

**Assembly Bill 392 – (Montanez)
Environmental Justice and Community-Based
Transportation Planning Grants**

Summary: Authorizes regional and local agencies, community based organizations, public universities, nonprofit entities and Native American tribal governments to apply for and receive grants (which may not exceed \$300,000 for any single grant) to undertake environmental justice and community based transportation projects that are directly or indirectly related to the transportation planning process.

The intention is to establish permanent funding for environmental justice and community based transportation projects. These programs are currently authorized by internal policy from the Director of Caltrans.

Background: Existing law states that it is the intent of the Legislature to allocate from the State Highway Account \$10 million annually to the Environmental Enhancement and Mitigation Program (EEMP) Fund administered by the Secretary for Resources. Under AB 392, local, state, and federal agencies and nonprofit entities may apply for and receive grants for environmental enhancement and mitigation projects related to the environmental impact of modifying existing transportation facilities or for the design, construction, or expansion of new transportation facilities.

Status: Currently in Senate Transportation Committee

Specific Provisions: This bill:

- Authorizes various regional and local entities to apply for and receive grants to undertake environmental justice and community-based transportation projects related to the transportation planning process.
- Establishes the Environmental Justice Sub-account and the Community-Based Transportation Planning (CBT) Sub-account within the EEMP Fund and specifies that the Legislature may appropriate funds to support community-based E.J. and transportation planning projects, respectively.
- Specifies that the funding may only be provided from funds transferred to the sub-accounts from the local assistance program of the State Highway Account (SHA).
- Establishes eligibility criteria for projects and program.

Operational Impacts on AQMD: would provide possible grant money AQMD can apply for and receive to further support environmental justice and transportation program activities.

Recommended Position: SUPPORT

Support: Surface Transportation Policy Project (co-sponsor), California Alliance for Transportation Choices (co-sponsor), Anaheim Transportation Network, Bike-to-Work, California Bicycle Coalition, California Futures Network, China Town Transportation Research & Improvement Project, City and County of San Francisco Public Works Department, Cycle Santa Monica, Earth Island Institute, Endangered Habitats League, Fernangeles School, LA Metro Committee, Gray Panthers, Latino Urban Forum, Local Government Coalition, Los Angeles County Bicycle Coalition, Marin Continuum of Housing and Services, New Economics for Women, North Coast Opportunities, Odyssey, Pacoima Beautiful, Peninsula Bicycle and Pedestrian Coalition, People Power!, Planning and Conservation League, Port of Oakland, Rail Advocates of Orange County, Sacramento Housing Alliance, San Joaquin Council of Governments, Sharon Greene and Associates, Showers Pass, Transportation Research Investment Board, Urban Habitat, Vallecito School, Sacramento Walk, and two individual letters.

Opposition: none known.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>
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AMENDED IN ASSEMBLY JANUARY 22, 2004

AMENDED IN ASSEMBLY JANUARY 14, 2004

AMENDED IN ASSEMBLY JANUARY 6, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 392

Introduced by Assembly Member Montanez

February 14, 2003

An act to add Section 164.60 to the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 392, as amended, Montanez. Environmental justice and community-based transportation *planning grants*.

Existing law states that it is the intent of the Legislature to allocate \$10,000,000 annually to the Environmental Enhancement and Mitigation Program Fund. Under these provisions, local, state, and federal agencies and nonprofit entities may apply for and receive grants for environmental enhancement and mitigation projects related to the environmental impact of modifying existing transportation facilities or for the design, construction, or expansion of new transportation facilities.

This bill would also state that it is the intent of the Legislature to allocate not less than \$6,000,000 annually, to be funded through the State Highway Account local assistance program, to the Environmental Justice Fund and Community Based Transportation Planning Fund, which the bill would create *the Environmental Justice Subaccount and the Community-Based Transportation Planning Subaccount in the*

*State Highway Account, which would be funded from funds transferred to the subaccounts from the local assistance program of the State Highway Account. Under the bill, local agencies, nonprofit entities, metropolitan planning organizations, regional transportation organizations, ~~Native-American~~ Native American tribal governments, community-based organizations, public universities, local transportation commissions, port authorities, airport commissions, and similar entities would be authorized to apply for and receive grants from funds for these purposes, not to exceed \$300,000 for any single grant, to undertake environmental justice projects and community-based ~~planning~~ transportation *planning* projects meeting specified requirements. The bill would require the Department of Transportation to evaluate proposals and prepare a list of proposals recommended for funding ~~based upon which it would be required to award grants annually.~~*

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 164.60 is added to the Streets and
- 2 Highways Code, to read:
- 3 ~~164.60. (a) It is the intent of the Legislature to allocate not~~
- 4 ~~less than six million dollars (\$6,000,000) annually to the~~
- 5 ~~Environmental Justice Fund and the Community Based~~
- 6 ~~Transportation Planning Fund, which are hereby created, to be~~
- 7 ~~divided equally between the two funds. The program shall be~~
- 8 ~~funded through the State Highway Account local assistance~~
- 9 ~~program.~~
- 10 *164.60. (a) The Environmental Justice Subaccount and the*
- 11 *Community-Based Transportation Planning Subaccount are*
- 12 *hereby created in the State Highway Account, from which*
- 13 *subaccounts the Legislature may appropriate funds to support*
- 14 *grants for environmental justice and community-based planning*
- 15 *transportation purposes, respectively. The grant programs may*
- 16 *only be funded from funds transferred to the subaccounts from the*
- 17 *local assistance program of the State Highway Account, and any*
- 18 *available funding from that source shall be divided equally*
- 19 *between the two subaccounts.*

1 (b) Local agencies, nonprofit entities, metropolitan planning
2 organizations, regional transportation organizations,
3 ~~Native American~~ *Native American* tribal governments,
4 community-based organizations, public universities, local
5 transportation commissions, port authorities, airport
6 commissions, and similar entities may apply for and may receive
7 grants, not to exceed three hundred thousand dollars (\$300,000)
8 for any single grant, to undertake environmental justice and
9 community-based planning transportation projects that are
10 directly or indirectly related to the transportation planning
11 process.

12 (c) Projects eligible for environmental justice grants shall
13 include, but are not limited to, projects involving one or more of
14 the following, with an emphasis on transit and nonmotorized
15 transportation:

16 (1) Identifying and addressing transportation needs for the
17 community.

18 (2) Identifying and involving underrepresented groups in
19 planning and project development.

20 (3) Improving demographic and socioeconomic analysis to
21 identify emerging communities.

22 (4) Planning and safety improvements for pedestrians and
23 bicycles.

24 (5) Feasibility studies for transportation improvements.

25 (6) Community revitalization and economic development with
26 a transportation component.

27 (7) Improving cooperation in community development
28 between public agencies and communities.

29 (8) Developing guidelines and supporting information for
30 environmental justice elements of the general plan.

31 (9) Assessing the impacts of transportation plans and projects
32 on the community.

33 (10) Bilingual services for hearings, workshops, and
34 promotion of transportation services.

35 (11) Private sector partnerships and foundation investment to
36 enhance mobility and economic vitality.

37 (12) Promoting advanced transportation technology and
38 energy efficiency in communities.

39 (13) Community-based design and public art associated with
40 transportation facilities and right-of-way.

- 1 (14) Transportation projects with community health benefits.
- 2 (15) Improving access to telecommunication and the Internet
- 3 where transportation benefit is demonstrated.
- 4 (16) Transportation and land use projects in central and inner
- 5 cities and older suburbs.
- 6 (17) Transportation outreach projects in underdeveloped rural
- 7 and agricultural areas to environmental justice communities.
- 8 (18) Infill development and ~~brown-field~~ *brownfield*
- 9 redevelopment with a transportation benefit for low-income and
- 10 minority communities.
- 11 (19) Context-sensitive planning for port or airport expansions.
- 12 (20) Planning for improved transportation in low-income
- 13 communities, that also enhances the business climate.
- 14 (d) Projects eligible for funding for community-based
- 15 transportation planning grants shall involve conceptual-level
- 16 planning and design activities that promote one or more of the
- 17 following commonly understood livable community concepts,
- 18 with an emphasis on transit and nonmotorized transportation:
- 19 (1) Long-term sustainable community or economic
- 20 development.
- 21 (2) Improved mobility and transportation choices for a wider
- 22 range of users.
- 23 (3) Increased transit-oriented development or “transit
- 24 villages.”
- 25 (4) Mixed-use development.
- 26 (5) Context sensitive streetscapes.
- 27 (6) Safe and complete pedestrian, bicycle, and transit linkages.
- 28 (7) Jobs and affordable housing balance.
- 29 (8) Reuse or infill/compact development.
- 30 (e) Grant proposals shall be submitted to the department for
- 31 evaluation in accordance with procedures and criteria prescribed
- 32 by the department. The department shall evaluate submitted
- 33 proposals and prepare a list of proposals recommended for
- 34 funding. The department shall include community stakeholders in
- 35 the evaluation process of the grants. Prior to including a proposal
- 36 on the list, the department shall make a finding that the proposal
- 37 is eligible for funding pursuant to subdivision (f).
- 38 (f) Within the fiscal limitations of subdivisions (a) and (b), the
- 39 department shall annually award grants ~~not less than the amounts~~

1 ~~in subdivisions (a) and (b), to fund proposals that are included on~~
2 ~~the list prepared pursuant to subdivision (e).~~
3 (g) Projects funded pursuant to this section shall be projects
4 that contribute to integrating environmental justice into the
5 transportation planning process and for transportation planning
6 activities that encourage livable communities.

Assembly Bill 653 – (Nunez)

(Coauthors: Assembly Members Calderon, Chu, Correa, Hancock, Jackson, Koretz, Laird, Lieber, Montanez, Pavley, Ridley Thomas, Strickland, and Yee - Senators Bowen, Cedillo, Chesbro, Ducheny, Murray, Romero, and Soto)

Energy Efficiency – Public Buildings

Summary: Existing law authorizes the State Public Works Board, until January 1, 2005, to issue revenue bonds, notes, and bond anticipation notes to finance the cost of cogeneration equipment, alternative energy equipment, and conservation measures in public buildings. This bill would delete the repeal date of these provisions, thus making this authority permanent and would make projects that combine conservation measures and alternative energy equipment eligible for funding under these provisions. The bill would also require the board, in determining whether to authorize funding for projects pursuant to these provisions, to evaluate each project in its entirety and analyze the costs and the financial and energy savings over the full life of the project. It would authorize the board, when analyzing a project, to consider any additional value added by product warranties associated with the project.

Background: The Energy Conservation in Public Buildings program was created in 1982 and provided the State Public Works Board (PWB) with authority to issue up to \$500 million in revenue bonds to finance conservation or alternative energy projects in state buildings. Legislation enacted in 1993 made public school buildings eligible for this financing. Under this program, the PWB issues bonds to finance all project-related costs, and the bond principal and interest payments are made from the energy cost savings generated by the project. According to the sponsor, there is still about \$235 million in available bonding authority for the program. Without extending the current sunset date of January 1, 2005, the Department of General Services (DGS) will stop approving future projects this year because of lead time needed for development and bond sales.

Under current law, projects must pay for themselves within 10 years, regardless of the project's life span, and the bundling of energy conservation and alternative energy technology projects is not eligible for funding even though they may be cost-effective. By extending the evaluation period to the full span of the project, longer-term investments that pay off more slowly but are still revenue positive are more likely to be feasible. Furthermore, by "bundling" cogeneration and conservation projects together, some projects like solar cogeneration (which, according to DGS, can be more difficult to make cost-effective) may become feasible.

Status: Currently in Senate Appropriations Committee.

Specific Provisions: This bill extends the sunset date and revises eligibility requirements for bond funding through the "Energy Conservation in Public Buildings" program. Specifically, this bill:

- Deletes the repeal date of January 1, 2005.
- Expands program eligibility to projects that combine conservation measures and alternative energy equipment.
- Requires that each project be evaluated based on its costs and energy savings over the project life.

Operational Impacts on AQMD: No direct impact.

Recommended Position: SUPPORT – This bill, if passed, would result in positive air quality benefits through improved energy efficiency and energy conservation measures in public buildings. There would be the added benefit of reduced dependency of resource-limited energy sources such as oil and gas.

Support: Planning and Conservation League (sponsor), City of San Diego, Clean Power Campaign, Sierra Club California, Vote Solar Initiative.

Opposition: none known.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>
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AMENDED IN SENATE JANUARY 7, 2004
AMENDED IN SENATE SEPTEMBER 12, 2003
AMENDED IN SENATE SEPTEMBER 8, 2003
AMENDED IN SENATE AUGUST 18, 2003
AMENDED IN SENATE JULY 9, 2003
AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member Nunez
(Coauthors: Assembly Members Calderon, Chu, Correa,
Montanez, Ridley–Thomas, and Strickland)
(Coauthors: Senators Cedillo and Murray)

February 19, 2003

~~An act to add Section 454.6 to the Public Utilities Code, relating to energy.~~ *An act to amend Section 15814.15 of the Government Code, relating to energy efficiency.*

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Nunez. *Energy efficiency: electricity generation facilities: rates public buildings.*

Existing law authorizes the State Public Works Board, until January 1, 2005, to issue revenue bonds, notes, and bond anticipation notes to finance the cost of cogeneration equipment, alternative energy equipment, and conservation measures in public buildings.

