill, the bill must be in print for 72 hours, or no later than June 12, 2022.

DISCUSSION

Staff will provide an update to the Legislative Committee (Committee) on activities related to the budget, as well as an update about the future Greenhouse Gas Reduction Fund Budget.

Attached is a table of programs significant to the Air District, along with budget data from the previous year. Compared to previous years, through the May Revise, there is significant new funding for zero-emission vehicle and infrastructure programs, as well as new funding for various building decarbonization initiatives.

On June 1, 2022, Senate and Assembly leadership announced a budget deal between the two houses that would meet the July 1st deadline, but would require a second budget later in the summer to address climate and energy issues. The budget deal as described includes \$300 million for AB 617, with the agreement that there would also be future ongoing funding for AB 617. The length of ongoing funding has not been revealed. The proposed budget still requires the Governor's approval, and further negotiations are likely.

Staff will likely see the agreed upon budget in print only a day or so prior to the Committee meeting, and will provide updates and commentary as necessary.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Sharon L. Landers

ATTACHMENTS:

1. 2022-23 Proposed State Budget vs. Previous Year

**2022-23 State Budget vs. Previous Year
Statewide Funding Amounts**

Program	FY 21/22 Approved Budget	FY 22/23 Proposed Budget (January)	FY 22/23 Proposed Budget (May Revise)	FY 22/23 Proposed Budget (AB 154/SB 154)
AB 617 – Implementation	\$50M	\$50M	\$50M	\$300M
AB 617 – Incentives	\$260M	\$180M	\$200M	
AB 617 – Community Grants	\$10M	\$10M	\$10M	
Clean Vehicle Rebate	\$525M	\$0	\$425M	*
Clean Truck & Bus	\$315M	\$600M	\$600M	*
Ag Diesel Engine Replacement	\$213M	\$150M	\$150M	*
Clean Cars For All/ School Bus/Equity	\$150M	\$256M	\$430M	*
AB 836 – Clean Air Centers	\$25M	\$0	\$0	\$0
Prescribed Fire	\$2M	\$2M	\$2M	*
Carl Moyer Program	\$247M	\$130M	\$130M	\$130M
Zero-Emission Lawn and Garden	\$30M	\$0	\$0	\$0
Woodstove Replacement	\$5M	\$0	\$0	\$0
Port and Freight Goods Movement Infrastructure		\$1.2B	\$1.2B	\$1.2B (over two years)
ZEV Port Equipment		\$875M	\$875M	
ZEV Drayage and Transit Bus		\$935M	\$935M	*
Long Duration Energy Storage		\$380M (over two years)	\$380M (over two years)	*
Low-Income Residential Decarbonization		\$622M (over two years)	\$622M (over two years)	*
Consumer Rebates for Residential Decarbonization		\$300M (over two years)	\$300M (over two years)	*

**Deferred to
Summer '22*

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pauline Russo Cutter and Members
of the Legislative Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 13, 2022

Re: Air District-Sponsored Bills

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

This year, the Air District is sponsoring the following three bills:

- Assembly Bill (AB) 1897 (Wicks) – Nonvehicular air pollution control: civil penalties: refineries.
- AB 2214 (C. Garcia and Lee) – California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.
- AB 2721 (Lee) – Bay Area Air Quality Management District: district board: compensation.

The Air District is also co-sponsoring the following bills:

- AB 2836 (E. Garcia) – Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

DISCUSSION

Staff will provide the Legislative Committee with a summary and status of the three Air District-sponsored bills and one co-sponsored bill.

AB 1897 (Wicks) - Nonvehicular air pollution control: civil penalties: refineries.

CapitolTrack Bill Summary: Current law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Under current law, a person who violates this

provision, or any other statute, rule, regulation, permit, or order, as provided, is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A violator who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount, as specified. Current law requires the civil penalties to be assessed and recovered in a court of competent jurisdiction through a civil action brought by the Attorney General, a district attorney, or the attorney for the district in which the violation occurs. Current law precludes prosecution under specified statutes if civil penalties are recovered for the same offense. This bill would make a person who violates the above provision liable for a civil penalty of not more than \$30,000 if the violation results from a discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, as defined, the discharge results in a disruption to the community, and the discharge contains or includes one or more toxic air contaminants, as specified.

Current Status: AB 1897 was introduced by Assemblymember Wicks on February 9, 2022. This bill made its way through the Assembly committee process and was voted on the Assembly Floor on May 26, 2022, where it received a vote in favor of 41-25. With the first house completed, AB 1897 has been ordered to the Senate and is currently pending referral.

AB 2214 (C. Garcia and Lee) - California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.

CapitolTrack Bill Summary: Current law requires the governing board of a school district, before acquiring title to property for a new schoolsite or for an addition to a present schoolsite, to give notice in writing of the proposed acquisition to the planning commission. Current law requires the planning commission to investigate the proposed site and submit a written report to the governing board of the school district, as provided. Current law prohibits the governing board from acquiring title to the property until the report of the planning commission has been received. This bill would impose those prohibitions, and related requirements, on the governing body of a charter school and the governing body of a private school, and would make the provisions relating to school districts also applicable to charter schools and private schools, as provided. The bill would apply the Phase I environmental assessment requirements to charter schools and private schools, without conditioning the requirements on the receipt of state funds.

Current Status: AB 2214 was introduced by Assembly Members Cristina Garcia and Alex Lee on February 15, 2022. This bill made its way through the Assembly committee process and was voted on the Assembly Floor on May 23, 2022, where it received a vote in favor of 50-19. With the first house completed, AB 2214 has been ordered to the Senate and has been double-referred to Senate Committees on Environmental Quality and Education - hearing schedule pending.

AB 2721 (Lee) - Bay Area Air Quality Management District: district board: compensation.

CapitolTrack Bill Summary: Current law establishes a district board to govern the Bay Area Air Quality Management District and prescribes the membership of the district board. Current law authorizes the district board to provide, by ordinance, compensation not to exceed \$100 per day for board members for attending meetings of the board or committees of the board or while on

official business of the district and not to exceed \$6,000 per year. Existing law also requires board members to receive actual and necessary expenses incurred in the performance of their duties. This bill would revise the amount of compensation that a member of the board may receive for attending a meeting of the board or attending a meeting while on official business of the district to an amount not to exceed \$100 per meeting and \$200 per day. The bill would also authorize a member of the board to receive compensation for active transportation travel to one of these meetings and would subject this compensation to the \$6,000 total annual compensation limit.

Current Status: AB 2721 was introduced by Assemblymember Lee on February 18, 2022. This bill made its way through the Assembly committee process and was voted on the Assembly Floor on April 18, 2022, where it received a vote in favor of 66-3. With the first house completed, AB 2721 was ordered to the Senate and has been double-referred to Senate Committees on Environmental Quality and Governance & Finance. The bill was heard in Senate Environmental Quality on June 1, 2022, where it received a vote in favor of 5:0. Scheduled hearing for Senate Governance & Finance Committee pending.

AB 2836 (E. Garcia) - Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

CapitolTrack Summary: Current law, beginning January 1, 2024, limits the Carl Moyer Program to funding projects that reduce emissions of oxides of nitrogen (NOx) from covered sources. Current law, until January 1, 2024, defines covered source for purposes of the Carl Moyer Program to include any marine vessel and any other category necessary for the state and air districts to meet air quality goals. This bill would extend the current authorization for the Carl Moyer Program to fund a broader range of projects that reduce emissions from covered sources until January 1, 2033.

Current Status: AB 2836 was introduced by Assemblymember Eduardo Garcia on February 18, 2022. This bill made its way through the Assembly committee process and was voted on the Assembly Floor on May 25, 2022, where it received a vote in favor of 65-0. With the first house completed, AB 2836 has been ordered to the Senate and is currently pending referral.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Sharon L. Landers

ATTACHMENTS:

1. AB 1897 (Wicks) - Bill Text - As Amended on April 27, 2022
2. AB 2214 (C. Garcia and Lee) - Bill Text - As Amended on April 25, 2022
3. AB 2721 (Lee) - Bill Text - As Amended on March 10, 2022
4. AB 2836 (E. Garcia) - Bill Text - As Amended on May 19, 2022
5. PowerPoint - Air District-Sponsored Bills - Leg Meeting June 13, 2022

LEGISLATIVE COMMITTEE
MEETING OF 06/13/2022

AMENDED IN ASSEMBLY APRIL 27, 2022

AMENDED IN ASSEMBLY APRIL 20, 2022

AMENDED IN ASSEMBLY APRIL 7, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Wicks

February 9, 2022

An act to amend Sections 42400.7, 42402, 42402.1, 42402.2, 42402.3, and 42403 of, and to add ~~Section~~ *Sections 42402.6 and 42412* to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Wicks. Nonvehicular air pollution control: civil penalties: refineries.

Existing law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Under existing law, a person who violates this provision is guilty of a misdemeanor, as specified, or provision, or any other statute, rule, regulation, permit, or order, as provided, is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A person who violates this provision and violator who acts negligently, knowingly, willfully and intentionally, or with

reckless disregard, is liable for a civil penalty in a greater amount, as specified. *Existing law requires the civil penalties to be assessed and recovered in a court of competent jurisdiction through a civil action brought by the Attorney General, a district attorney, or the attorney for the district in which the violation occurs.* Existing law precludes prosecution under specified statutes if civil penalties are recovered pursuant to the above provisions for the same offense.

This bill would make a person who violates ~~this~~ *the above* provision liable for a civil penalty of not more than \$30,000 if the violation results from a discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, as defined, the discharge results in a disruption to the community, and the discharge contains or includes one or more toxic air contaminants, as specified. The bill would additionally make a person who violates this provision liable for a civil penalty of not more than \$100,000 for a subsequent violation within a 12-month period. The bill would require civil penalties collected pursuant to this provision, above the costs of prosecution, to be expended to mitigate the effects of air pollution in communities affected by the violation. The bill would prohibit this provision from applying if the violation is caused by unforeseen and unforeseeable criminal acts, acts of war, acts of terrorism, or civil unrest. The bill would ~~additionally~~ preclude prosecution under specified statutes if civil penalties are recovered pursuant to this provision. *The bill would authorize the Attorney General, a district attorney, or an attorney for the district in which the violation occurs who prevails in a civil action for a violation of the above provisions, or any other statute, rule, regulation, permit, or order, as provided, to recover the actual costs of investigation, expert witness fees, and reasonable attorney's fees.*

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 42400.7 of the Health and Safety Code
- 2 is amended to read:
- 3 42400.7. (a) The recovery of civil penalties pursuant to
- 4 Section 39674, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.4,
- 5 or 42402.6 precludes prosecution under Section 42400, 42400.1,
- 6 42400.2, 42400.3, 42400.3.5, or 42400.4 for the same offense.

1 When a district refers a violation to a prosecuting agency, the filing
2 of a criminal complaint is grounds requiring the dismissal of a
3 civil action brought pursuant to this article for the same offense.

4 (b) If the pending civil action described in subdivision (a)
5 includes a request for injunctive relief, that portion of the civil
6 action shall not be dismissed upon the filing of a criminal complaint
7 for the same offense.

8 SEC. 2. Section 42402 of the Health and Safety Code is
9 amended to read:

10 42402. (a) Except as provided in Sections 42402.1, 42402.2,
11 42402.3, 42402.4, and 42402.6, a person who violates this part,
12 an order issued pursuant to Section 42316, or a rule, regulation,
13 permit, or order of a district, including a district hearing board, or
14 of the state board issued pursuant to Part 1 (commencing with
15 Section 39000) to Part 4 (commencing with Section 41500),
16 inclusive, is strictly liable for a civil penalty of not more than five
17 thousand dollars (\$5,000).

18 (b) (1) A person who violates a provision of this part, an order
19 issued pursuant to Section 42316, or a rule, regulation, permit, or
20 order of a district, including a district hearing board, or of the state
21 board issued pursuant to Part 1 (commencing with Section 39000)
22 to Part 4 (commencing with Section 41500), inclusive, is strictly
23 liable for a civil penalty of not more than ten thousand dollars
24 (\$10,000).

25 (2) (A) If a civil penalty in excess of five thousand dollars
26 (\$5,000) for each day in which a violation occurs is sought, there
27 is no liability under this subdivision if the person accused of the
28 violation alleges by affirmative defense and establishes that the
29 violation was caused by an act that was not the result of intentional
30 conduct or negligent conduct.

31 (B) Subparagraph (A) does not apply to a violation of a federally
32 enforceable requirement that occurs at a Title V source in a district
33 in which a Title V permit program has been fully approved.

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

38 (c) A person who owns or operates a source of air contaminants
39 in violation of Section 41700 that causes actual injury, as defined
40 in subdivision (d) of Section 42400, to the health and safety of a

1 considerable number of persons or the public, is liable for a civil
2 penalty of not more than fifteen thousand dollars (\$15,000).

3 (d) Each day during a portion of which a violation occurs is a
4 separate offense.

5 SEC. 3. Section 42402.1 of the Health and Safety Code is
6 amended to read:

7 42402.1. (a) Except as provided in Section 42402.6, a person
8 who negligently emits an air contaminant in violation of this part
9 or a rule, regulation, permit, or order of the state board or of a
10 district, including a district hearing board, pertaining to emission
11 regulations or limitations is liable for a civil penalty of not more
12 than twenty-five thousand dollars (\$25,000).

13 (b) A person who negligently emits an air contaminant in
14 violation of Section 41700 that causes great bodily injury, as
15 defined in subdivision (f) of Section 12022.7 of the Penal Code,
16 to a person or that causes the death of a person, is liable for a civil
17 penalty of not more than one hundred thousand dollars (\$100,000).

18 (c) Each day during a portion of which a violation occurs is a
19 separate offense.

20 SEC. 4. Section 42402.2 of the Health and Safety Code is
21 amended to read:

22 42402.2. (a) Except as provided in Section 42402.6, a person
23 who emits an air contaminant in violation of a provision of this
24 part, or a rule, regulation, permit, or order of the state board or of
25 a district, including a district hearing board, pertaining to emission
26 regulations or limitations, and who knew of the emission and failed
27 to take corrective action, as defined in subdivision (b) of Section
28 42400.2, within a reasonable period of time under the
29 circumstances, is liable for a civil penalty of not more than forty
30 thousand dollars (\$40,000).

31 (b) A person who owns or operates a source of air contaminants
32 in violation of Section 41700 that causes great bodily injury, as
33 defined in subdivision (f) of Section 12022.7 of the Penal Code,
34 to a person or that causes the death of a person, and who knew of
35 the emission and failed to take corrective action, as defined in
36 subdivision (b) of Section 42400.2, within a reasonable period of
37 time under the circumstances, is liable for a civil penalty not to
38 exceed two hundred fifty thousand dollars (\$250,000).

39 (c) Each day during a portion of which a violation occurs is a
40 separate offense.

SEC. 5. Section 42402.3 of the Health and Safety Code is amended to read:

42402.3. (a) Except as provided in Section 42402.6, a person who willfully and intentionally emits an air contaminant in violation of this part or a rule, regulation, permit, or order of the state board, or of a district, including a district hearing board, pertaining to emission regulations or limitations, is liable for a civil penalty of not more than seventy-five thousand dollars (\$75,000).

(b) A person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined in subdivision (f) of Section 12022.7 of the Penal Code, to, or death of, a person, emits an air contaminant in violation of Section 41700 that results in an unreasonable risk of great bodily injury to, or death of, a person, is liable for a civil penalty of not more than one hundred twenty-five thousand dollars (\$125,000). If the violator is a corporation, the maximum penalty may be up to five hundred thousand dollars (\$500,000).

(c) A person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined in subdivision (f) of Section 12022.7 of the Penal Code, to, or death of, a person, emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined in subdivision (f) of Section 12022.7 of the Penal Code, to a person or that causes the death of a person, is liable for a civil penalty of not more than two hundred fifty thousand dollars (\$250,000). If the violator is a corporation, the maximum penalty may be up to one million dollars (\$1,000,000).

(d) Each day during a portion of which a violation occurs is a separate offense.

SEC. 6. Section 42402.6 is added to the Health and Safety Code, to read:

42402.6. (a) (1) A person is liable for a civil penalty of not more than thirty thousand dollars (\$30,000) if the person violates Section 41700 and all of the following occur:

- (A) (i) The discharge is from a Title V source that is a refinery.
- (ii) For purposes of this subparagraph, "refinery" means an establishment that is located on one or more contiguous or adjacent properties that produces gasoline, diesel fuel, aviation fuel, lubricating oil, asphalt, petrochemical feedstock, or other similar

1 product through the processing of crude oil or alternative feedstock,
2 redistillation of unfinished petroleum derivatives, cracking, or
3 other processes.

4 (B) The discharge results in a disruption to the community,
5 including, but not limited to, residential displacement, shelter in
6 place, evacuation, or destruction of property.

7 (C) The discharge contains or includes one or more toxic air
8 contaminants, as identified by the state board pursuant to Section
9 39657.

10 (2) A person shall be liable for a civil penalty of not more than
11 one hundred thousand dollars (\$100,000) for a discharge subject
12 to paragraph (1) if that discharge occurs within 12 months of a
13 prior discharge subject to paragraph (1).

14 (b) Except as provided in subdivision (b) of Section 42402.2 or
15 subdivision (b) or (c) of Section 42402.3, a civil penalty described
16 in subdivision (a) shall apply on the initial date of a violation.

17 (c) If a violation of subdivision (a) continues to occur subsequent
18 to the initial date of the violation, the civil penalty described in
19 Section 42402, 42402.1, 42402.2, or 42402.3 shall apply to those
20 subsequent days.

21 (d) The civil penalty described in paragraphs (1) and (2) of
22 subdivision (a) shall not apply if the violation is caused by
23 unforeseen and unforeseeable criminal acts, acts of war, acts of
24 terrorism, or civil unrest.

25 (e) Civil penalties collected pursuant to this section above the
26 costs of prosecution shall be expended to mitigate the effects of
27 air pollution in communities affected by the violation.

28 SEC. 7. Section 42403 of the Health and Safety Code is
29 amended to read:

30 42403. (a) The civil penalties prescribed in Sections 39674,
31 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.6 shall be
32 assessed and recovered in a civil action brought in the name of the
33 people of the State of California by the Attorney General, by a
34 district attorney, or by the attorney for the district in which the
35 violation occurs in a court of competent jurisdiction.

36 (b) In determining the amount of the civil penalty assessed, the
37 court, or in reaching a settlement, the district, shall take into
38 consideration all relevant circumstances, including, but not limited
39 to, the following:

40 (1) The extent of harm caused by the violation.

- 1 (2) The nature and persistence of the violation.
- 2 (3) The length of time over which the violation occurs.
- 3 (4) The frequency of past violations.
- 4 (5) The record of maintenance.
- 5 (6) The unproven or innovative nature of the control equipment.
- 6 (7) Action, if any, taken by the defendant, including the nature,
- 7 extent, and time of response of the cleanup and construction
- 8 undertaken, to mitigate the violation.
- 9 (8) The financial burden to the defendant.

10 SEC. 8. *Section 42412 is added to the Health and Safety Code,*
11 *to read:*

12 *42412. In any action brought pursuant to this article, a*
13 *prevailing plaintiff may recover its actual costs of investigation,*
14 *expert witness fees, and reasonable attorney's fees.*

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AMENDED IN ASSEMBLY APRIL 25, 2022

AMENDED IN ASSEMBLY MARCH 31, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2214

Introduced by Assembly Members Cristina Garcia and Lee

February 15, 2022

An act to amend Sections 17212, 17213.1, and 17251 of, and to add Article 3 (commencing with Section 17235) to Chapter 1 of Part 10.5 of Division 1 of Title 1 of, the Education Code, and to amend Sections ~~21084, 21151.2, 21151.2~~ and 21151.8 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as amended, Cristina Garcia. California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA prohibits an environmental impact report or negative declaration from being approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless certain conditions are met relating to, among other things, hazardous emissions or substances safety considerations, as provided.

Existing law requires the governing board of a school district, as a condition of receiving state funding under the Leroy F. Greene School Facilities Act of 1998, to conduct a Phase I environmental assessment of a proposed schoolsite before acquiring the site, as provided.

Existing law requires the State Department of Education, upon the request of the governing board of a school district, to advise the governing board on the acquisition of new schoolsites, as specified.

Existing law requires the governing board of a school district, before acquiring title to property for a new schoolsite or for an addition to a present schoolsite, to give notice in writing of the proposed acquisition to the planning commission. Existing law requires the planning commission to investigate the proposed site and submit a written report to the governing board of the school district, as provided. Existing law prohibits the governing board from acquiring title to the property until the report of the planning commission has been received.

This bill would impose those prohibitions, and related requirements, on the governing body of a charter school and the governing body of a private school, and would make the provisions relating to school districts also applicable to charter schools and private schools, as provided. The bill would apply the Phase I environmental assessment requirements to ~~school districts, charter schools,~~ *charter schools* and private schools, without conditioning the requirements on the receipt of state funds. By imposing new requirements on school districts, charter schools, lead agencies, cities, and counties, the bill would impose a state-mandated local program.

~~(2) Under existing law, CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, and requires those guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that are required to be exempt from CEQA.~~

~~This bill would prohibit a project that involves demolition, construction, or alteration of a public school, including a charter school, or a private school from being exempted from CEQA pursuant to those guidelines.~~

~~(3)~~

~~(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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 17212 of the Education Code is amended
2 to read:

3 17212. (a) (1) The governing board of a school district, or the
4 governing body of a charter school, before acquiring any site on
5 which it proposes to construct any school building as defined in
6 Section 17283 shall have the site, or sites, under consideration
7 investigated by competent personnel to ensure that the final site
8 selection is determined by an evaluation of all factors affecting
9 the public interest and is not limited to selection on the basis of
10 raw land cost only. If the prospective schoolsite is located within
11 the boundaries of any special studies zone or within an area
12 designated as geologically hazardous in the safety element of the
13 local general plan as provided in subdivision (g) of Section 65302
14 of the Government Code, the investigation shall include any
15 geological and soil engineering studies by competent personnel
16 needed to provide an assessment of the nature of the site and
17 potential for earthquake or other geologic hazard damage.

18 (2) The geological and soil engineering studies of the site shall
19 be of a nature that will preclude siting of a school in any location
20 where the geological and site characteristics are such that the
21 construction effort required to make the school building safe for
22 occupancy is economically unfeasible. No studies are required to
23 be made if the site or sites under consideration have been the
24 subject of adequate prior studies. The evaluation shall also include
25 location of the site with respect to population, transportation, water
26 supply, waste disposal facilities, utilities, traffic hazards, surface
27 drainage conditions, and other factors affecting the operating costs,
28 as well as the initial costs, of the total project.

29 (b) For the purposes of this article, “special studies zone” means
30 an area that is identified as a special studies zone on any map, or
31 maps, compiled by the State Geologist pursuant to Chapter 7.5

(commencing with Section 2621) of Division 2 of the Public Resources Code.

SEC. 2. Section 17213.1 of the Education Code is amended to read:

~~17213.1. The governing board of a school district, the governing~~

17213.1. As a condition of receiving state funding pursuant to Chapter 12.5 (commencing with Section 17070.10), the governing board of a school district shall comply with subdivision (a), and is not required to comply with subdivision (a) of Section 17213, before acquiring a schoolsite, or if the school district owns or leases a schoolsite, before the construction of a project. The governing body of a charter school, school or the governing body of a private school shall comply with subdivision (a), before acquiring a schoolsite, or if the school district, charter school, charter school or private school owns or leases a schoolsite, before the construction of a project.

(a) Before acquiring a schoolsite, the governing board or body shall contract with an environmental assessor to supervise the preparation of, and sign, a Phase I environmental assessment of the proposed schoolsite unless the governing board or body decides to proceed directly to a preliminary endangerment assessment, in which case it shall comply with paragraph (4).

(1) The Phase I environmental assessment shall contain one of the following recommendations:

(A) A further investigation of the site is not required.

(B) A preliminary endangerment assessment is needed, including sampling or testing, to determine the following:

(i) If a release of hazardous material has occurred and, if so, the extent of the release.

(ii) If there is the threat of a release of hazardous materials.

(iii) If a naturally occurring hazardous material is present.

(2) If the Phase I environmental assessment concludes that further investigation of the site is not required, the signed assessment, proof that the environmental assessor meets the qualifications specified in subdivision (b) of Section 17210, and the renewal fee shall be submitted to the Department of Toxic Substances Control. The Department of Toxic Substances Control shall conduct its review and approval, within 30 calendar days of its receipt of that assessment, proof of qualifications, and the

1 renewal fee. In those instances in which the Department of Toxic
2 Substances Control requests additional information after receipt
3 of the Phase I environmental assessment pursuant to paragraph
4 (3), the Department of Toxic Substances Control shall conduct its
5 review and approval within 30 calendar days of its receipt of the
6 requested additional information. If the Department of Toxic
7 Substances Control concurs with the conclusion of the Phase I
8 environmental assessment that a further investigation of the site
9 is not required, the Department of Toxic Substances Control shall
10 approve the Phase I environmental assessment and shall notify, in
11 writing, the State Department of Education and the governing
12 board of the school district, the governing body of the charter
13 school, or the governing body of the private school of the approval.

14 (3) If the Department of Toxic Substances Control determines
15 that the Phase I environmental assessment is not complete or
16 disapproves the Phase I environmental assessment, the department
17 shall inform the school district, charter school, or private school
18 of the decision, the basis for the decision, and actions necessary
19 to secure department approval of the Phase I environmental
20 assessment. The school district, charter school, or private school
21 shall take actions necessary to secure the approval of the Phase I
22 environmental assessment, elect to conduct a preliminary
23 endangerment assessment, or elect not to pursue the acquisition
24 or the construction project. To facilitate completion of the Phase
25 I environmental assessment, the information required by this
26 paragraph may be provided by telephonic or electronic means.

27 (4) (A) If the Department of Toxic Substances Control
28 concludes after its review of a Phase I environmental assessment
29 pursuant to this section that a preliminary endangerment assessment
30 is needed, the Department of Toxic Substances Control shall notify,
31 in writing, the State Department of Education and the governing
32 board of the school district, the governing body of the charter
33 school, or the governing body of the private school of that decision
34 and the basis for that decision. The school district, charter school,
35 or private school shall submit to the State Department of Education
36 the Phase I environmental assessment and requested additional
37 information, if any, that was reviewed by the Department of Toxic
38 Substances Control pursuant to that subparagraph. Submittal of
39 the Phase I assessment and additional information, if any, to the
40 State Department of Education shall be before the State Department

1 of Education issuance of final site or plan approvals affected by
2 that Phase I assessment.

3 (B) If the Phase I environmental assessment concludes that a
4 preliminary endangerment assessment is needed, or if the
5 Department of Toxic Substances Control concludes after it reviews
6 a Phase I environmental assessment pursuant to this section that
7 a preliminary endangerment assessment is needed, the school
8 district, charter school, or private school shall either contract with
9 an environmental assessor to supervise the preparation of, and
10 sign, a preliminary endangerment assessment of the proposed
11 schoolsite and enter into an agreement with the Department of
12 Toxic Substances Control to oversee the preparation of the
13 preliminary endangerment assessment or elect not to pursue the
14 acquisition or construction project. The agreement entered into
15 with the Department of Toxic Substances Control may be entitled
16 an "Environmental Oversight Agreement" and shall reference this
17 paragraph. A school district, charter school, or private school may,
18 with the concurrence of the Department of Toxic Substances
19 Control, enter into an agreement with the Department of Toxic
20 Substances Control to oversee the preparation of a preliminary
21 endangerment assessment without first having prepared a Phase I
22 environmental assessment. Upon request from the school district,
23 charter school, or private school, the Director of Toxic Substances
24 Control shall exercise its authority to designate a person to enter
25 the site and inspect and obtain samples pursuant to Section 25358.1
26 of the Health and Safety Code, if the director determines that the
27 exercise of that authority will assist in expeditiously completing
28 the preliminary endangerment assessment. The preliminary
29 endangerment assessment shall contain one of the following
30 conclusions:

- 31 (i) A further investigation of the site is not required.
32 (ii) A release of hazardous materials has occurred, and if so, the
33 extent of the release, that there is the threat of a release of
34 hazardous materials, or that a naturally occurring hazardous
35 material is present, or any combination thereof.

36 (5) The school district, charter school, or private school shall
37 submit the preliminary endangerment assessment to the Department
38 of Toxic Substances Control for its review and approval and to
39 the State Department of Education for its files. The school district,
40 charter school, or private school may entitle a document that is

meant to fulfill the requirements of a preliminary endangerment assessment a “preliminary environmental assessment” and that document shall be deemed to be a preliminary endangerment assessment if it specifically refers to the statutory provisions whose requirements it intends to meet and the document meets the requirements of a preliminary endangerment assessment.

(6) At the same time a school district, charter school, or private school submits a preliminary endangerment assessment to the Department of Toxic Substances Control pursuant to paragraph (5), the school district, charter school, or private school shall publish a notice that the assessment has been submitted to the department in a local newspaper of general circulation, and shall post the notice in a prominent manner at the proposed schoolsite that is the subject of that notice. The notice shall state the school district’s, charter school’s, or private school’s determination to make the preliminary endangerment assessment available for public review and comment pursuant to subparagraph (A) or ~~(B)~~: (C):

(A) If the school district, charter school, or private school chooses to make the assessment available for public review and comment pursuant to this subparagraph, it shall offer to receive written comments for a period of at least 30 calendar days after the assessment is submitted to the Department of Toxic Substances Control, commencing on the date the notice is originally published, and shall hold a public hearing to receive further comments. The school district, charter school, or private school shall make all of the following documents available to the public upon request through the time of the public hearing:

- (i) The preliminary endangerment assessment.
- (ii) The changes requested by the Department of Toxic Substances Control for the preliminary endangerment assessment, if any.
- (iii) Any correspondence between the school district, charter school, or private school, and the Department of Toxic Substances Control that relates to the preliminary endangerment assessment.

