

ATTACHMENT 2

AB 2041, Lowenthal
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PORTS: CONGESTION

SUMMARY:

This bill would establish the Port Congestion Management District as an entity of local government, governed by a board consisting of 7 specified members appointed by, and serving indefinite terms at the pleasure of, the Secretary of Business, Transportation and Housing. This bill contains other related provisions and other existing laws. AB 2041 would induce a shift of on-road heavy-duty port traffic from daylight hours to night time hours and weekends by requiring a fee from shippers who order pickup from ports between 8:00 a.m. and 5:00 p.m., Monday through Friday. Contained with the bill's amendment on April 1, 2004, is language that specifies that the Congestion Fee does not become operable if either a local jurisdiction imposes a separate fee on containers or if it is determined that at least 20 percent of the inbound cargo travels off-peak hours.

BACKGROUND:

Existing law authorizes two or more harbor agencies, as defined, to form a joint powers authority for the purpose of establishing an infrastructure fund and financing port or harbor infrastructure, as specified.

BILL STATUS:

On April 13, 2004, AB 2041 passed the Assembly Committee on Transportation and was re-referred to the Assembly Committee on Appropriations.

SPECIFIC PROVISIONS OF THE BILL:

AB 2041 would create the Port Congestion Management District, consisting of seven specified members to establish and manage a Port Congestion Management Fund. All revenues derived from imposition of the charge would be deposited in the fund and expended to fund certain projects to help alleviate congestion caused by scheduling shipments by commercial motor vehicle during specified hours. The geographic jurisdiction of the district is limited to the Port of Los Angeles and the Port of Long Beach.

The District's Board shall establish a charge for the privilege of transporting cargo by commercial motor vehicle into or out of both ports during the hours of 8:00 a.m. to 5:00 p.m., inclusive, Monday to Friday. Charges shall be paid by the person who orders the shipment and placed into the fund for projects that may be used to encourage inland shipping of cargo into and out of the ports via means other than by commercial motor vehicle, including, but not limited to, rail. Projects could also be funded to further encourage scheduling of shipments during other than normal business hours and for repairing, improving, and expanding existing transportation infrastructure serving the ports to reduce congestion.

SB 2041 will not become operative if the Secretary of Business, Transportation and Housing determines, on January 1, 2005, that:

1. A local transportation agency or authority that has jurisdiction at, or near, the ports has established a fee on container cargo moving through the ports of Los Angeles and Long Beach, or
2. At least 20 percent of the inbound cargo transported by commercial motor vehicles at the ports of Los Angeles and Long Beach occurs at times other than during the hours of 8:00 a.m. to 5:00 p.m., inclusive, Monday to Friday, inclusive.

OPERATIONAL IMPACT ON AQMD:

None.

SUPPORT:

San Pedro and Peninsula Homeowners' Coalition

OPPOSITION:

Pacific Merchant Shipping
Association

RECOMMENDED POSITION:

SUPPORT WITH AMENDMENTS

SUGGESTED AMENDMENTS:

- Include provision which requires the Port Congestion Management District to include a representative of CARB or AQMD.
- Include provision which requires congestion relief projects to achieve a net air quality benefit.
- Include provision to require that congestion relief projects be developed in collaboration with CARB and AQMD.
- Include provision to prioritize projects within Environmental Justice areas.

ARGUMENT IN FAVOR OF AMENDMENTS:

Reduced congestion and use of trucks for movement of containers would likely reduce overall emissions. However, it is unknown to what extent the amended language specifying a 20 percent threshold would affect air quality.

MAY 14, 2004 LEGISLATIVE COMMITTEE

RECOMMENDED POSITION/COMMENTS: *Support with amendments.*

<p>MARITIME PORT STRATEGIC MASTER PLAN TASK FORCE</p>
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SUMMARY:

This bill would establish the Maritime Port Strategic Master Plan Task Force. The Task Force would consist of 12 specified members required to meet, hold public hearings, and compile data on certain issues relating to the growth and congestion of maritime ports. A Task Force Fund would be established requiring each maritime port to submit an unspecified amount of money annually to cover the costs incurred by the task force. AB 2043 would prohibit task force funding from the State General Fund. This bill would require the task force to compile specified information and submit its findings in a report to the Legislature not later than January 1, 2006, including recommendations on methods to better manage the growth of maritime ports and address the environmental impacts of moving goods through those ports.