This bill would delete the repeal date of these provisions, thus making this authority permanent and would make projects that combine conservation measures and alternative energy equipment eligible for funding under these provisions. The bill would also require the board, in determining whether to authorize funding for projects pursuant to these provisions, to evaluate each project in its entirety and analyze the costs and the financial and energy savings over the full life of the project. It would authorize the board, when analyzing a project, to consider any additional value added by product warranties associated with the project.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. Under existing law, a public utility has a duty to serve, including furnishing and maintaining such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public.~~

~~This bill would require the commission, upon application by an electrical corporation, and subject to public hearing, to approve and maintain rates that ensure that the reasonable costs of owning or operating, or of contracting for the output of, facilities for the generation of electricity, that meet certain criteria, are fully recovered for the depreciable life of the facility or the term of the contract.~~

~~The bill would make these provisions applicable to an application filed by an electrical corporation on or before December 31, 2006.~~

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 454.6 is added to the Public Utilities~~
- 2 ~~SECTION 1. Section 15814.15 of the Government Code is~~
- 3 ~~amended to read:~~
- 4 15814.15. (a) The board may issue revenue bonds, notes,
- 5 including commercial paper notes and other forms of negotiable
- 6 short-term indebtedness, and bond anticipation notes pursuant to
- 7 Chapter 5 (commencing with Section 15830) to finance the cost
- 8 of cogeneration equipment, alternative energy equipment,
- 9 *projects that combine conservation measures and alternative*

1 *energy equipment*, and conservation measures constituting the
2 public buildings authorized by this chapter. The total amount of
3 revenue bonds, notes, including commercial paper notes and other
4 forms of negotiable short-term indebtedness, and bond
5 anticipation notes authorized to be issued pursuant to this section
6 in each of the 10 fiscal years beginning with the 1982–83 fiscal
7 year is fifty million dollars (\$50,000,000), for a total of five
8 hundred million dollars (\$500,000,000). Any portion of the
9 authorization not used in any fiscal year may be used in any future
10 fiscal year.

11 ~~(b) This section shall remain in effect only until January 1,~~
12 ~~2005, and as of that date is repealed, unless a later enacted statute,~~
13 ~~which is enacted before January 1, 2005, deletes or extends that~~
14 ~~date.~~

15 *(b) (1) The board, in determining whether to authorize funding*
16 *pursuant to subdivision (a) for projects proposed by the*
17 *Department of General Services, shall do both of the following:*

18 *(A) Evaluate each project in its entirety.*

19 *(B) Analyze the costs and the financial and energy savings over*
20 *the full life of the project.*

21 *(2) In analyzing a project, the board may also consider any*
22 *additional value added by product warranties associated with the*
23 *project.*

24 ~~Code, to read:~~

25 ~~454.6. (a) The Legislature finds and declares all of the~~
26 ~~following:~~

27 ~~(1) Investment in new or repowered efficient and cost-effective~~
28 ~~facilities for the generation of electricity that meet all applicable~~
29 ~~environmental requirements is necessary and essential to ensure~~
30 ~~that adequate generating capacity is available to reliably meet the~~
31 ~~needs of California consumers.~~

32 ~~(2) Investment in new or repowered efficient and cost-effective~~
33 ~~facilities for the generation of electricity, dedicated to the benefit~~
34 ~~of California consumers, for the life of the facility, or if under~~
35 ~~contract, the term of the contract, at just and reasonable rates, is in~~
36 ~~the public interest.~~

37 ~~(3) Investment in repowered electric generation facilities is~~
38 ~~beneficial to California consumers and necessary to replace our~~
39 ~~aging fleet of electric generation facilities with more efficient and~~
40 ~~cost-effective facilities that improve environmental quality,~~

1 ~~reduce costs to consumers, and continue to provide economic~~
2 ~~benefits to the communities in which they are located.~~

3 ~~(4) It is the intent of the Legislature to facilitate investment in~~
4 ~~the construction and operation of new and repowered facilities for~~
5 ~~the generation of electricity, licensed by the State Energy~~
6 ~~Resources Conservation and Development Commission, that meet~~
7 ~~the long-term resource needs of public utilities and are dedicated~~
8 ~~to the benefit of California consumers for the life of the facility, or~~
9 ~~if under contract, the term of the contract, on a cost-of-service~~
10 ~~basis.~~

11 ~~(b) In order to ensure that adequate generating capacity is~~
12 ~~available to meet the electricity needs of California consumers in~~
13 ~~a reliable, efficient, and cost-effective manner, the commission~~
14 ~~may authorize an electrical corporation to recover in rates pursuant~~
15 ~~to subdivision (e), investments in, or the costs of contracting for,~~
16 ~~the output of, new or repowered facilities for the generation of~~
17 ~~electricity, that meet all of the following criteria at the time the~~
18 ~~investments are proposed to the commission:~~

19 ~~(1) The electricity generated by the facility is dedicated to~~
20 ~~serving ratepayers of the electrical corporation for the useful life~~
21 ~~of the facility or the term of the contract on a cost-of-service basis.~~

22 ~~(2) The electricity generated by the facility meets the long-term~~
23 ~~resource adequacy needs of the electrical corporation.~~

24 ~~(3) The electricity generated by the facility is fully dispatchable~~
25 ~~by the electrical corporation for the benefit of the ratepayers of the~~
26 ~~electrical corporation.~~

27 ~~(4) The facility is licensed by the State Energy Resources~~
28 ~~Conservation and Development Commission and meets all~~
29 ~~currently applicable environmental and transmission~~
30 ~~interconnection requirements.~~

31 ~~(5) The investment in the facility and the ratemaking treatment~~
32 ~~is in the public interest.~~

33 ~~(e) In order to ensure that adequate investment in electricity~~
34 ~~generating capacity is made as expeditiously as possible, upon~~
35 ~~application by the electrical corporation, and subject to public~~
36 ~~hearing, the commission shall approve and maintain rates that~~
37 ~~ensure that the reasonable costs of owning and operating, or~~
38 ~~contracting for the output of, new or repowered electricity~~
39 ~~generation facilities that meet the criteria of subdivision (b),~~
40 ~~including a return of, and on, reasonable investment in new or~~

1 repowered electricity generating facilities, are fully recovered for
2 the depreciable life of the facility or the term of the contract. This
3 cost recovery assurance for new or repowered electricity
4 generation facilities shall apply on a nondiscriminatory basis to
5 either of the following:

6 (1) Investments by the electrical corporation.

7 (2) The electrical corporation's full cost of contracting with an
8 unaffiliated or unrelated entity for the portion of electricity
9 produced by a facility that is owned and operated by another entity,
10 that meets the criteria of subdivision (b).

11 (d) The commission shall, in approving rates pursuant to
12 subdivision (c) for an electrical corporation's full cost of
13 contracting with another entity for electricity generated by a
14 facility that meets the criteria in subdivision (b), grant initial
15 consideration to approving rates for an electrical corporation's full
16 cost of contracting with another entity for electricity generated by
17 a repowered facility, if the contract terms offered by the repowered
18 facility are at least as favorable to ratepayers as a facility that meets
19 the criteria in subdivision (b) and has not been repowered.

20 (e) An electrical corporation may submit an application for the
21 cost recovery assurance described in paragraph (2) of subdivision
22 (c) for any facility for which an application for a license from the
23 State Energy Resources Conservation and Development
24 Commission has been submitted, but which has not been approved
25 at the time the electrical corporation submits the application
26 pursuant to this subdivision.

27 (f) As used in this section, the term "repowered" means a
28 facility that undergoes "repowering," as defined in Section
29 25550.5 of the Public Resources Code, as that section existed on
30 January 1, 2003.

31 (g) This section applies to an application filed by an electrical
32 corporation on or before December 31, 2006.

Assembly Bill 1971 – (Lowenthal) Air Pollution – Marine Terminals

Summary: Existing law requires each marine terminal in the state to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to load or unload at the terminal, and charges the local air district (district) with geographical jurisdiction over that marine terminal with enforcing the requirement. This bill would make several clarifying changes to those provisions regarding the application of the above requirements with respect to both idling and queuing.

Existing law also requires each district to determine the necessary level of monitoring and enforcement commensurate with the level of the truck idling problem that exists within the district. This bill would additionally require each district to make that determination with regard to queuing trucks.

Background: This bill is a follow-up to the author's AB 2650 (Chapter 1129, Statutes of 2002). AB 2650 required each marine terminal in the state to operate in a manner that does not cause truck engines to idle for more than 30 minutes while waiting to load or unload at the terminal. AB 2650 was a direct response to concerns about air quality impacts associated with the excessive engine idling resulting from truck congestion at the Ports of Los Angeles and Long Beach. The AQMD supported AB 2650, assisted in its drafting, and is directly involved in its implementation.

Status: Currently in Senate Appropriations Committee.

Specific Provisions: This bill clarifies provisions enacted by AB 2650 (Lowenthal) – [Chapter 1129, Statutes of 2002] that restrict diesel engine idling at marine terminals. Specifically, this bill:

- Allows citations issued for violating idling restrictions to include a unique identifier, such as the cargo container number, instead of the license plate number of the idling truck.
- Clarifies that current restrictions apply to truck queuing in addition to engine idling.

Operational Impacts on AQMD: AQMD inspectors currently perform monitoring and enforcement of idling and queuing at the ports. This bill would support these efforts, as well as our authority to enforce the law, by clarifying that either idling or queuing more than 30 minutes is a violation.

Recommended Position: SUPPORT – This bill, if passed, would result in reduced emissions from truck idling and queuing at the ports. It will also make SB 2650 more effective by explicitly covering all trucks waiting to load or unload at maritime ports, rather than solely those that are idling.

Support: California Teamsters Public Affairs Council, Sacramento Metropolitan Air Quality Management District.

Opposition: none known.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>
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AMENDED IN ASSEMBLY MARCH 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1971

Introduced by Assembly Member Lowenthal

February 12, 2004

An act to amend Section 40720 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1971, as amended, Lowenthal. Air pollution: marine terminals.

Existing

(1) *Existing law* requires the State Air Resources Board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and mobile sources of air pollution in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date. *Existing law requires air pollution control districts and air quality management districts in the state, subject to the powers and duties of the state board, to adopt and enforce rules and regulations to achieve and maintain ambient air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. Existing law generally designates the state board as having the primary responsibility for the control of emissions from motor vehicles in the state, and designates the districts as having the primary control from all sources other than vehicular sources.*

Existing law requires each marine terminal in the state to operate in a manner that does not cause ~~the engines on~~ trucks to idle or queue for more than 30 minutes while waiting to load or unload at the terminal,

and charges the district with geographical jurisdiction over that marine terminal with enforcing the requirement.

This bill would make several clarifying changes to those provisions regarding the application of the above requirements with respect to both idling and queuing.

~~Existing~~

(2) *Existing* law requires each district to determine the necessary level of monitoring and enforcement commensurate with the level of the truck idling problem that exists within the district.

This bill would additionally require each district to make that determination with regard to queuing trucks. By imposing additional duties on ~~local~~ *the* districts, this bill would impose a state-mandated local program.

~~The~~

(3) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

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

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

1 SECTION 1. Section 40720 of the Health and Safety Code is
2 amended to read:

3 40720. (a) Each marine terminal in the state shall operate in
4 a manner that does not cause ~~the engines on~~ trucks to idle or queue
5 for more than 30 minutes while waiting to enter the gate into the
6 marine terminal.

7 (1) Any owner or operator of a marine terminal that operates in
8 violation of this subdivision is subject to a two hundred fifty dollar
9 (\$250) fine per vehicle per violation.

1 (2) Marine terminals in the state shall be monitored by the
2 district with jurisdiction over that terminal to ensure compliance
3 with this subdivision.

4 (3) Citations for violations of this subdivision shall be issued
5 by the applicable district, and shall include the truck license plate
6 number *or other unique identifier, including, but not limited to, the*
7 *cargo container number*, the name of the marine terminal and port
8 at which the violation occurred, and the date and time of the
9 violation.

10 (4) Any action taken by the marine terminal to assess, or seek
11 reimbursement from, the driver or owner of a truck for a violation
12 of this subdivision shall constitute a violation of Article 3
13 (commencing with Section 42400) of Chapter 4 of Part 4.

14 (5) Any owner or operator of a marine terminal or port, or any
15 agent thereof, who takes any action intended to avoid or
16 circumvent the requirements of this subdivision or to avoid or
17 circumvent the reduction of emissions of particulate matter from
18 idling or queuing trucks is subject to a seven hundred fifty dollar
19 (\$750) fine per vehicle per violation, including, but not limited to,
20 either of the following actions:

21 (A) Diverting an idling or queuing truck to area freeways or
22 alternate staging areas, including, but not limited to, requiring a
23 truck to idle or queue inside the gate of a marine terminal.

24 (B) Requiring or directing a truckdriver to turn on and off an
25 engine ~~while on a truck while that truck is~~ idling or queuing.

26 (6) The owner or operator of a marine terminal does not violate
27 this subdivision by causing a truck to idle or ~~queue~~ *queue* for more
28 than 30 minutes while waiting to enter the gate into the marine
29 terminal, if the delay is caused by acts of God, strikes, or declared
30 state and federal emergencies, or if the district finds that an
31 unavoidable or unforeseeable event caused a truck to idle or queue
32 and that the terminal is in good faith compliance with this section.

33 (7) Failure to pay a fine imposed pursuant to paragraph (1) or
34 (5) shall constitute a violation of Article 3 (commencing with
35 Section 42400) of Chapter 4 of Part 4.

36 (b) (1) Subdivision (a) does not apply to any marine terminal
37 that provides, as determined by the district, two continuous hours
38 of uninterrupted, fully staffed receiving and delivery gates two
39 hours prior to and after, peak commuter hours each day, at least
40 five days per week.