~~For the~~
(B) For the purposes of this subparagraph, subparagraph (A), the notice of the public hearing shall include the date and location of the public hearing, and the location where the public may review the documents described in clauses (i) to (iii), inclusive. inclusive, of subparagraph (A). If the preliminary endangerment assessment

1 is revised or altered following the public hearing, the school
2 district, charter school, or private school shall make those revisions
3 or alterations available to the public. The school district, charter
4 school, or private school shall transmit a copy of all public
5 comments received by the school district, charter school, or private
6 school on the preliminary endangerment assessment to the
7 Department of Toxic Substances Control. The Department of Toxic
8 Substances Control shall complete its review of the preliminary
9 endangerment assessment and public comments received thereon
10 and shall either approve or disapprove the assessment within 30
11 calendar days of the close of the public review period. If the
12 Department of Toxic Substances Control determines that it is likely
13 to disapprove the assessment prior to its receipt of the public
14 comments, it shall inform the school district, charter school, or
15 private school of that determination and of any action that the
16 school district, charter school, or private school is required to take
17 for the Department of Toxic Substances Control to approve the
18 assessment.

19 ~~(B)~~

20 (C) If the school district, charter school, or private school
21 chooses to make the preliminary endangerment assessment
22 available for public review and comment pursuant to this
23 subparagraph, the Department of Toxic Substances Control shall
24 complete its review of the assessment within 60 calendar days of
25 receipt of the assessment and shall either return the assessment to
26 the school district, charter school, or private school with comments
27 and requested modifications or requested further assessment or
28 concur with the adequacy of the assessment pending review of
29 public comment. If the Department of Toxic Substances Control
30 concurs with the adequacy of the assessment, and the school
31 district, charter school, or private school proposes to proceed with
32 site acquisition or a construction project, the school district, charter
33 school, or private school shall make the assessment available to
34 the public on the same basis and at the same time it makes available
35 the draft environmental impact report or negative declaration
36 pursuant to the California Environmental Quality Act (Division
37 13 (commencing with Section 21000) of the Public Resources
38 Code) for the site, unless the document developed pursuant to the
39 California Environmental Quality Act (Division 13 (commencing
40 with Section 21000) of the Public Resources Code) will not be

1 made available until more than 90 days after the assessment is
2 approved, in which case the school district, charter school, or
3 private school shall, within 60 days of the approval of the
4 assessment, separately publish a notice of the availability of the
5 assessment for public review in a local newspaper of general
6 circulation. The school district, charter school, or private school
7 shall hold a public hearing on the preliminary endangerment
8 assessment and the draft environmental impact report or negative
9 declaration at the same time, pursuant to the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code). All public comments
12 pertaining to the preliminary endangerment assessment shall be
13 forwarded to the Department of Toxic Substances Control
14 immediately. The Department of Toxic Substances Control shall
15 review the public comments forwarded by the school district,
16 charter school, or private school, and shall approve or disapprove
17 the preliminary endangerment assessment within 30 days of the
18 district's, charter school's, or private school's approval action of
19 the environmental impact report or the negative declaration.

20 (7) The school district, charter school, or private school shall
21 comply with the public participation requirements of Sections
22 25358.7 and 25358.7.1 of the Health and Safety Code and other
23 applicable provisions of the state act with respect to those response
24 actions only if further response actions beyond a preliminary
25 endangerment assessment are required and the school district,
26 charter school, or private school determines that it will proceed
27 with the acquisition or construction project.

28 (8) If the Department of Toxic Substances Control disapproves
29 the preliminary endangerment assessment, it shall inform the school
30 district, charter school, or private school of the decision, the basis
31 for the decision, and actions necessary to secure the Department
32 of Toxic Substances Control approval of the assessment. The
33 school district, charter school, or private school shall take actions
34 necessary to secure the approval of the Department of Toxic
35 Substances Control of the preliminary endangerment assessment
36 or elect not to pursue the acquisition or construction project.

37 (9) If the preliminary endangerment assessment determines that
38 a further investigation of the site is not required and the Department
39 of Toxic Substances Control approves this determination, it shall
40 notify the State Department of Education and the school district,

1 charter school, or private school of its approval. The school district,
2 charter school, or private school may then proceed with the
3 acquisition or construction project.

4 (10) If the preliminary endangerment assessment determines
5 that a release of hazardous material has occurred, that there is the
6 threat of a release of hazardous materials, that a naturally occurring
7 hazardous material is present, or any combination thereof, that
8 requires further investigation, and the Department of Toxic
9 Substances Control approves this determination, the school district,
10 charter school, or private school may elect not to pursue the
11 acquisition or construction project. If the school district, charter
12 school, or private school elects to pursue the acquisition or
13 construction project, it shall do all of the following:

14 (A) Prepare a financial analysis that estimates the cost of
15 response action that will be required at the proposed schoolsite.

16 (B) Assess the benefits that accrue from using the proposed
17 schoolsite when compared to the use of alternative schoolsites, if
18 any.

19 (C) Obtain the approval of the State Department of Education
20 that the proposed schoolsite meets the schoolsite selection standards
21 adopted by the State Department of Education pursuant to
22 subdivision (b) of Section 17251.

23 (D) Evaluate the suitability of the proposed schoolsite in light
24 of the recommended alternative schoolsite locations in order of
25 merit if the school district has requested the assistance of the State
26 Department of Education, based upon the standards of the State
27 Department of Education, pursuant to subdivision (a) of Section
28 17251.

29 (11) The school district, charter school, or private school shall
30 reimburse the Department of Toxic Substances Control for all of
31 the department's response costs.

32 (b) The costs incurred by the school districts when complying
33 with this section are allowable costs for purposes of an applicant
34 under Chapter 12.5 (commencing with Section 17070.10) of Part
35 10 and may be reimbursed in accordance with Section 17072.13.

36 (c) A school district, charter school, or private school that
37 releases a Phase I environmental assessment, a preliminary
38 endangerment assessment, or information concerning either of
39 these assessments, any of which is required by this section, may
40 not be held liable in any action filed against the school district,

1 charter school, or private school for making either of these
2 assessments available for public review.

3 (d) The changes made to this section by the act amending this
4 section during the 2001 portion of the 2001–02 Regular Session
5 do not apply to a schoolsite acquisition project or a school
6 construction project, if either of the following occurred on or before
7 the effective date of the act amending this section during the 2001
8 portion of the 2001–02 Regular Session:

9 (1) The final preliminary endangerment assessment for the
10 project was approved by the Department of Toxic Substances
11 Control pursuant to this section as this section read on the date of
12 the approval.

13 (2) The school district seeking state funding for the project
14 completed a public hearing for the project pursuant to this section,
15 as this section read on the date of the hearing.

16 ~~(e) The changes made to this section by Assembly Bill 2214 of~~
17 ~~the 2021–22 Regular Session apply to a schoolsite acquisition~~
18 ~~project or a schoolsite construction project pending approval before~~
19 ~~a local or state agency on or before January 1, 2023, in addition~~
20 ~~to a new schoolsite acquisition project or a schoolsite construction~~
21 ~~project on or after January 1, 2023.~~

22 SEC. 3. Article 3 (commencing with Section 17235) is added
23 to Chapter 1 of Part 10.5 of Division 1 of Title 1 of the Education
24 Code, to read:

25
26 Article 3. Charter School and Private School Schoolsites

27
28 17235. (a) For purposes of this section, the following
29 definitions apply:

30 (1) “Administering agency” means an agency authorized
31 pursuant to Section 25502 of the Health and Safety Code to
32 implement and enforce Chapter 6.95 (commencing with Section
33 25500) of Division 20 of the Health and Safety Code.

34 (2) “Extremely hazardous substance” has the same meaning as
35 defined in paragraph (2) of subdivision (i) of Section 25532 of the
36 Health and Safety Code.

37 (3) “Facilities” means a source with a potential to use, generate,
38 emit, or discharge hazardous air pollutants, including, but not
39 limited to, pollutants that meet the definition of a hazardous
40 substance, and whose process or operation is identified as an

1 emission source pursuant to the most recent list of source categories
2 published by the State Air Resources Board.

3 (4) “Freeway or other busy traffic corridor” means those
4 roadways that, on an average day, have traffic in excess of 50,000
5 vehicles in a rural area, as defined in Section 50101 of the Health
6 and Safety Code, and 100,000 vehicles in an urban area, as defined
7 in Section 50104.7 of the Health and Safety Code.

8 (5) “Handle” has the same meaning as defined in Section 25501
9 of the Health and Safety Code.

10 (6) “Hazardous air emissions” means emissions into the ambient
11 air of air contaminants that have been identified as a toxic air
12 contaminant by the State Air Resources Board or by the air
13 pollution control officer for the jurisdiction in which the project
14 is located. As determined by the air pollution control officer,
15 hazardous air emissions also means emissions into the ambient air
16 from any substances identified in subdivisions (a) to (f), inclusive,
17 of Section 44321 of the Health and Safety Code.

18 (7) “Hazardous substance” has the same meaning as defined in
19 Section 25316 of the Health and Safety Code.

20 (8) “Hazardous waste” has the same meaning as defined in
21 Section 25117 of the Health and Safety Code.

22 (9) “Hazardous waste disposal site” has the same meaning as
23 “disposal site,” as defined in Section 25114 of the Health and
24 Safety Code.

25 (b) The governing body of a charter school or the governing
26 board of a private school shall not approve the acquisition or
27 purchase of a schoolsite, or the construction of a new elementary
28 or secondary school, by, or for use by, a charter school or a private
29 school unless all of the following occur:

30 (1) The city or county determines that the property proposed to
31 be acquired or purchased, or to be constructed upon, is not any of
32 the following:

33 (A) The site of a current or former hazardous waste disposal
34 site or solid waste disposal site, unless, if the site was a former
35 solid waste disposal site, the city or county concludes that the
36 wastes have been removed.

37 (B) A hazardous substance release site identified by the
38 Department of Toxic Substances Control in a current list adopted
39 pursuant to Section 25356 of the Health and Safety Code for

1 removal or remedial action pursuant to Chapter 6.8 (commencing
2 with Section 25300) of Division 20 of the Health and Safety Code.

3 (C) A site that contains one or more pipelines, situated
4 underground or aboveground, that carry hazardous substances,
5 extremely hazardous substances, or hazardous wastes, unless the
6 pipeline is a natural gas line that is used only to supply natural gas
7 to that school or neighborhood, or other nearby schools.

8 (2) (A) The governing body or board has notified in writing
9 and consulted with the administering agency in which the proposed
10 schoolsite is located, and with any air pollution control district or
11 air quality management district having jurisdiction in the area, to
12 identify both permitted and nonpermitted facilities within that
13 district's authority, including, but not limited to, freeways or other
14 busy traffic corridors, large agricultural operations, and railyards,
15 within one-fourth of one mile of the proposed schoolsite, that might
16 reasonably be anticipated to emit hazardous emissions or handle
17 hazardous or extremely hazardous substances or waste. The
18 notification by the governing body or board shall include a list of
19 the locations for which information is sought.

20 (B) Each administering agency, air pollution control district, or
21 air quality management district receiving written notification from
22 a governing body or board to identify facilities pursuant to
23 subparagraph (A) shall provide the requested information and
24 provide a written response to the governing body or board within
25 30 days of receiving the notification.

26 (3) The city or county makes one of the following written
27 findings:

28 (A) Consultation identified no facilities of the type specified in
29 paragraph (2) or other significant pollution sources.

30 (B) One or more facilities specified in paragraph (2) or other
31 pollution sources exist, but one of the following conditions applies:

32 (i) The health risks from the facilities or other pollution sources
33 do not and will not constitute an actual or potential endangerment
34 of public health to persons who would attend or be employed at
35 the proposed school.

36 (ii) Corrective measures required under an existing order by
37 another agency having jurisdiction over the facilities or other
38 pollution sources will, before the school is occupied, result in the
39 mitigation of all chronic or accidental hazardous air emissions to
40 levels that do not constitute an actual or potential endangerment

1 of public health to persons who would attend or be employed at
2 the proposed school. If the city or county makes a finding pursuant
3 to this clause, it shall also make a subsequent finding, before
4 occupancy of the school, that the emissions have been so mitigated.

5 (iii) For a schoolsite with a boundary that is within 500 feet of
6 the edge of the closest traffic lane of a freeway or other busy traffic
7 corridor, the city or county determines, through analysis pursuant
8 to paragraph (2) of subdivision (b) of Section 44360 of the Health
9 and Safety Code, based on appropriate air dispersion modeling,
10 and after considering any potential mitigation measures, that the
11 air quality at the proposed site is such that neither short-term nor
12 long-term exposure poses significant health risks to pupils.

13 (C) One or more facilities specified in paragraph (2) or other
14 pollution sources exist, but conditions in clause (i), (ii), or (iii) of
15 subparagraph (B) cannot be met, and the charter school or private
16 school is unable to locate an alternative site that is suitable due to
17 a severe shortage of sites that meet the requirements in this section.

18 SEC. 4. Section 17251 of the Education Code is amended to
19 read:

20 17251. The department shall:

21 (a) Upon the request of the governing board of a school district
22 or the governing body of a charter school, advise the governing
23 board of the school district or the governing body of the charter
24 school on the acquisition of new schoolsites and, after a review of
25 available plots, give the governing board of the school district or
26 the governing body of the charter school in writing a list of the
27 recommended locations in the order of their merit, considering
28 especially the matters of educational merit, safety, reduction of
29 traffic hazards, and conformity to the land use element in the
30 general plan of the city, county, or city and county having
31 jurisdiction. The governing board of the school district or the
32 governing body of the charter school may purchase a site deemed
33 unsuitable for school purposes by the department only after
34 reviewing the report of the department on proposed sites at a public
35 hearing. The department shall charge the school district or charter
36 school a reasonable fee for each schoolsite reviewed not to exceed
37 the actual administrative costs incurred for that purpose.

38 (b) Develop standards for use by a school district or charter
39 school in the selection of schoolsites, in accordance with the
40 objectives set forth in subdivision (a). The department shall

investigate complaints of noncompliance with site selection standards, and shall notify the governing board of the school district or the governing body of the charter school of the results of the investigation. If that notification is received before the acquisition of the site, the governing board of the school district or the governing body of the charter school shall discuss the findings of the investigation in a public hearing.

(c) Establish standards for use by school districts and charter schools to ensure that the design and construction of school facilities are educationally appropriate, promote school safety, and provide school districts and charter schools with flexibility in designing instructional facilities.

(d) Upon the request of the governing board of a school district or the governing body of a charter school, review plans and specifications for school buildings in the school district or charter school. The department shall charge the school district or charter school, for the review of plans and specifications, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(e) Upon the request of the governing board of a school district or the governing body of a charter school, make a survey of the building needs of the school district or charter school, advise the governing board of the school district or the governing body of the charter school concerning the building needs, and suggest plans for financing a building program to meet the needs. The department shall charge the school district or charter school, for the cost of the survey, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(f) Provide information relating to the impact or potential impact upon a schoolsite of hazardous substances, solid waste, safety, hazardous air emissions, and other information as the department may deem appropriate.

(g) (1) Develop strategies to assist small school districts with technical assistance relating to school construction and the funding of school facilities. The strategies may include informing those small school districts of how to receive the approval required for school construction, including the requirements of the Division of the State Architect, and how to secure state funding, including from the state bond funds made available pursuant to the Leroy F.

1 Greene School Facilities Act of 1998 (Chapter 12.5 (commencing
2 with Section 17070.10) of Part 10).

3 (2) For purposes of this subdivision, “small school district”
4 means a school district with fewer than 2,501 units of average
5 daily attendance.

6 ~~SEC. 5.—Section 21084 of the Public Resources Code is~~
7 ~~amended to read:~~

8 ~~21084. (a) The guidelines prepared and adopted pursuant to~~
9 ~~Section 21083 shall include a list of classes of projects that have~~
10 ~~been determined not to have a significant effect on the environment~~
11 ~~and that shall be exempt from this division. In adopting the~~
12 ~~guidelines, the Secretary of the Natural Resources Agency shall~~
13 ~~make a finding that the listed classes of projects referred to in this~~
14 ~~section do not have a significant effect on the environment.~~

15 ~~(b) A project’s greenhouse gas emissions shall not, in and of~~
16 ~~themselves, be deemed to cause an exemption adopted pursuant~~
17 ~~to subdivision (a) to be inapplicable if the project complies with~~
18 ~~all applicable regulations or requirements adopted to implement~~
19 ~~statewide, regional, or local plans consistent with Section 15183.5~~
20 ~~of Title 14 of the California Code of Regulations.~~

21 ~~(c) A project that may result in damage to scenic resources,~~
22 ~~including, but not limited to, trees, historic buildings, rock~~
23 ~~outcroppings, or similar resources, within a highway designated~~
24 ~~as an official state scenic highway, pursuant to Article 2.5~~
25 ~~(commencing with Section 260) of Chapter 2 of Division 1 of the~~
26 ~~Streets and Highways Code, shall not be exempted from this~~
27 ~~division pursuant to subdivision (a). This subdivision does not~~
28 ~~apply to improvements as mitigation for a project for which a~~
29 ~~negative declaration has been approved or an environmental impact~~
30 ~~report has been certified.~~

31 ~~(d) A project located on a site that is included on any list~~
32 ~~compiled pursuant to Section 65962.5 of the Government Code~~
33 ~~shall not be exempted from this division pursuant to subdivision~~
34 ~~(a).~~

35 ~~(e) A project that may cause a substantial adverse change in the~~
36 ~~significance of a historical resource, as specified in Section~~
37 ~~21084.1, shall not be exempted from this division pursuant to~~
38 ~~subdivision (a).~~

39 ~~(f) A project that involves demolition, construction, or alteration~~
40 ~~of a public school, including a charter school, or a private school~~

1 shall not be exempted from this division pursuant to subdivision
2 (a).

3 ~~SEC. 6.~~

4 *SEC. 5.* Section 21151.2 of the Public Resources Code is
5 amended to read:

6 21151.2. (a) To promote the health and safety of pupils and
7 comprehensive community planning, the governing board or body
8 of each school district, charter school, or private school shall,
9 before acquiring title to property for a new schoolsite or for an
10 addition to a present schoolsite, give the planning commission
11 having jurisdiction notice in writing of the proposed acquisition.

12 (b) The planning commission shall investigate the proposed site
13 and within 30 days after receipt of the notice shall submit to the
14 governing board or body of the school district, charter school, or
15 private school a written report of the investigation and its
16 recommendations concerning acquisition of the site.

17 (c) The governing board or body of the school district, charter
18 school, or private school shall not acquire title to the property until
19 the report of the planning commission has been received.

20 (d) If the report does not favor the acquisition of the property
21 for a schoolsite, or for an addition to a present schoolsite, the
22 governing board or body of the school district, charter school, or
23 private school shall not acquire title to the property until 30 days
24 after the commission's report is received.

25 ~~SEC. 7.~~

26 *SEC. 6.* Section 21151.8 of the Public Resources Code is
27 amended to read:

28 21151.8. (a) A lead agency shall not certify an environmental
29 impact report or approve a negative declaration for a project
30 involving the purchase of a schoolsite or the construction of a new
31 elementary or secondary school by a school district, a charter
32 school, or a private school unless all of the following occur:

33 (1) The environmental impact report or negative declaration
34 includes information that is needed to determine if the property
35 proposed to be purchased, or to be constructed upon, is any of the
36 following:

37 (A) The site of a current or former hazardous waste disposal
38 site or solid waste disposal site and, if so, whether the wastes have
39 been removed.

1 (B) A hazardous substance release site identified by the
2 Department of Toxic Substances Control in a current list adopted
3 pursuant to Section 25356 of the Health and Safety Code for
4 removal or remedial action pursuant to Chapter 6.8 (commencing
5 with Section 25300) of Division 20 of the Health and Safety Code.

6 (C) A site that contains one or more pipelines, situated
7 underground or aboveground, that carries hazardous substances,
8 extremely hazardous substances, or hazardous wastes, unless the
9 pipeline is a natural gas line that is used only to supply natural gas
10 to that school or neighborhood, or other nearby schools.

11 (D) A site that is within 500 feet of the edge of the closest traffic
12 lane of a freeway or other busy traffic corridor.

13 (2) (A) The lead agency in preparing the environmental impact
14 report or negative declaration has notified in writing and consulted
15 with the administering agency in which the proposed schoolsite
16 is located, pursuant to Section 2735.3 of Title 19 of the California
17 Code of Regulations, and with any air pollution control district or
18 air quality management district having jurisdiction in the area, to
19 identify both permitted and nonpermitted facilities within that
20 district's authority, including, but not limited to, freeways or other
21 busy traffic corridors, large agricultural operations, and railyards,
22 within one-fourth of one mile of the proposed schoolsite, that might
23 reasonably be anticipated to emit hazardous emissions or handle
24 hazardous or extremely hazardous substances or waste. The
25 notification by the lead agency shall include a list of the locations
26 for which information is sought.

27 (B) Each administering agency, air pollution control district, or
28 air quality management district receiving written notification from
29 a lead agency to identify facilities pursuant to subparagraph (A)
30 shall provide the requested information and provide a written
31 response to the lead agency within 30 days of receiving the
32 notification. The environmental impact report or negative
33 declaration shall be conclusively presumed to comply with
34 subparagraph (A) as to the area of responsibility of an agency that
35 does not respond within 30 days.

36 (C) If the lead agency has carried out the consultation required
37 by subparagraph (A), the environmental impact report or the
38 negative declaration shall be conclusively presumed to comply
39 with subparagraph (A), notwithstanding any failure of the

1 consultation to identify an existing facility or other pollution source
2 specified in subparagraph (A).

3 (3) The lead agency makes one of the following written findings:

4 (A) Consultation identified no facilities of this type or other
5 significant pollution sources specified in paragraph (2).

6 (B) The facilities or other pollution sources specified in
7 paragraph (2) exist, but one of the following conditions applies:

8 (i) The health risks from the facilities or other pollution sources
9 do not and will not constitute an actual or potential endangerment
10 of public health to persons who would attend or be employed at
11 the proposed school.

12 (ii) Corrective measures required under an existing order by
13 another agency having jurisdiction over the facilities or other
14 pollution sources will, before the school is occupied, result in the
15 mitigation of all chronic or accidental hazardous air emissions to
16 levels that do not constitute an actual or potential endangerment
17 of public health to persons who would attend or be employed at
18 the proposed school. If the lead agency makes a finding pursuant
19 to this clause, it shall also make a subsequent finding, before
20 occupancy of the school, that the emissions have been so mitigated.

21 (iii) For a schoolsite with a boundary that is within 500 feet of
22 the edge of the closest traffic lane of a freeway or other busy traffic
23 corridor, the lead agency determines, through analysis pursuant to
24 paragraph (2) of subdivision (b) of Section 44360 of the Health
25 and Safety Code, based on appropriate air dispersion modeling,
26 and after considering any potential mitigation measures, that the
27 air quality at the proposed site is such that neither short-term nor
28 long-term exposure poses significant health risks to pupils.

29 (C) The facilities or other pollution sources specified in
30 paragraph (2) exist, but conditions in clause (i), (ii), or (iii) of
31 subparagraph (B) cannot be met, and the lead agency is unable to
32 locate an alternative site that is suitable due to a severe shortage
33 of sites that meet the requirements in subdivision (a) of Section
34 17213 of the Education Code. If the lead agency makes this finding,
35 the lead agency shall adopt a statement of overriding considerations
36 pursuant to Section 15093 of Title 14 of the California Code of
37 Regulations.

38 (b) For purposes of this section, the following definitions apply:

39 (1) "Administering agency" means an agency authorized
40 pursuant to Section 25502 of the Health and Safety Code to

1 implement and enforce Chapter 6.95 (commencing with Section
2 25500) of Division 20 of the Health and Safety Code.

3 (2) “Extremely hazardous substances” means an extremely
4 hazardous substance, as defined pursuant to paragraph (2) of
5 subdivision (i) of Section 25532 of the Health and Safety Code.

6 (3) “Facilities” means a source with a potential to use, generate,
7 emit, or discharge hazardous air pollutants, including, but not
8 limited to, pollutants that meet the definition of a hazardous
9 substance, and whose process or operation is identified as an
10 emission source pursuant to the most recent list of source categories
11 published by the State Air Resources Board.

12 (4) “Freeway or other busy traffic corridor” means those
13 roadways that, on an average day, have traffic in excess of 50,000
14 vehicles in a rural area, as defined in Section 50101 of the Health
15 and Safety Code, and 100,000 vehicles in an urban area, as defined
16 in Section 50104.7 of the Health and Safety Code.

17 (5) “Handle” means handle as defined in Article 1 (commencing
18 with Section 25500) of Chapter 6.95 of Division 20 of the Health
19 and Safety Code.

20 (6) “Hazardous air emissions” means emissions into the ambient
21 air of air contaminants that have been identified as a toxic air
22 contaminant by the State Air Resources Board or by the air
23 pollution control officer for the jurisdiction in which the project
24 is located. As determined by the air pollution control officer,
25 hazardous air emissions also means emissions into the ambient air
26 from any substances identified in subdivisions (a) to (f), inclusive,
27 of Section 44321 of the Health and Safety Code.

28 (7) “Hazardous substance” means a substance defined in Section
29 25316 of the Health and Safety Code.

30 (8) “Hazardous waste” means a waste defined in Section 25117
31 of the Health and Safety Code.

32 (9) “Hazardous waste disposal site” means a site defined in
33 Section 25114 of the Health and Safety Code.

34 ~~SEC. 8.~~

35 *SEC. 7.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 a local agency or school district has the authority to levy service
38 charges, fees, or assessments sufficient to pay for the program or
39 level of service mandated by this act, within the meaning of Section
40 17556 of the Government Code.

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

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AMENDED IN ASSEMBLY MARCH 10, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2721

Introduced by Assembly Member Lee

February 18, 2022

An act to amend Section 40227 of the Health and Safety Code, relating to the Bay Area Air Quality Management District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2721, as amended, Lee. Bay Area Air Quality Management District: district board: ~~compensation and expenses.~~ *compensation.*

Existing law establishes the Bay Area Air Quality Management District, which is vested with the authority to regulate air emissions located in the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma. Existing law establishes a district board to govern the district and prescribes the membership of the district board. Existing law authorizes the district board to provide, by ordinance, compensation *not to exceed \$100 per day* for board members for attending meetings *of the board or committees of the board* or while on official business of the district *and not to exceed \$6,000 per year.* Existing law also requires board members to receive actual and necessary expenses incurred in the performance of their ~~duties,~~ as ~~specified.~~ *duties.*

This bill would state the intent of the Legislature to enact subsequent legislation that would make changes to the compensation and expenses that members of the district board receive in the performance of their ~~board duties.~~ *revise the amount of compensation that a member of the board may receive for attending a meeting of the board or attending a*

meeting while on official business of the district to an amount not to exceed \$100 per meeting and \$200 per day. The bill would also authorize a member of the board to receive compensation for active transportation travel to one of these meetings and would subject this compensation to the \$6,000 total annual compensation limit.

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 40227 of the Health and Safety Code is
2 amended to read:

3 40227. (a) Each member of the bay district board shall receive
4 actual and necessary expenses incurred in the performance of board
5 duties, and board duties.

6 (b) Each member of the bay district board may receive
7 compensation, to be determined by the bay district board, not to
8 exceed one hundred dollars (\$100) for each day attending the
9 meetings board subject to subdivision (c), for any of the following:

10 (1) Attending a meeting of the bay district board and or a
11 committee meetings thereof, or, of the bay district board.

12 (2) Attending a meeting, upon authorization of the bay district
13 board, while on official business of the bay district, but the district.

14 (3) Active transportation travel to a meeting described in
15 paragraph (1) or (2).

16 (c) The compensation provided for attending a meeting pursuant
17 to paragraph (1) or (2) of subdivision (b) shall not exceed one
18 hundred dollars (\$100) for each meeting and shall not exceed two
19 hundred dollars (\$200) per day. The compensation provided
20 pursuant to subdivision (b) shall not exceed six thousand dollars
21 (\$6,000) in any one year. Compensation

22 (d) Compensation pursuant to this section shall be fixed by
23 ordinance.

24 SECTION 1. In order to promote active transportation, reduce
25 air pollution, and protect public health in the bay area region, it is
26 the intent of the Legislature to enact subsequent legislation that
27 would make changes to the compensation and expenses that

- 1 members of the board of the Bay Area Air Quality Management
- 2 District receive in the performance of their board duties.

LEGISLATIVE COMMITTEE
MEETING OF 06/13/2022

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AMENDED IN ASSEMBLY MAY 19, 2022
AMENDED IN ASSEMBLY MARCH 30, 2022
AMENDED IN ASSEMBLY MARCH 24, 2022
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2836

Introduced by Assembly Member Eduardo Garcia

February 18, 2022

An act to amend Sections ~~40612~~, 41081, 44225, 44229, 44275, 44280, 44281, 44282, 44283, and 44287 ~~of~~ *of, and to amend and repeal Section 40612 of*, the Health and Safety Code, to amend Sections 42885 and 42889 of the Public Resources Code, and to amend Section 9250.2 of the Vehicle Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2836, as amended, Eduardo Garcia. Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.