BACKGROUND:

Existing law provides for the regulation of ports and harbors.

BILL STATUS:

Passed the Assembly Committee on Natural Resources and re-referred to the Committee on Appropriations.

SPECIFIC PROVISIONS OF THE BILL:

The Maritime Port Strategic Master Plan Task Force would be established. Twelve members appointment by, and serving indefinite terms at the please of, the Secretary of Business, Transportation and House. The secretary would appoint one member from each of the following areas of expertise:

- Maritime port in Southern California.
- Maritime port in Northern California.

- Representative for the longshore workers.
- Representative for drivers of commercial vehicles.
- Representative of a community located within, or adjacent to, a maritime port in Southern California.
- Representative of a community located within, or adjacent to, a maritime port in Northern California.
- Representative of an environmental organization with a primary mission of improving air quality.
- Representative of an environmental organization with a primary mission of improving water quality.
- Representative with experience in statewide transportation planning.
- Representative for the shipping lines.

And:

- Two at-large members.

The task force would be required to meet, hold public hearings, and compile data on issues that include, but need not be limited to:

- Projected growth of each maritime port in the state.
- Costs and benefits of developing a coordinate state program to obtain federal funding for maritime port growth, security, and congestion relief.
- Impacts of maritime port growth on the state's transportation system.
- Air pollution caused by movement of goods through the state's maritime ports, and proposed methods of mitigating or alleviating that pollution.
- Identify all state agencies that are involved with the development, planning or coordination of maritime ports in the state.
- Identify other states that have a statewide port master plan and determine whether the plan has assisted those states in improving their maritime ports.

The task force would be required to report to the Legislature not later than January 1, 2006 on recommendations to better manage growth of maritime ports and address the environmental impacts of moving goods through those ports.

OPERATIONAL IMPACTS ON AQMD:

The task may recommend air quality mitigation measures that may require development and enforcement by AQMD. On the positive side, the task force would develop recommendations for better management of port growth as well as addressing environmental impacts including mitigation measures for reducing emissions. It is unclear, however, how recommendations of the task force would impact local, state and federal programs to develop regulations for controlling emissions from port-related sources.

There is concern that all task force appointments would be made by the Secretary of Business, Transportation and Housing with no provision to ensure that state and local air quality agencies are members.

SUPPORT:

None Known

OPPOSITION:

None Known

RECOMMENDED POSITION:

SUPPORT WITH AMENDMENT:

SUGGESTED AMENDMENTS:

Because the largest ports are in our jurisdiction, the task force should include a representative from CARB or AQMD.

MAY 14, 2004 LEGISLATIVE COMMITTEE

RECOMMENDED POSITION/COMMENTS: *Support with amendments.*

LOW EMISSION CONTRACTOR INCENTIVE PROGRAM
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SUMMARY:

This bill would establish a statewide incentive program for low emission contractors through the state Department of General Services.

BACKGROUND:

Existing law requires the State Energy Resources Conservation and Development Commission, the Department of General Services, and the State Resources Board to develop and adopt fuel-efficiency specifications governing the purchase of state motor vehicles and replacement tires that will reduce petroleum consumption of the state vehicle fleet to the maximum extent practicable and cost-effective.

BILL STATUS:

AB 2541 was passed in the Assembly Committee on Business & Professions and re-referred to the Commission on Appropriations.

SPECIFIC PROVISIONS OF THE BILL:

This bill requires:

- The Department of General Services (DGS), in consultation with the Air Resources Board, to establish the preference program by July 1, 2005.
- A preference of at least five percent, on a bidder's total score or points, for meeting any of the following:
 - a) Obtaining low-emission status for its heavy duty off-road equipment fleet.
 - b) Obtaining low emission status for its heavy-duty on-road equipment fleet, as defined.
 - c) Operating a light- or medium-duty vehicle fleet with five percent super ultra low-emission or cleaner vehicles, as defined.