1 (2) For the purposes of this subdivision, “peak commuter
2 hours” shall be those hours determined by the district, in
3 consultation with the owners and operators of the marine terminals
4 within the jurisdiction of each district and any labor union that is
5 represented at those marine terminals. The district shall notify the
6 marine terminals of the final determination of the peak commuter
7 hours.

8 (c) Subdivision (a) does not apply to any marine terminal that
9 operates fully staffed receiving and delivery gates for 65 hours,
10 five days per week, if that marine terminal is located at a port that
11 processes less than 3 million containers (20-foot equivalent units
12 (TEUs)) annually.

13 (d) Subdivision (a) does not apply to any marine terminal that
14 operates fully staffed receiving and delivery gates for 70 hours,
15 five days per week, if that marine terminal is located at a port that
16 processes more than 3 million containers (20-foot equivalent units
17 (TEUs)) annually.

18 (e) The district shall determine the necessary level of
19 monitoring and enforcement commensurate with the level of the
20 truck idling or queuing problem existing within its jurisdiction.

21 (f) For the purposes of this section, “marine terminal” means
22 a facility that meets all of the following criteria:

23 (1) Is located at a bay or harbor.

24 (2) Is primarily used for loading or unloading containerized
25 cargo onto or off of a ship or marine vessel.

26 (3) Contains one or more of the following:

27 (A) Piers.

28 (B) Wharves.

29 (C) Slips.

30 (D) Berths.

31 (E) Quays.

32 (4) Is located at a port that processes 100,000 or more
33 containers (20-foot equivalent units (TEUs)) annually.

34 (g) Notwithstanding paragraph (1) of subdivision (a), if a
35 marine terminal implements a scheduling or appointment system
36 for trucks to enter the terminal, the terminal shall be subject to a
37 fine pursuant to subdivision (a) only for a truck that makes use of
38 the system and ~~whose engine~~ *that* idles or queues for more than 30
39 minutes while waiting to enter the gate into the terminal,
40 commencing from the start of the appointment or the time the truck

1 arrives, whichever is later. The scheduling or appointment system
2 shall meet all of the following requirements:

- 3 (1) Provide appointments on a first-come, first-served basis.
- 4 (2) Provide appointments that last at least 60 minutes and are
5 continuously staggered throughout the day.
- 6 (3) Not discriminate against any motor carrier that conducts
7 transactions at the marine terminal in scheduling appointments.
- 8 (4) Not interfere with a double transaction once inside the gate.
- 9 (5) Not turn away or fine a motor carrier if that motor carrier
10 misses an appointment.

11 SEC. 2. Notwithstanding Section 17610 of the Government
12 Code, if the Commission on State Mandates determines that this
13 act contains costs mandated by the state, reimbursement to local
14 agencies and school districts for those costs shall be made pursuant
15 to Part 7 (commencing with Section 17500) of Division 4 of Title
16 2 of the Government Code. If the statewide cost of the claim for
17 reimbursement does not exceed one million dollars (\$1,000,000),
18 reimbursement shall be made from the State Mandates Claims
19 Fund.

Assembly Bill 2024 – (Bermudez) Ports – Transportation Network

Summary: This bill would require the Port of Los Angeles and the Port of Long Beach to evaluate changes to the goods movement network to gauge adherence to certain state goals relative to utilization of and congestion at ports and to collect statistics regarding compliance with federal, state, and local efforts to achieve certain related objectives.

The bill would also require the Business, Transportation and Housing Agency (BT&H) to prepare recommendations to implement additional incentives for movement of port-related cargo during off-peak hours, disincentives for movement of port-related cargo during peak hours, as well as hours for operation of port terminals, railroads, trucks, and distribution centers, and other related matters. The bill would require the recommendations to be submitted to the Legislature in a report by January 1, 2006.

The cost to the ports of participating in this study (and subsequent report) is to come from private funding - and initiation of this project is subject to the availability and receipt of those funds. The cost to BT&H for their role in this report is to be borne by the ports. Initiation of this project on their behalf is contingent upon receiving the necessary funding from the ports.

Background: The intent of this bill is to create a study to the Legislature based on reporting from the ports of Los Angeles and Long Beach, as well as BT&H that will allow the state to monitor and moderate activities between stakeholders in the port industry who are currently negotiating and developing a program to reduce port-related traffic congestion and pollution. The author indicates that this bill may be further amended to reflect the product of those negotiations.

Status: Passed to Senate, in Rules Committee for assignment.

Specific Provisions: Requires BT&H to prepare recommendations on measures to improve the movement of port related cargo. Specifically, this bill:

- Sets forth findings and declarations regarding the important role of maritime ports in this state, the link between increased consumer demand and increases in traffic congestion, and the need to modernize and make security and other improvements to our transportation network. Declares the intent of the Legislature to do the following:

- Create an intermodal transportation system that encourages all participants to utilize transportation facilities during off-peak hours, as defined, in order to streamline the movement of cargo from the ports to distribution centers and to prevent an increase in environmental concerns in the vicinity of the ports; and,
 - Require all participants in the intermodal transportation system to spread the flow of cargo between peak and off-peak hours and to achieve various goals related to reduced emissions from idling trucks, enhanced security, attention to equipment maintenance, improved cargo identification, and improved distribution of port-related traffic between peak and off-peak hours.
- Requires BT&H to prepare recommendations for the necessary statutory changes required to implement measures including, but not limited to, the following:
 - Incentives for movement of port-related cargo during off-peak hours as defined;
 - Disincentives for movement of port-related cargo during peak hours through the appointment system authorized under current law;
 - Mandatory hours for operation of port terminals, railroads, trucks, and distribution centers;
 - Changes in the appointment system; and,
 - Technology and operation upgrades.
- Requires the Ports of Los Angeles and Long Beach to collect statistics on compliance with federal, state, and local efforts regarding use of off-peak hours at port terminals and distribution centers, use of rail facilities, and appointments made and honored at port terminals during peak and off-peak hours.
- Requires the recommendations to be incorporated into a report that would be submitted to the Legislature within six months after the date of enactment of this bill.
- Specifies that the costs of this report shall be borne by assessments on the ports who, along with BT&H, would not be required to complete the data collection and recommendation tasks required under this bill until funding from private sources has been identified to cover all associated costs.

Operational Impacts on AQMD: No direct impact. An indirect benefit of AB 2024 may be reduced enforcement workload and improved air quality as a result of improved traffic flow in and out of the ports.

Recommended Position: SUPPORT with amendments – Cargo movement through the ports by trucks and trains during peak hours adversely impacts air quality in the Basin since the trucks and trains represent significant sources of emissions. While a comprehensive air quality computer modeling analysis of moving goods during off-peak hours has not been performed and would require resolution of a number of technical modeling issues, sensitivity analyses indicate that this goods movement scenario would result in a general air quality benefit.

Staff recommends the inclusion of language requiring BT&H to consult with state and regional air quality regulators when developing recommendations for Legislature.

Support: California Teamsters Public Affairs Council (on the condition that the measure is amended to require the inclusion of feedback from impacted employees), Pacific Merchant Shipping Association

Opposition: none known

JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Support with amendment to include language requiring BT&H to consult with state and regional air quality regulators when developing recommendations for Legislature. Board Member Bill Postmus dissented.

AMENDED IN ASSEMBLY MAY 20, 2004

AMENDED IN ASSEMBLY APRIL 28, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2024

Introduced by Assembly Member Bermudez

February 13, 2004

An act to add Chapter 4.8 (commencing with Section 2195) to Division 3 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2024, as amended, Bermudez. Ports: transportation network.

Existing law provides that the Department of Transportation in the Business, Transportation and Housing Agency has full possession and control of all state highways. Existing law requires the department to engage in various transportation planning activities, including activities related to identification of intermodal corridors of economic significance.

This bill would require the Port of Los Angeles and the Port of Long Beach to ~~develop metrics~~ *evaluate changes to the goods movement network* to gauge adherence to the certain state goals relative to utilization of and congestion at ports and to collect statistics regarding compliance with federal, state, and local efforts to achieve certain related objectives, ~~thereby imposing a state-mandated local program subject to the availability of sufficient funds from private sources for these and related purposes.~~ The bill would also require the ~~Secretary of the~~ Business, Transportation and Housing Agency to prepare recommendations to implement additional incentives for movement of

port-related cargo during off-peak hours, disincentives for movement of port-related cargo during peak hours, hours for operation of port terminals, railroads, trucks, and distribution centers, and other related matters. The bill would require the recommendations to be submitted to the Legislature in a report by January 1, 2006. The bill would require the cost of the report to be borne by assessments on the ports, *and would provide that the agency's duties are contingent on receipt on those funds.*

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

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

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's maritime ports play an integral role in the
- 4 state's economy, providing the focal point for importation of
- 5 foreign goods and exportation of California goods.
- 6 (b) California consumers and businesses rely heavily on the
- 7 maritime industry and the ports to transport goods for use
- 8 throughout the state.
- 9 (c) In 2000, 248 billion imports entered the United States
- 10 through California's ports. With more than three hundred fifty
- 11 billion dollars (\$350,000,000,000) in international commerce,
- 12 California's economy depends on trade. More than one in seven
- 13 California jobs is tied to trade.
- 14 (d) Consumer demand for goods is essential to growth of the
- 15 California economy, however, the increase in cargo movement

1 resulting from increased commerce and a growing economy poses
2 significant challenges.

3 (e) The increasing amount of cargo movement through the
4 ports has created traffic congestion and higher emissions levels
5 during peak commuter traffic hours. This congestion and air
6 pollution is a result of the current system that encourages traffic to
7 move during peak hours.

8 (f) The transportation network must be modernized to
9 encourage the flow of goods during off-peak hours and to thereby
10 also reduce air emissions. Modernization of the transportation
11 network cannot be accomplished incrementally, as all parts of the
12 network must work together to redirect traffic.

13 (g) Off-peak use of the transportation network must be
14 supported by all sectors of the transportation industry.

15 (h) The transportation industry must employ comprehensive,
16 strict security mechanisms that ensure the safety of communities
17 in the vicinity of the ports and that protect valuable cargo.

18 SEC. 2. It is the intent of the Legislature to do all of the
19 following:

20 (a) To create an intermodal transportation system that
21 encourages all participants to utilize transportation facilities
22 during off-peak hours in order to streamline the movement of
23 cargo from the ports to distribution centers and to prevent an
24 increase in environmental concerns in the vicinity of the ports.

25 (b) To develop structural improvements to the intermodal
26 system that will enable movement of increased volumes of cargo
27 through operational efficiencies, greater utilization of alternative
28 transportation systems, and the introduction of new technologies.

29 SEC. 3. Chapter 4.8 (commencing with Section 2195) is
30 added to Division 3 of the Streets and Highways Code, to read:

31

32 CHAPTER 4.8. PORT-RELATED CARGO

33

34 2195. The Port of Los Angeles and the Port of Long Beach
35 shall ~~develop metrics~~ *evaluate changes to the goods movement*
36 *network* to gauge adherence to the state goals in Section 2 of the
37 statute enacting this chapter and shall collect statistics regarding
38 compliance with federal, state, and local efforts to achieve all of
39 the following:

- 1 (a) Utilization of off-peak hours at port terminals. *For the*
2 *purposes of this section, "off-peak hours" means Monday through*
3 *Friday between the hours of 6p.m. and 3a.m., and all day on*
4 *Saturdays and Sundays.*
- 5 (b) Utilization of distribution centers during off-peak hours.
- 6 (c) Utilization of rail facilities.
- 7 (d) Appointments made at port terminals during peak and
8 off-peak hours *through the appointment system as described in*
9 *Chapter 1129 of the Statutes of 2002.*
- 10 (e) Appointments honored at port terminals during peak and
11 off-peak hours.
- 12 2196. *The Port of Los Angeles and the Port of Long Beach*
13 *shall not be required to implement Section 2195 until sufficient*
14 *funds from private sources have been provided to the ports to cover*
15 *all associated costs, including the costs to be incurred by the*
16 *Business, Transportation and Housing Agency pursuant to Section*
17 *2197 and 2198.*
- 18 2197. The Business, Transportation and Housing Agency
19 shall prepare recommendations to implement measures including,
20 but not limited to, the following:
- 21 (a) Additional incentives for movement of port-related cargo
22 during off-peak hours.
- 23 (b) Disincentives for movement of port-related cargo during
24 peak hours.
- 25 (c) Hours for operation of port terminals, railroads, trucks, and
26 distribution centers.
- 27 (d) Measures to increase compliance with the appointment
28 system.
- 29 (e) Technology and operation upgrades.
- 30 In developing its recommendations, the Business,
31 Transportation and Housing Agency shall consider comments
32 from impacted employees and include a summary of those
33 comments in the report prepared pursuant to Section ~~2197~~ 2198.
34 *As used in this section, "impacted employees" means employees*
35 *within the goods movement network.*
- 36 ~~2197.~~
- 37 2198. The recommendations shall be incorporated into a
38 report to be submitted to the Legislature on or before January 1,
39 2006.
- 40 ~~2198.~~

1 2199. The cost of the report shall be borne by assessments on
2 the ports. *The Business, Transportation and Housing Agency shall*
3 *not be required to implement Sections 2197 and 2198 until funds*
4 *have been received from the ports.*

5 ~~SEC. 4. Notwithstanding Section 17610 of the Government~~
6 ~~Code, if the Commission on State Mandates determines that this~~
7 ~~act contains costs mandated by the state, reimbursement to local~~
8 ~~agencies and school districts for those costs shall be made pursuant~~
9 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
10 ~~2 of the Government Code. If the statewide cost of the claim for~~
11 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
12 ~~reimbursement shall be made from the State Mandates Claims~~
13 ~~Fund.~~

Senate Bill 1446 – (Escutia)

(Coauthors: Senators Kuehl and Vasconcellos – Assembly Members Bermudez and Jackson)

Environmental Health Data Tracking

Summary: This bill requires the State Department of Health Services (DHS) and California Environmental Protection Agency (CalEPA) to create an Interagency Office of Environmental Health Tracking for the purpose of disease prevention through interagency collaboration and data integration.