(1) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts. Existing law, beginning January 1, 2024, limits the Carl Moyer Program to funding projects that reduce emissions of oxides of nitrogen (NOx) from covered sources. Existing law, until January 1, 2024, defines covered source for purposes of the Carl Moyer Program to include any

marine vessel and any other category necessary for the state and air districts to meet air quality goals.

This bill would extend the current authorization for the Carl Moyer Program to fund a broader range of projects that reduce emissions from covered sources until January 1, ~~2033~~. 2034.

(2) Existing law authorizes the Sacramento Metropolitan Air Quality Management District to adopt a surcharge on motor vehicle registration fees applicable to all motor vehicles registered in counties within the district. Existing law, until January 1, 2024, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer Program, among other programs. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by the district, and requires the department, after deducting its administrative costs, to distribute the revenues to the district. Beginning January 1, 2024, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the authorization to increase the surcharge to \$6 until January 1, ~~2033~~. 2034.

(3) Existing law authorizes an air pollution control or air quality management district, except the Sacramento district, to levy a surcharge on the registration fees for motor vehicles registered in the air district, as specified by the governing body of the air district. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by an air district, and requires the department, after deducting its administrative costs, to distribute the revenues to the air districts. Existing law, until January 1, 2024, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer Program, among other programs. Beginning January 1, 2024, existing law returns the surcharge limit to its previous amount of \$4. Existing law authorizes the San Joaquin Valley Unified Air Pollution Control District to increase the surcharge up to, but not exceeding, \$30 for incentive-based programs to achieve surplus emissions reductions, as specified, and authorizes an adopted increased surcharge to be charged in any fiscal years 2009–10 to 2023–24, inclusive.

This bill would extend the authorization to increase the surcharge to \$6 until January 1, ~~2033~~. 2034. The bill would ~~also~~ *also*, until June 30, 2034, extend the authorization for the San Joaquin Valley Unified Air Pollution Control District to charge an adopted increased surcharge up to, but not exceeding, \$30, through fiscal year ~~2032–33~~. 2033–34.

(4) Existing law imposes, until January 1, 2024, a California tire fee of \$1.75 per tire on a person who purchases a new tire, with the revenues generated to be allocated for prescribed purposes related to disposal and use of used tires. Existing law requires that \$0.75 per tire on which the fee is imposed be deposited in the Air Pollution Control Fund with these moneys to be available upon appropriation by the Legislature for use by the state board and air districts for specified purposes. Existing law reduces the tire fee to \$0.75 per tire on and after January 1, 2024.

This bill would extend the collection of the tire fee at \$1.75 per tire until January 1, ~~2033~~, 2034, and would therefore impose a tax.

(5) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. 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 40612 of the Health and Safety Code is
2 amended to read:
3 40612. (a) In order to provide funding for air pollution control
4 programs needed to achieve and maintain state and federal air
5 quality, the district may do both of the following:
6 (1) Notwithstanding the limits on the amount of the motor
7 vehicle fee specified in Sections 44223 and 44225, increase the
8 fee established pursuant to these sections to up to, but not
9 exceeding, thirty dollars (\$30) per motor vehicle per year for the
10 purposes of establishing and implementing incentive-based
11 programs to achieve surplus emissions reductions that the district
12 determines are needed to remediate air pollution harms created by
13 motor vehicles on which the fee is imposed and that are intended
14 to achieve and maintain state and federal ambient air quality
15 standards required by the federal Clean Air Act (42 U.S.C. Sec.
16 7401 et seq.). Except for the amount of the fee, any increase shall
17 be subject to Chapter 7 (commencing with Section 44220) of Part
18 5, including, but not limited to, the adoption of a resolution
19 providing for both the fee increase and a corresponding program

1 for expenditure of the moneys raised by the increased fees for the
2 reduction of mobile source emissions.

3 (2) Notwithstanding Section 40717.9, adopt rules and regulations
4 to reduce vehicle trips in order to reduce air pollution from
5 vehicular sources.

6 (b) Fees adopted pursuant to this section are in addition to any
7 other fees imposed by the district, and may be charged in any of
8 fiscal years 2009–10 to ~~2032–33~~, 2033–34, inclusive. Fees may
9 be assessed after the 2012–13 fiscal year only if the United States
10 Environmental Protection Agency approves the district’s proposed
11 reclassification of its nonattainment status for ozone from severe
12 to extreme. The fees adopted pursuant to this section are for the
13 district portion of the total amount needed to achieve and maintain
14 state and federal ambient air quality standards. At least ten million
15 dollars (\$10,000,000) shall be used to mitigate the impacts of air
16 pollution on public health and the environment in
17 disproportionately impacted environmental justice communities
18 in the San Joaquin Valley. The district board shall convene an
19 environmental justice advisory committee, selected from a list
20 given to the board by environmental justice groups from the San
21 Joaquin Valley, to recommend the neighborhoods in the district
22 that constitute environmental justice communities, and how to
23 expend funds within these communities.

24 (c) (1) The fees adopted pursuant to this section shall become
25 effective after the state board makes both of the following findings:

26 (A) The district has undertaken all feasible measures to reduce
27 nonattainment air pollutants from sources within the district’s
28 jurisdiction and regulatory control.

29 (B) The district has notified the state board that fees have been
30 adopted pursuant to this section and provided the state board with
31 an estimate of the total funds that will be provided annually by
32 each of those fees.

33 (2) The state board shall file a written copy of its findings made
34 pursuant to this subdivision with the Secretary of State within two
35 days of its determination.

36 (3) The fees adopted pursuant to this section shall be collected
37 nine months after the requirements of paragraph (2) are met.

38 (d) *This section shall remain in effect only until June 30, 2034,*
39 *and as of that date is repealed.*

SEC. 2. Section 41081 of the Health and Safety Code, as amended by Section 2 of Chapter 401 of the Statutes of 2013, is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Before the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

(b) The surcharge shall not exceed four dollars (\$4).

(c) After consulting with the Department of Motor Vehicles on the feasibility thereof, the Sacramento district board may provide, in the surcharge adopted pursuant to subdivision (a), to exempt from all or part of the surcharge any category of low-emission motor vehicle.

(d) Funds received by the Sacramento district pursuant to this section shall be used to implement the strategy with respect to the reduction in emissions from vehicular sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures. Not more than 5 percent of the funds collected pursuant to this section shall be used by the district for administrative expenses.

(e) This section shall become operative on January 1, ~~2033~~ 2034.

SEC. 3. Section 41081 of the Health and Safety Code, as amended by Section 1 of Chapter 610 of the Statutes of 2015, is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors

1 of each county included, in whole or in part, within the Sacramento
2 district, the Sacramento district board may adopt a surcharge on
3 the motor vehicle registration fees applicable to all motor vehicles
4 registered in those counties within the Sacramento district whose
5 boards of supervisors have adopted a resolution approving the
6 surcharge. The surcharge shall be collected by the Department of
7 Motor Vehicles and, after deducting the department's
8 administrative costs, the remaining funds shall be transferred to
9 the Sacramento district. Before the adoption of any surcharge
10 pursuant to this subdivision, the district board shall make a finding
11 that any funds allocated to the district as a result of the adoption
12 of a county transportation sales and use tax are insufficient to carry
13 out the purposes of this chapter.

14 (b) The surcharge shall not exceed six dollars (\$6).

15 (c) After consulting with the Department of Motor Vehicles on
16 the feasibility thereof, the Sacramento district board may provide,
17 in the surcharge adopted pursuant to subdivision (a), to exempt
18 from all or part of the surcharge any category of low-emission
19 motor vehicle.

20 (d) Funds received by the Sacramento district pursuant to this
21 section shall be used by that district as follows:

22 (1) The revenues resulting from the first four dollars (\$4) of
23 each surcharge shall be used to implement reductions in emissions
24 from vehicular sources, including, but not limited to, a clean fuels
25 program and motor vehicle use reduction measures.

26 (2) The revenues resulting from the next two dollars (\$2) of
27 each surcharge shall be used to implement the following programs
28 that achieve emission reductions from vehicular sources and
29 off-road engines, to the extent that the district determines the
30 program remediates air pollution harms created by motor vehicles
31 on which the surcharge is imposed:

32 (A) Projects eligible for grants under the Carl Moyer Memorial
33 Air Quality Standards Attainment Program (Chapter 9
34 (commencing with Section 44275) of Part 5).

35 (B) The new purchase, retrofit, repower, or add-on of equipment
36 for previously unregulated agricultural sources of air pollution, as
37 defined in Section 39011.5, within the Sacramento district, for a
38 minimum of three years from the date of adoption of an applicable
39 rule or standard, or until the compliance date of that rule or
40 standard, whichever is later, if the state board has determined that

1 the rule or standard complies with Sections 40913, 40914, and
2 41503.1, after which period of time, a new purchase, retrofit,
3 repower, or add-on of equipment shall not be funded pursuant to
4 this chapter. The district shall follow any guidelines developed
5 under subdivision (a) of Section 44287 for awarding grants under
6 this program.

7 (C) The purchase of new schoolbuses or the repower or retrofit
8 of emissions control equipment for existing schoolbuses pursuant
9 to the Lower-Emission School Bus Program adopted by the state
10 board.

11 (D) An accelerated vehicle retirement or repair program that is
12 adopted by the state board pursuant to authority granted hereafter
13 by the Legislature by statute.

14 (E) The replacement of onboard natural gas fuel tanks on
15 schoolbuses that are 14 years or older or the enhancement of
16 deteriorating natural gas fueling dispensers of fueling infrastructure,
17 pursuant to the Lower-Emission School Bus Program adopted by
18 the state board.

19 (F) The funding of alternative fuel and electric infrastructure
20 projects solicited and selected through a competitive bid process.

21 (e) Not more than 6.25 percent of the funds collected pursuant
22 to this section shall be used by the district for administrative
23 expenses.

24 (f) A project funded by the program shall not be used for credit
25 under any state or federal emissions averaging, banking, or trading
26 program. An emission reduction generated by the program shall
27 not be used as marketable emission reduction credits or to offset
28 any emission reduction obligation of any person or entity. Projects
29 involving new engines that would otherwise generate marketable
30 credits under state or federal averaging, banking, and trading
31 programs shall include transfer of credits to the engine end user
32 and retirement of those credits toward reducing air emissions in
33 order to qualify for funding under the program. A purchase of a
34 low-emission vehicle or of equipment pursuant to a corporate or
35 a controlling board's policy, but not otherwise required by law,
36 shall generate surplus emissions reductions and may be funded by
37 the program.

38 (g) This section shall remain in effect only until January 1, ~~2033~~,
39 ~~2034~~, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
2 that date.

3 SEC. 4. Section 44225 of the Health and Safety Code, as
4 amended by Section 7 of Chapter 401 of the Statutes of 2013, is
5 amended to read:

6 44225. (a) A district may increase the fee established under
7 Section 44223 to up to four dollars (\$4). A district may increase
8 the fee only if both of the following conditions are met:

9 (1) A resolution providing for both the fee increase and a
10 corresponding program for expenditure of the increased fees for
11 the reduction of air pollution from motor vehicles pursuant to, and
12 for related planning, monitoring, enforcement, and technical studies
13 necessary for the implementation of, the California Clean Air Act
14 of 1988 (Chapter 1568 of the Statutes of 1988) is adopted and
15 approved by the governing board of the district.

16 (2) In districts with nonelected officials on their governing
17 boards, the resolution shall be adopted and approved by both a
18 majority of the governing board and a majority of the board
19 members who are elected officials.

20 (b) An increase in fees established pursuant to this section shall
21 become effective on either April 1 or October 1, as provided in
22 the resolution adopted by the board pursuant to subdivision (a).

23 (c) This section shall become operative on January 1, ~~2033~~.
24 2034.

25 SEC. 5. Section 44225 of the Health and Safety Code, as
26 amended by Section 3 of Chapter 610 of the Statutes of 2015, is
27 amended to read:

28 44225. (a) A district may increase the fee established under
29 Section 44223 to up to six dollars (\$6). A district may increase the
30 fee only if both of the following conditions are met:

31 (1) A resolution providing for both the fee increase and a
32 corresponding program for expenditure of the increased fees for
33 the reduction of air pollution from motor vehicles pursuant to, and
34 for related planning, monitoring, enforcement, and technical studies
35 necessary for the implementation of, the California Clean Air Act
36 of 1988 (Chapter 1568 of the Statutes of 1988), or for the
37 attainment or maintenance of state or federal ambient air quality
38 standards or the reduction of toxic air contaminant emissions from
39 motor vehicles, is adopted and approved by the governing board
40 of the district.

(2) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(b) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(c) This section shall remain in effect only until January 1, ~~2033~~, 2034, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2033~~, 2034, deletes or extends that date.

SEC. 6. Section 44229 of the Health and Safety Code, as amended by Section 9 of Chapter 401 of the Statutes of 2013, is amended to read:

44229. (a) After deducting all administrative costs it incurs through collection of fees pursuant to Section 44227, the Department of Motor Vehicles shall distribute the revenues to districts, which shall use the fees to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies necessary for implementation of the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988). Fees collected by the Department of Motor Vehicles pursuant to this chapter shall be distributed to districts based upon the amount of fees collected from motor vehicles registered within each district.

(b) The Department of Motor Vehicles may annually expend not more than the following percentages of the fees collected pursuant to Section 44227 on administrative costs:

(1) During the first year after the operative date of this chapter, not more than 5 percent of the fees collected may be used for administrative costs.

(2) During the second year after the operative date of this chapter, not more than 3 percent of the fees collected may be used for administrative costs.

(3) During any year subsequent to the second year after the operative date of this chapter, not more than 1 percent of the fees collected may be used for administrative costs.

(c) This section shall become operative on January 1, ~~2033~~, 2034.

1 SEC. 7. Section 44229 of the Health and Safety Code, as
2 amended by Section 4 of Chapter 610 of the Statutes of 2015, is
3 amended to read:

4 44229. (a) After deducting all administrative costs it incurs
5 through collection of fees pursuant to Section 44227, the
6 Department of Motor Vehicles shall distribute the revenues to
7 districts, which shall use the revenues resulting from the first four
8 dollars (\$4) of each fee imposed to reduce air pollution from motor
9 vehicles and to carry out related planning, monitoring, enforcement,
10 and technical studies necessary for implementation of the California
11 Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988). Fees
12 collected by the Department of Motor Vehicles pursuant to this
13 chapter shall be distributed to districts based upon the amount of
14 fees collected from motor vehicles registered within each district.

15 (b) Notwithstanding Sections 44241 and 44243, a district shall
16 use the revenues resulting from the next two dollars (\$2) of each
17 fee imposed pursuant to Section 44227 to implement the following
18 programs that the district determines remediate air pollution harms
19 created by motor vehicles on which the surcharge is imposed:

20 (1) Projects eligible for grants under the Carl Moyer Memorial
21 Air Quality Standards Attainment Program (Chapter 9
22 (commencing with Section 44275) of Part 5).

23 (2) The new purchase, retrofit, repower, or add-on equipment
24 for previously unregulated agricultural sources of air pollution, as
25 defined in Section 39011.5, for a minimum of three years from
26 the date of adoption of an applicable rule or standard, or until the
27 compliance date of that rule or standard, whichever is later, if the
28 state board has determined that the rule or standard complies with
29 Sections 40913, 40914, and 41503.1, after which period of time,
30 a new purchase, retrofit, repower, or add-on of equipment shall
31 not be funded pursuant to this chapter. The districts shall follow
32 any guidelines developed under subdivision (a) of Section 44287
33 for awarding grants under this program.

34 (3) The purchase of new schoolbuses or the repower or retrofit
35 of emissions control equipment for existing schoolbuses pursuant
36 to the Lower-Emission School Bus Program adopted by the state
37 board.

38 (4) An accelerated vehicle retirement or repair program that is
39 adopted by the state board pursuant to authority granted hereafter
40 by the Legislature by statute.

1 (5) The replacement of onboard natural gas fuel tanks on
2 schoolbuses that are 14 years or older or the enhancement of
3 deteriorating natural gas fueling dispensers of fueling infrastructure,
4 pursuant to the Lower-Emission School Bus Program adopted by
5 the state board.

6 (6) The funding of alternative fuel and electric infrastructure
7 projects solicited and selected through a competitive bid process.

8 (c) The Department of Motor Vehicles may annually expend
9 not more than 1 percent of the fees collected pursuant to Section
10 44227 on administrative costs.

11 (d) A project funded by the program shall not be used for credit
12 under any state or federal emissions averaging, banking, or trading
13 program. An emission reduction generated by the program shall
14 not be used as marketable emission reduction credits or to offset
15 any emission reduction obligation of any person or entity. Projects
16 involving new engines that would otherwise generate marketable
17 credits under state or federal averaging, banking, and trading
18 programs shall include transfer of credits to the engine end user
19 and retirement of those credits toward reducing air emissions in
20 order to qualify for funding under the program. A purchase of a
21 low-emission vehicle or of equipment pursuant to a corporate or
22 a controlling board's policy, but not otherwise required by law,
23 shall generate surplus emissions reductions and may be funded by
24 the program.

25 (e) This section shall remain in effect only until January 1, 2033;
26 2034, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2033, 2034, deletes or extends
28 that date.

29 SEC. 8. Section 44275 of the Health and Safety Code, as
30 amended by Section 1 of Chapter 634 of the Statutes of 2017, is
31 amended to read:

32 44275. (a) As used in this chapter, the following terms have
33 the following meanings:

34 (1) [Reserved]

35 (2) "Btu" means British thermal unit.

36 (3) "Commission" means the State Energy Resources
37 Conservation and Development Commission.

38 (4) "Cost-effectiveness" means dollars provided to a project
39 pursuant to subdivision (d) of Section 44283 for each ton of
40 covered emission reduction attributed to a project or to the program

1 as a whole. In calculating cost-effectiveness, one-time grants of
2 funds made at the beginning of a project shall be annualized using
3 a time value of public funds or discount rate determined for each
4 project by the state board, taking into account the interest rate on
5 bonds, interest earned by state funds, and other factors as
6 determined appropriate by the state board. Cost-effectiveness shall
7 be calculated by dividing annualized costs by average annual
8 emissions reduction. The state board, in consultation with the
9 districts and concerned members of the public, shall establish
10 appropriate cost-effective limits for oxides of nitrogen, particulate
11 matter, and reactive organic gases and a reasonable system for
12 comparing the cost-effectiveness of proposed projects as described
13 in subdivision (a) of Section 44283.

14 (5) "Covered emissions" include emissions of oxides of nitrogen,
15 particulate matter, and reactive organic gases from any covered
16 source.

17 (6) "Covered engine" includes any internal combustion engine
18 or electric motor and drive powering a covered source.

19 (7) "Covered source" includes onroad vehicles, off-road
20 nonrecreational equipment and vehicles, locomotives, marine
21 vessels, agricultural sources of air pollution, as defined in Section
22 39011.5, stationary irrigation or water conveyance engines, and,
23 as determined by the state board, other categories necessary for
24 the state and districts to meet air quality goals.

25 (8) "Covered vehicle" includes any vehicle or piece of
26 equipment powered by a covered engine.

27 (9) "District" means a county air pollution control district or an
28 air quality management district.

29 (10) "Fund" means the Air Pollution Control Fund established
30 pursuant to Section 43015.

31 (11) "Incremental cost" means the cost of the project less a
32 baseline cost that would otherwise be incurred by the applicant in
33 the normal course of business. Incremental costs may include
34 added lease, energy, or fuel costs pursuant to Section 44283 as
35 well as incremental capital costs.

36 (12) "Liquidated" means that all moneys for a specified fiscal
37 year have been spent by a district to reimburse grantees for valid
38 and eligible project invoices and district administrative costs.
39 Payments withheld from the grantee by a district until all

contractual reporting requirements are met may be excluded from these amounts for purposes of liquidation.

(13) “Mobile Source Air Pollution Reduction Review Committee” means the Mobile Source Air Pollution Reduction Review Committee created by Section 44244.

(14) “New very low emission vehicle” means a heavy-duty vehicle that qualifies as a very low emission vehicle when it is a new vehicle, where new vehicle has the same meaning as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low emission vehicle within 12 months of delivery to an owner for private or commercial use.

(15) “NO_x” means oxides of nitrogen.

(16) “Program” means the Carl Moyer Memorial Air Quality Standards Attainment Program created by subdivision (a) of Section 44280.

(17) “Recaptured” means those moneys that are returned to a district or the state board by a grantee because that grantee did not meet contractual obligations.

(18) “Repower” means replacing an engine with a different engine. The term repower, as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older emissions-certified engine with a newer engine certified to lower emissions standards may be eligible for funding under this program.

(19) “Retrofit” means making modifications to the engine and fuel system so that the retrofitted engine does not have the same specifications as the original engine.

(20) “Returned” means those moneys sent by a district to the state board for reallocation because those moneys are not liquidated by a liquidation deadline.

(21) “Schoolbus project” means the purchase of new schoolbuses or the repower or retrofit of emissions control equipment for existing schoolbuses.

(22) “Very low emission vehicle” means a heavy-duty vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels pursuant to Section 44282.

(b) This section shall remain in effect only until January 1, ~~2033~~, 2034, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
2 that date.

3 SEC. 9. Section 44275 of the Health and Safety Code, as
4 amended by Section 2 of Chapter 634 of the Statutes of 2017, is
5 amended to read:

6 44275. (a) As used in this chapter, the following terms have
7 the following meanings:

8 (1) [Reserved]

9 (2) “Btu” means British thermal unit.

10 (3) “Commission” means the State Energy Resources
11 Conservation and Development Commission.

12 (4) “Cost-effectiveness” means dollars provided to a project
13 pursuant to subdivision (d) of Section 44283 for each ton of NO_x
14 reduction attributed to a project or to the program as a whole. In
15 calculating cost-effectiveness, one-time grants of funds made at
16 the beginning of a project shall be annualized using a time value
17 of public funds or discount rate determined for each project by the
18 state board, taking into account the interest rate on bonds, interest
19 earned by state funds, and other factors as determined appropriate
20 by the state board. Cost-effectiveness shall be calculated by
21 dividing annualized costs by average annual emissions reduction
22 of NO_x in this state.

23 (5) “Covered engine” includes any internal combustion engine
24 or electric motor and drive powering a covered source.

25 (6) “Covered source” includes onroad vehicles of 14,000 pounds
26 gross vehicle weight rating (GVWR) or greater, off-road
27 nonrecreational equipment and vehicles, locomotives, diesel marine
28 vessels, stationary agricultural engines, stationary irrigation or
29 water conveyance engines, and, as determined by the state board,
30 other high-emitting diesel engine categories.

31 (7) “Covered vehicle” includes any vehicle or piece of
32 equipment powered by a covered engine.

33 (8) “District” means a county air pollution control district or an
34 air quality management district.

35 (9) “Fund” means the Air Pollution Control Fund established
36 pursuant to Section 43015.

37 (10) “Incremental cost” means the cost of the project less a
38 baseline cost that would otherwise be incurred by the applicant in
39 the normal course of business. Incremental costs may include

1 added lease or fuel costs pursuant to Section 44283 as well as
2 incremental capital costs.

3 (11) "Liquidated" means that all moneys for a specified fiscal
4 year have been spent by a district to reimburse grantees for valid
5 and eligible project invoices and district administrative costs.
6 Payments withheld from the grantee by a district until all
7 contractual reporting requirements are met may be excluded from
8 these amounts for purposes of liquidation.

9 (12) "Mobile Source Air Pollution Reduction Review
10 Committee" means the Mobile Source Air Pollution Reduction
11 Review Committee created by Section 44244.

12 (13) "New very low emission vehicle" means a vehicle that
13 qualifies as a very low emission vehicle when it is a new vehicle,
14 where new vehicle has the same meaning as defined in Section
15 430 of the Vehicle Code, or that is modified with the approval and
16 warranty of the original equipment manufacturer to qualify as a
17 very low emission vehicle within 12 months of delivery to an
18 owner for private or commercial use.

19 (14) "NO_x" means oxides of nitrogen.

20 (15) "Program" means the Carl Moyer Memorial Air Quality
21 Standards Attainment Program created by subdivision (a) of
22 Section 44280.

23 (16) "Recaptured" means those moneys that are returned to a
24 district or the state board by a grantee because that grantee did not
25 meet contractual obligations.

26 (17) "Repower" means replacing an engine with a different
27 engine. The term repower, as used in this chapter, generally refers
28 to replacing an older, uncontrolled engine with a new,
29 emissions-certified engine, although replacing an older
30 emissions-certified engine with a newer engine certified to lower
31 emissions standards may be eligible for funding under this program.

32 (18) "Retrofit" means making modifications to the engine and
33 fuel system such that the retrofitted engine does not have the same
34 specifications as the original engine.

35 (19) "Returned" means those moneys sent by a district to the
36 state board for reallocation because those moneys are not liquidated
37 by a liquidation deadline.

38 (20) "Schoolbus project" means the purchase of new schoolbuses
39 or the repower or retrofit of emissions control equipment for
40 existing schoolbuses.

1 (21) “Very low emission vehicle” means a vehicle with
2 emissions significantly lower than otherwise applicable baseline
3 emission standards or uncontrolled emission levels pursuant to
4 Section 44282.

5 (b) This section shall become operative on January 1, ~~2033~~.
6 2034.

7 SEC. 10. Section 44280 of the Health and Safety Code, as
8 amended by Section 17 of Chapter 401 of the Statutes of 2013, is
9 amended to read:

10 44280. (a) There is hereby created the Carl Moyer Memorial
11 Air Quality Standards Attainment Program. The program shall be
12 administered by the state board in accordance with this chapter.
13 The administration of the program may be delegated to the districts.

14 (b) The program shall provide grants to offset the incremental
15 cost of projects that reduce covered emissions from covered sources
16 in the state. Eligibility for grant awards shall be determined by the
17 state board, in consultation with the districts, in accordance with
18 this chapter.

19 (c) The program shall also provide funding for a fueling
20 infrastructure demonstration program and for technology
21 development efforts that are expected to result in commercially
22 available technologies in the near-term that would improve the
23 ability of the program to achieve its goals. The infrastructure
24 demonstration and technology development portions of the program
25 shall be managed by the commission, in consultation with the state
26 board.

27 (d) This section shall remain in effect only until January 1, ~~2033~~,
28 2034, and as of that date is repealed, unless a later enacted statute,
29 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
30 that date.

31 SEC. 11. Section 44280 of the Health and Safety Code, as
32 amended by Section 18 of Chapter 401 of the Statutes of 2013, is
33 amended to read:

34 44280. (a) There is hereby created the Carl Moyer Memorial
35 Air Quality Standards Attainment Program. The program shall be
36 administered by the state board in accordance with this chapter.
37 The administration of the program may be delegated to the districts.

38 (b) The program shall provide grants to offset the incremental
39 cost of projects that reduce emissions of NO_x from covered sources
40 in the state. Eligibility for grant awards shall be determined by the

1 state board, in consultation with the districts, in accordance with
2 this chapter.

3 (c) The program shall also provide funding for a fueling
4 infrastructure demonstration program and for technology
5 development efforts that are expected to result in commercially
6 available technologies in the near-term that would improve the
7 ability of the program to achieve its goals. The infrastructure
8 demonstration and technology development portions of the program
9 shall be managed by the commission, in consultation with the state
10 board.

11 (d) This section shall become operative on January 1, ~~2033~~.
12 ~~2034~~.

13 SEC. 12. Section 44281 of the Health and Safety Code, as
14 amended by Section 20 of Chapter 401 of the Statutes of 2013, is
15 amended to read:

16 44281. (a) Eligible projects are any of the following:

17 (1) Purchase of new very low or zero-emission covered vehicles
18 or covered engines.

19 (2) Emission-reducing retrofit of covered engines, or
20 replacement of old engines powering covered sources with newer
21 engines certified to more stringent emissions standards than the
22 engine being replaced, or with electric motors or drives.

23 (3) Purchase and use of emission-reducing add-on equipment
24 for covered vehicles.

25 (4) Development and demonstration of practical, low-emission
26 retrofit technologies, repower options, and advanced technologies
27 for covered engines and vehicles with very low emissions of NO_x.

28 (b) No new purchase, retrofit, repower, or add-on equipment
29 shall be funded under this chapter if it is required by any local,
30 state, or federal statute, rule, regulation, memoranda of agreement
31 or understanding, or other legally binding document, except that
32 an otherwise qualified project may be funded even if the state
33 implementation plan assumes that the change in equipment,
34 vehicles, or operations will occur, if the change is not required by
35 a statute, regulation, or other legally binding document in effect
36 as of the date the grant is awarded. No project funded by the
37 program shall be used for credit under any state or federal
38 emissions averaging, banking, or trading program. No emission
39 reduction generated by the program shall be used as marketable
40 emission reduction credits or to offset any emission reduction

1 obligation of any entity. Projects involving new engines that would
2 otherwise generate marketable credits under state or federal
3 averaging, banking, and trading programs shall include transfer
4 of credits to the engine end user and retirement of those credits
5 toward reducing air emissions in order to qualify for funding under
6 the program. A purchase of a low-emission vehicle or of equipment
7 pursuant to a corporate or a controlling board's policy, but not
8 otherwise required by law, shall generate surplus emissions
9 reductions and may be funded by the program.