- A preference of at least three percent, on a bidder's total score or points, for a bidder operating an employee rideshare program meeting specified criteria.
- A preference of the lesser of 10 percent of the total score or points or \$100,000 to bidders demonstrating that they can meet or exceed one of the above preference criteria.
- DGS, beginning January 2008, to annually submit a statistical report on the program's progress, including participation rates for each preference.

OPERATIONAL IMPACTS ON AQMD:

There would be no operational impacts on AQMD.

SUPPORT:

Coalition for Clean Air (Sponsor)
American Lung Association
California Air Pollution Control Officer's Association
California Communities Against Toxics
California Environmental Rights Alliance
California League of Conservation Voters
Center for Environmental Health
Clean Air Now
Clean Energy Fuels Corporation
Communities for a Better Environment
Environment California
Natural Resources Defense Council
Physicians for Social Responsibility
Sacramento Metropolitan AQMD
Sierra Club of California
Union of Concerned Scientists

OPPOSITION:

None Known

RECOMMENDED POSITION:
SUPPORT WITH AMENDMENTS

AB 2541 would incentivize the use of low-emission vehicles and would help clean the air.

SUGGESTED AMENDMENT:

The criteria in the bill for low emission vehicles can be strengthened, if so desired. More incentive points should be granted for operators of heavy duty trucks which have been certified to ARB's optional low emission standards, which currently include several natural gas engines. An amendment including specific language for inclusion of vehicles with particulate traps should also be included.

ARGUMENT IN FAVOR OF AMENDMENT:

In general, this is a very constructive means of utilizing the State's purchasing power to leverage additional emission reductions.

<p>MAY 14, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITIONS/COMMENTS: <i>Support with amendments.</i></p>

<p>AIR POLLUTION: SCHOOLBUS IDLING AND IDLING AT SCHOOLS</p>

SUMMARY:

AB 2644 codifies into the Health & Safety Code an Air Toxic Control Measure (ATCM) adopted by the ARB Board in June, 2004, which limits idling of school buses and other transit busses at school sites, and within 100 feet of school sites, to five minutes in any one hour. It also prohibits bus startups at no more than 30 seconds prior to departure from school.

BACKGROUND:

Existing law:

- Designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards.
- Designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution.
- Requires the state board to identify toxic air contaminants that are emitted into the ambient air of the state, and requires the state board to establish toxic control measures to limit schoolbus idling and idling at schools.

These existing regulations require drivers of schoolbuses, transit buses, school pupil activity buses, youth buses, and general public paratransit vehicles, as defined, to among other things, turn off the bus or vehicle engine upon stopping at or within 100 feet of a school, prohibits those drivers from turning the bus or vehicle engine on more than 30 seconds before beginning to depart from a school or within 100 feet of school, and prohibits those drivers from causing the bus or vehicle to idle for more than five consecutive minutes or five aggregate minutes in any one hour at any location greater than 100 feet from a school.

Those existing regulations provide that any violation of those requirements subject the driver or the motor carrier to a minimum civil penalty of \$100. Those existing regulations authorize the state board, peace officers and the authorized representatives of their law enforcement agencies, and air quality management districts and air pollution control districts, to enforce those provisions.

BILL STATUS:

AB 2644 passed the Assembly on May 3, 2004 and is in the Senate pending committee referral.

SPECIFIC PROVISIONS OF THE BILL:

Adds an act to Chapter 8.8 (commencing with Section 44273) to Part 5 of Division 26 of the Health & Safety Code.

The Chapter's purpose is to reduce public exposure, especially schoolage children's exposure, to diesel exhaust particulate matter and other toxic air contaminants by limiting unnecessary idling of specified vehicular sources. In particular:

1. Drivers must turn off the engine upon stopping at a school or within 100 feet of a school and not turn it on more than 30 seconds before beginning to depart from a school or from within 100 feet of a school.
2. Drivers are not to allow the specified vehicle to idle at any location greater than 100 feet from school for either (a) more than five consecutive minutes, or (2) a period or periods aggregating more than five minutes in any one hour.