Background: SB 702 (Escutia), Chapter 538, Statutes of 2001, created a working group to study the relationship between chronic diseases and environmental exposures and to submit its report regarding an Environmental Health Surveillance System to the Legislature by July 1, 2003.

Environmental health surveillance is the systematic ongoing collection, collation and analysis of information related to disease and the environment. Reliable surveillance information is a basic tool for identifying and preventing chronic diseases that are related to the environment.

In February of 2004, the SB 702 working group released a report that identified the diseases, environmental hazards and exposure that should be tracked in California. The report also contained the group's findings about the impact of environmentally-related chronic diseases. According to the report, nine of the most significant diseases cost Californians \$10 billion annually. Among the nine are childhood asthma, lead poisoning and cancer.

The working group's report contained a number of recommendations – including the need to coordinate databases that track environmental health and that environmental health data needs to be shared and integrated in a standardized manner and communicated to the public. These conclusions and recommendations led to the proposal in SB 1446 to create an Interagency Office of Environmental Health Tracking.

Status: Passed to Assembly, in Rules Committee for assignment.

Specific Provisions: This bill:

- Creates the interagency Office of Environmental Health Tracking and requires DHS and CalEPA to each provide one half-time research scientist as staff for the new office.
- Specifies objectives over a three-year period of the office including coordinating the environmental health data collection activities of various state government entities.

- Requires, for the 2004-05 fiscal year, the office to develop and sign cooperative agreements for data sharing between the office and specified state agencies, and develop extramural proposals to seek federal and foundation funds to establish pilot tracking projects, fund additional staff positions, and develop solid cost estimates and proposals for a tracking function.

Operational Impacts on AQMD: A tracking system would involve agencies that collect and analyze environmental and health data. As such, AQMD staff would likely be involved in providing and coordinating data on pollutant levels measures by the AQMD's monitoring system. Additionally, staff may be asked to participate from time to time in the planning, coordinating and evaluation aspects of using this data.

Recommended Position: SUPPORT as it would improve the ability of the state to assess the relationships between environmental exposures and health effects – and in the process provide AQMD with yet another tool to gauge air pollution health impacts.

Support: American Lung Association, Breast Cancer Action, California Environmental Rights Alliance, California League of Conservation Voters, California Nurses Association, City of Norwalk, Commonweal, Clean Power Campaign, Environment California, Gray Panthers, Healthy Children Organizing Project, Latino Coalition for a Healthy California, Latino Issues Forum, Latino Resources Defense Council, National Council of Jewish Women, Los Angeles, Natural Resources Defense Council, Office of the Attorney General, Planning and Conservation League, Sierra Club, The Breast Cancer Fund.

Opposition: California Manufacturers and Technology Association, Western States Petroleum Association.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support. Board Member Bill Postmus dissented.</i></p>

AMENDED IN SENATE MAY 12, 2004

AMENDED IN SENATE APRIL 16, 2004

SENATE BILL

No. 1446

Introduced by Senator Escutia
(Coauthors: Senators Kuehl and Vasconcellos)
(Coauthors: Assembly Members Bermudez and Jackson)

February 19, 2004

An act to add Section 104324.27 to the Health and Safety Code, relating to environmental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1446, as amended, Escutia. Environmental health data tracking.

Existing law establishes the Environmental Health Surveillance System through an interagency agreement between the State Department of Health Services, the California Environmental Protection Agency, and the University of California if authorized by the regents, for the purpose of, among other things, tracking and evaluating a variety of chronic diseases in relation to environmental exposures.

This bill would require ~~the establishment~~, pursuant to ~~the that interagency agreement~~, *the establishment* of the Interagency Office of Environmental Health Tracking within the *department's* Division of Environmental and Occupational Disease Control ~~within the State Department of Health Services~~ for the purpose of implementing the ~~health tracking program~~, and ~~would set forth the duties of the office~~ *California Health Tracking Program. The bill would require the department and the Cal/EPA to each provide one 50% time research scientist as staff for the new office. The bill would prescribe the office's*

objectives over a 3-year period and would require the office to complete certain duties for the 2004–05 fiscal year.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Chronic diseases and injuries account for 75 percent of all
- 4 deaths in California.
- 5 (b) The medical and income-loss costs of chronic diseases for
- 6 the state in 2000 were estimated to be \$107 billion.
- 7 (c) Researchers have strong scientific evidence showing that
- 8 many of these diseases, including, but not limited to, respiratory
- 9 illness, adverse pregnancy outcomes, cancer, and developmental
- 10 disabilities, are associated with environmental exposures.
- 11 (d) If preventable environmental hazards account for even 1
- 12 percent of the cost of all chronic diseases in California, action to
- 13 identify and reduce these environmental exposures would save the
- 14 state hundreds of millions of dollars per year.
- 15 (e) The State of California has an inadequate ongoing
- 16 surveillance system to describe trends in environmental hazards or
- 17 exposures and environmentally related diseases, and inadequate
- 18 resources to carry out special studies to explain the trends or to
- 19 explore the policy implications of its findings.
- 20 (f) Environmental surveillance systems are necessary to
- 21 monitor the frequency and geographic distribution of these
- 22 illnesses and exposures and to protect public health.
- 23 (g) Ongoing surveillance of environmentally related diseases
- 24 and priority environmental hazards should be the function and
- 25 responsibility of the State of California.
- 26 (h) There are multiple agencies in California that collect and
- 27 manage health and environmental data, and those databases, which
- 28 could be used for tracking, need to be updated and made uniform.
- 29 However, there is a lack of systematic analysis of the data.
- 30 (i) There needs to be a coordinating body that brings these
- 31 agencies together and promotes collaboration and sets the
- 32 priorities for updating these databases and systems. The cost to

1 integrate, coordinate, and analyze the data is only a fraction of the
2 cost that is spent on collecting the data.

3 (j) An interagency office of environmental health tracking
4 should be established and staffed jointly by the State Department
5 of Health Services and the California Environmental Protection
6 Agency.

7 SEC. 2. Section 104324.27 is added to the Health and Safety
8 Code, immediately following Section 104324.25, to read:

9 104324.27. (a) Pursuant to the memorandum of
10 understanding set forth in Section 104324.25, the department and
11 the California Environmental Protection Agency shall establish
12 the Interagency Office of Environmental Health Tracking within
13 the department's Division of Environmental and Occupational
14 Disease Control for the purpose of implementing the California
15 Health Tracking Program.

16 (b) As used in this chapter "office of health tracking" means
17 the Interagency Office of Environmental Health Tracking
18 established in subdivision (a).

19 (c) The department and the California Environmental
20 Protection Agency shall both provide staff for the office of health
21 tracking *with one 50 percent time research scientist in the*
22 *Environmental Health Investigations Branch of the department,*
23 *and one 50 percent time research scientist in the Office of*
24 *Environmental Health Hazard Assessment. The research scientists*
25 *shall, among other things, assist local communities by providing*
26 *technical assistance to obtain and interpret needed environmental*
27 *health data.*

28 (d) *The objectives of the office of health tracking shall do all of*
29 *the following—be to accomplish the following over a three-year*
30 *period:*

31 (1) Coordinate the multiple tracking data collection activities
32 across various state agencies and work to ~~update and integrate~~
33 ~~priority databases~~ *promote access to priority databases in order to*
34 *integrate data* into the California Environmental Health Tracking
35 System which is currently being developed with a planning grant
36 from the federal Centers for Disease Control and Prevention.

37 (2) Oversee the implementation of the recommendations of the
38 final report of the working group established pursuant to this
39 chapter.

- 1 (3) Facilitate the dissemination of surveillance data to the
2 public and researchers and provide technical assistance on how to
3 interpret the data.
- 4 (4) Develop data sharing agreements, and develop procedures
5 to protect individual privacy.
- 6 (5) Develop a strategic plan that would include a mission
7 statement, critical issues, core priorities for research and
8 surveillance, identification of internal and external stakeholders,
9 and a work plan describing future program development.
- 10 (6) Collate and analyze data, including, but not limited to, all
11 of the following:
- 12 (A) Identifying trends and geographic patterns of disease and
13 environmental hazards or exposures.
- 14 (B) Analyzing hazards, exposures, and diseases with relation to
15 socioeconomic status, race, and ethnicity.
- 16 (C) Provide baseline data and present descriptive information
17 relevant to policy formation that are consistent with existing goals
18 of the program.
- 19 (7) Develop a strategic plan, in consultation with the Office of
20 Environmental Health Hazard Assessment, for obtaining missing
21 information on chemicals as necessary for analyzing significant
22 environmental exposures and potentially damaging health and
23 environmental effects, including reports from the National
24 Academy of Sciences, the European Union's directives on
25 chemicals, and other relevant studies.
- 26 (8) Produce a report to the Legislature once every two years on
27 the status of surveillance activities and related research programs.
- 28 (e) The office of health tracking shall use the program's
29 existing advisory bodies composed of members selected from
30 impacted communities, local government, environmental
31 advocacy groups, the regulated community, labor, and other
32 nongovernmental organizations to review and comment on its
33 findings, to provide input on future directions, to comment on the
34 biennial report, and to ensure accountability to communities and
35 the public.
- 36 *SEC. 3. For the 2004–05 fiscal year, the office of health*
37 *tracking shall do all of the following:*
- 38 (a) *Develop and sign cooperative agreements for data sharing*
39 *between the office of health tracking, the Division of Chronic*
40 *Disease and Injury Control in the department, and the boards,*

1 departments, and offices of the California Environmental
2 Protection Agency. These agreements shall be modeled after the
3 recent Memorandum of Understanding signed by the United States
4 Environmental Protection Agency and the United States
5 Department of Health and Human Services to coordinate
6 collection of health and environmental data.

7 (b) Develop a strategic plan that shall include (1) a mission
8 statement, (2) identification of both critical issues and core
9 priorities for research and surveillance and internal and external
10 stakeholders, and (3) a work plan describing future program
11 development.

12 (c) Develop extramural proposals to seek federal and
13 foundation funds to establish pilot tracking projects, fund
14 additional staff positions, and develop solid cost estimates and
15 proposals for a tracking function.

Senate Bill 1652 – (Murray) Residential Solar Energy Systems

Summary: This bill requires, after January 1, 2006, that an unspecified number of for-sale single-family residences in new developments of at least 25 units, shall be constructed with a solar photovoltaic energy system that produces at least two kilowatts of power. This minimum percentage of residences would increase by an unspecified percentage each year until January 1, 2010.

Background: According to the sponsors, California is over-dependent on dirty, expensive and dangerous fossil fuels that harm our health and our environment. Eighty-eight percent of California's energy comes from fossil fuels, which contributes to the fact that 95 percent of Californians live in areas that fail to meet basic clean air standards.

Solar energy, on the other hand is virtually limitless and is generated exactly at the time when California needs it most on hot summer days. If two kilowatt solar energy systems were installed on all new homes, the state could generate an additional 260 megawatts of clean power, thereby helping meet the state's growing energy needs while reducing reliance on fossil fuels and removing 30,000 pounds of smog-forming pollution each year. This bill is intended to promote the use of solar energy in new homes without the need for expensive state subsidies.

The bill states legislative intent to create an incentive to both promote the use of solar energy systems in new housing and reduce overall energy consumption from the grid by directing the California Energy Commission to partially count energy generation from solar energy systems towards the energy conservation compliance budget for a new home.

Status: Passed to Assembly, in Housing & Community Development Committee

Specific Provisions:

- An unspecified minimum number of single-family residences constructed after 1/1/06 as part of a development of at least 25 homes per project that is intended or offered for sale shall be constructed with solar photovoltaic energy systems that produce an average of at least two kilowatts alternating current of electrical power per residence.

The minimum percentage of single-family residences shall increase by an unspecified percent each year until January 1, 2010.

Provides that nothing in SB 1652 shall prevent an owner or developer from installing both solar photovoltaic and solar thermal systems in excess of this minimum standard.

Operational Impacts on AQMD: No direct impact.

Recommended Position: SUPPORT – This bill, if passed, would result in positive air quality benefits through energy conservation measures as well as the added benefit of reduced dependency of resource-limited energy sources such as oil and gas. It would also serve to expand the existing market for solar technologies and probably advance the technology through competitive design.

Support: Environment California (sponsor), Bluewater Network CALPIRG, Clarum Homes, Coalition for Clean Air, Coalition on the Environment and Jewish Life of Southern California, Connect Energy, E-Loan, Inc. , Greenpeace, Intex Solutions, Inc., Physicians for Social Responsibility-Los Angeles, Planning and Conversation League, Sierra Club, The Clean Power Campaign, The Utility Reform Network, The Vote Solar Initiative, University of California, Berkeley.

Opposition: California Building Industry Association.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>
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AMENDED IN SENATE MAY 4, 2004
AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1652

Introduced by Senator Murray

February 20, 2004

~~An act to add Chapter 11.3 (commencing with Section 19875) to Part 3 of Division 13 of the Health and Safety Code, relating to solar energy.~~
An act to add Section 25402.10 to the Public Resources Code, relating to solar energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1652, as amended, Murray. Residential solar energy systems.