10 (c) The program may also provide funding toward installation
11 of fueling or electrification infrastructure as provided in Section
12 44284.

13 (d) Eligible applicants may be any individual, company, or
14 public agency that owns one or more covered vehicles that operate
15 primarily in the state or otherwise contribute substantially to the
16 NO_x emissions inventory in the state.

17 (e) It is the intent of the Legislature that all emission reductions
18 generated by this chapter shall contribute to public health by
19 reducing, for the life of the vehicle being funded, the total amount
20 of emissions in the state.

21 (f) This section shall become operative on January 1, ~~2033~~.
22 ~~2034~~.

23 SEC. 13. Section 44281 of the Health and Safety Code, as
24 amended by Section 8 of Chapter 610 of the Statutes of 2015, is
25 amended to read:

26 44281. (a) Eligible projects include, but are not limited to, any
27 of the following:

28 (1) Purchase of new very low or zero-emission covered vehicles
29 or covered heavy-duty engines.

30 (2) Emission-reducing retrofit of covered engines, or
31 replacement of old engines powering covered sources with newer
32 engines certified to more stringent emissions standards than the
33 engine being replaced, or with electric motors or drives.

34 (3) Purchase and use of emission-reducing add-on equipment
35 that has been verified by the state board for covered vehicles.

36 (4) Development and demonstration of practical, low-emission
37 retrofit technologies, repower options, and advanced technologies
38 for covered engines and vehicles with very low emissions of NO_x.

1 (5) Light- and medium-duty vehicle projects in compliance with
2 guidelines adopted by the state board pursuant to Title 13 of the
3 California Code of Regulations.

4 (b) No project shall be funded under this chapter after the
5 compliance date required by any local, state, or federal statute,
6 rule, regulation, memoranda of agreement or understanding, or
7 other legally binding document, except that an otherwise qualified
8 project may be funded even if the state implementation plan
9 assumes that the change in equipment, vehicles, or operations will
10 occur, if the change is not required by the compliance date of a
11 statute, regulation, or other legally binding document in effect as
12 of the date the grant is awarded. No project funded by the program
13 shall be used for credit under any state or federal emissions
14 averaging, banking, or trading program. No covered emission
15 reduction generated by the program shall be used as marketable
16 emission reduction credits or to offset any emission reduction
17 obligation of any person or entity. Projects involving new engines
18 that would otherwise generate marketable credits under state or
19 federal averaging, banking, and trading programs shall include
20 transfer of credits to the engine end user and retirement of those
21 credits toward reducing air emissions in order to qualify for funding
22 under the program. A purchase of a low-emission vehicle or of
23 equipment pursuant to a corporate or a controlling board's policy,
24 but not otherwise required by law, shall generate surplus emissions
25 reductions and may be funded by the program.

26 (c) The program may also provide funding toward the
27 installation of fueling or energy infrastructure to fuel or power
28 covered sources.

29 (d) Eligible applicants may be any individual, company, or
30 public agency that owns one or more covered vehicles that operate
31 primarily in the state or otherwise contribute substantially to the
32 NO_x, particulate matter (PM), or reactive organic gas (ROG)
33 emissions inventory in the state.

34 (e) It is the intent of the Legislature that all emission reductions
35 generated by this chapter shall contribute to public health by
36 reducing, for the life of the vehicle being funded, the total amount
37 of emissions in the state.

38 (f) This section shall remain in effect only until January 1, ~~2033~~,
39 ~~2034~~, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
2 that date.

3 SEC. 14. Section 44282 of the Health and Safety Code, as
4 amended by Section 8 of Chapter 748 of the Statutes of 2021, is
5 amended to read:

6 44282. The following criteria apply to all projects to be funded
7 through the program except for projects funded through the
8 infrastructure demonstration program and infrastructure projects,
9 pursuant to subdivision (c) of Section 44281 and Section 44284:

10 (a) The state board may establish project criteria, including
11 minimum project life for source categories, in the guidelines
12 described in Section 44287. For previously unregulated source
13 categories, project criteria shall consider the timing of newly
14 established regulatory requirements.

15 (b) To be eligible, projects shall meet the cost-effectiveness per
16 ton of covered emissions reduced requirements of Section 44283.

17 (c) To be eligible, retrofits, repowers, and installation of add-on
18 equipment for covered vehicles shall be performed, or new covered
19 vehicles delivered to the end user, or covered vehicles scrapped
20 on or after the date the program is implemented.

21 (d) Retrofit technologies, new engines, and new vehicles shall
22 be certified for sale or under experimental permit for operation in
23 the state.

24 (e) Repower projects that replace older, uncontrolled engines
25 with new, emissions-certified engines or that replace
26 emissions-certified engines with new engines certified to a more
27 stringent NO_x emissions standard are approvable subject to the
28 other applicable selection criteria. The state board shall determine
29 appropriate baseline emission levels for the uncontrolled engines
30 being replaced.

31 (f) For heavy-duty-vehicle projects, retrofit and add-on
32 equipment projects shall document a NO_x or PM emission
33 reduction of at least 25 percent and no increase in other covered
34 emissions compared to the applicable baseline emissions accepted
35 by the state board for that engine year and application. The state
36 board shall determine appropriate baseline emission levels.
37 Acceptable documentation shall be defined by the state board.
38 After study of available emission reduction technologies and after
39 public notice and comment, the state board may revise the
40 minimum percentage emission reduction criterion for retrofits and

add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g) (1) For heavy-duty-vehicle projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional low NO_x emissions standard established by the state board, except as provided for in paragraph (2).

(2) For heavy-duty-vehicle projects involving the purchase of new very low or zero-emission covered vehicles for which no optional low NO_x emission standards are available, documentation shall be provided showing that the low or zero-emission engine emits not more than 70 percent of the NO_x or NO_x plus hydrocarbon emissions of a new engine certified to the applicable baseline NO_x or NO_x plus hydrocarbon emission standard for that engine and meets applicable particulate standards. The state board shall specify the documentation required. If no baseline emission standard exists for new vehicles in a particular category, the state board shall determine an appropriate baseline emission level for comparison.

(h) For projects other than heavy-duty-vehicle projects, the state board shall determine appropriate criteria under the provisions of Section 44287.

(i) Projects using grants, loans, vouchers, or other incentives pursuant to this chapter shall condition eligibility on the requirements of Chapter 3.6 (commencing with Section 39680) of Part 2, as applicable.

(j) This section shall remain in effect only until January 1, 2033, 2034, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2033, 2034, deletes or extends that date.

SEC. 15. Section 44282 of the Health and Safety Code, as amended by Section 9 of Chapter 748 of the Statutes of 2021, is amended to read:

44282. The following criteria apply to all projects to be funded through the program except for projects funded through the infrastructure demonstration program:

(a) Except for projects involving marine vessels, 75 percent or more of vehicle miles traveled or hours of operation shall be projected to be in the state for at least five years following the grant award. Projects involving marine vessels and engines shall be limited to those that spend enough time operating in air basins

1 in the state over the lifetime of the project to meet the
2 cost-effectiveness criteria based on NO_x reductions in the state, as
3 provided in Section 44283.

4 (b) To be eligible, projects shall meet cost-effectiveness per ton
5 of NO_x reduced requirements of Section 44283.

6 (c) To be eligible, retrofits, repowers, and installation of add-on
7 equipment for covered vehicles shall be performed, or new covered
8 vehicles delivered to the end user, on or after the date the program
9 is implemented.

10 (d) Retrofit technologies, new engines, and new vehicles shall
11 be certified for sale or under experimental permit for operation in
12 the state.

13 (e) Repower projects that replace older, uncontrolled engines
14 with new, emissions-certified engines or that replace
15 emissions-certified engines with new engines certified to a more
16 stringent NO_x emissions standard are approvable subject to the
17 other applicable selection criteria. The state board shall determine
18 appropriate baseline emission levels for the uncontrolled engines
19 being replaced.

20 (f) Retrofit and add-on equipment projects shall document a
21 NO_x emission reduction of at least 25 percent and no increase in
22 particulate emissions compared to the applicable baseline emissions
23 accepted by the state board for that engine year and application.
24 The state board shall determine appropriate baseline emission
25 levels. Acceptable documentation shall be defined by the state
26 board. After study of available emission reduction technologies
27 and after public notice and comment, the state board may revise
28 the minimum percentage NO_x reduction criterion for retrofits and
29 add-on equipment provided for in this section to improve the ability
30 of the program to achieve its goals.

31 (g) (1) For projects involving the purchase of new very low or
32 zero-emission vehicles, engines shall be certified to an optional
33 low NO_x emissions standard established by the state board, except
34 as provided for in paragraph (2).

35 (2) For projects involving the purchase of new very low or
36 zero-emission covered vehicles for which no optional low NO_x
37 emission standards are available, documentation shall be provided
38 showing that the low- or zero-emission engine emits not more than
39 70 percent of the NO_x or NO_x plus hydrocarbon emissions of a
40 new engine certified to the applicable baseline NO_x or NO_x plus

hydrocarbon emission standard for that engine and meets applicable particulate standards. The state board shall specify the documentation required. If no baseline emission standard exists for new vehicles in a particular category, the state board shall determine an appropriate baseline emission level for comparison.

(h) Projects using grants, loans, vouchers, or other incentives pursuant to this chapter shall condition eligibility on the requirements of Chapter 3.6 (commencing with Section 39680) of Part 2, as applicable.

(i) This section shall become operative on January 1, ~~2033~~.
2034.

SEC. 16. Section 44283 of the Health and Safety Code, as amended by Section 24 of Chapter 401 of the Statutes of 2013, is amended to read:

44283. (a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than twelve thousand dollars (\$12,000) per ton of NO_x reduced in the state or a higher value that reflects state consumer price index adjustments on or after January 1, ~~2033~~, 2034, as determined by the state board.

(b) Only NO_x reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in nonattainment areas in the state shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NO_x reductions in the state from representative project types over the life of the project.

(d) The cost of the NO_x reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

1 (e) A grant shall not be made that, net of taxes, provides the
2 applicant with funds in excess of the incremental cost of the project.
3 Incremental lease costs may be capitalized according to guidelines
4 adopted by the state board so that these incremental costs may be
5 offset by a one-time grant award.

6 (f) Funds under a district's budget authority or fiduciary control
7 may be used to pay for the incremental cost of liquid or gaseous
8 fuel, other than standard gasoline or diesel, which is integral to a
9 NO_x reducing technology that is part of a project receiving grant
10 funding under the program. The fuel shall be approved for sale by
11 the state board. The incremental fuel cost over the expected lifetime
12 of the vehicle may be offset by the district if the project as a whole,
13 including the incremental fuel cost, meets all of the requirements
14 of this chapter, including the maximum allowed cost-effectiveness.
15 The state board shall develop an appropriate methodology for
16 converting incremental fuel costs over the vehicle lifetime into an
17 initial cost for purposes of determining project cost-effectiveness.
18 Incremental fuel costs shall not be included in project costs for
19 fuels dispensed from any facility that was funded, in whole or in
20 part, from the fund.

21 (g) For purposes of determining any grant amount pursuant to
22 this chapter, the incremental cost of any new purchase, retrofit,
23 repower, or add-on equipment shall be reduced by the value of
24 any current financial incentive that directly reduces the project
25 price, including any tax credits or deductions, grants, or other
26 public financial assistance, not including funds described in
27 paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
28 Project proponents applying for funding shall be required to state
29 in their application any other public financial assistance to the
30 project.

31 (h) For projects that would repower off-road equipment by
32 replacing uncontrolled diesel engines with new, certified diesel
33 engines, the state board may establish maximum grant award
34 amounts per repower. A repower project shall also be subject to
35 the incremental cost maximum pursuant to subdivision (e).

36 (i) After study of available emission reduction technologies and
37 costs and after public notice and comment, the state board may
38 reduce the values of the maximum grant award criteria stated in
39 this section to improve the ability of the program to achieve its
40 goals. Every year the state board shall adjust the maximum

1 cost-effectiveness amount established in subdivision (a) and any
2 per-project maximum set by the state board pursuant to subdivision
3 (h) to account for inflation.

4 (j) This section shall become operative on January 1, ~~2033~~.
5 2034.

6 SEC. 17. Section 44283 of the Health and Safety Code, as
7 amended by Section 10 of Chapter 610 of the Statutes of 2015, is
8 amended to read:

9 44283. (a) (1) For all projects funded pursuant to this chapter,
10 except for an infrastructure project described in subdivision (c) of
11 Section 44281, the following cost-effectiveness criteria shall apply:

12 (A) (i) Project grants shall not be made that exceed
13 cost-effectiveness values calculated in accordance with this section.

14 (ii) The state board, in collaboration with the districts, shall
15 establish cost-effectiveness values in the guidelines issued pursuant
16 to Section 44287, taking into consideration factors, including, but
17 not limited to, the following:

18 (I) The cost of emission control technologies identified in
19 Section 44281.

20 (II) The cost-effectiveness values for NO_x, particulate matter,
21 or reactive organic gases for any adopted rule or control measure
22 in any district's approved state implementation plan, or rule
23 adopted by the state board.

24 (iii) A grant for a schoolbus project shall not exceed the cost
25 caps established in the Lower-Emission School Bus Program and
26 consistent with Section 44299.901. The cost-effectiveness value
27 for these projects shall be set forth in the guidelines issued pursuant
28 to Section 44287.

29 (B) For projects obtaining reactive organic gas and particulate
30 matter reductions, the state board shall determine appropriate
31 adjustment factors to calculate a weighted cost-effectiveness value.

32 (2) When a district board approves funding for a project or
33 project category, the district board shall include, in its agenda or
34 supporting materials for the meeting approving funding for the
35 project or project category, a brief statement of the rationale for
36 funding that source category, including the basis for selection and
37 the importance of that project type.

38 (b) Only covered emission reductions occurring in this state
39 shall be included in the cost-effectiveness determination. The
40 extent to which emissions generated at sea contribute to air quality

1 in nonattainment areas in the state shall be incorporated into these
2 methodologies based on a reasonable assessment of currently
3 available information and modeling assumptions.

4 (c) The state board shall develop protocols for calculating the
5 surplus covered emission reductions in the state from representative
6 project types over the life of the project.

7 (d) The cost of the covered emission reduction is the amount
8 of the grant from the program, including matching funds provided
9 pursuant to subdivision (e) of Section 44287, or funding provided
10 pursuant to paragraph (2) of subdivision (d) of Section 41081 or
11 subdivision (b) of Section 44229, not including funds described
12 in subdivision (a) of Section 44287.2. The state board shall
13 establish reasonable methodologies for evaluating project
14 cost-effectiveness, consistent with the definition contained in
15 paragraph (4) of subdivision (a) of Section 44275, and with
16 accepted methods, taking into account a fair and reasonable
17 discount rate or time value of public funds.

18 (e) A grant shall not be made that, net of taxes, provides the
19 applicant with funds in excess of the incremental cost of the project.
20 Incremental lease costs may be capitalized according to guidelines
21 adopted by the state board so that these incremental costs may be
22 offset by a one-time grant award.

23 (f) Funds under a district's budget authority or fiduciary control
24 may be used to pay for the incremental cost of energy or liquid or
25 gaseous fuel, other than standard gasoline or diesel, which is
26 integral to a covered emission reducing technology that is part of
27 a project receiving grant funding under the program. The fuel shall
28 be approved for sale in the state. The incremental energy or fuel
29 cost over the expected lifetime of the vehicle may be offset by the
30 district if the project as a whole, including the incremental energy
31 or fuel cost, meets all of the requirements of this chapter, including
32 the maximum allowed cost-effectiveness. The state board shall
33 develop an appropriate methodology for converting incremental
34 energy or fuel costs over the vehicle lifetime into an initial cost
35 for purposes of determining project cost-effectiveness. Incremental
36 energy or fuel costs shall not be included in project costs for fuels
37 dispensed from any facility that was funded, in whole or in part,
38 from the fund.

39 (g) For purposes of determining any grant amount pursuant to
40 this chapter, project proponents applying for funding shall be

1 required to state in their application any other public financial
2 assistance to the project.

3 (h) For projects that would repower off-road equipment by
4 replacing uncontrolled diesel engines with new, certified diesel
5 engines, the state board may establish maximum grant award
6 amounts per repower. A repower project shall also be subject to
7 the incremental cost maximum pursuant to subdivision (e).

8 (i) After study of available emission reduction technologies and
9 costs and after public notice and comment, the state board may
10 adjust the values of the maximum grant award criteria stated in
11 this section to improve the ability of the program to achieve its
12 goals. Every year the state board shall adjust the maximum
13 cost-effectiveness amount established in subdivision (a) and any
14 per-project maximum set by the state board pursuant to subdivision
15 (h) to account for inflation and other factors as authorized by this
16 section.

17 (j) This section shall remain in effect only until January 1, ~~2033~~,
18 2034, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
20 that date.

21 SEC. 18. Section 44287 of the Health and Safety Code, as
22 amended by Section 26 of Chapter 401 of the Statutes of 2013, is
23 amended to read:

24 44287. (a) The state board shall establish grant criteria and
25 guidelines consistent with this chapter for covered vehicle projects
26 as soon as practicable, but not later than January 1, 2000. The
27 adoption of guidelines is exempt from the rulemaking provisions
28 of the Administrative Procedure Act, Chapter 3.5 (commencing
29 with Section 11340) of Part 1 of Division 3 of Title 2 of the
30 Government Code. The state board shall solicit input and comment
31 from the districts during the development of the criteria and
32 guidelines and shall make every effort to develop criteria and
33 guidelines that are compatible with existing district programs that
34 are also consistent with this chapter. Guidelines shall include
35 protocols to calculate project cost-effectiveness. The grant criteria
36 and guidelines shall include safeguards to ensure that the project
37 generates surplus emissions reductions. Guidelines shall enable
38 and encourage districts to cofund projects that provide emissions
39 reductions in more than one district. The state board shall make
40 draft criteria and guidelines available to the public 45 days before

1 final adoption, and shall hold at least one public meeting to
2 consider public comments before final adoption.

3 (b) The state board, in consultation with the participating
4 districts, may propose revisions to the criteria and guidelines
5 established pursuant to subdivision (a) as necessary to improve
6 the ability of the program to achieve its goals. A proposed revision
7 shall be made available to the public 45 days before final adoption
8 of the revision and the state board shall hold at least one public
9 meeting to consider public comments before final adoption of the
10 revision.

11 (c) The state board shall reserve funds for, and disburse funds
12 to, districts from the fund for administration pursuant to this section
13 and Section 44299.1.

14 (d) The state board shall develop guidelines for a district to
15 follow in applying for the reservation of funds, in accordance with
16 this chapter. It is the intent of the Legislature that district
17 administration of any reserved funds be in accordance with the
18 project selection criteria specified in Sections 44281, 44282, and
19 44283 and all other provisions of this chapter. The guidelines shall
20 be established and published by the state board as soon as
21 practicable, but not later than January 1, 2000.

22 (e) Funds shall be reserved by the state board for administration
23 by a district that adopts an eligible program pursuant to this chapter
24 and offers matching funds at a ratio of one dollar (\$1) of matching
25 funds committed by the district or the Mobile Source Air Pollution
26 Reduction Review Committee for every two dollars (\$2) committed
27 from the fund. Funds available to the Mobile Source Air Pollution
28 Reduction Review Committee may be counted as matching funds
29 for projects in the South Coast Air Basin only if the committee
30 approves the use of these funds for matching purposes. Matching
31 funds may be any funds under the district's budget authority that
32 are committed to be expended in accordance with the program.
33 Funds committed by a port authority or a local government, in
34 cooperation with a district, to be expended in accordance with the
35 program may also be counted as district matching funds. Matching
36 funds provided by a port authority or a local government may not
37 exceed 30 percent of the total required matching funds in any
38 district that applies for more than three hundred thousand dollars
39 (\$300,000) of the state board funds. Only a district, or a port

1 authority or a local government teamed with a district, may provide
2 matching funds.

3 (f) The state board may adjust the ratio of matching funds
4 described in subdivision (e), if it determines that an adjustment is
5 necessary in order to maximize the use of, or the air quality benefits
6 provided by, the program, based on a consideration of the financial
7 resources of the district.

8 (g) Notwithstanding subdivision (e), a district need not provide
9 matching funds for state board funds allocated to the district for
10 program outreach activities pursuant to paragraph (4) of subdivision
11 (a) of Section 44299.1.

12 (h) A district may include within its matching funds a reasonable
13 estimate of direct or in-kind costs for assistance in providing
14 program outreach and application evaluation. In-kind and direct
15 matching funds shall not exceed 15 percent of the total matching
16 funds offered by a district. A district may also include within its
17 matching funds any money spent on or after February 25, 1999,
18 that would have qualified as matching funds but were not
19 previously claimed as matching funds.

20 (i) A district desiring a reservation of funds shall apply to the
21 state board following the application guidelines established
22 pursuant to this section. The state board shall approve or disapprove
23 a district application not later than 60 days after receipt. Upon
24 approval of any district application, the state board shall
25 simultaneously approve a reservation of funding for that district
26 to administer. Reserved funds shall be disbursed to the district so
27 that funding of a district-approved project is not impeded.

28 (j) Notwithstanding any other provision of this chapter, districts
29 and the Mobile Source Air Pollution Reduction Review Committee
30 shall not use funds collected pursuant to Section 41081 or Chapter
31 7 (commencing with Section 44220), or pursuant to Section
32 9250.11 of the Vehicle Code, as matching funds to fund a project
33 with stationary or portable engines, locomotives, or marine vessels.

34 (k) Any funds reserved for a district pursuant to this section are
35 available to the district for a period of not more than two years
36 from the time of reservation. Funds not expended by June 30 of
37 the second calendar year following the date of the reservation shall
38 revert back to the state board as of that June 30, and shall be
39 deposited in the fund for use by the program. The funds may then
40 be redirected based on applications to the fund. Regardless of any

1 reversion of funds back to the state board, the district may continue
2 to request other reservations of funds for local administration. Each
3 reservation of funds shall be accounted for separately, and unused
4 funds from each application shall revert back to the state board as
5 specified in this subdivision.

6 (l) The state board shall specify a date each year when district
7 applications are due. If the eligible applications received in any
8 year oversubscribe the available funds, the state board shall reserve
9 funds on an allocation basis, pursuant to subdivision (b) of Section
10 44299.1. The state board may accept a district application after
11 the due date for a period of months specified by the state board.
12 Funds may be reserved in response to those applications, in
13 accordance with this chapter, out of funds remaining after the
14 original reservation of funds for the year.

15 (m) Guidelines for a district application shall require information
16 from an applicant district to the extent necessary to meet the
17 requirements of this chapter, but shall otherwise minimize the
18 information required of a district.

19 (n) A district application shall be reviewed by the state board
20 immediately upon receipt. If the state board determines that an
21 application is incomplete, the applicant shall be notified within 10
22 working days with an explanation of what is missing from the
23 application. A completed application fulfilling the criteria shall be
24 approved as soon as practicable, but not later than 60 working days
25 after receipt.

26 (o) The state board, in consultation with the districts, shall
27 establish project approval criteria and guidelines for infrastructure
28 projects consistent with Section 44284 as soon as practicable, but
29 not later than February 15, 2000. The commission shall make draft
30 criteria and guidelines available to the public 45 days before final
31 adoption, and shall hold at least one public meeting to consider
32 public comments before final adoption.

33 (p) The state board, in consultation with the participating
34 districts, may propose revisions to the criteria and guidelines
35 established pursuant to subdivision (o) as necessary to improve
36 the ability of the program to achieve its goals. A revision may be
37 proposed at any time, or may be proposed in response to a finding
38 made in the annual report on the program published by the state
39 board pursuant to Section 44295. A proposed revision shall be
40 made available to the public 45 days before final adoption of the

1 revision and the commission shall hold at least one public meeting
2 to consider public comments before final adoption of the revision.

3 (q) This section shall become operative on January 1, ~~2033~~.
4 ~~2034~~.

5 SEC. 19. Section 44287 of the Health and Safety Code, as
6 amended by Section 12 of Chapter 610 of the Statutes of 2015, is
7 amended to read:

8 44287. (a) The state board shall establish or update grant
9 criteria and guidelines consistent with this chapter for covered
10 vehicle and infrastructure projects as soon as practicable, but not
11 later than July 1, 2017. The adoption of guidelines is exempt from
12 the rulemaking provisions of the Administrative Procedure Act
13 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3 of Title 2 of the Government Code). The state board
15 shall solicit input and comment from the districts during the
16 development of the criteria and guidelines and shall make every
17 effort to develop criteria and guidelines that are compatible with
18 existing district programs that are also consistent with this chapter.
19 Guidelines shall include protocols to calculate project
20 cost-effectiveness. The grant criteria and guidelines shall include
21 safeguards to ensure that the project generates surplus emissions
22 reductions. Guidelines shall enable and encourage districts to
23 cofund projects that provide emissions reductions in more than
24 one district. The state board shall make draft criteria and guidelines
25 available to the public 45 days before final adoption, and shall
26 hold at least one public meeting to consider public comments
27 before final adoption. The state board may develop separate
28 guidelines and criteria for the different types of eligible projects
29 described in subdivision (a) of Section 44281.

30 (b) The state board, in consultation with the participating
31 districts, may propose revisions to the criteria and guidelines
32 established pursuant to subdivision (a) as necessary to improve
33 the ability of the program to achieve its goals. A proposed revision
34 shall be made available to the public 45 days before final adoption
35 of the revision and the state board shall hold at least one public
36 meeting to consider public comments before final adoption of the
37 revision.

38 (c) The state board shall reserve funds for, and disburse funds
39 to, districts from the fund for administration pursuant to this section
40 and Section 44299.1.

(d) The state board shall develop guidelines for a district to follow in applying for the reservation of funds, in accordance with this chapter. It is the intent of the Legislature that district administration of any reserved funds be in accordance with the project selection criteria specified in Sections 44281, 44282, and 44283 and all other provisions of this chapter. The guidelines shall be established and published by the state board as soon as practicable, but not later than January 1, 2006.

(e) Funds shall be reserved by the state board for administration by a district that adopts an eligible program pursuant to this chapter and offers matching funds at a ratio of one dollar (\$1) of matching funds committed by the district or the Mobile Source Air Pollution Reduction Review Committee for every two dollars (\$2) committed from the fund. Funds available to the Mobile Source Air Pollution Reduction Review Committee may be counted as matching funds for projects in the South Coast Air Basin only if the committee approves the use of these funds for matching purposes. Matching funds may be any funds under the district's budget authority that are committed to be expended in accordance with the program. Funds committed by a port authority or a local government, in cooperation with a district, to be expended in accordance with the program may also be counted as district matching funds. Matching funds provided by a port authority or a local government shall not exceed 30 percent of the total required matching funds in any district that applies for more than three hundred thousand dollars (\$300,000) of the state board funds. Only a district, or a port authority or a local government teamed with a district, may provide matching funds.

(f) The state board may adjust the ratio of matching funds described in subdivision (e), if it determines that an adjustment is necessary in order to maximize the use of, or the air quality benefits provided by, the program, based on a consideration of the financial resources of the district.

(g) Notwithstanding subdivision (e), a district need not provide matching funds for state board funds allocated to the district for program outreach activities pursuant to paragraph (4) of subdivision (a) of Section 44299.1.

(h) A district may include within its matching funds a reasonable estimate of direct or in-kind costs for assistance in providing program outreach and application evaluation. In-kind and direct

1 matching funds shall not exceed 15 percent of the total matching
2 funds offered by a district. A district may also include within its
3 matching funds any money spent on or after February 25, 1999,
4 that would have qualified as matching funds but were not
5 previously claimed as matching funds.

6 (i) A district desiring a reservation of funds shall apply to the
7 state board following the application guidelines established
8 pursuant to this section. The state board shall approve or disapprove
9 a district application not later than 60 days after receipt. Upon
10 approval of any district application, the state board shall
11 simultaneously approve a reservation of funding for that district
12 to administer. Reserved funds shall be disbursed to the district so
13 that funding of a district-approved project is not impeded.

14 (j) Any funds reserved for a district by the state board pursuant
15 to this section are available for disbursement to the district for a
16 period of not more than two years from the time of reservation.
17 Funds not liquidated by a district by June 30 of the fourth calendar
18 year following the date of the reservation shall be returned to the
19 state board within 90 days for future allocation pursuant to this
20 chapter. Each reservation of funds shall be accounted for separately,
21 and unused funds from each application shall revert back to the
22 state board for use pursuant to this chapter as specified in this
23 subdivision.

24 (k) The state board shall specify a date each year when district
25 applications are due. If the eligible applications received in any
26 year oversubscribe the available funds, the state board shall reserve
27 funds on an allocation basis, pursuant to Section 44299.2. The
28 state board may accept a district application after the due date for
29 a period of months specified by the state board. Funds may be
30 reserved in response to those applications, in accordance with this
31 chapter, out of funds remaining after the original reservation of
32 funds for the year.

33 (l) Guidelines for a district application shall require information
34 from an applicant district to the extent necessary to meet the
35 requirements of this chapter, but shall otherwise minimize the
36 information required of a district.

37 (m) A district application shall be reviewed by the state board
38 immediately upon receipt. If the state board determines that an
39 application is incomplete, the applicant shall be notified within 10
40 working days with an explanation of what is missing from the

1 application. A completed application fulfilling the criteria shall be
2 approved as soon as practicable, but not later than 60 working days
3 after receipt.