Certain exceptions apply regarding idling at traffic control devices, in traffic conditions over which the driver has no control, or when idling is necessary to ascertain that the specified vehicle is in safe operating condition. Other sections apply, including driver training, enforcement actions, and record keeping requirements.

OPERATIONAL IMPACT ON AQMD:

AB 2644 may cause increased workload for enforcement staff since it would allow authorized representatives of air quality management districts to enforce the provisions.

Staff notes that codification of a rule adopted by a regulatory agency like CARB has the effect of preventing such agencies from amending the rule through regulation. The codified rule may only be modified by an act of the Legislature signed by the Governor.

SUPPORT:

American Lung Association
Natural Resources Defense Council
Planning and Conservation League
Sierra Club-California

OPPOSITION:

None Known

RECOMMENDED POSITION:

SUPPORT

AB 2644 would reduce toxic exposure of diesel exhaust to school children.

May 14, 2004 LEGISLATIVE COMMITTEE

RECOMMENDED POSITION/COMMENTS: *Support*

**AIR POLLUTION: ENVIRONMENTAL HEALTH
AND AIR QUALITY FUNDING ACT OF 2004**

SUMMARY:

AB 3104 imposes a fee on motor vehicle fuels to fund air pollution reduction programs.

This bill would establish a long-term, stable source of funding for the Carl Moyer Memorial Air Quality Standards Attainment Program, the Lower-Emission School Bus Program, and Voluntary Accelerated Light-Duty Vehicle Retirement Enterprise programs.

BACKGROUND:

Existing Law:

- Establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, providing grants to offset the incremental cost of projects that reduce the emissions of oxides of nitrogen (NO_x) from on-road trucks, off-road non-recreational equipment, locomotives, diesel marine vessels, stationary agricultural engines, and other diesel engines with high emissions.
- Requires ARB to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to meet air quality standards by the earliest practicable date.
- Establishes a voluntary vehicle retirement program under the Bureau of Automotive Repair for vehicles that have failed Smog Check inspections. A similar program to retire vehicles that have not failed Smog Check is administered by the ARB.
- Establishes criteria for a lower emission schoolbus program, as well as a replacement and retrofit program for diesel schoolbuses in the state.
- Requires, until January 1, 2007, any air district with a population of one million or more residents, to spend at least 50% of the moneys appropriated for the Carl Moyer Program on the purchase of reduced emission schoolbuses and on diesel mitigation programs, in a manner that directly reduces air contaminants or their public health risks in communities most affected by air pollution, including communities of minority populations or low-income populations, or both.

BILL STATUS:

On May 4, 2002, in Committee, AB 3104 passed and was re-referred to the Assembly Appropriations Committee. This bill has an urgency clause allowing it to take immediate effect upon the Governor's signature.

SPECIFIC PROVISIONS OF BILL:

This bill requires:

- Makes legislative findings and declarations regarding the contribution of gasoline and diesel fuel to air pollution, the deleterious effects of that pollution, the need to meet federal air quality standards, the role of the Carl Moyer Program, the Lower Emissions School Bus Program, and vehicle retirement programs in reducing air pollution, the need for stable funding for these programs, and the fairness of imposing a per-gallon fee on diesel fuel and gasoline for those purposes.
- Defines various terms for the purposes of the bill.
- Creates the California Environmental Health and Air Quality Fund in the State Treasury.
- Appropriates money in the Fund continuously, without regard to fiscal year, to the Controller for allocation in accordance with the purposes of the bill.
- Requires suppliers of gasoline and diesel fuel in each of the following activities to pay an unspecified fee per gallon:
 - a) The removal of fuel in the state from a terminal or refinery rack;
 - b) The importation of fuel into the state for sale, consumption, use, or warehousing;
 - c) The removal or sale of fuel in the state to an unlicensed person; and,
 - d) The removal or sale of blended fuel in the state by the blender of the fuel.
- Exempts from the fee imposed by this bill, fuel that is required to be shipped, and is shipped, to a point outside of the state by a supplier pursuant to a sales contract under specified conditions.
- Allows persons who have mistakenly paid the fee imposed by this bill to file a claim for refund with the State Board of Equalization (BOE) in the same manner as if the claim were for a refund of the diesel fuel tax.
- Requires persons who have paid the fee for fuel that is subsequently exported for use outside of the state to be reimbursed and repaid the amount of the fee.
- Provides that motor vehicle fuel or diesel fuel that is carried from the state in the fuel tank of a motor vehicle is not deemed to be exported from the state.
- Requires BOE to administer and collect this fee in the same manner as it administers and collects diesel fuel tax.
- Provides procedures for the payment of fees to BOE.