Existing law requires a solar energy system to meet applicable standards and requirements imposed by state and local permitting authorities.

This bill would require, on and after January 1, 2006, at least 25% _____ of all single-family residences, constructed as part of a development of at least 25 homes ~~and a density of at least 20 homes per acre~~ that is offered for ~~resale~~ sale, to be constructed with a solar photovoltaic energy system for each unit.

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

1 (a) Air pollution is a serious and widespread public health and
2 environmental problem in California, with economic
3 ramifications.

4 (b) California has ongoing energy affordability and reliability
5 issues. The construction of new centralized powerplants comes at
6 a great cost to the state and to ratepayers in the form of increased
7 air pollution, and expensive construction, permitting, and
8 infrastructure costs.

9 (c) California currently relies on natural gas for the bulk of its
10 electricity needs, and increasing energy demands put pressure on
11 limited natural gas supplies and threaten rising costs.

12 (d) More than 150,000 homes will be built annually in
13 California in the coming years, threatening energy reliability and
14 affordability, and increasing air pollution.

15 (e) California has vast solar energy resources that can be
16 harnessed to generate electricity and reduce the consumption of
17 natural gas.

18 (f) Installing solar photovoltaic home energy systems on new
19 homes can significantly improve air quality by offsetting energy
20 otherwise provided by fossil-fuel powerplants and by preventing
21 the need to build new fossil-fuel powerplants to meet growing
22 energy needs.

23 (g) Increasing California's solar power market will also bring
24 additional manufacturing, installation, and sales jobs to the state
25 at a higher rate than natural gas powerplants.

26 (h) Ultraclean distributed generation, such as solar
27 photovoltaic systems, benefits all ratepayers by preventing the
28 need for expensive infrastructure associated with centralized
29 powerplants.

30 (i) Installing solar energy systems during construction is a
31 cost-effective way of realizing all of the benefits of this
32 technology.

33 ~~SEC. 2. Chapter 11.3 (commencing with Section 19875) is~~
34 ~~added to Part 3 of Division 13 of the Health and Safety Code, to~~
35 ~~read:~~

36
37 ~~CHAPTER 11.3. RESIDENTIAL SOLAR ENERGY CONSTRUCTION~~

38
39 ~~19875. For purposes of this chapter:~~

40 ~~(a)–~~

1 *SEC. 2. Section 25402.10 is added to the Public Resources*
2 *Code, to read:*
3 25402.10. (a) *For purposes of this section:*
4 (1) “Solar photovoltaic system” means any photovoltaic solar
5 collector or other photovoltaic solar energy device whose primary
6 purpose is to provide for the collection, storage, and distribution
7 of solar energy for electric generation.
8 ~~(b)~~
9 (2) “Solar energy system” does not include an electric plant as
10 defined by Section 217 of the Public ~~Utility~~ *Utilities* Code.
11 ~~19875.1. (a)~~
12 (b) On and after January 1, 2006, a minimum of 25 ____
13 percent of single-family residences constructed as part of a
14 development of at least 25 homes per project ~~and with a density of~~
15 ~~not more than 20 homes per acre~~ that is intended or offered for
16 ~~resale~~ *sale* shall be constructed with solar photovoltaic energy
17 systems that produce an average of at least two kilowatts
18 alternating current of electrical power per residence. This
19 minimum percentage of single-family residences shall increase by
20 an additional 10 ____ percent each year until January 1, 2010.
21 ~~(b) Subdivision (a)~~
22 (c) *Subdivision (b)* shall not prevent an owner or developer
23 from installing both solar photovoltaic and solar thermal systems
24 in excess of this minimum standard.
25 *SEC. 3. It is the intent of the Legislature to create an incentive*
26 *to both promote the use of solar energy systems in new housing and*
27 *reduce overall energy consumption from the grid by directing the*
28 *State Energy Resources Conservation and Development*
29 *Commission to partially count energy generation from solar*
30 *energy systems towards the energy conservation compliance*
31 *budget for a new home.*

House of Representatives Bill 4517
(House Energy and Commerce Committee Chairman Joe Barton (R-TX))

United States Refinery Revitalization Act of 2004
To provide incentives to increase refinery capacity in the United States

Summary: H.R. 4517 would provide incentives to increase refinery capacity in the U.S.

Background: Premised on the notion that *"refiners are subject to significant environmental and other regulations and face several new Clean Air Act requirements over the next decade"* and that *"more regulatory certainty for refinery owners is needed to stimulate investment in increased refinery capacity,"* Chairman Barton contends in his bill that *"required procedures for Federal, State, and local regulatory approvals need to be streamlined to ensure that increased refinery capacity can be developed and operated in a safe, timely, and cost-effective manner."*

The bill would give the U. S. Department of Energy (DOE) the lead role in environmental reviews and permitting decisions, including under the Clean Air Act, for refineries located in *"Refinery Revitalization Zones,"* such zones are defined as areas that have experienced *"mass"* layoffs, contain an idle refinery or have an unemployment rate of at least 20 percent above the national average.

Although the Clean Air Act requires new and modified refineries in nonattainment areas to install technology reflecting the Lowest Achievable Emissions Rate (LAER) and achieve emission offsets, and those in attainment areas to install the Best Available Control Technology (BACT) and protect Air Quality Related Values, H.R. 4517 would require BACT only *"as appropriate"* at refineries located in a Refinery Revitalization Zone.

The bill would also authorize DOE to determine the deadline for permit issuance and to prepare a single environmental review document that would serve as the basis for all permitting decisions. In addition, appeals of state or local permit decisions would go to the DOE Secretary with judicial review in the D.C. Circuit.

H. R. 4517 is slated to be considered early this week as part of Energy Week in the House, which is intended to draw attention to stalled energy legislation.

Status: 6/14/2004 Rules Committee Resolution, H. Res. 671, provided for consideration of H.R. 4517 with 1 hour of general debate to be scheduled for early this week (with a vote expected.) Bill is closed to amendments.

Operational Impacts on AQMD: This bill could result in taking away AQMD permit authority at refineries.

Recommended Position: Oppose – Preempts state and local environmental agencies' permitting authority and weakens control technology requirements, which would have a negative effect on air quality.

Support: National Petrochemical and Refiners Association.

Opposition: STAPPA/ALAPCO, National Conference of State Legislatures, The Environmental Council of the States (ECOS), U.S. Public Interest Research Group, Environmental Defense, Sierra Club, American Bottom Conservancy, American Lung Association, Center for Neighborhood Technology, Defenders of Wildlife, Environmental Action Center, Environmental Integrity Project, Gulf Restoration Network, National Environmental Trust * National Parks Conservation Association, Natural Resources Defense Council, Oregon Toxics Alliance, Public Citizen, Reef Relief, 20/20 Vision, The Good Neighbor Committee of South Cook County, The Wilderness Society.

<p>JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Oppose.</i></p>

HR 4517 IH

108th CONGRESS

2d Session

H. R. 4517

To provide incentives to increase refinery capacity in the United States.

IN THE HOUSE OF REPRESENTATIVES

June 4, 2004

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide incentives to increase refinery capacity in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'United States Refinery Revitalization Act of 2004'.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) It serves the national interest to increase refinery capacity for gasoline, heating oil, diesel fuel, and jet fuel wherever located within the United States, to bring more supply to the markets for use by the American people. Forty-eight percent of the crude oil in the United States is used for the production of gasoline. Production and use of refined petroleum products has a significant impact on interstate commerce.

(2) United States demand for refined petroleum products, such as gasoline and heating oil, currently exceeds our domestic capacity to produce them. By 2025, United States gasoline consumption is projected to rise from 8,900,000 barrels per day to 13,300,000 barrels per day. Diesel fuel and home heating oil are becoming larger components of an increasing demand for refined petroleum supply. With the increase in air travel, jet fuel consumption is projected to be 760,000 barrels per day higher in 2025 than today.

(3) The refinery industry is operating at nearly 100 percent of capacity during the peak gasoline consumption season and is producing record levels of needed products at other times. The excess

demand has recently been met by increased imports. The United States currently is importing 7 percent of its refined petroleum products but few foreign refiners can produce the clean fuels required in the United States.

(4) Refiners are subject to significant environmental and other regulations and face several new Clean Air Act requirements over the next decade. Today 153 refineries operate in the United States, down from 324 in 1981. Almost 25 percent of our Nation's refining capacity is controlled by foreign ownership. Easily restored capacity at idled refineries amounted to 539,000 barrels a day in 2002, or 3.3 percent of the total operating capacity. No new refineries have been built in the United States since 1976. Most refineries are located on century-old sites. New Clean Air Act requirements will benefit the environment but will also require substantial capital investment and additional government permits.

(5) Refiners have met growing demand by increasing the use of existing equipment and increasing the efficiency and capacity of existing plants. But refining capacity has begun to lag behind peak summer demand.

(6) Heavy industry and manufacturing jobs have closed or relocated due to barriers to investment, burdensome regulation, and high costs of operation, among other reasons.

(7) More regulatory certainty for refinery owners is needed to stimulate investment in increased refinery capacity.

(8) Required procedures for Federal, State, and local regulatory approvals need to be streamlined to ensure that increased refinery capacity can be developed and operated in a safe, timely, and cost-effective manner.

SEC. 3. DESIGNATION OF REFINERY REVITALIZATION ZONES.

The Secretary of Energy shall designate as a Refinery Revitalization Zone any area--

(1) that--

(A) has experienced mass layoffs at manufacturing facilities, as determined by the Secretary of Labor; or

(B) contains an idle refinery; and

(2) that has an unemployment rate of at least 20 percent above the national average, as set forth by the Department of Labor, Bureau of Labor Statistics, at the time of designation as a Refinery Revitalization Zone.

SEC. 4. COMPLIANCE WITH ALL ENVIRONMENTAL REGULATIONS REQUIRED.

The best available control technology, as appropriate, shall be employed on all refineries located within a Refinery Revitalization Zone to comply with all applicable Federal, State, and local environmental regulations. Nothing in this Act shall be construed to waive or diminish in any manner the applicability to any refinery facility located within a Refinery Revitalization Zone existing or future environmental regulations.

SEC. 5. COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.

(a) Department of Energy Lead Agency- Upon request of an applicant for a Federal authorization related to the siting and operation of a refinery facility within a Refinery Revitalization Zone, the Department of Energy shall be the lead agency for coordinating all applicable Federal authorizations and related environmental reviews of the facility. To the maximum extent practicable under applicable Federal law, the Secretary of Energy shall coordinate this Federal authorization and review process with any Indian Tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and approval of any permit decisions.

(b) Authority to Set Deadlines- As lead agency, the Department of Energy, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian Tribes and State or local agencies willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate and ultimate deadlines for the review of, and Federal authorization decisions relating to, the refinery facility. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 6 months or, where circumstances require otherwise, as soon thereafter as is practicable. The Secretary of Energy also shall provide an expeditious preapplication mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant within 60 days after the prospective applicant submits a request for the information concerning--

(1) the likelihood of approval for a potential facility; and

(2) key issues of concern to the agencies and public.

(c) Consolidated Environmental Review and Record of Decision- As lead agency, the Department of Energy, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 if warranted, or such other form of analysis as may be warranted, in the discretion of the Secretary. Such document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable laws.

(d) Appeals- In the event any agency has denied a Federal authorization required for a refinery facility within a Refinery Revitalization Zone, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the Secretary. Based on the overall record and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with appropriate conditions, or deny the application. The Secretary shall issue a decision within 60 days after the filing of the appeal. In making a decision under this subsection, the Secretary shall comply with applicable requirements of Federal law, including any requirements of the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Toxic Substances Control Act, the National Historic Preservation Act, and the National Environmental Policy Act of 1969. Any judicial appeal of the Secretary's decision shall be to the United States Court of Appeals for the District of Columbia.

(e) Conforming Regulations and Memoranda of Understanding- Not later than 6 months after the date of

enactment of this Act, the Secretary of Energy shall issue any regulations necessary to implement this section. Not later than 6 months after the date of enactment of this Act, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into Memoranda of Understanding to ensure the timely and coordinated review and permitting of refinery facilities within a Refinery Revitalization Zone. The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the Department of Energy regulations and any Memoranda under this subsection. Interested Indian Tribes and State and local agencies may enter such Memoranda of Understanding.

SEC. 6. DEFINITIONS.

For purposes of this Act--

(1) the term 'Federal authorization' means any authorization required under Federal law (including the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Toxic Substances Control Act, the National Historic Preservation Act, and the National Environmental Policy Act of 1969) in order to site, construct, upgrade, or operate a refinery facility within a Refinery Revitalization Zone, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal, State or local agency;

(2) the term 'idle refinery' means any intact refinery facility that has not been in operation after June 1, 2004; and

(3) the term 'refinery facility' means any facility designed and operated to refine raw crude oil into gasoline, heating oil, diesel fuel, or jet fuel by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof.

END

Assembly Bill 2657 – (Nunez)
An Act to Add Chapter 2 (Commencing with Section 42100) to Part 3
Of Division 30 of the Public Resources Code, Relating to Metal Plating Facilities

Summary: This bill is seeking funds for environmental improvements and investments in the metal plating industry.