4 (n) The commission, in consultation with the districts, shall
5 establish project approval criteria and guidelines for infrastructure
6 projects consistent with Section 44284 as soon as practicable, but
7 not later than February 15, 2000. The commission shall make draft
8 criteria and guidelines available to the public 45 days before final
9 adoption, and shall hold at least one public meeting to consider
10 public comments before final adoption.

11 (o) The commission, in consultation with the participating
12 districts, may propose revisions to the criteria and guidelines
13 established pursuant to subdivision (n) as necessary to improve
14 the ability of the program to achieve its goals. A revision may be
15 proposed at any time, or may be proposed in response to a finding
16 made in the annual report on the program published by the state
17 board pursuant to Section 44295. A proposed revision shall be
18 made available to the public 45 days before final adoption of the
19 revision and the commission shall hold at least one public meeting
20 to consider public comments before final adoption of the revision.

21 (p) Unclaimed funds will be allocated by the state board in
22 accordance with Section 44299.2.

23 (q) This section shall remain in effect only until January 1, 2033,
24 2034, and as of that date is repealed, unless a later enacted statute,
25 that is enacted before January 1, 2033, 2034, deletes or extends
26 that date.

27 SEC. 20. Section 42885 of the Public Resources Code, as
28 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
29 amended to read:

30 42885. (a) For purposes of this section, "California tire fee"
31 means the fee imposed pursuant to this section.

32 (b) (1) A person who purchases a new tire, as defined in
33 subdivision (g), shall pay a California tire fee of one dollar and
34 seventy-five cents (\$1.75) per tire.

35 (2) The retail seller shall charge the retail purchaser the amount
36 of the California tire fee as a charge that is separate from, and not
37 included in, any other fee, charge, or other amount paid by the
38 retail purchaser.

39 (3) The retail seller shall collect the California tire fee from the
40 retail purchaser at the time of sale and may retain 1 ½ percent of

1 the fee as reimbursement for any costs associated with the
2 collection of the fee. The retail seller shall remit the remainder to
3 the state on a quarterly schedule for deposit in the California Tire
4 Recycling Management Fund, which is hereby created in the State
5 Treasury.

6 (c) The department, or its agent authorized pursuant to Section
7 42882, shall be reimbursed for its costs of collection, auditing, and
8 making refunds associated with the California Tire Recycling
9 Management Fund, but not to exceed 3 percent of the total annual
10 revenue deposited in the fund.

11 (d) The California tire fee imposed pursuant to subdivision (b)
12 shall be separately stated by the retail seller on the invoice given
13 to the customer at the time of sale. Any other disposal or
14 transaction fee charged by the retail seller related to the tire
15 purchase shall be identified separately from the California tire fee.

16 (e) A person or business who knowingly, or with reckless
17 disregard, makes a false statement or representation in a document
18 used to comply with this section is liable for a civil penalty for
19 each violation or, for continuing violations, for each day that the
20 violation continues. Liability under this section may be imposed
21 in a civil action and shall not exceed twenty-five thousand dollars
22 (\$25,000) for each violation.

23 (f) In addition to the civil penalty that may be imposed pursuant
24 to subdivision (e), the department may impose an administrative
25 penalty in an amount not to exceed five thousand dollars (\$5,000)
26 for each violation of a separate provision or, for continuing
27 violations, for each day that the violation continues, on a person
28 who intentionally or negligently violates a permit, rule, regulation,
29 standard, or requirement issued or adopted pursuant to this chapter.
30 The department shall adopt regulations that specify the amount of
31 the administrative penalty and the procedure for imposing an
32 administrative penalty pursuant to this subdivision.

33 (g) For purposes of this section, “new tire” means a pneumatic
34 or solid tire intended for use with onroad or off-road motor
35 vehicles, motorized equipment, construction equipment, or farm
36 equipment that is sold separately from the motorized equipment,
37 or a new tire sold with a new or used motor vehicle, as defined in
38 Section 42803.5, including the spare tire, construction equipment,
39 or farm equipment. “New tire” does not include retreaded, reused,
40 or recycled tires.

1 (h) The California tire fee shall not be imposed on a tire sold
2 with, or sold separately for use on, any of the following:

3 (1) A self-propelled wheelchair.

4 (2) A motorized tricycle or motorized quadricycle, as defined
5 in Section 407 of the Vehicle Code.

6 (3) A vehicle that is similar to a motorized tricycle or motorized
7 quadricycle and is designed to be operated by a person who, by
8 reason of the person's physical disability, is otherwise unable to
9 move about as a pedestrian.

10 (i) This section shall remain in effect only until January 1, ~~2033~~,
11 ~~2034~~, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, ~~2033~~, ~~2034~~, deletes or extends
13 that date.

14 SEC. 21. Section 42885 of the Public Resources Code, as
15 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
16 amended to read:

17 42885. (a) For purposes of this section, "California tire fee"
18 means the fee imposed pursuant to this section.

19 (b) (1) Every person who purchases a new tire, as defined in
20 subdivision (g), shall pay a California tire fee of seventy-five cents
21 (\$0.75) per tire.

22 (2) The retail seller shall charge the retail purchaser the amount
23 of the California tire fee as a charge that is separate from, and not
24 included in, any other fee, charge, or other amount paid by the
25 retail purchaser.

26 (3) The retail seller shall collect the California tire fee from the
27 retail purchaser at the time of sale and may retain 3 percent of the
28 fee as reimbursement for any costs associated with the collection
29 of the fee. The retail seller shall remit the remainder to the state
30 on a quarterly schedule for deposit in the California Tire Recycling
31 Management Fund, which is hereby created in the State Treasury.

32 (c) The department, or its agent authorized pursuant to Section
33 42882, shall be reimbursed for its costs of collection, auditing, and
34 making refunds associated with the California Tire Recycling
35 Management Fund, but not to exceed 3 percent of the total annual
36 revenue deposited in the fund.

37 (d) The California tire fee imposed pursuant to subdivision (b)
38 shall be separately stated by the retail seller on the invoice given
39 to the customer at the time of sale. Any other disposal or

1 transaction fee charged by the retail seller related to the tire
2 purchase shall be identified separately from the California tire fee.

3 (e) Any person or business who knowingly, or with reckless
4 disregard, makes any false statement or representation in any
5 document used to comply with this section is liable for a civil
6 penalty for each violation or, for continuing violations, for each
7 day that the violation continues. Liability under this section may
8 be imposed in a civil action and shall not exceed twenty-five
9 thousand dollars (\$25,000) for each violation.

10 (f) In addition to the civil penalty that may be imposed pursuant
11 to subdivision (e), the department may impose an administrative
12 penalty in an amount not to exceed five thousand dollars (\$5,000)
13 for each violation of a separate provision or, for continuing
14 violations, for each day that the violation continues, on any person
15 who intentionally or negligently violates any permit, rule,
16 regulation, standard, or requirement issued or adopted pursuant to
17 this chapter. The department shall adopt regulations that specify
18 the amount of the administrative penalty and the procedure for
19 imposing an administrative penalty pursuant to this subdivision.

20 (g) For purposes of this section, “new tire” means a pneumatic
21 or solid tire intended for use with onroad or off-road motor
22 vehicles, motorized equipment, construction equipment, or farm
23 equipment that is sold separately from the motorized equipment,
24 or a new tire sold with a new or used motor vehicle, as defined in
25 Section 42803.5, including the spare tire, construction equipment,
26 or farm equipment. “New tire” does not include retreaded, reused,
27 or recycled tires.

28 (h) The California tire fee may not be imposed on any tire sold
29 with, or sold separately for use on, any of the following:

- 30 (1) Any self-propelled wheelchair.
31 (2) Any motorized tricycle or motorized quadricycle, as defined
32 in Section 407 of the Vehicle Code.
33 (3) Any vehicle that is similar to a motorized tricycle or
34 motorized quadricycle and is designed to be operated by a person
35 who, by reason of the person’s physical disability, is otherwise
36 unable to move about as a pedestrian.

37 (i) This section shall become operative on January 1, ~~2033~~.
38 2034.

SEC. 22. Section 42889 of the Public Resources Code, as amended by Section 152 of Chapter 35 of the Statutes of 2014, is amended to read:

42889. (a) Of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the department in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the department. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The department shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the department designates a local entity for that purpose, the department shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan

1 adopted and updated as provided in subdivision (a) of Section
2 42885.5. The department may consider and create, as appropriate,
3 financial incentives for citizens who report the illegal hauling or
4 disposal of waste tires as a means of enhancing local and statewide
5 waste tire and used tire enforcement programs.

6 (5) To pay the costs of cleanup, abatement, removal, or other
7 remedial action related to waste tire stockpiles throughout the state,
8 including all approved costs incurred by other public agencies
9 involved in these activities by contract with the department. Not
10 less than six million five hundred thousand dollars (\$6,500,000)
11 shall be expended by the department during each of the following
12 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

13 (6) To make studies and conduct research directed at promoting
14 and developing alternatives to the landfill disposal of waste tires.

15 (7) To assist in developing markets and new technologies for
16 used tires and waste tires. The department's expenditure of funds
17 for purposes of this subdivision shall reflect the priorities for waste
18 management practices specified in subdivision (a) of Section
19 40051.

20 (8) To pay the costs associated with implementing and operating
21 a waste tire and used tire hauler program and manifest system
22 pursuant to Chapter 19 (commencing with Section 42950).

23 (9) To pay the costs to create and maintain an emergency
24 reserve, which shall not exceed one million dollars (\$1,000,000).

25 (10) To pay the costs of cleanup, abatement, or other remedial
26 action related to the disposal of waste tires in implementing and
27 operating the Farm and Ranch Solid Waste Cleanup and Abatement
28 Grant Program established pursuant to Chapter 2.5 (commencing
29 with Section 48100) of Part 7.

30 (11) To fund border region activities specified in paragraph (8)
31 of subdivision (b) of Section 42885.5.

32 (12) For expenditure pursuant to paragraph (3) of subdivision
33 (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

34 (c) This section shall remain in effect only until January 1, ~~2033~~,
35 2034, and as of that date is repealed, unless a later enacted statute
36 that is enacted before January 1, ~~2033~~, 2034, deletes or extends
37 that date.

38 SEC. 23. Section 42889 of the Public Resources Code, as
39 amended by Section 153 of Chapter 35 of the Statutes of 2014, is
40 amended to read:

1 42889. Funding for the waste tire program shall be appropriated
2 to the department in the annual Budget Act. The moneys in the
3 fund shall be expended for the payment of refunds under this
4 chapter and for the following purposes:

5 (a) To pay the administrative overhead cost of this chapter, not
6 to exceed 5 percent of the total revenue deposited in the fund
7 annually, or an amount otherwise specified in the annual Budget
8 Act.

9 (b) To pay the costs of administration associated with collection,
10 making refunds, and auditing revenues in the fund, not to exceed
11 3 percent of the total revenue deposited in the fund, as provided
12 in subdivision (b) of Section 42885.

13 (c) To pay the costs associated with operating the tire recycling
14 program specified in Article 3 (commencing with Section 42870).

15 (d) To pay the costs associated with the development and
16 enforcement of regulations relating to the storage of waste tires
17 and used tires. The department shall consider designating a city,
18 county, or city and county as the enforcement authority of
19 regulations relating to the storage of waste tires and used tires, as
20 provided in subdivision (c) of Section 42850, and regulations
21 relating to the hauling of waste and used tires, as provided in
22 subdivision (b) of Section 42963. If the department designates a
23 local entity for that purpose, the department shall provide sufficient,
24 stable, and noncompetitive funding to that entity for that purpose,
25 based on available resources, as provided in the five-year plan
26 adopted and updated as provided in subdivision (a) of Section
27 42885.5. The department may consider and create, as appropriate,
28 financial incentives for citizens who report the illegal hauling or
29 disposal of waste tires as a means of enhancing local and statewide
30 waste tire and used tire enforcement programs.

31 (e) To pay the costs of cleanup, abatement, removal, or other
32 remedial action related to waste tire stockpiles throughout the state,
33 including all approved costs incurred by other public agencies
34 involved in these activities by contract with the department. Not
35 less than six million five hundred thousand dollars (\$6,500,000)
36 shall be expended by the department during each of the following
37 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

38 (f) To fund border region activities specified in paragraph (8)
39 of subdivision (b) of Section 42885.5.

1 (g) For expenditure pursuant to paragraph (3) of subdivision (a)
2 of, and paragraph (3) of subdivision (b) of, Section 17001.

3 (h) This section shall become operative on January 1, ~~2033~~.
4 ~~2034~~.

5 SEC. 24. Section 9250.2 of the Vehicle Code, as amended by
6 Section 36 of Chapter 401 of the Statutes of 2013, is amended to
7 read:

8 9250.2. (a) The department, if requested by the Sacramento
9 Metropolitan Air Quality Management District pursuant to Section
10 41081 of the Health and Safety Code, shall impose and collect a
11 surcharge on the registration fees for every motor vehicle registered
12 in that district, not to exceed the amount of six dollars (\$6), as
13 specified by the governing body of that district.

14 (b) This section shall remain in effect only until January 1, ~~2033~~,
15 ~~2034~~, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, ~~2033~~, ~~2034~~, deletes or extends
17 that date.

18 SEC. 25. Section 9250.2 of the Vehicle Code, as amended by
19 Section 37 of Chapter 401 of the Statutes of 2013, is amended to
20 read:

21 9250.2. (a) The department, if requested by the Sacramento
22 Metropolitan Air Quality Management District pursuant to Section
23 41081 of the Health and Safety Code, shall impose and collect a
24 surcharge on the registration fees for every motor vehicle registered
25 in that district, not to exceed four dollars (\$4).

26 (b) This section shall become operative on January 1, ~~2033~~.
27 ~~2034~~.

O

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pauline Russo Cutter and Members
of the Legislative Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 13, 2022

Re: State Legislative Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The last day for each house to pass bills introduced in that house was May 27, 2022.

Below are bills the Air District has taken positions on or discussed during the 2022 Legislative Session and their current status:

- Assembly Bill (AB) 1944 (Lee) - Local government: open and public meetings.
- AB 2449 (Rubio) - Open meetings: local agencies: teleconferences.
- AB 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding.
- AB 2206 (Lee) - Nonattainment basins: employee parking: parking cash-out program.
- AB 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles.
- AB 2816 (Ting) - State Air Resources Board: zero-emission incentive programs: requirements.
- AB 2852 (Bloom) - Air pollution control districts and air quality management districts: independent special districts: funding.
- AB 2910 (Santiago) - Nonvehicular air pollution: civil penalties.
- Senate Bill (SB) 1235 (Borgeas) - Air pollution: portable equipment: emergency events.
- SB 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.
- SB 1393 (Archuleta) - Energy: appliances: local requirements.

DISCUSSION

Staff will provide the Legislative Committee (Committee) with a brief summary and status of bills listed on the attached list. Specifically, staff will discuss the following bills:

AB 1944 (Lee) - Local government: open and public meetings.

CapitolTrack Summary: The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely.

Current Status: Made its way through the Assembly committee process and was voted on the Assembly Floor on May 26, 2022, where it received a vote in favor of 44-12. Ordered to the Senate – this bill is currently pending referral.

Position: Support

AB 2449 (Rubio) - Open meetings: local agencies: teleconferences.

CapitolTrack Summary: The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill would revise and recast those teleconferencing provisions and, until January 1, 2028, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction.

Current Status: Made its way through the Assembly committee process and was voted on the Assembly Floor on May 26, 2022, where it received a vote in favor of 65:4. Ordered to the Senate – this bill is currently pending referral.

Position: None

AB 2141 (E. Garcia) - Greenhouse Gas Reduction Fund: community projects: funding.

CapitolTrack Summary: Current law requires that all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism be deposited in the Greenhouse Gas Reduction Fund and be available, upon appropriation by the Legislature, for purposes relating to the reduction of greenhouse gas emissions. Current law continuously appropriates 35% of the annual proceeds of the fund for transit, affordable housing, and sustainable communities programs and 25% of the annual proceeds of the fund for certain components of a specified high-speed rail project. This bill would continuously appropriate to the state board, beginning in the 2023–24 fiscal year, 20% of the annual proceeds of the Greenhouse Gas Reduction Fund, up to \$600,000,000, for allocation to air pollution control districts and air quality management districts for the purpose of supporting community emissions reduction strategies in, and reimbursement for participation by, communities selected by the state board, as specified.

Current Status: Made its way through the Assembly committee process and was voted on the Assembly Floor on May 23, 2022, where it received a vote in favor of 54-18. Ordered to the Senate – this bill is currently pending referral.

Position: Support

AB 2206 (Lee) - Nonattainment basins: employee parking: parking cash-out program.

CapitolTrack Summary: Current law requires, in any air basin designated as nonattainment for certain air quality standards, an employer, defined as an employer of 50 persons or more that provides a parking subsidy to employees, to also offer a parking cash-out program. Current law defines “parking cash-out program” as an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space. Current law defines a “parking subsidy” as the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space. This bill would revise the definitions of “employer,” “parking cash-out program,” and “parking subsidy.” The bill would require a lessor that enters into or renews a lease on or after January 1, 2023, with a lessee that is an employer and that offers parking to the employer to list the market-rate parking costs as a separate line item in the lease, as provided, or to provide a list of parking costs to the employer within 30 days after the lease is entered into or renewed.

Current Status: Made its way through the Assembly committee process and was voted on the Assembly Floor on May 9, 2022, where it received a vote in favor of 47-15. Ordered to the Senate – this bill has been referred to Senate Committees on Transportation and Judiciary and is scheduled to be heard in Senate Transportation on June 14, 2022.

Position: Support

AB 2563 (Quirk) - Air pollution: permits: mobile fueling on-demand tank vehicles.

CapitolTrack Summary: Current law requires air pollution control and air quality management districts, except county districts with a population of less than 250,000, to establish, by regulation, a program to provide for the expedited review of permits. A person who violates these requirements, or any rules, regulation, permit, or order of a district is guilty of a misdemeanor. This bill would, except as provided, require air pollution control and air quality management districts to establish a mobile fueling on-demand tank vehicle permit program for mobile fueling on-demand tank vehicle operations, as defined. The bill would require that a mobile fueling on-demand tank vehicle permit program provide, among other things, a consistent permitting process for an operation that requires more than one permit and an expedited permit review and fee schedule.

Current Status: Dead – Last location was the Assembly Appropriations Suspense File.

Position: Oppose

AB 2816 (Ting) - State Air Resources Board: zero-emission incentive programs: requirements.

CapitolTrack Summary: Would require the State Air Resources Board to develop a tool to determine the annual average gallons of gasoline or diesel consumed by a particular vehicle and would require the state board to make the tool publicly available on its internet website for use by potential applicants of a ZEV incentive program. To maximize equity benefits, the bill would require the state board to ensure that additional per gallon incentive payments are provided to an applicant of a ZEV incentive program if the applicant is low or moderate income. The bill would require the state board to submit a report to the Legislature on or before January 1, 2024, and every 2 years thereafter, regarding the ZEV incentive programs.

Current Status: Dead – Last location was the Assembly Appropriations Suspense File.

Position: Oppose unless amended

AB 2852 (Bloom) - Air pollution control districts and air quality management districts: independent special districts: funding.

CapitolTrack Summary: Current law provides for the establishment of air pollution control districts and air quality management districts. Current law declares a district a body corporate and politic and a public agency of the state, and prescribes the general powers and duties of a district. Current law authorizes a district to receive funding from specified sources, including, but not limited to, grants, permit fees, and penalties. This bill would designate, retroactive to January 1, 2020, a district as an independent special district for purposes of receiving state funds or funds disbursed by the state, including federal funds.

Current Status: Dead – Last location was the Assembly Local Government Committee.

Position: Support

AB 2910 (Santiago) - Nonvehicular air pollution: civil penalties.

CapitolTrack Summary: Current law generally designates air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Current law establishes maximum civil penalties for any person for violations of air pollution laws from nonvehicular sources. A person who violates these laws and who acts negligently is liable for a civil penalty in a greater amount, as specified. Current law annually adjusts the maximum penalties for violations of these laws based on the California Consumer Price Index. This bill would increase the maximum amount of those civil penalties and would subject those maximum amounts to the annual adjustment based on the California Consumer Price Index, as specified.

Current Status: Made its way through the Assembly committee process and was voted on the Assembly Floor on May 26, 2022, where it received a vote in favor of 52:17. Ordered to the Senate – this bill is currently pending approval.

Position: Support

SB 1235 (Borgeas) - Air pollution: portable equipment: emergency events.

CapitolTrack Summary: Would codify the State Air Resources Board's regulation authorizing portable equipment to be operated during an emergency event, as defined above, and would also authorize portable equipment to be operated during a public safety power shut-off event. The bill would define "public safety power shut-off event," in part, as a planned power outage undertaken by an electrical corporation to reduce the risk of wildfires caused by utility equipment.

Current Status: Dead – Last location was the Senate Environmental Quality Committee.

Position: Oppose

SB 1382 (Gonzalez) - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.

CapitolTrack Summary: Current law establishes the Clean Cars 4 All Program, which is administered by the State Air Resources Board, to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. Current law requires the implementing regulations to ensure, among other things, that there is improved coordination, integration, and partnerships with other specified programs that target disadvantaged communities. This bill would require the implementing regulations for the Clean Cars 4 All Program to additionally ensure that the state board coordinates with air quality management districts and local nonprofit and community organizations to identify barriers to accessing the Clean Cars 4 All Program and to develop outreach protocols and metrics to assess the success of outreach across the districts.

Current Status: Made its way through the Senate committee process and was voted on the Senate Floor on May 26, 2022, where it received a vote in favor of 33:5. Ordered to the Assembly – this bill is currently pending referral.

Position: Support

SB 1393 (Archuleta) - Energy: appliances: local requirements.

CapitolTrack Summary: Current law requires the State Energy Resources Conservation and Development Commission to gather or develop, and publish on its internet website, guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment that include one or more specified topics. This bill would require the commission to gather or develop, and publish on its internet website, the guidance and best practices by July 1, 2023, and would require the guidance to include all of those specified topics and additional topics. The bill would require the commission to update annually the guidance and best practices. The bill would require a city, including a charter city, or county, when adopting an ordinance requiring the replacement of a fossil fuel-fired appliance with an electric appliance upon the alteration or retrofit of a residential and nonresidential building, to consider the guidance published by the commission.

Current Status: Made its way through the Senate committee process and was voted on the Senate Floor on May 26, 2022, where it received a vote in favor of 21:3. Ordered to the Assembly – this bill is currently pending referral.

Position: Oppose

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Sharon L. Landers

ATTACHMENTS:

1. Bills of Interest Matrix - As of June 2, 2022

Bill #	Author	Subject	Last Amended	Last Status - As of 6/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
AB 1749	Garcia, Cristina	Community emissions reduction programs: toxic air contaminants and criteria air pollutants.	5/19/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Medium	AB 617
AB 284	Rivas, Robert	California Global Warming Solutions Act of 2006: climate goal: natural and working lands.	7/14/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/2/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	Climate Change
AB 1369	Bennett	Buy Clean California Act: eligible materials: product-specific global warming potential emissions.	1/12/2022	5/4/2022-Referred to Coms. on C.O. and E.Q.	5/4/2022-S. G.O.			Low	Climate Change
AB 1395	Muratsuchi	The California Climate Crisis Act.	9/3/2021	9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/10/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	Climate Change
AB 2442	Rivas, Robert	Climate change.	4/5/2022	6/1/2022-Referred to Coms. on G.O., GOV. & F. and E.Q.	6/1/2022-S. G.O.			Low	Climate Change
AB 2446	Holden	Embodied carbon emissions: construction materials.	4/7/2022	6/1/2022-Referred to Coms. on E., U. & C. and E.Q.	6/1/2022-S. E. U. & C.			Low	Climate Change
AB 2532	Bennett	Scoping plan: state agency, board, and department compliance and implementation: reports.	4/19/2022	6/1/2022-Referred to Coms. on G.O. and E.Q.	6/1/2022-S. G.O.			Low	Climate Change
AB 2578	Cunningham	State Energy Resources Conservation and Development Commission: integrated energy policy report: carbon capture, utilization, and sequestration.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Climate Change
AB 2700	McCarthy	Transportation electrification: electrical distribution grid upgrades.	4/27/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Climate Change
AB 2944	Petrie-Norris	Greenhouse gases: carbon capture, utilization, and sequestration.	5/2/2022	6/1/2022-Referred to Coms. on E.Q. and JUD.	6/1/2022-S. E.Q.			Low	Climate Change
SB 260	Wiener	Climate Corporate Accountability Act.	1/3/2022	5/31/2022-June 6 set for first hearing canceled at the request of author.	5/5/2022-A. NAT. RES.			Medium	Climate Change
SB 652	Dodd	Climate resilience districts: formation: funding mechanisms. Demonstration Act.	5/18/2022	5/27/2022-Referred to Coms. on L. GOV. and NAT. RES.	5/27/2022-A. L. GOV.			Low	Climate Change
SB 905	Skinner	Decarbonized Cement and Geologic Carbon Sequestration	5/19/2022	5/25/2022-In Assembly. Read first time. Held at Desk.	5/24/2022-A. DESK			Low	Climate Change
SB 989	Hertzberg	Climate Change Preparedness: Resiliency, and Jobs for Communities Program: climate-beneficial projects: grant funding.	4/18/2022	5/27/2022-Referred to Com. on NAT. RES.	5/27/2022-A. NAT. RES.			Low	Climate Change
SB 1020	Laird	Clean Energy: jobs, and Affordability Act of 2022.	5/23/2022	5/27/2022-In Assembly. Read first time. Held at Desk.	5/26/2022-A. DESK			Low	Climate Change
SB 1075	Skinner	Hydrogen: green hydrogen: emissions of greenhouse gases.	5/19/2022	5/27/2022-In Assembly. Read first time. Held at Desk.	5/26/2022-A. DESK			Low	Climate Change
SB 1101	Caballero	Carbon sequestration: pore space ownership and Carbon Capture, Utilization, and Storage Program.	5/2/2022	5/27/2022-Referred to Com. on NAT. RES.	5/27/2022-A. NAT. RES.			Low	Climate Change
SB 1136	Portantino	California Environmental Quality Act: expedited environmental review: climate change regulations.	3/16/2022	5/25/2022-In Assembly. Read first time. Held at Desk.	5/24/2022-A. DESK			Low	Climate Change
SB 1145	Laird	California Global Warming Solutions Act of 2006: greenhouse gas emissions: dashboard.	5/19/2022	5/27/2022-In Assembly. Read first time. Held at Desk.	5/26/2022-A. DESK			Low	Climate Change
SB 1206	Skinner	Hydrofluorocarbon gases: sale or distribution.	5/19/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Climate Change
SB 1230	Limón	Zero-emission and near-zero-emission vehicle incentive programs: requirements.	5/19/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Climate Change
SB 1292	Cortese	Low-embodied carbon building materials: carbon sequestration.	5/10/2022	5/27/2022-Referred to Com. on NAT. RES.	5/27/2022-A. NAT. RES.			Low	Climate Change
SB 1301	Becker	Corporation Tax Law: Personal Income Tax Law: credits: green energy: manufacturing.	5/19/2022	5/27/2022-In Assembly. Read first time. Held at Desk.	5/26/2022-A. DESK			Low	Climate Change
SB 1347	Hueso	California Global Warming Solutions Act of 2006: renewable hydrogen production study.	5/2/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Climate Change
SB 1399	Wickowski	Carbon Capture Technology Demonstration Project Grant Program.	5/19/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Climate Change
AB 2025	Ting	Energy: electric vehicle charging standards.	5/2/2022	6/1/2022-Referred to Coms. on HOUSING and E., U. & C.	6/1/2022-S. HOUSING			Low	Energy
AB 2204	Boerner Horvath	Clean energy: Office of Clean Energy Workforce.	5/19/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	Energy
AB 2316	Ward	Public Utilities Commission: community renewable energy program.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Energy
AB 2587	Garcia, Eduardo	Energy: firm renewable energy resources and firm zero-carbon resources: procurement.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Energy
AB 2892	Bigelow	Income taxes: credits: backup electricity generators.	4/18/2022	4/26/2022-In committee: Hearing for testimony only.	3/17/2022-A. REV. & TAX			Low	Energy
SB 1029	Wickowski	Clean energy and pollution reduction objectives.	2/23/2022-Referred to Com. on RLS.	2/23/2022-Referred to Com. on RLS.	2/15/2022-S. RLS.			Low	Energy
SB 1063	Skinner	Energy: appliance standards and cost-effective measures.	4/18/2022	5/27/2022-Referred to Coms. on NAT. RES. and U. & E.	5/27/2022-A. NAT. RES.			Low	Energy
SB 1112	Becker	Energy: building decarbonization: notice and recordation of a decarbonization charge.	5/19/2022	5/27/2022-Referred to Com. on U. & E.	5/27/2022-A. U. & E.			Low	Energy
SB 1156	Grove	Motor Vehicle Fuel Tax: Diesel Fuel Tax: inflation adjustment.		5/4/2022-May 4 set for first hearing. Failed passage in committee. (Ayes 2) Reconsideration granted.	3/17/2022-S. GOV. & F.			Low	Energy
SB 1291	Archuleta	Hydrogen-fueling stations: administrative approval.	4/5/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Energy
SB 1332	Becker	Building performance standards.	3/16/2022	3/16/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.	2/18/2022-S. RLS.			Low	Energy
SB 1393	Archuleta	Energy: appliances: local requirements.	5/19/2022	5/27/2022-In Assembly. Read first time. Held at Desk.	5/26/2022-A. DESK		Oppose	Medium	Energy