- Requires BOE to retain records of the amount of fee revenue derived from gasoline and diesel fuel, and to provide the aggregate ratio of revenues from gasoline and diesel fuel to the Controller.
- Requires the Air Resources Board (ARB), on January 1 of each year, to provide a breakdown of each air pollution control district's and each air quality management district's relative contribution to the state emissions inventory based on specified emission data.
- Requires the Controller, as soon as practicable, but not later than an unspecified date of each year, to allocate moneys from the Fund to each air district in proportion to the district's share of the state emission inventory.
- Requires the Controller to provide each air district, with the allocation of fee revenues, the aggregate ratio of gasoline to diesel fuel used in the calculation of fee revenues.
- Allows money in the Fund to be used for the payment refunds referenced above, for BOE's administrative costs, and for payments to air districts.
- Requires air districts receiving these funds to develop and adopt a district-wide air quality funding program that it determines will mitigate or prevent the relative harm caused by diesel and gasoline fuel.
- Requires each air district, in coordination with ARB, to establish a priority system for ranking projects in its funding program.
- Requires the ranking criteria to include:
 - a) The extent and severity of diesel and gasoline fuel air pollution that the project is designed to address;
 - b) The cost-effectiveness of the projects in terms of dollars per ton of reduced air pollution;
 - c) The proximity of the contamination to communities and the potential impact on the environment, economic well-being, and public health of those communities; and,
 - d) The projected or past success of the project.
- Provides that projects and programs eligible for funding from the Fund may include:
 1. The Carol Moyer Memorial Air Standards Attainment Program;
 2. The Lower-Emission School Bus Program;
 3. Voluntary Accelerated Light-Duty Vehicle Retirement Enterprises programs; and,
 4. Projects and programs that research, assess, evaluate, or treat asthma and other diseases linked to motor vehicle or diesel fuel-related air pollution, or that provide community clinic assistance or health worker training or deployment for those diseases.

- Requires, for the above expenditures, that air districts with a population of one million or more residents distribute 50% of the funds in a manner that directly benefits low-income communities and communities of color that are disproportionately impacted by air pollution.
- Requires ARB, commencing January 1, 2006, biennially to submit a report to the Legislature and the Governor detailing the recipients of all account funds, projects funded, allocations of funds within the projects, achievements of those projects, and any other information it determines relevant to an overall evaluation of the funding of each program or project. Each report would be required to contain a projection of programs or projects intended to be funded during the two years following submission of the report.
- Contains an urgency clause allowing it to take immediate effect.

OPERATIONAL IMPACT ON AQMD:

May need additional staff resources to implement the program.

SUPPORT:

Sierra Club California (sponsor)
American Lung Association
Bay Area Air Quality Management District
California League of Conservation Voters
Clean Power Campaign
Environmental Entrepreneurs
Natural Resources Defense Council

OPPOSITION:

None on File

RECOMMENDED POSITION:

SUPPORT IN CONCEPT

Staff to work with author on appropriate funding mechanism.

May 14, 2004 LEGISLATIVE COMMITTEE

RECOMMENDED POSITION/COMMENTS: *Support in concept; staff to work with author in identifying appropriate funding mechanisms.*