Background: The Department of Toxic Substances Control has identified approximately 875 metal plating facilities in the State of California – 67% of which are located in the five county LA area, the largest concentration of metal platers anywhere in the United States. The metal plating process impacts the environment, including air, water, and soil. The chemical processes used in metal plating involve the use of various toxic materials, and generate significant amounts of solid and hazardous waste. Hexavalent chromium, a chemical compound intrinsic to the chrome plating process, is a potent known human carcinogen.

The metal plating industry is regulated by a variety of federal, state, and local agencies. Many plating operations are located in communities of color and are in close proximity to sensitive receptors. The metal plating industry's inability to access capital for environmental improvements and investments has been identified by the US EPA as one of its biggest obstacles in meeting current environmental requirements.

Status: Will be heard in Senate Environmental Quality Committee on Monday, 6/21.

Specific Provisions: This bill will set up a trust fund for receiving government/ private funding and direct CalEPA to establish a task force to:

- Complete an inventory of metal plating facilities and past violations;
- Increase inspection and enforcement of metal plating facilities and coordination among regulatory agencies;
- Establish a loan program for metal platers required to add controls due to South Coast Air Quality Management District Rule 1469;
- Develop a protocol for onsite audits of facility compliance and pollution prevention activities;
- Work with industry to develop training programs;
- Adopt buffer zone regulations to prevent new facility siting near sensitive receptors;
- Develop recommendations for future funding; and
- Report by January 1, 2006, to the Legislature.

Operational Impacts on AQMD: This bill would augment AQMD efforts to clean the air and reduce the public's exposure to hexavalent chromium, by providing funding for environmental control and greater enforcement, coordination, and training efforts.

Recommended Position: SUPPORT with amendments – This bill, if passed, would result in reduced health risks from plating facilities. Staff recommends that it be amended to ensure that the bill is consistent with AQMD Rule 1469 regarding metal plating.

Support: None known.

Opposition: None known.

JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Support with amendment to ensure that the bill is consistent with AQMD Rule 1469 regarding metal plating. Board Member Bill Postmus dissented.

AMENDED IN SENATE JUNE 16, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2657

Introduced by Assembly Member Nunez

February 20, 2004

~~An act to add and repeal Chapter 2 (commencing with Section 42100) of Part 3 of Division 30 of the Public Resources Code, relating to solid waste. An act to add Chapter 2 (commencing with Section 42100) to Part 3 of Division 30 of the Public Resources Code, relating to metal plating facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2657, as amended, Nunez. ~~Solid waste: reduction: small business~~ *Metal plating facilities.*

The California Integrated Waste Management Act of 1989 establishes a comprehensive program implemented by the California Integrated Waste Management Board and local agencies to reduce, recycle, and reuse solid waste in an efficient and cost effective manner.

~~This bill would require the board, until January 1, 2011, to conduct a program to make loans and grants to small businesses that meet certain criteria to undertake projects that reduce the amount of solid waste generated by a business or lessen the hazardous properties of that solid waste. The bill would establish the Small Business Solid Waste Reduction Account in the State Treasury and would require the money in the account to be made available, upon appropriation, to the board to fund the loan and grant program. California Environmental Protection Agency to establish and coordinate an Interagency Metal Plating Task Force, and to take specified actions with respect to the~~

regulation of the metal plating industry, as prescribed. The bill would create the Chromium Multi-media Hazardous Waste Reduction Fund in the State Treasury, and would require that the money in the account be expended by the agency to support the task force's activities and to make loans to generators for environmental control equipment.

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. Chapter 2 (commencing with Section 42100) is~~
2 *SECTION 1. (a) The Legislature hereby finds and declares*
3 *all of the following:*
4 *(1) Metal plating facilities are establishments primarily*
5 *engaged in all types of electroplating, plating, anodizing,*
6 *coloring, and finishing of metals and formed products for the*
7 *trade.*
8 *(2) Most metal platers are small businesses that provide*
9 *support to other larger industries. Facilities conducting metal*
10 *plating activities include everything from small, low-volume*
11 *operations like jewelry repair shops to high-volume production*
12 *line applications. The automotive, electronics, machine*
13 *equipment, and defense industry are the four largest industry*
14 *segments served by metal platers.*
15 *(3) The Department of Toxic Substances Control has identified*
16 *approximately 875 metal plating facilities in the State of*
17 *California, 67 percent of which are located in the five county Los*
18 *Angeles area, the largest concentration of metal platers anywhere*
19 *in the United States.*
20 *(4) There are also large numbers of metal platers in the San*
21 *Francisco Bay area, San Diego, and the Central Valley regions of*
22 *the state.*
23 *(5) The data indicates that 94 percent of the Legislature, 113 of*
24 *the 120 members, have at least one metal plater in their district,*
25 *and over one-third of the state's legislative districts house at least*
26 *10 facilities.*
27 *(6) There is not a complete inventory of facilities in the state*
28 *including locations and proximity to sensitive receptors. Different*
29 *regulatory agencies cite different numbers and there is no central*
30 *database for locations or violations.*

1 (7) *The metal plating process significantly impacts the*
2 *environment, including, air, water, and soil, in a very intensive*
3 *manner. The chemical processes used in metal plating involve the*
4 *use of various toxic materials, and generate significant amounts*
5 *of solid and hazardous waste.*

6 (8) *Hexavalent chromium, a chemical compound intrinsic to*
7 *the chrome plating process, is a known human carcinogen. It is*
8 *also one of the most potent toxic air contaminants for which there*
9 *is no safe threshold exposure level.*

10 (9) *The metal plating industry is regulated by a host of federal,*
11 *state, and local agencies including the United States*
12 *Environmental Protection Agency, the State Air Resources Board,*
13 *the State Water Resources Control Board, the Department of Toxic*
14 *Substances Control, California regional water quality control*
15 *boards, regional air quality management districts, Certified*
16 *Unified Program Agencies (CUPAs), and Publicly Owned*
17 *Treatment Works (POTWs).*

18 (10) *The complexity of metal plating operations requires a*
19 *coordinated regulatory and mitigation approach. Existing*
20 *enforcement efforts are inadequate largely due to budgetary*
21 *constraints and the lack of coordination between the various*
22 *regulatory agencies.*

23 (11) *Within the last few months, the Los Angeles District*
24 *Attorney charged four facilities in the Los Angeles area with*
25 *environmental health and safety violations. Two of these facilities*
26 *were located near elementary schools or day care centers.*

27 (12) *Throughout the state, metal plating facilities are located*
28 *on land that has been zoned for those facilities; however, even*
29 *when operating within compliance levels, the presence of those*
30 *metal platers poses significant problems.*

31 (13) *Many metal plating facilities are located in communities*
32 *of color and in close proximity to "sensitive receptors." For*
33 *example, three out of four schools in the Los Angeles area are*
34 *located near metal plating facilities.*

35 (14) *The metal plating industry's inability to access capital for*
36 *environmental improvements and investments has been identified*
37 *by the United States Environmental Protection Agency as one of*
38 *its biggest obstacles in meeting and exceeding current*
39 *environmental requirements.*

1 (15) *There is a need to educate the metal plating community on*
2 *new technologies and better operating practices, as well as*
3 *changing regulations.*

4 (b) *The Legislature hereby further declares that it is in the best*
5 *interest of the people of California and the communities involved*
6 *to address the various environmental issues posed by the metal*
7 *plating industry while preserving its economic vitality.*
8 *Specifically, funds should be provided to support various*
9 *environmental compliance, technology procurement, pollution*
10 *prevention, and emission reduction measures.*

11 SEC. 2. *Chapter 2 (commencing with Section 42100) is added*
12 *to Part 3 of Division 30 of the Public Resources Code, to read:*

13
14 CHAPTER 2. METAL PLATING FACILITIES

15
16 42100. *For purposes of this chapter, the following definitions*
17 *apply:*

18 (a) *“Agency” means the California Environmental Protection*
19 *Agency.*

20 (b) *“Generator” means a borrower pursuant to this chapter or*
21 *a party that produces hazardous waste and applies for financial*
22 *assistance pursuant to this chapter to reduce hazardous waste as*
23 *generated.*

24 (c) *“Metal plating facility” means an establishment primarily*
25 *engaged in all types of electroplating, plating, anodizing,*
26 *coloring, and finishing of metals and formed products for the*
27 *trade.*

28 (d) *“Pollution prevention” means the same as source reduction*
29 *as defined by subdivision (e) of Section 25244.14 of the Health and*
30 *Safety Code.*

31 (e) *“Sensitive receptor” means residences, schools*
32 *(kindergarten to grade 12, inclusive), licensed day care centers,*
33 *hospitals, and convalescent homes.*

34 42101. *The agency shall establish and coordinate an*
35 *interagency Metal Plating Task Force. The task force shall do all*
36 *of the following:*

37 (a) *Complete an inventory of metal plating facilities, to include*
38 *information on the location of a facility, years in operation, and*
39 *any violations of environmental laws and regulations governing*
40 *those facilities.*

- 1 (b) Increase inspection and enforcement of metal plating
- 2 facilities and coordination among regulatory agencies.
- 3 (c) Establish a loan program for facilities subject to the new
- 4 South Coast Air Quality Management District Rule 1469, which
- 5 regulates hexavalent chromium emissions, to purchase high
- 6 performance environmental control technologies.
- 7 (d) Establish a grant program for the development of new
- 8 environmental control and pollution prevention technologies.
- 9 (e) Develop a protocol for onsite audits of facility compliance
- 10 and pollution prevention activities.
- 11 (f) Work with industry associations to develop training
- 12 programs.
- 13 (g) Coordinate with interested parties, including
- 14 environmental and community groups.
- 15 (h) Adopt buffer zone regulations, prohibiting the future siting
- 16 of new chrome plating facilities within the vicinity of sensitive
- 17 receptors.
- 18 (i) Recommend a long-term approach for the metal plating
- 19 industry, including assessment of various fees and mechanisms for
- 20 financial assurance.
- 21 (j) Report to the Legislature, not later than January 1, 2006, on
- 22 its progress.
- 23 42103. (a) There is hereby created in the State Treasury the
- 24 Chromium Multi-media Hazardous Waste Reduction Fund, for the
- 25 sole purpose of receiving deposits of state, federal, or local
- 26 government money, and other public or private money for
- 27 expenditure by the agency for the purposes of this chapter.
- 28 (b) The money in the Chromium Multi-media Hazardous Waste
- 29 Reduction Fund shall be expended by the agency to support task
- 30 force activities and to make loans to generators for environmental
- 31 control equipment.
- 32 42104. (a) The agency shall, before a loan commitment is
- 33 issued, approve the project to be funded.
- 34 (b) The agency shall publicize and promote the availability of
- 35 loan assistance pursuant to this section.

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**All matter omitted in this version of the
bill appears in the bill as introduced As-
sembly, February 20, 2004 (JR 11)**

O

Senate Bill 429 – (Torlakson)
Petroleum Infrastructure Reliability Act of 2004

Summary: This bill seeks to increase the availability of transportation fuel to the California market by easing existing permitting requirements and thereby promoting incremental investments in new and improved petroleum infrastructure such as ports, marine terminals, refineries, pipelines, and inland terminals.

The proposal would:

- 1) Authorize the Governor to appoint a statewide petroleum infrastructure facilitator within the California Energy Commission.
- 2) Give that appointee the authority to investigate and intervene in local agency permitting, rulemaking, and other proceedings, and refer any existing or proposed rules, regulations, plans, policies, guidelines, permit conditions (or other requirements affecting petroleum infrastructure facilities that he or she feels in some way may delay or restrain the ability of California petroleum infrastructure facilities to produce a consistent and reliable supply of cleaner burning fuels) to a CEC Commissioner for review.
- 3) Prohibit an agency from adopting or maintaining in effect any requirement reviewed under the provisions of this bill - unless that agency addresses each finding made by the appointee (and finds that specific considerations override the bill's criteria.)

Background: Existing law requires the State Energy Resources Conservation and Development Commission (California Energy Commission – CEC) to report to the Governor and the legislator regarding the state's petroleum supply and pricing.

The author contends that California's supply of transportation fuel is not keeping up with growing demand because of the declining number of refineries, and that it is becoming more difficult for California refiners to improve reliability, efficiency, and make incremental capacity increases to meet demand growth for cleaner burning transportation fuels.

Status: Expected to be heard in Assembly Natural Resources Committee on Monday, 6/21.

Specific Provisions: The bill also includes provisions for partial or full consolidation of permitting into a one-stop permit, and has requirements such as:

- Same day permit issuance
- A determination as to whether an application is complete within 15 days of receipt
- Prohibitions on the issuance of involuntary throughput limitations
- Hiring and relying on Certified Permit Application Reviewers

- Issuance of all permits within 60 days which have a negative declaration or are exempt from CEQA, and within 180 days for those with EIRs and have been deemed complete.
- Requiring the permit process to be designed to avoid and reduce vulnerability and gaps in production and to preserve and increase the efficiency and capacity of existing petroleum infrastructure, etc.

Operational Impacts on AQMD: Could result in significant additional resources for planning and rulemaking activities necessitated by the need to achieve emissions reductions to cover shortfalls this bill may create.

Recommended Position: OPPOSE – Enactment of SB 429 could allow the waiver of any requirements such as NSR or other rule or permit requirements if they could be found to “*inhibit or restrain petroleum infrastructure prospects.*” However, SB 429 would weaken air quality regulations even more than NSR reform because, at the least, NSR reform only applied to modifications, and, only waived NSR requirements.

Also at risk of waiver would be any rules and regulations or permit requirements (i.e. “*avoiding and eliminating limitations on the throughput of the components of the California petroleum infrastructure*”) and not just NSR requirements, but for any project whether it is new or a modification.