Bill #	Author	Subject	Last Amended	Last Status - As of 6/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
AB 1001	Garcia, Cristina	Environment: mitigation measures for air quality impacts: environmental justice.	3/22/2022	5/23/2022-In committee: Hearing postponed by committee.	5/4/2022-S. E.Q.			Medium	Environmental Justice
AB 2419	Bryan	Environmental justice: federal Infrastructure Investment and Jobs Act: Justice40 Advisory Committee.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Environmental Justice
AB 1892	Wicks	Nonvehicular air pollution control: civil penalties: refineries.	4/27/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.		Air District-Sponsored	High	General-Air District
AB 2141	Garcia, Eduardo	Greenhouse Gas Reduction Fund: community projects: funding.	4/18/2022	6/1/2022-Referred to Com. on E.Q.	6/1/2022-S. E.Q.		Support	Medium	General-Air District
AB 2649	Garcia, Cristina	Natural Carbon Sequestration and Resilience Act of 2022.	5/3/2022	6/1/2022-Referred to Coms. on N.R. & W. and E.Q.	6/1/2022-S. N.R. & W.			Medium	General-Air District
AB 2721	Lee	Bay Area Air Quality Management District: district board: compensation.	3/10/2022	6/1/2022-From committee: Do pass and re-refer to Com. on GOV. & F. (Ayes 5, Noes 0) (June 1). Re-referred to Com. on GOV. & F.	6/1/2022-S. GOV. & F.		Air District-Sponsored	High	General-Air District
AB 2836	Garcia, Eduardo	Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.		Air-District Co-Sponsor	High	General-Air District
AB 2840	Reyes	Qualifying logistics use projects.	4/21/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	General-Air District
AB 2910	Santiago	Nonvehicular air pollution: civil penalties.	4/20/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.		Support	Medium	General-Air District
AB 363	Medina	Carl Moyer Memorial Air Quality Standards Attainment Program.	7/5/2021	7/14/2021-Failed Deadline pursuant to Rule 61(e)(11). (Last location was TRANS. on 6/28/2021)(May be acted upon Jan 2022)	7/14/2021-S. 2 YEAR			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 365	Levine	Building standards: electric vehicle charging infrastructure.	6/29/2021	9/10/2021-Failed Deadline pursuant to Rule 61(e)(15). (Last location was INACTIVE FILE on 9/10/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1389	Reyes	Alternative and Renewable Fuel and Vehicle Technology Program.	9/3/2021	9/10/2021-Failed Deadline pursuant to Rule 61(e)(15). (Last location was INACTIVE FILE on 9/7/2021)(May be acted upon Jan 2022)	9/10/2021-S. 2 YEAR			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1644	Flora	Greenhouse Gas Reduction Fund: California Jobs Plan Act of 2021.	3/30/2022	5/25/2022-Referred to Com. on L., P.E. & R.	5/25/2022-S. L., P.E. & R.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1738	Boerner Horvath	Building standards: installation of electric vehicle charging stations: existing buildings.	4/25/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1778	Garcia, Cristina	State transportation funding: freeway projects: poverty and pollution: Department of Transportation.	3/24/2022	6/1/2022-Referred to Com. on TRANS.	6/1/2022-S. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 1873	Boerner Horvath	Personal Income Tax Law: Corporation Tax Law: credits: electric vehicle charging stations.		3/27/2022-In committee: Hearing for testimony only.	2/18/2022-A. REV. & TAX			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2061	Ting	Transportation electrification: electric vehicle charging infrastructure.	4/18/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2101	Flora	California Carbon Sequestration and Climate Resiliency Project	4/5/2022	6/1/2022-Referred to Coms. on N.R. & W. and E.Q.	6/1/2022-S. N.R. & W.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2197	Mullin	Registry: whole orchard recycling projects.		2/24/2022-Referred to Com. on TRANS.	2/24/2022-A. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2350	Wilson	Caltrain electrification project: funding	5/16/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2358	O'Donnell	Vehicular air pollution: Zero-Emission Aftermarket Conversion Project.	4/18/2022	6/1/2022-Referred to Coms. on TRANS. and E.Q.	6/1/2022-S. TRANS.			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2622	Mullin	Alternative vehicle and vessel technologies: funding programs: commercial harbor craft.	4/7/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2703	Muratsuchi	Sales and use taxes: exemptions: California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project: transit buses.	4/18/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2737	Carrillo	Electric vehicle charging stations: reliability standards: low-income and disadvantaged community financial assistance.	4/7/2022	6/1/2022-Referred to Coms. on L., P.E. & R., E.Q. and TRANS.	5/19/2022-S. L., P.E. & R.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2798	Fong	Air pollution: purchase of new drayage and short-haul trucks: incentive programs: lessees: labor standards.	4/21/2022	6/1/2022-Referred to Com. on GOV. & F.	6/1/2022-S. GOV. & F.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 2802	Bonta, Mia	Freight: development projects.	4/21/2022	6/1/2022-Referred to Com. on TRANS. and E.Q.	6/1/2022-S. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 45	Portantino	Transportation funding programs: eligibility: public transportation ferries.	1/3/2022	5/5/2022-Referred to Com. on NAT. RES.	5/5/2022-A. NAT. RES.			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 542	Limón	Short-lived climate pollutants: organic waste reduction goals: local jurisdiction assistance.	4/21/2022	5/5/2022-Referred to Com. on REV. & TAX.	5/5/2022-A. REV. & TAX			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 726	Gonzalez	Sales and use taxes: exemption: medium- or heavy-duty zero-emission trucks.	5/25/2021	9/10/2021-Failed Deadline pursuant to Rule 61(e)(15). (Last location was INACTIVE FILE on 9/7/2021)(May be acted upon Jan 2022)	9/10/2021-A. 2 YEAR			Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 894	Jones	Alternative fuel and vehicle technologies: sustainable transportation.	3/28/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 922	Wiener	Off-highway vehicles.	5/11/2022	5/27/2022-Referred to Com. on NAT. RES.	5/27/2022-A. NAT. RES.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 932	Portantino	California Environmental Quality Act: exemptions: transportation-related projects.	5/4/2022	5/27/2022-Referred to Coms. on L. GOV. and TRANS.	5/27/2022-A. L. GOV.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 942	Newman	General plans: circulation element: bicycle and pedestrian plans and traffic calming plans.		5/19/2022-Referred to Com. on TRANS.	5/19/2022-A. TRANS.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1010	Skinner	Low Carbon Transit Operations Program: free or reduced fare transit program.	5/19/2022	5/27/2022-Referred to Com. on A & R.	5/27/2022-A. A & R.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1104	Gonzalez	Air pollution: state vehicle fleet: zero-emission vehicles.	4/6/2022	5/27/2022-Referred to Coms. on L.E.D., E. and TRANS.	5/27/2022-A. L. E.D. & E.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1203	Becker	Governor's Office of Business and Economic Development: Office of Freight.	5/19/2022	5/26/2022-In Assembly. Read first time. Held at Desk.	5/25/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade

Bill #	Author	Subject	Last Amended	Last Status - As of 6/2/2022	Location	Notes	Position	Priority (Low/Medium/High)	Category
SB 1217	Allen	State-Regional Collaborative for Climate, Equity, and Resilience.		5/25/2022-In Assembly; Read first time. Held at Desk.	5/24/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1251	Gonzalez	Office of the Zero-Emission Vehicle Equity Advocate.	5/19/2022	5/26/2022-In Assembly; Read first time. Held at Desk.	5/25/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1258	Allen	Clean Transportation Program: electric vehicle charging; fleet-operated vehicles.	5/19/2022	5/27/2022-In Assembly; Read first time. Held at Desk.	5/26/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1305	Laird	State vehicle fleet: alternative fuel vehicles.	4/19/2022	5/19/2022-Referred to Com. on A. & A.R.	5/19/2022-A. A. & A.R.			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1329	Newman	Publicly available hydrogen-fueling stations: electric vehicle charging stations.	5/4/2022	5/26/2022-In Assembly; Read first time. Held at Desk.	5/25/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1382	Gonzalez	Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.	5/19/2022	5/27/2022-In Assembly; Read first time. Held at Desk.	5/26/2022-A. DESK		Support	Medium	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1391	Kamlager	Greenhouse gases: market-based compliance mechanisms: linkages to the state.	3/17/2022	5/27/2022-In Assembly; Read first time. Held at Desk.	5/26/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
SB 1482	Allen	Building standards: electric vehicle charging infrastructure.	5/19/2022	5/27/2022-In Assembly; Read first time. Held at Desk.	5/26/2022-A. DESK			Low	GGRF, Incentive Programs, Mobile Source, Cap and Trade
AB 983	Kalra	Employee obligations: exclusivity options.	5/5/2022	5/18/2022-Referred to Coms. on L., P.E. & R. and JUD.	5/18/2022-S. L., P.E. & R.			Medium	Other
AB 1240	Ting	Indoor air pollution.	1/24/2022	6/1/2022-From committee: Do pass and re-refer to Com. on APPR. (Ayes 1.) (June 1). Re-referred to Com. on APPR.	6/1/2022-S. APPR.			Medium	Other
AB 1624	Ting	Budget Act of 2022.		1/20/2022-Referred to Com. on BUDGET.	1/10/2022-A. BUDGET			High	Other
AB 1717	Aguiar-Curry	Public works: definition.	5/19/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	Other
AB 1935	Grayson	California Environmental Quality Act: redevelopment: Concord Naval Weapons Station.	4/19/2022	6/1/2022-Referred to Com. on E.Q.	6/1/2022-S. E.Q.			Low	Other
AB 1944	Lee	Local government: open and public meetings.	5/25/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.		Support	Medium	Other
AB 2056	Grayson	Bar pilots: pilotage rates: pilot boat surcharge.	6/1/2022	6/1/2022-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on G.O.	5/25/2022-S. G.O.			Low	Other
AB 2057	Carrillo	Transportation Agency: goods movement data.	3/28/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	Other
AB 2076	Rivas, Luz	Extreme Heat and Community Resilience Program: Extreme Heat and Health Reporting System.	5/19/2022	6/1/2022-Referred to Coms. on E.Q., HEALTH and JUD.	6/1/2022-S. E.Q.			Low	Other
AB 2206	Lee	Nonattainment basins: employee parking: parking cash-out program.	4/20/2022	5/26/2022-Referred to Coms. on E.Q. and ED.	5/26/2022-S. TRANS.		Support	Medium	Other
AB 2214	Garcia, Cristina	California Environmental Quality Act: school sites: acquisition of property; school districts: charter schools, and private schools.	4/25/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	6/1/2022-S. E.Q.		Air District-Sponsored	High	Other
AB 2237	Friedman	Transportation planning: regional transportation improvement plan: sustainable communities strategies: climate goals.	5/19/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Other
AB 2449	Rubio, Blanca	Open meetings: local agencies: teleconferences.	5/23/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	Other
AB 2647	Lewine	Local government: open meetings.	4/19/2022	5/28/2022-Referred to Com. on GOV. & F.	5/25/2022-S. GOV. & F.			Low	Other
SB 560	Rubio	Climate Pollution Reduction in Homes Initiative: grants.	5/20/2021	5/5/2022-Referred to Com. on NAT. RES.	5/5/2022-A. NAT. RES.			Medium	Other
SB 778	Becker	Buy Clean California Act: Environmental Product Declarations: concrete.	5/24/2022	5/24/2022-From committee with author's amendments. Read second time and amended. Re-referred to Com. on A. & A.R.	5/24/2022-A. A. & A.R.			Low	Other
SB 833	Dodd	Community Energy Resilience Act of 2022.	3/24/2022	5/26/2022-In Assembly; Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Other
SB 840	Skinner	Budget Act of 2022.		1/11/2022-From printer.	1/10/2022-S. BUDGET & F.R.			High	Other
SB 1100	Cortese	Open meetings: orderly conduct.	4/21/2022	5/26/2022-June 8 set for first hearing canceled at the request of author.	5/5/2022-A. L. GOV.			Low	Other
SB 1132	Wickowski	Air quality health planning.		2/23/2022-Referred to Com. on RLS.	2/16/2022-S. RLS.			Low	Other
SB 1314	Limón	Oil and gas: Class II injection wells: enhanced oil recovery.	3/16/2022	5/26/2022-In Assembly; Read first time. Held at Desk.	5/25/2022-A. DESK			Low	Other
SB 1319	Grove	Oil imports: air quality emissions data.	5/2/2022	5/27/2022-Referred to Com. on NAT. RES.	5/27/2022-A. NAT. RES.			Low	Other
AB 2070	Bauer-Kahan	Fire protection districts: electrical corporations and local publicly owned electric utilities: wildfire mitigation: notice requirements.	5/19/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/27/2022-S. RLS.			Low	Wildfire/PSPS
AB 2232	McCarthy	School facilities: heating, ventilation, and air conditioning systems.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Medium	Wildfire/PSPS
AB 2243	Garcia, Eduardo	Occupational safety and health standards: heat illness: wildfire smoke.	5/19/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Wildfire/PSPS
AB 2550	Arambula	State Air Resources Board: San Joaquin Valley Air Pollution Control District: nonattainment.	4/28/2022	5/26/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Medium	Wildfire/PSPS
AB 2645	Rodriguez	Local emergency plans: integration of access and functional needs: community resilience centers.	4/18/2022	5/27/2022-In Senate. Read first time. To Com. on RLS, for assignment.	5/26/2022-S. RLS.			Low	Wildfire/PSPS
SB 1266	Borgeas	Income taxes: credits: designated wildfire zones.	5/19/2022	5/27/2022-In Assembly; Read first time. Held at Desk.	5/26/2022-A. DESK			Low	Wildfire/PSPS
Total Active Bills	109						Low: 18 Medium: 18 High: 6	85	

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Report of the Stationary Source and Climate Impacts Committee Meeting of June 13,
2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

The Stationary Source and Climate Impacts Committee met on Monday, June 13, 2022, and approved the minutes of April 18, 2022. This meeting was conducted under procedures authorized by Assembly Bill 361. Members of the Committee participated by teleconference.

The Committee then reviewed and discussed the staff presentation *Mid-Year Review of the 2022 Regulatory Agenda*.

The next meeting of this committee will be Monday, July 18, 2022 at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021). This concludes the report of the Stationary Source and Climate Impacts Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Stationary Source and Climate Impacts June 13, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members
of the Stationary Source and Climate Impacts Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 13, 2022

Re: Mid-Year Review of the 2022 Regulatory Agenda

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

At the January 19, 2022, Board of Directors Retreat Meeting, staff presented the following Rulemaking Objectives for 2022:

- Source Prioritization Framework: Work with the community on developing a framework to prioritize future projects.
- Permitting Regulations: Begin Phase 2.
 - Address Particulate Matter (PM)
 - Work with stakeholders to address additional concerns not included in amendments approved in Dec. 2023
- Finalize in-process rules:
 - Rule 13-5: Hydrogen Plants
 - Amendments to Rules 9-4/9-6: Building Appliances
- Continue supporting the Richmond-North Richmond-San Pablo Path to Clean Air process.
- AB 617 Expedited BARCT Implementation Schedule.
 - Discuss path forward for amendments to Rule 9-13: Portland Cement Manufacturing and Rule 9-14: Petroleum Coke Calcining Operations
 - Goal to finalize 1-2 of the following amendment efforts:
 - Rule 8-5: Storage of Organic Liquids
 - Rule 8-8: Wastewater Separators
 - Rule 8-18: Equipment Leaks
- Begin white papers on additional sources from the AB 617 West Oakland Action Plan.
- Select/begin work on the “cleanup” rule.

DISCUSSION

An overview of the status of each of the 2022 Rulemaking Objectives is listed below.

Source Prioritization Framework: Work with the community on developing a framework to prioritize future projects

Current Status: On temporary hold. In late 2021, the Community Equity Health and Justice Committee directed staff to take the Framework before the Community Advisory Committee (CAC). However, the CAC sets its own agendas from a lengthy list of priorities and has not yet indicated if this item will be heard this year.

Next Steps: Staff's current list of priorities is expected to absorb all available resources well into 2023. If the CAC is not able to engage on the Framework by the end of this year, staff is proposing to develop a public engagement strategy as a stopgap, so that the Framework may still move forward and aid in the prioritization of projects by the end of 2023.

Permitting Regulations: Begin Phase 2

Current Status: On temporary hold. Further amendments to the permitting rules rely on both a methodology to more adequately account for the health impacts of localized exposure to fine particulate matter (PM2.5), and further community engagement. A PM2.5 local risk methodology is currently under development by the Air District, and staff is actively engaging with the Advisory Council on this methodology. In addition, on February 9, 2022, the Air District received a letter from the Golden Gate University School of Law, who was writing on behalf of frontline communities to address the matter of how to proceed with discussions on further amendments to the permitting regulations and additional environmental justice considerations in the permitting process. The letter prioritized a list of actions and requested that the Air District focus on the items that could be accomplished in the short term. Since amendments to the permitting regulation did not fall into the "near term" category requested by the community, staff is temporarily pausing community engagement on specific permitting rule amendments while the community advocates' higher priority items are addressed.

Next Steps: Staff is proposing to move forward with permitting rule amendments when the PM2.5 health impacts methodology work is completed and will plan on re-engaging with the community on potential amendments at that time.

Finalize in-process rules

Rule 13-5: Hydrogen Plants

Current Status: Completed. Approved by the Board of Directors at a Public Hearing on May 4, 2022.

Next Steps: Reallocate staff resources.

Rules 9-4/9-6: Building Appliances

Current Status: Moving forward. In May 2022, staff released the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) and Initial Study (IS), which included opening a comment period and holding a scoping meeting on June 9, 2022, to receive comments on these documents. Timing for release of the final rule package is estimated for Q4 2022 but is dependent on the scope of the EIR and subsequent comments received.

Next Steps: Staff will provide an additional status update to the Committee in October 2022, and will continue scoping out the formation of the stakeholder Implementation Working Group.

Continue supporting the Richmond-North Richmond-San Pablo Path to Clean Air process

Current Status: Ongoing. Staff continues to support the Path to Clean Air process.

Next Steps: Staff will continue to support this process throughout the strategic development stage and into implementation as needed.

AB 617 Expedited Best Available Retrofit Control Technology (BARCT) Implementation Schedule

Rule 9-13: Portland Cement Manufacturing

Current Status: Regulatory amendments on hold. The cement kiln at the Lehigh Cupertino facility has not been in operation since March 2020 and there are currently no confirmed plans for restart. Active rule development is currently on hold, pending data gathering efforts, including determining the impact of the Consent Decree.

Next Steps: Because of the uncertainty surrounding the future of the cement kiln at Lehigh, and the uncertainty of further potential emissions reductions that could be achieved, staff does not believe it is currently an efficient use of resources to develop amendments to Rule 9-13. Therefore, staff recommends removing this rule development effort from the BARCT Schedule. Should cement kiln operations restart in the future, staff will evaluate the effectiveness of the Consent Decree in reducing PM emissions and will determine if additional rulemaking is needed to ensure adequate control of this pollutant.

Rule 9-14: Petroleum Coke Calcining Operations

Current Status: Regulatory amendments on hold. As discussed with the Committee on March 21, 2022, Phillips 66 is proposing to transition from producing petroleum products to alternative fuels.

Next Steps: Given that the transition would result in a shutdown of the coke calcining kiln and surrender of permits, staff recommends not moving forward with potential amendments to Rule 9-14 at this time. Staff recommends removing this rule development effort from the BARCT Schedule and will continue to track the Phillips 66 transition. Staff will re-evaluate if any substantial new developments arise.

Rule 8-5: Storage of Organic Liquids

Current Status: Regulatory amendments on hold. Since the adoption of the BARCT Schedule, staff has conducted further analyses and research to evaluate potential amendments to Rule 8-5, including developing more recent and refined information on volatile organic compound (VOC) emissions and potential controls. The best available information currently indicates that at the five Bay Area petroleum refineries, the population of potentially affected tanks includes 83 organic liquid storage tanks that emit a total of approximately 300 tons of VOCs per year. This total emissions estimate is substantially lower than the previous emissions estimate of 840 tons of VOCs per year. This change is a result of a number of factors, including corrections and updates to source information, control/abatement information, and emission calculation methodologies. Based on this updated information and further research, BARCT rulemaking to control VOCs from tanks may have limited potential to effectively achieve substantial VOC emission reductions.

Although VOC emissions are lower than previously estimated, toxic emissions from select tank sources may still present substantial exposure risks to nearby communities. Toxic emissions and potential community exposures from tank sources remain a concern but are potentially better addressed through implementation of Regulation 11, Rule 18 (Rule 11-18): Reduction of Risk from Air Toxic Emissions at Existing Facilities. While amendments to Rule 8-5 would focus on controls to reduce VOC emissions, Rule 11-18 is a health risk-based rule that specifically addresses toxic emissions and community exposures. Pursuing reductions in toxic emissions through Rule 8-5 would be duplicative to Rule 11-18 and would also put further strain on the staff implementing Rule 11-18, as their toxics expertise would be needed in the development of these amendments.

Next Steps: Due to the limited potential of VOC reductions and the duplication of pursuing toxic reductions under Rule 8-5, staff recommends removing this rule from the BARCT Schedule.

Rule 8-8: Wastewater Separators

Current Status: Earlier this year, the Air District began stakeholder engagement with potentially affected facilities to ensure that the best available source information and emission estimates can be considered in the rule development process. Staff submitted a data request to the refineries on April 22, 2022, and gave it until May 31, 2022, for the completion of the data request.

Next Steps: It is anticipated that public engagement on these amendments will begin this summer, and staff is tentatively scheduled to give an update to the Committee in Q3 2022.

Rule 8-18: Equipment Leaks

Current Status: In April 2022, the Air District published the “Fugitive Emissions from Petroleum Refinery Equipment in Heavy Liquid Service” (Heavy Liquids Study), which was a joint study between the Air District and the Western States Petroleum Association.

Next Steps: With the finalization of the Heavy Liquids Study, staff can now begin on applicable amendments to Rule 8-18. Staff expects to give an update to the Committee in Q4 2022.

Begin white papers on additional sources from the AB 617 West Oakland Action Plan (WOCAP)

WOCAP Further Study Measure #3: The Air District will investigate potential rulemaking to limit fugitive dust from construction activity

Current Status: Staff is currently investigating ways to further reduce emissions and public exposure from particulate matter sources, such as construction sites and concrete batch plants. A white paper is currently under development which will identify potential measures to update the Air District’s rules and regulations to be more health protective.

Next Steps: Staff expects to complete the white paper this summer.

Select/begin work on “cleanup” rule

Amendments to Rule 11-18

Current Status: At the Stationary Source and Climate Impacts Committee on February 28, 2022, staff gave a presentation on the implementation status of Regulation 11, Rule 18 (Rule 11-18): Reduction of Risk from Air Toxic Emissions at Existing Facilities. At the meeting, the Committee and staff discussed potential strategies to accelerate implementation of Rule 11-18, and the consensus of the Committee members present was to recommend that Air District staff recommend to the Board that additional staff be hired to shorten the estimated time of completion of Health Risk Analyses. In addition, the Committee recommended that staff bring back a discussion on how potential Rule 11-18 amendments fit within staff’s current rulemaking priorities.

After reviewing current priorities, staff recommends moving forward with potential amendments to Rule 11-18 as a “cleanup” rule. Staff is proposing limiting the scope of the amendments to opportunities for reducing implementation timelines.

Next Steps: Staff will begin working on potential amendments and will bring an update to the Committee in the first half of 2023.

New Projects

As current projects are completed and staffing resources become available, staff will transition their time to work on the projects below.

Engagement with the East Oakland AB 617 Steering Committee: With the approval of East Oakland as the Bay Area's third AB 617 community, and the imminent development of their Steering Committee, staff is proposing to devote resources to supporting their strategic development needs.

Additional White Papers: Staff will be looking at the WOCAP and will be developing white papers based on these measures. The list of measures for analysis include reducing emissions from metal recycling and foundries, autobody operations, wastewater treatment plants and anaerobic digestion facilities, commercial cooking, and woodburning.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Elizabeth Yura
Reviewed by: Greg Nudd

ATTACHMENTS:

1. 2022 Rulemaking Objectives - June update

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Report of the Administration Committee Meeting of June 15, 2022

RECOMMENDED ACTION

None.

BACKGROUND

None.

DISCUSSION

The Administration Committee met on Wednesday, June 15, 2022, and approved the minutes of April 20, 2022. This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021), allowing remote meetings. Members of the Committee participated both by teleconference (via Zoom) and in person.

The Committee then received and discussed the presentation *Bay Area Air Quality Management District Risk Assessment*, given by George Skiles from Sjoberg Evashenk, the contractor hired by the Air District to conduct the audit. Although this was not an action item, the consensus of the Committee members present was to recommend the Board direct staff to execute Task Order #3 (organizational assessment and staffing recommendation.)

The Committee then received the presentation *Bay Area Regional Collaborative Shared Work Plan*, given by Allison Brooks, Executive Director of the Bay Area Regional Collaborative.

The next meeting of the Administration Committee will be on Wednesday, July 20, 2022, at 11:00 a.m., in person or via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021). This concludes the Chair Report of the Administration Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Administration Committee June 15, 2022 Meeting Memorandums

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 15, 2022

Re: Management Audit District Wide Risk Assessment Presentation

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On December 15, 2021, the Air District Board reviewed the scores for bids for management audit services and authorized the execution of a contract with the highest scoring vendor, Sjoberg Evashenk, for independent management audit services in an amount not to exceed \$250,000.

The initial task order under the contract called for a first deliverable in March 2022 to inform new Fiscal Year Ending (FYE) 2022 staffing authorization, and a second deliverable in May 2022 which will provide information regarding Air District-wide risk and rank the Air District's divisions for further audit priority.

Sjoberg Evashenk presented the FYE 2022 staffing authorization review to the Air District Board on April 6, 2022. The Auditor presented the conclusion that (a) the allocation of additional positions in the FYE 2022 budget is reasonable and consistent with their independent analysis; (b) internal control weaknesses led to the filling of 10 of 26 of the positions as of the end of February 2022; and, (c) despite these weaknesses, it is evident that the need for the remaining 16 positions is supported by current workload demands and Air District priorities.

During the April 6, 2022 Board meeting, the Board directed staff to execute a second Task Order under the management audit services contract with Sjoberg Evashenk that would require the immediate commencement of a performance audit of human resources management functions at the Air District. The human resources audit is underway and will be concluded in October 2022.

DISCUSSION

During today's committee meeting, the management auditor will present an overview of the District-wide Risk Assessment deliverable required under Task Order 1 and provide recommendations for additional work based on that deliverable.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: John Chiladakis

Reviewed by: Sharon L. Landers and George Skiles (Sjoberg Evashenk)

ATTACHMENTS:

1. 2022 BAAQMD Management Audit District Wide Risk Assessment Presentation

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: June 15, 2022

Re: Bay Area Regional Collaborative (BARC) Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Bay Area Regional Collaborative (BARC) consists of Board/Commission representatives of the four regional agencies and provides a forum for discussing issues of regional importance.

DISCUSSION

At the upcoming Administration Committee meeting, BARC Executive Director, Allison Brooks, will present the BARC Shared Work Plan.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Michelle Beteta
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. BARC Shared Work Plan Presentation

ADMINISTRATION COMMITTEE
MEETING OF 06/15/2022

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Management Audit Report on Priority Recruitments

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On December 15, 2021, the Air District Board reviewed the scores for bids for management audit services and authorized the execution of a contract with the highest scoring vendor, Sjoberg Evashenk, for independent management audit services in an amount not to exceed \$250,000.

The initial task order under the contract called for a first deliverable in March 2022 to inform new Fiscal Year Ending (FYE) 2022 staffing authorization, and a second deliverable in May 2022 which will provide information regarding Air District-wide risk and rank the Air District's divisions for further audit priority.

Sjoberg Evashenk presented the FYE 2022 staffing authorization review to the Air District Board on April 6, 2022. The Auditor presented the conclusion that (a) the allocation of additional positions in the FYE 2022 budget is reasonable and consistent with their independent analysis; (b) internal control weaknesses led to the filling of 10 of 26 of the positions as of the end of February 2022; and, (c) despite these weaknesses, it is evident that the need for the remaining 16 positions is supported by current workload demands and Air District priorities.

During the April 6, 2022 Board meeting, the Board directed staff to execute a second Task Order under the management audit services contract with Sjoberg Evashenk that would require the immediate commencement of a performance audit of human resources management functions at the Air District. The human resources audit is underway and will be concluded in October 2022.

During the June 15, 2022 Administrative Committee meeting, the Committee directed staff to execute a third Task Order to provide specific recommendations on which unfilled positions should be filled as a priority, and to provide recommendations regarding the agency's organizational structure, the alignment of resources to meet organizational needs, and the allocation of unfilled positions.

DISCUSSION

During today's Board meeting, the management auditor will present the first deliverable under Task Order 3 which are recommendations on which unfilled positions should be recruited immediately.

BUDGET CONSIDERATION/FINANCIAL IMPACT

During today's Board meeting, the management auditor will present the first deliverable under Task Order 3, which are recommendations on which unfilled positions should be recruited immediately.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: John Chiladakis
Reviewed by: Sharon Landers, George Skiles

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Current Legislation on Potential Amendments to the Brown Act

RECOMMENDED ACTION

Recommend the Board of Directors (Board) discuss and vote on taking a position on AB 2449 (Rubio) – Open meetings: local agencies: teleconferences

BACKGROUND

AB 2449 (Rubio) - Open meetings: local agencies: teleconferences.

CapitolTrack Summary: The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would revise and recast those teleconferencing provisions and, until January 1, 2026, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under this exception, the bill would authorize a member to participate remotely under specified circumstances, including participating remotely for just cause or due to emergency circumstances. The emergency circumstances basis for remote participation would be contingent on a request to, and action by, the legislative body. The bill would define terms for purposes of these teleconferencing provisions.

DISCUSSION

At the March 2, 2022, Board of Directors meeting, Boardmembers heard a staff presentation regarding two Assembly bills, AB 1944 (Lee) and AB 2449 (Rubio) that proposed future amendments to the Ralph M. Brown Open Meetings Act, related to remote participation. After

discussion, the Board voted to take a position of support for AB 1944, which provided a more permissive environment for allowing remote teleconferencing by Boardmembers, including teleconferencing from non-public locations. Over the course of the session, both bills were subsequently amended to become more restrictive on use of remote teleconferencing, with AB 2449 continuing to be the more restrictive of the two.

AB 2449 was further amended on June 23rd, becoming even more restrictive regarding remote teleconferencing, and Assemblymember Lee, the author of AB 1944, decided not to further move his bill. By the date of this scheduled Board meeting, AB 2449 will have been heard in its final policy committee, Senate Judiciary, and if passed, will be referred to Senate Appropriations prior to the Senate Floor.

The latest version of AB 2449 provides for remote teleconferencing as we have been doing, until January 1, 2024, if there is a continued state of emergency, and a requirement for social distancing. If either of those requirements are not met, then remote teleconferencing is limited to the following:

- Teleconference locations must be publicly noticed and available to the public to attend. In this case, remote teleconferencing from non-public locations is not allowed.
- Remote teleconferencing from non-public locations will be allowed if a quorum of the legislative body is physically present in a single location, and
 - A member requests to remotely teleconference for “just cause” and the request is approved by the Board, limited to 2 times per year.
 - A member requests to remotely teleconference due to an emergency, subject to approval by the Board.
 - Remote teleconferencing from non-public locations can be no more than 3 consecutive months, and no more than 20% of the annual meetings.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Sharon L. Landers

ATTACHMENTS:

1. AB 2449 (Rubio) - Bill Text - As Amended on June 23, 2022
2. AB 2449 (Rubio) - Senate Judiciary Committee Analysis - June 28, 2022

AMENDED IN SENATE JUNE 23, 2022

AMENDED IN SENATE JUNE 15, 2022

AMENDED IN ASSEMBLY MAY 23, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2449

Introduced by Assembly Member Blanca Rubio

February 17, 2022

An act to amend, repeal, and add Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 2449, as amended, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of

the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would revise and recast those teleconferencing provisions and, until January 1, ~~2028~~, 2026, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under this exception, the bill would authorize a member to participate remotely ~~only under specified circumstances and for a period of three consecutive months.~~ *circumstances, including participating remotely for just cause or due to emergency circumstances. The emergency circumstances basis for remote participation would be contingent on a request to, and action by, the legislative body. The bill would define terms for purposes of these teleconferencing provisions.*

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.

State-mandated local program: ~~no~~yes.

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

1 SECTION 1. Section 54953 of the Government Code, as
2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is
3 amended to read:

4 54953. (a) All meetings of the legislative body of a local
5 agency shall be open and public, and all persons shall be permitted
6 to attend any meeting of the legislative body of a local agency,
7 except as otherwise provided in this chapter.

8 (b) (1) Notwithstanding any other provision of law, the
9 legislative body of a local agency may use teleconferencing for
10 the benefit of the public and the legislative body of a local agency
11 in connection with any meeting or proceeding authorized by law.
12 The teleconferenced meeting or proceeding shall comply with all
13 otherwise applicable requirements of this chapter and all otherwise
14 applicable provisions of law relating to a specific type of meeting
15 or proceeding.

16 (2) Teleconferencing, as authorized by this section, may be used
17 for all purposes in connection with any meeting within the subject
18 matter jurisdiction of the legislative body. If the legislative body
19 of a local agency elects to use teleconferencing, the legislative
20 body of a local agency shall comply with all of the following:

21 (A) All votes taken during a teleconferenced meeting shall be
22 by rollcall.

23 (B) The teleconferenced meetings shall be conducted in a
24 manner that protects the statutory and constitutional rights of the
25 parties or the public appearing before the legislative body of a
26 local agency.

27 (C) The legislative body shall give notice of the meeting and
28 post agendas as otherwise required by this chapter.

29 (D) The legislative body shall allow members of the public to
30 access the meeting and the agenda shall provide an opportunity
31 for members of the public to address the legislative body directly
32 pursuant to Section 54954.3.

33 (3) If the legislative body of a local agency elects to use
34 teleconferencing, it shall post agendas at all teleconference

1 locations. Each teleconference location shall be identified in the
2 notice and agenda of the meeting or proceeding, and each
3 teleconference location shall be accessible to the public. During
4 the teleconference, at least a quorum of the members of the
5 legislative body shall participate from locations within the
6 boundaries of the territory over which the local agency exercises
7 jurisdiction, except as provided in subdivisions (d) and (e).

8 (c) (1) No legislative body shall take action by secret ballot,
9 whether preliminary or final.

10 (2) The legislative body of a local agency shall publicly report
11 any action taken and the vote or abstention on that action of each
12 member present for the action.

13 (3) Prior to taking final action, the legislative body shall orally
14 report a summary of a recommendation for a final action on the
15 salaries, salary schedules, or compensation paid in the form of
16 fringe benefits of a local agency executive, as defined in
17 subdivision (d) of Section 3511.1, during the open meeting in
18 which the final action is to be taken. This paragraph shall not affect
19 the public's right under the California Public Records Act (Division
20 10 (commencing with Section 7920.000) of Title 1) to inspect or
21 copy records created or received in the process of developing the
22 recommendation.

23 (d) (1) Notwithstanding the provisions relating to a quorum in
24 paragraph (3) of subdivision (b), if a health authority conducts a
25 teleconference meeting, members who are outside the jurisdiction
26 of the authority may be counted toward the establishment of a
27 quorum when participating in the teleconference if at least 50
28 percent of the number of members that would establish a quorum
29 are present within the boundaries of the territory over which the
30 authority exercises jurisdiction, and the health authority provides
31 a teleconference number, and associated access codes, if any, that
32 allows any person to call in to participate in the meeting and the
33 number and access codes are identified in the notice and agenda
34 of the meeting.

35 (2) Nothing in this subdivision shall be construed as
36 discouraging health authority members from regularly meeting at
37 a common physical site within the jurisdiction of the authority or
38 from using teleconference locations within or near the jurisdiction
39 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) (1) The legislative body of a local agency may use
15 teleconferencing without complying with the requirements of
16 paragraph (3) of subdivision (b) if the legislative body complies
17 with the requirements of paragraph (2) of this subdivision in any
18 of the following circumstances:

19 (A) The legislative body holds a meeting during a proclaimed
20 state of emergency, and state or local officials have imposed or
21 recommended measures to promote social distancing.

22 (B) The legislative body holds a meeting during a proclaimed
23 state of emergency for the purpose of determining, by majority
24 vote, whether as a result of the emergency, meeting in person
25 would present imminent risks to the health or safety of attendees.

26 (C) The legislative body holds a meeting during a proclaimed
27 state of emergency and has determined, by majority vote, pursuant
28 to subparagraph (B), that, as a result of the emergency, meeting
29 in person would present imminent risks to the health or safety of
30 attendees.

31 (2) A legislative body that holds a meeting pursuant to this
32 subdivision shall do all of the following:

33 (A) In each instance in which notice of the time of the
34 teleconferenced meeting is otherwise given or the agenda for the
35 meeting is otherwise posted, the legislative body shall also give
36 notice of the means by which members of the public may access
37 the meeting and offer public comment. The agenda shall identify
38 and include an opportunity for all persons to attend via a call-in
39 option or an internet-based service option.

1 (B) In the event of a disruption that prevents the legislative body
2 from broadcasting the meeting to members of the public using the
3 call-in option or internet-based service option, or in the event of
4 a disruption within the local agency's control that prevents
5 members of the public from offering public comments using the
6 call-in option or internet-based service option, the legislative body
7 shall take no further action on items appearing on the meeting
8 agenda until public access to the meeting via the call-in option or
9 internet-based service option is restored. Actions taken on agenda
10 items during a disruption that prevents the legislative body from
11 broadcasting the meeting may be challenged pursuant to Section
12 54960.1.

13 (C) The legislative body shall not require public comments to
14 be submitted in advance of the meeting and must provide an
15 opportunity for the public to address the legislative body and offer
16 comment in real time.

17 (D) Notwithstanding Section 54953.3, an individual desiring to
18 provide public comment through the use of an internet website, or
19 other online platform, not under the control of the local legislative
20 body, that requires registration to log in to a teleconference may
21 be required to register as required by the third-party internet
22 website or online platform to participate.

23 (E) (i) A legislative body that provides a timed public comment
24 period for each agenda item shall not close the public comment
25 period for the agenda item, or the opportunity to register, pursuant
26 to subparagraph (F), to provide public comment until that timed
27 public comment period has elapsed.

28 (ii) A legislative body that does not provide a timed public
29 comment period, but takes public comment separately on each
30 agenda item, shall allow a reasonable amount of time per agenda
31 item to allow public members the opportunity to provide public
32 comment, including time for members of the public to register
33 pursuant to subparagraph (F), or otherwise be recognized for the
34 purpose of providing public comment.

35 (iii) A legislative body that provides a timed general public
36 comment period that does not correspond to a specific agenda item
37 shall not close the public comment period or the opportunity to
38 register, pursuant to subparagraph (F), until the timed general
39 public comment period has elapsed.

1 (3) If a state of emergency remains active, or state or local
2 officials have imposed or recommended measures to promote
3 social distancing, in order to continue to teleconference without
4 compliance with paragraph (3) of subdivision (b), the legislative
5 body shall, not later than 30 days after teleconferencing for the
6 first time pursuant to subparagraph (A), (B), or (C) of paragraph
7 (1), and every 30 days thereafter, make the following findings by
8 majority vote:

9 (A) The legislative body has reconsidered the circumstances of
10 the state of emergency.

11 (B) Any of the following circumstances exist:

12 (i) The state of emergency continues to directly impact the
13 ability of the members to meet safely in person.

14 (ii) State or local officials continue to impose or recommend
15 measures to promote social distancing.

16 (4) This subdivision shall not be construed to require the
17 legislative body to provide a physical location from which the
18 public may attend or comment.

19 (f) (1) The legislative body of a local agency may use
20 teleconferencing without complying with paragraph (3) of
21 subdivision (b) if, during the teleconference meeting, at least a
22 quorum of the members of the legislative body participates in
23 person from a singular physical location clearly identified on the
24 agenda, which location shall be open to the public and situated
25 within the boundaries of the territory over which the local agency
26 exercises jurisdiction and the legislative body complies with all
27 of the following:

28 (A) The legislative body shall provide at least one of the
29 following as a means by which the public may remotely hear and
30 visually observe the meeting, and remotely address the legislative
31 body:

32 (i) A two-way audiovisual platform.

33 (ii) A two-way telephonic service and a live webcasting of the
34 meeting.

35 (B) In each instance in which notice of the time of the
36 teleconferenced meeting is otherwise given or the agenda for the
37 meeting is otherwise posted, the legislative body shall also give
38 notice of the means by which members of the public may access
39 the meeting and offer public comment.

1 (C) The agenda shall identify and include an opportunity for all
2 persons to attend and address the legislative body directly pursuant
3 to Section 54954.3 via a call-in option, via an internet-based service
4 option, and at the in-person location of the meeting.

5 (D) In the event of a disruption that prevents the legislative body
6 from broadcasting the meeting to members of the public using the
7 call-in option or internet-based service option, or in the event of
8 a disruption within the local agency's control that prevents
9 members of the public from offering public comments using the
10 call-in option or internet-based service option, the legislative body
11 shall take no further action on items appearing on the meeting
12 agenda until public access to the meeting via the call-in option or
13 internet-based service option is restored. Actions taken on agenda
14 items during a disruption that prevents the legislative body from
15 broadcasting the meeting may be challenged pursuant to Section
16 54960.1.

17 (E) The legislative body shall not require public comments to
18 be submitted in advance of the meeting and must provide an
19 opportunity for the public to address the legislative body and offer
20 comment in real time.

21 (F) Notwithstanding Section 54953.3, an individual desiring to
22 provide public comment through the use of an internet website, or
23 other online platform, not under the control of the local legislative
24 body, that requires registration to log in to a teleconference may
25 be required to register as required by the third-party internet
26 website or online platform to participate.

27 (2) A member of the legislative body shall only participate in
28 the meeting remotely pursuant to this subdivision, if all of the
29 following requirements are met:

30 (A) One of the following circumstances applies:

31 ~~(i) The agenda identifies that the member of the legislative body~~
32 ~~will participate in the meeting remotely and provides a brief general~~
33 ~~description of the circumstances relating to their need to appear~~
34 ~~remotely at the given meeting. A brief general description of an~~
35 ~~item generally needs not to exceed 20 words.~~

36 ~~(ii) The circumstances relating to the member's need to~~
37 ~~participate remotely arose after the agenda for the meeting was~~
38 ~~posted and those circumstances are publicly disclosed at the~~
39 ~~meeting before any action is taken.~~

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) The legislative body may take action on the member's request to participate remotely at the earliest opportunity, including the beginning of the meeting at which the member has requested the ability to participate remotely.

(II) The member shall make such a request at each meeting they desire to participate remotely pursuant to this clause.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of ~~more than three consecutive months~~, months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) *“Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.*

(2) *“Just cause” means any of the following:*

(A) *A childcare or caregiving need that requires them to participate remotely.*

(B) *A contagious illness that prevents a member from attending in person.*

(C) *A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).*

(D) *Travel while on official business of the legislative body or another state or local agency.*

(1)

(3) “Remote location” means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2)

1 (4) “Remote participation” means participation in a meeting by
2 teleconference at a location other than any physical meeting
3 location designated in the notice of the meeting. Watching or
4 listening to a meeting via webcasting or another similar electronic
5 medium that does not permit members to interactively hear,
6 discuss, or deliberate on matters, does not constitute remote
7 participation.

8 ~~(3)~~

9 (5) “State of emergency” means a state of emergency proclaimed
10 pursuant to Section 8625 of the California Emergency Services
11 Act (Article 1 (commencing with Section 8550) of Chapter 7 of
12 Division 1 of Title 2).

13 ~~(4)~~

14 (6) “Teleconference” means a meeting of a legislative body,
15 the members of which are in different locations, connected by
16 electronic means, through either audio or video, or both.

17 ~~(5)~~

18 (7) “Two-way audiovisual platform” means an online platform
19 that provides participants with the ability to participate in a meeting
20 via both an interactive video conference and a two-way telephonic
21 function.

22 ~~(6)~~

23 (8) “Two-way telephonic service” means a telephone service
24 that does not require internet access, is not provided as part of a
25 two-way audiovisual platform, and allows participants to dial a
26 telephone number to listen and verbally participate.

27 ~~(7)~~

28 (9) “Webcasting” means a streaming video broadcast online or
29 on television, using streaming media technology to distribute a
30 single content source to many simultaneous listeners and viewers.

31 (k) This section shall remain in effect only until January 1, 2024,
32 and as of that date is repealed.

33 SEC. 2. Section 54953 of the Government Code, as added by
34 Section 4 of Chapter 165 of the Statutes of 2021, is amended to
35 read:

36 54953. (a) All meetings of the legislative body of a local
37 agency shall be open and public, and all persons shall be permitted
38 to attend any meeting of the legislative body of a local agency,
39 except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an

1 opportunity for the public to address the legislative body and offer
2 comment in real time.

3 (F) Notwithstanding Section 54953.3, an individual desiring to
4 provide public comment through the use of an internet website, or
5 other online platform, not under the control of the local legislative
6 body, that requires registration to log in to a teleconference may
7 be required to register as required by the third-party internet
8 website or online platform to participate.

9 (2) A member of the legislative body shall only participate in
10 the meeting remotely pursuant to this subdivision, if all of the
11 following requirements are met:

12 (A) One of the following circumstances applies:

13 ~~(i) The agenda identifies that the member of the legislative body~~
14 ~~will participate in the meeting remotely and provides a brief general~~
15 ~~description of the circumstances relating to their need to appear~~
16 ~~remotely at the given meeting. A brief general description of an~~
17 ~~item generally need not exceed 20 words.~~

18 ~~(ii) The circumstances relating to the member's need to~~
19 ~~participate remotely arose after the agenda for the meeting was~~
20 ~~posted and those circumstances are publicly disclosed at the~~
21 ~~meeting before any action is taken.~~

22 *(i) The member notifies the legislative body at the earliest*
23 *opportunity possible, including at the start of a regular meeting,*
24 *of their need to participate remotely for just cause, including a*
25 *general description of the circumstances relating to their need to*
26 *appear remotely at the given meeting. The provisions of this clause*
27 *shall not be used by any member of the legislative body for more*
28 *than two meetings per calendar year.*

29 *(ii) The member requests the legislative body to allow them to*
30 *participate in the meeting remotely due to emergency*
31 *circumstances and the legislative body takes action to approve the*
32 *request. The legislative body shall request a general description*
33 *of the circumstances relating to their need to appear remotely at*
34 *the given meeting. A general description of an item generally need*
35 *not exceed 20 words and shall not require the member to disclose*
36 *any medical diagnosis or disability, or any personal medical*
37 *information that is already exempt under existing law, such as the*
38 *Confidentiality of Medical Information Act (Chapter 1*
39 *(commencing with Section 56) of Part 2.6 of Division 1 of the Civil*

1 *Code). For the purposes of this clause, the following requirements*
2 *apply:*

3 *(I) The legislative body may take action on the member's request*
4 *to participate remotely at the earliest opportunity, including the*
5 *beginning of the meeting at which the member has requested the*
6 *ability to participate remotely.*

7 *(II) The member shall make such a request at each meeting they*
8 *desire to participate remotely pursuant to this clause.*

9 (B) The member shall publicly disclose at the meeting before
10 any action is taken whether any other individuals 18 years of age
11 or older are present in the room at the remote location with the
12 member, and the general nature of the member's relationship with
13 any such individuals.

14 (C) The member shall participate through both audio and visual
15 technology.

16 (3) The provisions of this subdivision shall not serve as a means
17 for any member of a legislative body to participate in meetings of
18 the legislative body solely by teleconference from a remote location
19 for a period of *more than three consecutive months; months or 20*
20 *percent of the regular meetings for the local agency within a*
21 *calendar year; or more than two meetings if the legislative body*
22 *regularly meets fewer than 10 times per calendar year.*

23 (f) The legislative body shall have and implement a procedure
24 for receiving and swiftly resolving requests for reasonable
25 accommodation for individuals with disabilities, consistent with
26 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
27 Sec. 12132), and resolving any doubt in favor of accessibility. In
28 each instance in which notice of the time of the meeting is
29 otherwise given or the agenda for the meeting is otherwise posted,
30 the legislative body shall also give notice of the procedure for
31 receiving and resolving requests for accommodation.

32 (g) The legislative body shall conduct meetings subject to this
33 chapter consistent with applicable state and federal civil rights,
34 language access, and other nondiscrimination laws.

35 (h) (1) Nothing in this section shall prohibit a legislative body
36 from providing the public with additional teleconference locations.

37 (2) Nothing in this section shall prohibit a legislative body from
38 providing members of the public with additional physical locations
39 in which the public may observe and address the legislative body
40 by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) *“Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.*

(2) *“Just cause” means any of the following:*

(A) *A childcare or caregiving need that requires them to participate remotely.*

(B) *A contagious illness that prevents a member from attending in person.*

(C) *A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).*

(D) *Travel while on official business of the legislative body or another state or local agency.*

~~(1)~~

(3) *“Remote location” means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.*

~~(2)~~

(4) *“Remote participation” means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.*

~~(3)~~

(5) *“Teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.*

~~(4)~~

(6) *“Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.*

~~(5)~~

(7) “Two-way telephonic service” means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(6)

(8) “Webcasting” means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, ~~2028~~, 2026, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an

1 opportunity for members of the public to address the legislative
2 body directly pursuant to Section 54954.3 at each teleconference
3 location.

4 (4) For the purposes of this section, “teleconference” means a
5 meeting of a legislative body, the members of which are in different
6 locations, connected by electronic means, through either audio or
7 video, or both. Nothing in this section shall prohibit a local agency
8 from providing the public with additional teleconference locations

9 (c) (1) No legislative body shall take action by secret ballot,
10 whether preliminary or final.

11 (2) The legislative body of a local agency shall publicly report
12 any action taken and the vote or abstention on that action of each
13 member present for the action.

14 (3) Prior to taking final action, the legislative body shall orally
15 report a summary of a recommendation for a final action on the
16 salaries, salary schedules, or compensation paid in the form of
17 fringe benefits of a local agency executive, as defined in
18 subdivision (d) of Section 3511.1, during the open meeting in
19 which the final action is to be taken. This paragraph shall not affect
20 the public’s right under the California Public Records Act (Chapter
21 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
22 inspect or copy records created or received in the process of
23 developing the recommendation.

24 (d) (1) Notwithstanding the provisions relating to a quorum in
25 paragraph (3) of subdivision (b), if a health authority conducts a
26 teleconference meeting, members who are outside the jurisdiction
27 of the authority may be counted toward the establishment of a
28 quorum when participating in the teleconference if at least 50
29 percent of the number of members that would establish a quorum
30 are present within the boundaries of the territory over which the
31 authority exercises jurisdiction, and the health authority provides
32 a teleconference number, and associated access codes, if any, that
33 allows any person to call in to participate in the meeting and the
34 number and access codes are identified in the notice and agenda
35 of the meeting.

36 (2) Nothing in this subdivision shall be construed as
37 discouraging health authority members from regularly meeting at
38 a common physical site within the jurisdiction of the authority or
39 from using teleconference locations within or near the jurisdiction
40 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section.

3 (3) For purposes of this subdivision, a health authority means
4 any entity created pursuant to Sections 14018.7, 14087.31,
5 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
6 and Institutions Code, any joint powers authority created pursuant
7 to Article 1 (commencing with Section 6500) of Chapter 5 of
8 Division 7 for the purpose of contracting pursuant to Section
9 14087.3 of the Welfare and Institutions Code, and any advisory
10 committee to a county-sponsored health plan licensed pursuant to
11 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
12 Health and Safety Code if the advisory committee has 12 or more
13 members.

14 (e) This section shall become operative January 1, ~~2028~~ 2026.

15 SEC. 4. The Legislature finds and declares that Sections 1 and
16 2 of this act, which amend Section 54953 of the Government Code,
17 impose a limitation on the public's right of access to the meetings
18 of public bodies or the writings of public officials and agencies
19 within the meaning of Section 3 of Article I of the California
20 Constitution. Pursuant to that constitutional provision, the
21 Legislature makes the following findings to demonstrate the interest
22 protected by this limitation and the need for protecting that interest:

23 By removing the requirement for agendas to be placed at the
24 location of each public official participating in a public meeting
25 remotely, including from the member's private home or hospital
26 room, this act protects the personal, private information of public
27 officials and their families while preserving the public's right to
28 access information concerning the conduct of the people's business.

29 SEC. 5. The Legislature finds and declares that Sections 1 and
30 2 of this act, which amend Section 54953 of the Government Code,
31 further, within the meaning of paragraph (7) of subdivision (b) of
32 Section 3 of Article I of the California Constitution, the purposes
33 of that constitutional section as it relates to the right of public
34 access to the meetings of local public bodies or the writings of
35 local public officials and local agencies. Pursuant to paragraph (7)
36 of subdivision (b) of Section 3 of Article I of the California
37 Constitution, the Legislature makes the following findings:

- 1 This act is necessary to ensure minimum standards for public
- 2 participation and notice requirements allowing for greater public
- 3 participation in teleconference meetings.

O

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2449 (Blanca Rubio)
Version: June 23, 2022
Hearing Date: June 28, 2022
Fiscal: Yes
Urgency: No
AM

SUBJECT

Open meetings: local agencies: teleconferences

DIGEST

This bill authorizes, until January 1, 2026, members of a legislative body of a local agency to meet via teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions.

EXECUTIVE SUMMARY

The Ralph M. Brown Act (the Brown Act) protects public access to meetings of the legislative bodies of local agencies and prescribes specific requirements local agencies must follow if they want to hold a meeting via teleconferencing. Under existing law, a local agency is authorized, until January 1, 2024, to use teleconferencing without complying with those specific teleconferencing requirements when a declared state of emergency is in effect or in other situations related to public health, if certain conditions are met. This bill revises existing law to instead allows, until January 1, 2026, a local agency to use teleconferencing without complying with the requirement that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public under specified circumstances and only if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. The bill limits the length of time a member can participate remotely, and prescribes requirements for this exception regarding notice, agendas, access for the public, and procedures for disruptions. The bill also requires a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the Americans with Disabilities Act of 1990, to be implemented.

The sponsor of the bill is Three Valleys Municipal Water District. The bill is supported by numerous public agencies and business organizations. The bill is opposed by various organizations, including organizations that advocate for open and accessible

government and associations representing local governments. The bill passed the Senate Governance and Finance Committee on a vote of 5 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Affirms that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (Cal. Const., art. I, § 3(b)(1).)
 - a) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Establishes the Brown Act, which secures public access to the meetings of public commissions, boards, councils, and agencies in the state. (Gov. Code, tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.) The Brown Act defines the following relevant terms:
 - a) A "local agency" is a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency. (Gov. Code, § 54951.)
 - b) A "legislative body" is the governing board of a local agency or any other local body created by state or federal statute; a commission, committee, board, or other body of a local agency, as specified; a board, commission, or other multimember body that governs a private corporation, limited liability company, or other entity that is either created by an elected legislative body to exercise delegated authority or receives funds from a local agency and includes a member of the legislative body of the local agency; or the lessee of any hospital leased pursuant to Health and Safety Code section 21131, where the lessee exercises any material authority delegated by the legislative body. (Gov. Code, § 54952.)
- 3) Requires all meetings of the legislative body of a local agency to be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in the Brown Act. (Gov. Code, § 54953.)
- 4) Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all of the following conditions and all otherwise applicable laws:
 - a) Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative

- body. All votes taken during a teleconferenced meeting shall be by rollcall. (Gov. Code, § 54953(b)(2).)
- b) If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency. (Gov. Code, § 54953(b)(3).)
 - c) Each teleconferencing location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. (Gov. Code, § 54953(b)(3).)
 - d) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as provided in 6). (Gov. Code, § 54953(b)(3).)
 - e) The agenda shall provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location. (Gov. Code, § 54953(b)(3).)
 - f) For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. (Gov. Code, § 54953(b)(4).)
- 5) Provides an exception to the teleconferencing quorum requirements in 4) as follows:
- a) If a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
 - b) This exception may not be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. (Gov. Code, § 54953(d).)
- 6) Authorizes a local agency to use teleconferencing for a public meeting without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements described in 4), in any of the following circumstances:
- a) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;

- b) the legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees; and
 - c) the legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- 7) Defines “state of emergency” as a state of emergency proclaimed pursuant to Government Code section 8625.
- 8) Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 6) is subject to the requirements in a) through g).
 - a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
 - b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
 - c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
 - d) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency’s control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
 - e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
 - f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.

- g) If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment under f) until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary under f).
- 9) If the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make the following findings by majority vote:
 - a) the legislative body has reconsidered the circumstances of the state of emergency; and
 - b) either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing.
- 10) Provides that the provisions relating to the Brown Act in 6) through 9) above will remain in effect only until January 1, 2024, and as of that date be repealed.
- 11) Authorizes the district attorney or interested person to challenge an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of specified provisions of the Brown Act is null and void. (Gov. Code § 54960.1.)

This bill:

- 1) Authorizes, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing each teleconference location or making it publicly accessible, provided at least a quorum of the members of the body participates in person at a singular physical location.
 - a) The location of the in-person meeting must be clearly identified on the agenda, must be open to the public, and must be within the boundaries of the local agency's jurisdiction.
- 2) Requires the legislative body, in order to use teleconference under 1) above, to meet the following requirements:
 - a) provide a two-way audio-visual platform or a two-way telephonic service and a live webcasting of the meeting by which the public may remotely hear and visually observe the meeting and also remotely address the legislative body;
 - b) give notice of the means for the public to access the meeting and offer public comment in each instance the legislative body notices the meeting or posts the agenda;

- c) identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in or internet-based service option, and at the in-person location of the meeting; and
 - d) provide an opportunity for the public to address the legislative body and offer comment in real time. A third-party internet website or online platform not under the control of the legislative body may require members of public to login or register to provide public comment.
- 3) Prohibits a local agency from requiring public comments to be submitted in advance of the meeting.
- 4) Prohibits a local agency from taking further action in the event of a disruption that prevents the legislative body from broadcasting the meeting to the public, or in the event of a disruption within the local agency's control that prevents the public from offering public comments remotely, until it can restore public access to the meeting.
 - a) The public can challenge actions taken on agenda items during such disruptions pursuant to Section 54960.1 of the Government Code.
- 5) Authorizes a member of a legislative body to participate in a meeting remotely only if one of the following circumstances applies:
 - a) the member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting; or
 - i. The provisions of i) cannot be used by any member of the legislative body for more than two meetings per calendar year.
 - b) the member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request.
 - i. The legislative body is required to request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.
 - ii. The legislative body may take action on the member's request to participate remotely under b) at the earliest opportunity, including the beginning of the meeting at which the member has requested the ability to participate remotely.
 - iii. The member is required to make such a request at each meeting they desire to participate remotely pursuant to b).
 - iv. The member is required to participate through both audio and visual technology.