Support: None known.

Opposition: None known.

JUNE 18, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Oppose. (This bill was presented as an urgency item at the Legislative Committee meeting, and Board Member Bill Postmus stated in the meeting his intent to vote against taking any position without additional review time)

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE APRIL 30, 2003

SENATE BILL

No. 429

Introduced by Senator ~~Morrow~~ Torlakson

(Principal coauthor: Assembly Member Richman)

(Coauthors: Senators Alpert, Cedillo, Denham, Ducheny, and McPherson)

(Coauthors: Assembly Members Aghazarian, Benoit, Bermudez, Campbell, Canciamilla, Chavez, Firebaugh, Shirley Horton, Houston, Matthews, Oropeza, Parra, and Wyland)

February 20, 2003

~~An act to add Section 854.5 to the Public Utilities Code, relating to public utilities.~~ *An act to add and repeal Section 12079 of the Government Code, to amend Section 42321 of, and to add and repeal Section 42322.7 of, the Health and Safety Code, and to add and repeal Chapter 6.7 (commencing with Section 25580) of Division 15 of the Public Resources Code, relating to public resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 429, as amended, ~~Morrow~~ Torlakson. ~~Public utilities: acquisition or control~~ *Energy resources: petroleum infrastructure projects: permits: process.*

(1) Existing law requires the State Energy Resources Conservation and Development Commission to report to the Governor and the Legislature regarding the state's petroleum supply and pricing.

This bill would require the Governor to appoint, until January 1, 2010, a statewide petroleum infrastructure facilitator in the commission to investigate and intervene in rulemaking, permitting, and other

proceedings by state agencies that affect petroleum infrastructure projects in the state, and to suggest best practices and procedures for permit streamlining.

The bill would require all state agencies, not more than 90 days after the Governor appoints the statewide petroleum infrastructure facilitator, to (1) identify and list all permits required by the agency for petroleum infrastructure projects and related facilities in the state; (2) describe all current procedures utilized in practice for streamlining and expediting permitting for petroleum infrastructure projects; and (3) identify and list all laws, rules, regulations, policies, guidelines, and permit conditions that inhibit or restrain petroleum infrastructure prospects.

The bill would require the statewide petroleum infrastructure facilitator, not more than 120 days after appointment, to (1) compile and, upon request, make available to persons proposing to modify, construct, or operate petroleum infrastructure projects, all available guidance documents and other information on permitting petroleum infrastructure projects; (2) upon request of applicants, provide permitting assistance to persons proposing to modify, construct, or operate petroleum infrastructure projects, including assistance in working with local governments in ensuring that local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection; and (3) upon request of applicants, intervene and participate as a party in rulemaking, permitting, and other proceedings by a state agency that affect petroleum infrastructure projects, to streamline the process, preserve existing petroleum infrastructure efficiencies and capacity, and increase petroleum infrastructure efficiencies and capacity.

The bill would require the State Air Resources Board (state board), on or before February 1, 2005, and until January 1, 2010, to consult with the California Air Pollution Control Officers Association, the California Environmental Protection Agency, the Resources Agency, the State Energy Resources Conservation and Development Commission, the United States Environmental Protection Agency, other states, public and private regulated entities, and other interested persons regarding successful methods and best practices for streamlining air quality permits and other permits that may be required for petroleum infrastructure projects.

The bill would require the state board, on or before March 1, 2005, to identify permit streamlining practices, including successful practices implemented by the districts under certain provisions of existing law, and adopt a complete list of permit streamlining techniques, including specified provisions, procedures, and requirements. The bill would require the state board to require the districts to adopt, no later than May 1, 2005, and implement, no later than July 1, 2005, the permit provisions and procedures identified by the state board, thereby imposing a state-mandated local program by imposing new duties upon local air districts.

The bill would require the commission, on or before February 1, 2005, and until January 1, 2010, to initiate consultations with the statewide petroleum infrastructure facilitator, the California Environmental Protection Agency, the Resources Agency, the United States Environmental Protection Agency, other states, air districts, public and private regulated entities, California ports, and other interested persons, regarding successful methods and best practices for streamlining permits, leases, and other governmental authorizations and entitlements that may be required by petroleum infrastructure projects. The bill would require the consultation to include a complete report of agencies' and the regulated entities' experiences with facility siting conducted by the commission, similar processes in other states, and similar processes in this state.

The bill would require the commission, on or before March 30, 2005, to identify permit streamlining practices, including successful practices implemented by the State Air Resources Board under the provisions of the bill described above, and to publish for public comment a complete list of permit streamlining techniques for petroleum infrastructure projects, including certain, specific techniques.

The bill would require the commission, on or before May 1, 2005, to submit a report to the Governor and the Legislature describing the results of the consultation and the specified list, together with detailed recommendations for establishing new, streamlined processes for permitting petroleum infrastructure projects in California in a manner that accomplishes certain requirements.

The bill would permit the Governor, or one or more officials designated by the Governor, to identify existing or proposed regulations and other requirements, and would require a member of the commission to review those requirements to determine if they meet specified criteria. The bill would prohibit a state or local agency from adopting or

maintaining a requirement found not to meet the specified criteria, unless the state or local agency makes a specified finding, thereby imposing a state-mandated local program by imposing new requirements upon local agencies.

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

~~(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. The Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities.~~

~~The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, without first securing authorization to do so from the commission. Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority. The act prohibits a public utility from issuing stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes, or other evidences of indebtedness payable at periods of more than 12 months, without first securing authorization to do so from the commission.~~

Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain public utilities. The commission has conditioned authorization upon the capital requirements of the utility being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve.

This bill would authorize the commission to enforce any condition agreed to by a public utility as part of an application to merge, acquire, or control a public utility or an application to issue stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes, or other evidence of indebtedness. The power to enforce would apply to the utility and the corporation or person holding a controlling interest in the utility. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that it be a condition that the capital requirements of the utility necessary to meet the utility's obligation to serve be given first priority. The bill would declare that these provisions state existing law.

The bill would require the commission to order the corporation or person holding a controlling interest to infuse sufficient capital into the utility to enable it to fulfill its obligation to serve. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that a balanced capital structure be maintained in the utility and that retained earnings not be transferred to the controlling corporation or person where doing so would decrease the utility's net equity below that adopted by the commission in the utility's last general rate proceeding. The bill would require that whenever the commission authorizes a corporation or person to hold a controlling interest in an electrical or gas corporation, that any dividend policy of the utility be set by the utility's board of directors as though the utility is a stand-alone electrical or gas corporation. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

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

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

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

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

- 1 ~~SECTION 1. Section 854.5 is added to the Public Utilities~~
2 SECTION 1. *This act shall be known, and may be cited, as the*
3 *Petroleum Infrastructure Reliability Act of 2004.*
4 SEC. 2. *The Legislature hereby finds and declares all of the*
5 *following:*
6 (a) *California's supply of transportation fuel is not keeping*
7 *pace with growing demand.*
8 (b) *California consumers desire to use the cleanest available*
9 *transportation fuels. California has been a pioneer in the*
10 *development of cleaner burning gasoline and other cleaner*
11 *burning transportation fuels.*
12 (c) *In the past two decades, the number of petroleum refineries*
13 *in California and the nation has declined, and no new refineries*
14 *are anticipated in California.*
15 (d) *It is becoming more difficult for California refiners to*
16 *improve reliability, improve efficiency, and make incremental*
17 *capacity increases to meet demand growth for cleaner burning*
18 *transportation fuels. Imports of finished cleaner burning*
19 *transportation fuels and blending stocks are now critical to*
20 *balancing supply and demand in California.*
21 (e) *Ports, marine terminals, refineries, pipelines, terminals,*
22 *and other elements of the California petroleum infrastructure are*
23 *proving to be inadequate for producing and handling increased*
24 *volumes of cleaner burning transportation fuels.*
25 (f) *California faces potentially serious transportation fuel*
26 *imbalances over the next several years, which necessitate*
27 *immediate action by the state on a statewide basis.*
28 (g) *The purpose of this act is to respond to the problems facing*
29 *the state by promoting incremental investments in new, more*
30 *reliable, more efficient, and environmentally superior components*
31 *of the California petroleum infrastructure, and to assist persons*
32 *proposing to construct and operate petroleum infrastructure*
33 *facilities, without in any manner compromising environmental*
34 *protection.*

1 SEC. 3. Section 12079 is added to the Government Code, to
2 read:

3 12079. (a) The Governor shall appoint a statewide
4 petroleum infrastructure facilitator in the State Energy Resources
5 Conservation and Development Commission to investigate and
6 intervene in rulemaking, permitting, and other proceedings by
7 state agencies that affect petroleum infrastructure projects in the
8 state, and to suggest best practices and procedures for permit
9 streamlining.

10 (b) The Governor may authorize and direct the chair of the
11 State Energy Resources Conservation and Development
12 Commission to designate individual members of the commission
13 to investigate and intervene in agency rulemaking, permitting, and
14 other proceedings affecting petroleum infrastructure projects in
15 the state and to suggest best practices and procedures for permit
16 streamlining.

17 (c) Not more than 90 days after the Governor appoints a
18 statewide petroleum infrastructure facilitator pursuant to
19 subdivision (a), all state agencies shall do all of the following:

20 (1) Identify and list all permits required by the agency for
21 petroleum infrastructure projects and related facilities in the state.

22 (2) Describe all current procedures utilized in practice for
23 streamlining and expediting permitting for petroleum
24 infrastructure projects.

25 (3) Identify and list all laws, rules, regulations, policies,
26 guidelines, and permit conditions that inhibit or restrain
27 petroleum infrastructure prospects.

28 (d) Not more than 120 days after appointment pursuant to
29 subdivision (a), the statewide petroleum infrastructure facilitator
30 shall do all of the following:

31 (1) Compile and, upon request, make available to persons
32 proposing to modify, construct, or operate petroleum
33 infrastructure projects, all available guidance documents and
34 other information on permitting petroleum infrastructure projects.

35 (2) Upon request of applicants, provide permitting assistance
36 to persons proposing to modify, construct, or operate petroleum
37 infrastructure projects, including, but not limited to, assistance in
38 working with local governments in ensuring that local permits,
39 land use authorizations, and other approvals made at the local
40 level are undertaken in the most expeditious manner feasible

1 *without compromising public participation or environmental*
2 *protection.*

3 *(3) Upon request of applicants, intervene and participate as a*
4 *party in rulemaking, permitting, and other proceedings by a state*
5 *agency that affect petroleum infrastructure projects, to streamline*
6 *the process, to preserve existing petroleum infrastructure*
7 *efficiencies and capacity, and to increase petroleum infrastructure*
8 *efficiencies and capacity.*

9 *(e) The statewide petroleum infrastructure facilitator shall*
10 *work with the Legislature to introduce and enact legislation as*
11 *expeditiously as possible to streamline and expedite permitting for*
12 *petroleum infrastructure projects in the state.*

13 *(f) In carrying out the duties imposed pursuant to this section,*
14 *the statewide petroleum infrastructure facilitator shall consult*
15 *with all of the following:*

16 *(1) The Chair of the State Energy Resources Conservation and*
17 *Development Commission.*

18 *(2) The Chair of the State Air Resources Board.*

19 *(3) The Secretary for Environmental Protection.*

20 *(4) The Secretary of the Resources Agency.*

21 *(5) The Director of the Governor's Office of Planning and*
22 *Research.*

23 *(6) Representatives from the United States Environmental*
24 *Protection Agency, the United States Department of Energy, the*
25 *United States Department of the Interior, and other affected*
26 *federal agencies, as appropriate.*

27 *(7) Representatives of local and regional agencies, including,*
28 *but not limited to, air pollution control districts and air quality*
29 *management districts.*

30 *(g) This section shall remain in effect only until January 1,*
31 *2010, and as of that date is repealed, unless a later enacted statute*
32 *that is enacted before January 1, 2010 deletes or extends that date.*

33 *SEC. 4. Section 42321 of the Health and Safety Code is*
34 *amended to read:*

35 *42321. The Legislature hereby finds and declares as follows*
36 *all of the following:*

37 *(a) California's air pollution control programs have been*
38 *among the most successful efforts in the country to reduce air*
39 *pollution and to protect public health and the environment.*

1 (b) It is in the interest of the people of the state, particularly
2 during times of economic difficulty, to enact laws ~~which~~ *that*
3 improve the processes by which businesses comply with
4 environmental and air quality laws, without sacrificing the
5 protection of public health and the environment.

6 (c) The purpose of this article is to ~~require~~ *do both of the*
7 *following:*

8 (1) *Require* districts to review their permit programs and to
9 institute new, efficient procedures ~~which~~ *that* will assist businesses
10 in complying with regional, state, and federal air quality laws in
11 an expedited fashion, without reducing protection of public health
12 and the environment.

13 (2) *Require the state board to assist applicants and districts in*
14 *identifying and instituting new, efficient procedures to assist*
15 *applicants for permits for petroleum infrastructure projects in*
16 *complying with regional, state, and federal air quality laws in an*
17 *expedited fashion, for the purpose of preserving the efficiencies*
18 *and capacity of existing petroleum infrastructure and increasing*
19 *the efficiencies and capacity of the petroleum infrastructure,*
20 *without reducing protection of public health and the environment.*

21 SEC. 5. Section 42322.7 is added to the Health and Safety
22 Code, to read:

23 42322.7. (a) *On or before February 1, 2005, the state board*
24 *shall consult with the California Air Pollution Control Officers*
25 *Association, the California Environmental Protection Agency, the*
26 *Resources Agency, the State Energy Resources Conservation and*
27 *Development Commission, the United States Environmental*
28 *Protection Agency, other states, public and private regulated*
29 *entities, and other interested persons regarding successful*
30 *methods and best practices for streamlining air quality permits*
31 *and other permits that may be required for petroleum*
32 *infrastructure projects.*

33 (b) *On or before March 1, 2005, the state board shall identify*
34 *permit streamlining practices, including, but not limited to,*
35 *successful practices implemented by the districts as directed by*
36 *Sections 42322 and 42322.5, and shall adopt a complete list of*
37 *permit streamlining techniques, including, but not limited to, all*
38 *of the following:*

39 (1) *Provisions for same-day permit issuance for qualified*
40 *petroleum infrastructure projects.*

1 (2) Streamlined procedures for hiring and relying on certified
2 permit application reviewers for petroleum infrastructure projects.

3 (3) Requiring that the districts determine whether an
4 application for a petroleum infrastructure project is complete, not
5 more than 15 days after receiving the application.

6 (4) Review, avoidance, and deletion of involuntary limitations
7 on the throughput of any components of the state petroleum
8 infrastructure.

9 (c) The state board shall require the districts to adopt, no later
10 than May 1, 2005, and implement, no later than July 1, 2005, the
11 permit provisions and procedures identified by the state board
12 under subdivision (b).

13 (d) The state board shall continuously identify permit
14 streamlining practices to preserve the efficiencies and capacity of
15 existing petroleum infrastructure and to increase the efficiencies
16 and capacity of petroleum infrastructure in the state, and shall
17 require the districts to adopt and implement all other best practices
18 identified by the state board on an expeditious basis.

19 (e) The state board may waive the requirement for a district to
20 implement a best practice if the district can demonstrate both of the
21 following:

22 (1) That its existing district program performs at least as
23 effectively as a streamlining practice identified under subdivision
24 (b) or (d).

25 (2) That the district program has, in actual practice, resulted
26 in simplifying and expediting permitting for petroleum
27 infrastructure projects.

28 (f) The state board shall revise its best practices list after
29 holding a public meeting, and the districts shall adopt the revised
30 practices at least annually.

31 (g) This section shall remain in effect only until January 1,
32 2010, and as of that date is repealed, unless a later enacted statute
33 that is enacted before January 1, 2010 deletes or extends that date.

34 SEC. 6. Chapter 6.7 (commencing with Section 25580) is
35 added to Division 15 of the Public Resources Code, to read:

36

37 CHAPTER 6.7. PETROLEUM INFRASTRUCTURE PROJECTS

38

39 25580. For the purposes of this chapter, "petroleum
40 infrastructure projects" include marine terminals, port facilities,

1 *product storage facilities, pipelines, land terminals, refinery*
2 *projects, and related kinds of facilities identified by the*
3 *commission as being necessary to assure a consistent and reliable*
4 *supply of cleaner burning gasoline, ultra low sulfur diesel fuel, and*
5 *other petroleum products to California consumers.*

6 *25582. The Legislature hereby finds and declares all of the*
7 *following:*

8 *(a) California is making increasing and new demands for*
9 *petroleum products, including demands for alternative and*
10 *cleaner burning transportation fuels.*

11 *(b) It is in the best interests of the people of the state to enact*
12 *laws that improve the processes by which California fuel producers*
13 *and importers comply with environmental, land use, and siting*
14 *laws, without sacrificing the protection of public health and the*
15 *environment.*

16 *(c) Certain projects are vital to ensuring the reliability, to*
17 *preserving the existing efficiencies and capacity, and to increasing*
18 *the efficiencies and capacity of state ports, refineries, terminals,*
19 *pipelines, and other petroleum infrastructure facilities. It is in the*
20 *best interests of the people of the state to streamline permitting for*
21 *petroleum infrastructure projects to preserve and increase the*
22 *efficiencies and capacity of the California petroleum*
23 *infrastructure.*

24 *(d) Rules, regulations, policies, guidelines, and permit*
25 *conditions adopted by local, regional, and state regulatory*
26 *agencies may significantly impair the ability of petroleum*
27 *infrastructure facilities to produce a consistent and reliable supply*
28 *of cleaner burning gasoline and other products for California*
29 *consumers.*

30 *(e) It is in the best interests of the people of the state for the*
31 *commission to review regulations to ensure continued, consistent,*
32 *and reliable operation of California petroleum infrastructure*
33 *facilities and reduce the need for California to import gasoline.*

34 *25584. (a) On or before February 1, 2005, the commission*
35 *shall initiate consultations with the facilitator appointed pursuant*
36 *to subdivision (a) of Section 12079 of the Government Code, the*
37 *California Environmental Protection Agency, the Resources*
38 *Agency, the United States Environmental Protection Agency, other*
39 *states, air districts, public and private regulated entities,*
40 *California ports, and other interested persons, regarding*

1 *successful methods and best practices for streamlining permits,*
2 *leases, and other governmental authorizations and entitlements*
3 *that may be required by petroleum infrastructure projects.*

4 *(b) The consultation required pursuant to subdivision (a) shall*
5 *include a complete report of agencies' and the regulated entities'*
6 *experiences with facility siting conducted by the commission,*
7 *similar processes in other states, and similar processes in this*
8 *state.*

9 *(c) On or before March 30, 2005, the commission shall identify*
10 *permit streamlining practices, including, but not limited to,*
11 *successful practices implemented by the State Air Resources Board*
12 *under Section 42322.7 of the Health and Safety Code, and shall*
13 *publish for public comment a complete list of permit streamlining*
14 *techniques for petroleum infrastructure projects, including, but*
15 *not limited to, all of the following:*

16 *(1) Developing and implementing partially or fully*
17 *consolidated permit programs for petroleum infrastructure*
18 *projects.*

19 *(2) Adopting criteria for the types of permitting actions for*
20 *petroleum infrastructure projects eligible for streamlining and for*
21 *a simplified permitting process.*

22 *(3) Adopting streamlined lists and criteria for application*
23 *completeness determinations for petroleum infrastructure*
24 *projects.*

25 *(4) Adopting mandatory deadlines for actions on permits for*
26 *petroleum infrastructure projects, similar to those enforceable by*
27 *appeal under Section 42302 of the Health and Safety Code.*

28 *(5) Avoiding and eliminating limitations on the throughput of*
29 *components of the California petroleum infrastructure.*

30 *(6) Relying on actual emissions performance standards that*
31 *allow the maximum flexibility in utilizing existing efficiencies and*
32 *capacity and increasing efficiencies and capacity of the California*
33 *petroleum infrastructure.*

34 *(d) On or before May 1, 2005, the commission shall submit a*
35 *report to the Governor and the Legislature describing the results*
36 *of the consultation pursuant to this section and the list published*
37 *pursuant to subdivision (c), together with detailed*
38 *recommendations for establishing new, streamlined processes for*
39 *permitting petroleum infrastructure projects in California in a*
40 *manner that meets all of the following criteria:*

- 1 (1) Requires a permit that is exempt from review under the
2 California Environmental Quality Act (Division 13 (commencing
3 with Section 21000)), or for which review is satisfied by a negative
4 declaration or a mitigated negative declaration, to be issued not
5 more than 60 days after the application is deemed complete.
6 (2) Requires a partly or completely consolidated permit to be
7 issued not more than 180 days after the application is determined
8 or deemed complete.
9 (3) Requires a local, regional, state or federal permit or other
10 governmental authorization excluded from a consolidated permit
11 process to be expedited by the permitting authority.
12 (4) Requires lists and criteria for determining application
13 completeness to include only information that significantly
14 enables the permitting authorities to initiate permit processing.
15 (5) Requires the permitting process to avoid and reduce
16 vulnerabilities and gaps in the California petroleum
17 infrastructure, preserve the efficiencies and capacity of existing
18 petroleum infrastructure, and increase the efficiencies and
19 capacity of the California petroleum infrastructure.
20 (6) Allows additional investments to be made to preserve and
21 increase the capacity, efficiencies, reliability, and environmental
22 performance of the California petroleum infrastructure.
23 25586. (a) The Governor, or one or more officials designated
24 by the Governor, may identify existing or proposed rules,
25 regulations, plans, policies, guidelines, permit conditions, or
26 other requirements affecting petroleum infrastructure facilities
27 and refer them to the commission for review in accordance with the
28 criteria in subdivision (d) of Section 22584.
29 (b) The chair of the commission shall designate a single
30 commissioner to review requirements affecting petroleum
31 infrastructure facilities that are referred under subdivision (a).
32 (c) The designated commissioner shall promptly review and
33 issue findings on whether referred requirements meet the criteria
34 in subdivision (d) of Section 25584.
35 (d) A state or local agency may not adopt or maintain in effect
36 any requirement reviewed pursuant to this section that is found to
37 not meet the criteria in subdivision (d) of Section 25584, unless the
38 state or local agency addresses each finding made by the
39 designated commissioner pursuant to subdivision (c), and finds

1 *that specific considerations override the criteria in subdivision (d)*
2 *of Section 25584.*

3 25588. (a) *In taking any action under this chapter, the*
4 *commission may adopt rules and regulations as necessary to*
5 *ensure that relevant duties pursuant to this chapter are carried out.*

6 (b) *To implement this section, the commission may adopt*
7 *emergency regulations in accordance with Chapter 3.5*
8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
9 *2 of the Government Code. For purposes of that chapter, including,*
10 *but not limited to, Section 11349.6 of the Government Code, the*
11 *adoption of the regulations shall be considered by the Office of*
12 *Administrative Law to be necessary for the immediate*
13 *preservation of the public peace, health, safety, and general*
14 *welfare.*

15 25590. *This chapter shall remain in effect only until January*
16 *1, 2010, and as of that date is repealed, unless a later enacted*
17 *statute that is enacted before January 1, 2010, deletes or extends*
18 *that date.*

19 SEC. 7. *No reimbursement is required by this act pursuant to*
20 *Section 6 of Article XIII B of the California Constitution for*
21 *certain costs that may be incurred by a local agency or school*
22 *district because a local agency or school district has the authority*
23 *to levy service charges, fees, or assessments sufficient to pay for the*
24 *program or level of service mandated by this act, within the*
25 *meaning of Section 17556 of the Government Code.*

26 *However, notwithstanding Section 17610 of the Government*
27 *Code, if the Commission on State Mandates determines that this*
28 *act contains other costs mandated by the state, reimbursement to*
29 *local agencies and school districts for those costs shall be made*
30 *pursuant to Part 7 (commencing with Section 17500) of Division*
31 *4 of Title 2 of the Government Code. If the statewide cost of the*
32 *claim for reimbursement does not exceed one million dollars*
33 *(\$1,000,000), reimbursement shall be made from the State*
34 *Mandates Claims Fund.*

35 ~~Code, to read:~~

36 ~~854.5. (a) The commission may enforce any condition~~
37 ~~agreed to by a public utility as part of an application to merge,~~
38 ~~acquire, or control either directly or indirectly any public utility~~
39 ~~organized and doing business in this state, pursuant to Section 854.~~

1 ~~(b) The commission may enforce any condition agreed to by a~~
2 ~~public utility as part of an application to issue stocks and stock~~
3 ~~certificates, or other evidence of interest or ownership, or bonds,~~
4 ~~notes, or other evidences of indebtedness, pursuant to Section 818.~~
5 ~~(c) The commission's power to enforce under this section~~
6 ~~applies to the public utility and any corporation or person holding~~
7 ~~a controlling interest in the public utility.~~
8 ~~(d) Whenever the commission authorizes a corporation or~~
9 ~~person to hold a controlling interest in an electrical corporation or~~
10 ~~gas corporation, a condition of that authorization is that the capital~~
11 ~~requirements of the electrical corporation or gas corporation, as~~
12 ~~determined by the commission to be necessary to meet the public~~
13 ~~utility's obligation to serve, shall be given first priority.~~
14 ~~(e) The commission shall order a corporation or person holding~~
15 ~~a controlling interest in an electrical corporation or gas corporation~~
16 ~~to infuse sufficient capital into the public utility, of any type and~~
17 ~~quantity deemed necessary by the commission, to enable the~~
18 ~~public utility to fulfill its obligation to serve.~~
19 ~~(f) Whenever the commission authorizes a corporation or~~
20 ~~person to hold a controlling interest in an electrical corporation or~~
21 ~~gas corporation, a condition of that authorization is that the~~
22 ~~corporation or person maintain a balanced capital structure in the~~
23 ~~public utility, as determined to be reasonable by the commission~~
24 ~~in the public utility's most recent general rate case. No electrical~~
25 ~~corporation or gas corporation shall permit retained earnings to be~~
26 ~~transferred to a corporation or person holding a controlling interest~~
27 ~~in the public utility where doing so would decrease the public~~
28 ~~utility's net equity ratio below that adopted in the public utility's~~
29 ~~last general rate proceeding.~~
30 ~~(g) Whenever the commission authorizes a corporation or~~
31 ~~person to hold a controlling interest in an electrical corporation or~~
32 ~~gas corporation, a condition of that authorization is that the~~
33 ~~dividend policy of the public utility shall continue to be set by the~~
34 ~~public utility's board of directors, as though the public utility were~~
35 ~~a comparable stand-alone electrical corporation or gas~~
36 ~~corporation.~~
37 ~~SEC. 2. The addition of subdivisions (a), (b), (c) and (d) to~~
38 ~~Section 854.5 of the Public Utilities Code by Section 1 of this act~~

1 do not constitute a change in, but are declaratory of, existing law.
2

O