- 6) The provisions of 5) above cannot serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.
- 7) Defines “just cause” as any of the following:
 - a) childcare or caregiving need that requires them to participate remotely;
 - b) a contagious illness that prevents a member from attending in person;
 - c) a need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by 9) below; and
 - d) travel while on official business of the legislative body or another state or local agency.
- 8) Defines “emergency circumstances” as a physical or family medical emergency that prevents a member from attending in person.
- 9) Requires the legislative body to have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) (*hereafter* ADA), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.
- 10) Requires the legislative body to conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.
- 11) Defines various terms for these purposes.
- 12) State that these provisions are necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.
- 13) Repeals these provisions on January 1, 2026.

COMMENTS

1. Stated need for the bill

The author writes:

While remote participation in meetings was necessitated by the pandemic, we have simultaneously demonstrated the value of remote participation options when individuals are unable to attend a physical gathering. The Brown Act ensures that officials and their constituents can have open and transparent meetings, which we now know can occur using modern technology. Considering the experiences of the past two years, AB 2449 would provide an avenue for constituents to interact with their representatives in situations where they might have not previously been able to.

2. Background

a. Right to access public meetings and COVID-19 pandemic

The California Constitution enshrines the rights of the people to instruct their representatives and to access information concerning the conduct of government, and requires the meetings of public bodies to be accessible for public scrutiny.¹ The Brown Act provides guidelines and requirements for how state and local bodies must guarantee open and public access to their meetings.² The legislative intent of the Brown Act was expressly declared in its original statute, and has remained unchanged despite numerous amendments:

The Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.³

¹ Cal. Const., art. I, § 3(a) & (b)(1).

² Ed. Code, tit. 3, div. 8, pt. 55, ch. 3, art. 1.5, §§ 89305 et seq.; Gov Code, tit. 2, div. 3, art. 9, §§ 11120 et seq., & tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.

³ *Id.*, § 54950.

The Brown Act generally requires that meetings of the legislative body of a local agency be open and accessible to the public, and requires local agencies to provide notice of the meeting, its agenda, and its location in advance of a meeting to ensure that the people have adequate notice and opportunity to attend.

In March 2020, due to the COVID-19 pandemic, the Governor issued executive orders suspending portions of the Brown Act requiring in-person meetings, thereby allowing members of a local legislative body to attend meetings remotely without having to publicly post their location information or allow members of the public to attend meetings from those locations.⁴ Throughout the pandemic, many state and local bodies relied on teleconference or internet streaming services to conduct meetings on a regular basis, avoiding the COVID-19 transmission risks posed by large public gatherings. This Committee noted in its analysis of AB 361 as amended September 3, 2021 (Robert Rivas, Ch. 165, Stats. 2021) that:

Based on information received by committee staff, the move to entirely teleconferenced meetings has both expanded and contracted public access to meetings: the increased availability of teleconferencing allows participation by persons who cannot travel to a physical location or cannot attend a meeting for other reasons (e.g., persons who are immunocompromised); but can decrease participation by persons who are less tech-savvy, lack access to technology, or are otherwise unable to utilize the remote access options. There are also concerns that the value of public meetings is lessened when government officials do not have to interact with the public on a face-to-face basis.

b. AB 361 (Robert Rivas, Ch. 165, Stats. 2021)

AB 361 authorized a local agency to use teleconferencing for a public meeting without complying with the Brown Act's teleconferencing quorum, meeting notice, and agenda requirements in any of the following circumstances until January 1, 2024:

- The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote as described above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code § 54953 (e)(1).)

⁴ Governor's Exec. Order No. N-25-20 (Mar. 12, 2020); Governor's Exec. Order No. N-29-20 (Mar. 17, 2020).

AB 361 provided that a legislative body holding a teleconferenced meeting pursuant to this exception is subject to the following requirements:

- The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
- The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
- The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
- The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
- The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.
- If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary. (Gov. Code § 54953 (e)(2).)

AB 361 also provided that if the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make the following findings by majority vote:

- the legislative body has reconsidered the circumstances of the state of emergency; and
 - either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing. (Gov. Code § 54953 (e)(3).)
3. This bill revises existing law to authorize members of a legislative body of a local agency to meet via teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions until January 1, 2026.

This bill allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing each teleconference location or making it publicly accessible, provided at least a quorum of the members of the body participates in person at a singular physical location. The agency must clearly identify the location of the in-person meeting on the agenda, which must be open to the public and within the boundaries of the local agency's jurisdiction.

In order to meet via teleconference under these provisions, the legislative body must meet the following requirements. These requirements are guardrails to ensure that public participation and access are still afforded to the public. The requirements are:

- Provide a two-way audio-visual platform or a two-way telephonic service and a live webcasting of the meeting by which the public may remotely hear and visually observe the meeting and also remotely address the legislative body.
- Give notice of the means for the public to access the meeting and offer public comment in each instance the legislative body notices the meeting or posts the agenda.
- Identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in or internet-based service option, and at the in-person location of the meeting.
- Not require public comments to be submitted in advance of the meeting.
- Provide an opportunity for the public to address the legislative body and offer comment in real time; however, a third-party internet website or online platform not under the control of the legislative body may require members of public to login or register to provide public comment.
- Not take further action in the event of a disruption that prevents the legislative body from broadcasting the meeting to the public, or in the event of a disruption within the local agency's control that prevents the public from offering public comments remotely, until it can restore public access to the meeting.
- The public can challenge actions taken on agenda items during such disruptions pursuant to existing provisions of law that authorizes a person to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of specified provisions of law is null and void.

Amendments taken in the Senate Governance and Finance Committee limited the circumstances under the bill for which a member of the legislative body may participate remotely. These reasons are for a “just cause” or due to an “emergency circumstance.” Just cause is defined as any of the following:

- childcare or caregiving need that requires them to participate remotely;
- a contagious illness that prevents a member from attending in person;
- a need related to a physical or mental disability as defined in Sections 12926 and 12926.1 of the Government Code not otherwise accommodated under the ADA; or
- travel while on official business of the legislative body or another state or local agency.

An emergency circumstance is a physical or family medical emergency that prevents a member from attending in person. In order to ensure that a member is participating remotely for a needed or justified reason as opposed to convenience, the Senate Governance and Finance Committee amendments limit the use of “just cause” to only twice in a calendar year. Additionally, a member cannot participate in meetings solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

The bill requires that the agenda identifies that the member of the legislative body will participate in the meeting remotely and provides a brief general description of the circumstances relating to their need to appear remotely at the given meeting. A brief general description of an item generally needs not to exceed 20 words. In the alternative, if the circumstances relating to the member’s need to participate remotely arose after the agency posted the agenda for the meeting, those circumstances must be publicly disclosed at the meeting before any action is taken. These requirements, however, do not require a member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

The member participating remotely must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals. The member must participate through both audio and visual technology. AB 2449 also requires legislative bodies to adopt and implement a procedure for receiving and swiftly resolving requests for reasonable accommodations for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation. Lastly, the bill requires a legislative body to conduct meetings subject to the Brown Act

consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.

4. Opposition

There are several groups opposed to the bill unless amended to address their concerns. These groups generally have two very different issues with the bill.

- a. Concerns with subdivision (h) – requirement that a legislative body conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws*

The League of California Cities, Urban Counties of California, Association of California School Administrators, Association of California Healthcare Districts, Rural County Representatives of California, and City Clerks Association of California write in opposition to the language in the bill in subdivision (h) that requires a legislative body to conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws. Specifically, they state that “there is no generally applicable ‘language access’ laws for Brown Act meetings, and this reference is likely to generate confusion and potential litigations.” They further state that they “appreciate the author’s efforts to assist local agencies continue to participate in public meetings remotely, we are concerned that the provisions of subdivision (h) along with other requirements of the bill undermine the overall utility of the measure. [They] suggest that perhaps a more comprehensive conversation about the future of remote participation in local public meetings is necessary before moving forward with this measure.” Santa Barbara County Board of Supervisors echoes these concerns.

Under the Brown Act there are specific requirements related to translation for non-English speakers. Under Section 54954.3 of the Government Code it says “when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.” (*Id.* (b)(2)). It further says that the prior requirement does not apply “if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.” (*Id.* (b)(3).) Furthermore, the Dymally-Alatorre Bilingual Services Act (Act) places requirements on local public agencies that serve a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English-speaking person, as provided. (Gov. Code § 7290 et. seq., § 7293.) This Act specifically cross-references the definition of public agency in the Brown Act. (Gov. Code § 7293,

cross-referencing Gov. Code § 54951.) This Act states that its provisions do not apply to school districts, county boards of education, or the office of a county superintendent of schools. (Gov. Code § 7298.)

According to the author, the language in subdivision (h) is meant to be a restatement of existing law not to place new requirements on local agencies conducting meetings under the Brown Act. The way the language is currently drafted it could be susceptible to being interpreted as placing new requirements on local agencies. It also specifically states it applies to any meeting conducted under the Brown Act, not just meetings conducted pursuant to the teleconference provisions in the bill. The author may wish to clarify this language to ensure that it is clear it is not placing any new requirements on local agencies that they currently do not have to comply with when conducting meetings under the Brown Act.

- b. Concerns that the bill fundamentally alters the Brown Act for the benefit of members of legislative bodies as opposed to ensuring greater access for the public*

The ACLU, Californians Aware, First Amendment Coalition, and Leadership Council write stating that this bill would “fundamentally alter the Brown Act by providing express authorization to members of legislative bodies to teleconference into public meetings from private locations not identified or accessible to the public at any time, without a compelling reason.” They further write that:

We are also very glad to see that a quorum must be in the same physical location with the public in this bill, but it is essential to narrow the circumstances in which members outside of the quorum can participate remotely, so that the same members cannot avoid physically appearing without circumstances that justifies limiting the public’s access to the member who is supposed to be serving their interests. [...] When the state had to conduct business under stay-at-home orders during the pandemic, participation from home was essential as there was no other option. That is no longer the case, and has not been for quite some time. The public’s right to meaningful access should not be curtailed to accommodate public officials who can physically attend a meeting but simply choose not to.

Appropriate exceptions can be made as needed for members who have a disability, are immunocompromised, or have children or other household members requiring certain consideration. We do not object to teleconferencing allowances for such individuals.

In conversations with the Committee, some of these groups indicated they would like to see the reasons a member could participate remotely tightened up and be less broad. In light of this, the author may wish to amend the bill to clarify that a childcare or caregiving need is limited to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as these terms are defined under the California Family Rights Act. (Gov. Code § 12945.2.) The specific amendment is in 5) below.

5. Proposed amendments⁵

The proposed amendments are:

Amendment 1

On page 10, in line 25 after “need” insert:

of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner

Amendment 2

On page 10, in line 26 after “remotely.” Insert:

“Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.

Amendment 3

On page 17, in line 7 after “need” insert:

of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner

Amendment 4

On page 17, in line 8 after “remotely.” Insert:

“Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.

6. Statements in support

A coalition of public agencies and business organizations, including the sponsor of the bill Three Valleys Municipal Water District, write in support:

The expiration of the Executive Orders immediately gave way to AB 361, essentially allowing for the teleconference provisions detailed in the Executive Orders to continue during a period of emergency declaration. However, once an emergency declaration has ended, local agencies will again be required to comply with antiquated provisions of existing law, making it potentially more difficult to hold meetings of the legislative body by teleconference. While current

⁵ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

law does allow for “teleconference locations” under normal circumstances, it requires various actions to be taken at the teleconference locations and fails to recognize in the digital age that a teleconference location is wherever there is a person with a computer, a tablet, or even a mobile phone.

AB 2449 will modernize the previously existing concept of teleconference locations and will revise notice requirements to allow for greater public participation in teleconference meetings of local agencies. The bill does not require teleconferencing. Rather, it modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies who choose to utilize teleconferencing. Similarly, in acknowledgement of the critical importance of maintaining transparency and accountability, the bill requires that a quorum of the governing body be physically present at a clearly identified meeting location for all public meetings.

SUPPORT

Three Valleys Municipal Water District (sponsor)
Association of California Water Agencies
Calleguas Municipal Water District
California Municipal Utilities Association
California Central Valley Flood Control Association
California Builders Alliance
Central Basin Municipal Water District
Central Contra Costa Sanitary District
City of Carlsbad
City of Cupertino
City of Rancho Palos Verdes
Cucamonga Valley Water District
Desert Water Agency
Eastern Municipal Water District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Inland Empire Utilities Agency
Los Angeles County LAFCO
Los Angeles Unified School District
Mesa Water District
Metropolitan Water District of Southern California
Municipal Water District Orange County
Palmdale Water District
Public Risk Innovation, Solutions and Management (PRISM)
Regional Chamber of Commerce, San Gabriel Valley
Regional Council of Southern California Association of Governments

Regional Water Authority
Rowland Water District
San Bernardino Municipal Water Department
San Bernardino Valley Municipal Water District
San Diego County Water Authority
San Gabriel Basin Water Quality Authority
San Gabriel Valley Council of Governments
San Gabriel Valley Economic Partnership
San Gabriel Valley Municipal Water District
San Gabriel Valley Water Association
Santa Clarita Valley Water Agency
Santa Margarita Water District
Sacramento Regional Builders Exchange
Solano County Board of Supervisors
Solano County Water Agency
Southern California Water Coalition (SCWC)
Suburban Water Systems
Upper San Gabriel Valley Municipal Water District
Valley County Water District
Walnut Valley Water District
Water Replenishment District of Southern California
Western Municipal Water District

OPPOSITION

ACLU California Action
Association of California School Administrators (ACSA)
Association of California Healthcare Districts (ACHD)
Californians Aware: the Center for Public Forum Rights
City Clerks Association of California (CCAC)
County of Santa Barbara
First Amendment Coalition
Leadership Counsel for Justice and Accountability
League of California Cities
Rural County Representatives of California
Urban Counties of California

RELATED LEGISLATION

Pending Legislation:

SB 1100 (Cortese, 2022) authorizes the presiding member of a legislative body conducting a meeting to remove an individual for disrupting the meeting, as provided. SB 1100 is currently pending on the Assembly Floor.

AB 1944 (Lee, 2022) authorizes, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions. AB 1944 remains in the Senate Governance and Finance Committee.

AB 2647 (Levine, 2022) exempts local agencies from making materials available for public inspection at the time they distribute them to members of the legislative body less than 72 hours before the meeting, if the agency meets certain requirements. AB 2647 is currently pending in the Senate Governance and Finance Committee.

Prior Legislation

AB 361 (Robert Rivas, Ch. 165; Stats. 2021) *see* comment 2) above.

AB 339 (Lee, 2021) would have required, until December 31, 2023, certain city council or county board of supervisors meetings to allow the public to attend and comment via telephone or internet. AB 339 was vetoed by Governor Newsom.

PRIOR VOTES:

Governance and Finance Committee (Ayes 5, Noes 0)

Assembly Floor (Ayes 65, Noes 4)

Assembly Local Government Committee (Ayes 7, Noes 1)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Board of Directors

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: July 6, 2022

Re: Vendor Selection for Financial and Compliance Audits

RECOMMENDED ACTION

The Board of Directors will consider:

1. Approving the selection of Simpson & Simpson, LLP to conduct the Financial Audits and Compliance Audits of the Transportation Fund for Clean Air (TFCA) programs and projects;
2. Authorizing the Executive Officer/APCO to execute a contract with Simpson & Simpson, LLP for up to a five-year term at the Air District's discretion, based on the contractor's performance, and for a total cost not to exceed \$1,204,000.

BACKGROUND

The Bay Area Air Quality Management District's (Air District) Administrative Code requires an annual independent audit of its annual financial statement consistent with Government Finance Office's Association (GFOA) recommended practice for state and local government agencies ("Financial Audit"). The California Health and Safety Code Section 44242 requires the Air District to perform a program review of the Transportation Fund for Clean Air (TFCA) programs and projects that are funded with motor vehicle registration fee surcharges collected under Section 44241 at least every two years ("Compliance Audit"). The Air District's Administrative Purchasing Procedures require the Air District to go out to bid for financial auditing services at least every five years.

DISCUSSION

The Air District issued a Request for Proposals (RFP) on January 3, 2022, to solicit proposals for the following two deliverables:

1. Conduct the Air District's Financial Audit for FYE 2023 with an option to extend for four additional years (up to a five-year term); and

2. Conduct a Program Review of TFCA-funded projects and programs that were closed out in FYE 2022 (and earlier) with an option to extend for four additional years (up to a five-year term).

A notice announcing this RFP was emailed to 34 public sector audit firms in California and posted on the Air District's website. Over 100 additional potential bidders were notified who had been signed up with the Air District to receive notifications of new RFPs. The notice was also posted on a page that announces available RFPs on the California Society of Municipal Finance Officers' website. A pre-bidder's webinar was held on January 10, 2022, for the purpose of providing an outline of the RFP requirements and an opportunity for Q&A. The Air District also received 68 questions from interested parties by the February 1 deadline and responses to these questions were posted on the Air District's website by February 8, 2022.

The Air District received proposals from two firms by the February 16, 2022, deadline: Simpson & Simpson, LLP, and Badawi and Associates - CPA.

Evaluation of Proposals

A panel, comprised of four staff members representing the Finance Office and Strategic Incentives Division, evaluated and scored the proposals received based on the four evaluation criteria outlined in the RFP. The RFP evaluation criteria are listed below:

- **Expertise, Skill, & Approach:** Technical expertise, size and structure of the firm and personnel assigned to RFP tasks; firm's ability to perform and complete the work in a professional and timely manner. Past experience of the firm and, in particular, experience of the team working on projects of similar scope for other governmental agencies. Responsiveness of the proposal, based upon a clear understanding of the work to be performed.
- **Cost:** Cost or cost effectiveness and resource allocation strategy.
- **References:** References of the firm.
- **Firm's Specialty Focus Area:** Local business or Green Business

The panel then held a 30 minute interview with each of the bidders and asked them to respond to five additional questions. The evaluation criteria for the interview questions focused on a review of the following:

- **Expertise, Skill, & Approach:** Technical expertise, size and structure of the firm and personnel assigned to RFP tasks; firm's ability to perform and complete the work in a professional and timely manner. Past experience of the firm and, in particular, experience of the team working on projects of similar scope for other governmental agencies.
- **Cost:** Resource allocation strategy with a focus on how applicants managed staffing and turnover during the pandemic.

The panel members' scores for each criterion were averaged, and the two applicants were ranked according to the sum of these scores. Table 1 below lists the RFP evaluation criteria and shows each firm's averaged score by criteria.

Table 1. Scoring of Proposals

FIRM (by rank order)	Total (180 max)	Proposal				Interview	
		Expertise, Skills & Approach (45 max)	Cost (35 max)	References (10 points)	Specialty/ Focus Area (10 points)	Expertise, Skills & Approach (45 max)	Cost (35 points)
Simpson & Simpson, LLP	160.5	40.75	30.5	9.5	4.25	43.25	32.25
Badawi and Associates - CPA	119.75	26.75	29.75	5.75	6	28.75	22.75

Based on the evaluation criteria set forth in the RFP, staff recommends the award of a contract to Simpson and Simpson LLP in the amount not to exceed \$204,000 in contract years 1, 3 and 5, and \$296,000 in contract years 2 and 4. The difference, or higher, estimated costs for auditing services in the even-numbered years is due to the inclusion of TFCA County Program Manager fund projects, which are audited only every other year, rather than annually. The number of TFCA projects that are closed out and ready to be audited also varies from year to year.

Simpson & Simpson, LLP had the highest overall score, and scored highest on nearly all criteria. Simpson & Simpson, LLP, founded in 1976 in Los Angeles, California, operates as a partnership and firm of Certified Public Accountants and has been conducting business for over 40 years, specializing in auditing, accounting, management consulting, and tax services to local governments, special districts, and nonprofit organizations. The firm has 40 professional staff members, and all its management level and higher professionals are certified public accountants.

Simpson and Simpson, LLP has extensive experience in audits of local governments and special districts and is the incumbent, currently serving as the independent auditors for the Air District. Simpson and Simpson have provided satisfactory audit services for the past four years with one year remaining under their current master service agreement with the Air District. Its clients also include the South Coast Air Quality Management District (SCAQMD), for which it has conducted similar financial and compliance audits to those that are proposed for our District, and some of the largest governmental organizations in California, such as the City of Los Angeles and the Los Angeles County Metropolitan Transportation Authority. Over the past five years, it has provided financial audits to seven other major public agencies and special districts.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The costs associated with the FYE 2023 auditing services in the amount of \$204,000 are included in the Air District's FYE 2023 budget. Of which, \$60,000 is included in the Finance Division's General Fund budget for the financial audit and \$144,000 is included in the Strategic Incentives Division's Special Fund budget for the TFCA program review. Future auditing service costs will be budgeted appropriately in the ordinary course of the Air District's annual budget process.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Minda Berbeco
Reviewed by: Karen Schkolnick and Stephanie Osaze

ATTACHMENTS:

1. Simpson and Simpon 2022.116

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

MASTER SERVICES CONTRACT

CONTRACT NO. 2022.116

1. **PARTIES** – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **Simpson & Simpson, LLP** (“CONTRACTOR”) whose address is 633 West 5th Street, Suite 3320, Los Angeles, California 90071.
2. **RECITALS**
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for Services as defined herein. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the Services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. **DEFINITIONS**
 - A. “Purchase Order” shall mean the written or electronic document used by DISTRICT to track payments to CONTRACTOR under this Contract.
 - B. “Services” shall mean the services to be provided by CONTRACTOR hereunder as generally described in the General Description of Services, attached hereto as Attachment A and made a part hereof by this reference, and as specifically described in Task Orders issued pursuant to this Contract.
 - C. “Task Order” shall mean a written request by DISTRICT for specific services to be performed by CONTRACTOR.
4. **PERFORMANCE REQUIREMENTS**
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraphs A-E above.

5. TERM – The term of this Contract is from April 1, 2023 to March 31, 2028, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
6. TERMINATION
- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 13 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all services under this Contract, except such services as are specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining services performed but not billed, including any services specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
- i) Failure to perform any agreement or obligation contained in this Contract or failure to complete the services in a satisfactory manner shall constitute a breach of the Contract.
- ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
- iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
- iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 13.
- v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.
7. INSURANCE
- A. CONTRACTOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
- ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
- iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a

business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.

- iv) Professional liability insurance with limits not less than one million dollars (\$1,000,000) each claim.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

8. INDEMNIFICATION

- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
- B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

9. AGREEMENT TO PROVIDE SERVICES

- A. CONTRACTOR hereby agrees to provide to DISTRICT, as DISTRICT may from time to time designate, such services as DISTRICT may order by Task Order, all in accordance with and subject to the terms, covenants and conditions of this Contract. DISTRICT agrees to pay for these services ordered by DISTRICT in accordance with and subject to the terms, covenants and conditions of this Contract.
- B. All Task Orders issued by DISTRICT to CONTRACTOR for services during the term of this Contract are subject to the provisions of this Contract as though fully set forth in such Task Order. In the event that the provisions of this Contract conflict with any Task Order issued by DISTRICT to CONTRACTOR, the provisions of this Contract shall govern. No other terms and conditions, including, but not limited to, those contained in CONTRACTOR's standard printed terms and conditions, on CONTRACTOR's order acknowledgment, invoices or otherwise, shall have any application to or effect upon or be deemed to constitute an amendment to or to be incorporated into this Contract, any Task Order, or any transactions occurring pursuant hereto or thereto, unless this Contract shall be specifically amended to adopt such other terms and conditions in writing by the parties.

- C. Notwithstanding any other provision of this Contract to the contrary, DISTRICT shall have no obligation to order or purchase any services hereunder and the placement of any Task Order shall be in the sole discretion of DISTRICT. Without limiting the generality of the foregoing, the actual quantity of services to be purchased hereunder shall be determined by DISTRICT in its sole discretion and shall not exceed (i) \$204,000, each contract year, in contract year 1, 3 and 5; and (ii) \$296,000, each contract year, in contract year 2 and 4. This Contract is not exclusive. CONTRACTOR expressly acknowledges and agrees that DISTRICT may purchase at its sole discretion, services that are identical or similar to the services described in this Contract from any third party.
10. TASK ORDERS – Each Task Order will specify the following items, as relevant: specific services requested, schedule for services, location where services are to be performed (with contact person), and cost or estimated cost of services. Each Task Order issued under this Contract shall be made part of, and be incorporated into this Contract, and shall reference this Contract on the face of each Task Order. Should any Task Order not conform to or satisfy the terms of this Contract, CONTRACTOR shall have five (5) business days after receipt to reject the Task Order. By not rejecting the Task Order within five (5) business days, CONTRACTOR will have accepted the Task Order. Acceptance by CONTRACTOR is limited to the provisions of this Contract and the Task Order. No additional or different provisions proposed by CONTRACTOR or DISTRICT shall apply. In addition, the parties agree that this Contract and accepted Task Orders constitute a contract for services and satisfy all statutory and legal formalities of a contract.
11. PRICING, INVOICES, AND PAYMENT
- A. DISTRICT shall pay CONTRACTOR for all services ordered and provided in compliance with the terms and conditions of this Contract and with Task Orders issued under this Contract.
- B. CONTRACTOR shall submit original invoices to DISTRICT in form and substance and format reasonably acceptable to DISTRICT. Each invoice, including supporting documentation, must be prepared in duplicate on CONTRACTOR's letterhead; must list DISTRICT's contract number, Purchase Order Number, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and must be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
- C. Except as specifically set forth in Attachment A or in Task Orders under this Contract, DISTRICT shall not be responsible for any additional costs or expenses of any nature incurred by CONTRACTOR in connection with the provision of the services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc.
- D. CONTRACTOR represents, warrants and covenants that the prices, charges and fees for services set forth in this Contract (on the whole) are at least as favorable as the prices, charges and fees CONTRACTOR charges (on the whole) to other of its customers or clients for the same or substantially similar services provided under the same or substantially similar circumstances, terms, and conditions. If CONTRACTOR agrees or contracts with other clients or customers similarly situated during the Term of this Contract, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), CONTRACTOR hereby agrees that it will reduce the prices, charges and/or fees charged to DISTRICT in respect of the services hereunder to the most favorable rates received by those other clients or customers.
12. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.

- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT's office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to the total value of all Task Orders issued under this Contract. The mediation costs shall not reduce the maximum amount recoverable under this section.
13. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Minda Berbeco

CONTRACTOR: Simpson & Simpson, LLP
644 West 5th Street, Suite 3320
Los Angeles, CA 90071
Attn: Melba W. Simpson

14. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.
15. EMPLOYEES OF CONTRACTOR
- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
 - B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.

- C. CONTRACTOR shall assign those employees listed in the Cost Schedule to perform services under this Contract. CONTRACTOR shall not assign different employees to perform these services without the express written permission of DISTRICT, which DISTRICT will not unreasonably withhold.
 - D. DISTRICT reserves the right to review the credentials to perform the services for any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.
16. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:
- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
 - B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
 - C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
 - D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
 - E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
 - F. Prevent access to such materials by a person or entity not authorized under this Contract.
 - G. Establish specific procedures in order to fulfill the obligations of this section.
17. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed to in writing.
18. PUBLICATION
- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such

report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.

- B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.
- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the Bay Area Air Quality Management District (District). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of the District. The District, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report."

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.
- 19. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing services in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
 - 20. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT's premises.
 - 21. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
 - 22. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to

enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

23. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
24. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
25. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
26. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
28. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
29. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.

30. SURVIVAL OF TERMS – The provisions of sections 8 (Indemnification), 16 (Confidentiality), 17 (Intellectual Property Rights), and 18 (Publication) shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

SIMPSON & SIMPSON, LLP

By: _____
Sharon Landers
Interim Executive Officer/APCO

By: _____
Melba W. Simpson, CPA
Managing Partner

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Alexander Crockett
District Counsel

Attachment A
General Description of Services

Pursuant to Task Orders specifying deliverables, delivery dates, and compensation, CONTRACTOR shall:

- Conduct annual compliance audits of the DISTRICT's Transportation Fund for Clean Air (TFCA) program. The compliance audit will cover TFCA funded projects completed in fiscal year ending June 30, 2022, 2023, 2024, 2025 and 2026.

For the purpose of the compliance audit, the DISTRICT considers a project to be completed when the DISTRICT or a County Program Manager accepts and approves a project sponsor's final invoice, which documents the project sponsor's expenditure of all eligible project funds. For service-based projects, the audit will be conducted after project work has been completed. For vehicle-based projects, the audit will be conducted after all funded equipment has been placed into service.

- Perform annual financial statement audits of the DISTRICT for the fiscal year ending June 30, 2023, 2024, 2025, 2026, and 2027 in accordance with generally accepted auditing standards issued by the American Institute of Certified Public Accountants and in accordance with government auditing standards.