

S.131 Clear Skies Act (Inhofe/Voinovich)

Summary: This bill embodies the Bush Administration’s “Clear Skies Act” proposal for a federal multipollutant trading program aimed at electric utilities.

Background: This bill establishes a “cap-and-trade” program for each of three pollutants (sulfur dioxide [SO₂], nitrogen oxides [NO_x], and mercury [Hg]) emitted by power plants fired by gas, oil, and coal. Since AQMD rules prohibit the burning of oil and coal by electric utilities, NO_x is the only one of the three pollutants representing significant emissions from power plants within the district. The Clear Skies Act divides the nation into two trading zones for NO_x, corresponding to the Eastern and Western portions of the United States; the SO₂ and mercury markets are nationwide. The bill would limit NO_x emissions nationwide from affected units to 2.1 million tons per year by 2010, and 1.7 million tons by 2016; SO₂ would be limited to 4.5 million tons per year by 2010 and 3 million tons by 2016; mercury would be limited to 26 tons in 2010, 15 tons in 2016.

The bill imposes emission limits beginning in 2006 for new electricity generating units, but they are less stringent than those already in effect in the AQMD. By way of comparison, the bill imposes NO_x limits of 0.9 lb/MWh (64 ppm at 3% O₂) for new utility boilers, and 0.56 lb/MWh (15 ppm at 15% O₂) for new simple cycle gas combustion turbines, whereas the AQMD requirements are 5 ppm for new boilers and 3.5 ppm for new simple cycle turbines, respectively. Under this bill, electric utilities are generally not required to go beyond low-NO_x burner technology, whereas in the AQMD, SCR or its equivalent is required for all new power plants that are major sources.

Status: S.131 will be heard in the Senate Committee on Environment and Public Works on March 9, 2005.

Specific Provisions: *

- This bill allows certain industrial sources of NO_x and SO₂ from industrial boilers & heaters, which would include refineries, to “opt-in” to a trading program for these pollutants.

* This bill is over 270 pages long so a copy is not included in this package.

- This bill exempts power plants and industrial sources that opt in to the trading program from New Source Review for 20 years after the effective date of the Act.
- This bill exempts industrial sources that opt in to the program from the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for toxic air emissions relating to industrial boilers and process heaters.
- This bill prohibits state and local governments from adopting rules that would restrict the trading of pollution allowances under the program.

Operational Impact on AQMD:

Because power plants are already well-controlled under RECLAIM and New Source Review, the Clear Skies Act is unlikely to provide any benefit in the AQMD. However, the bill does provide exemptions from basic Clean Air Act requirements for certain affected units under the cap and trade program. For this reason, the national associations of air pollution control officials (STAPPA-ALAPCO [State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials]) as well as ten state attorneys general, including California's, have taken positions opposing the bill. These officials also point out that emissions reductions exceeding those expected from the bill are feasible and cost-effective, and could be obtained more expeditiously under existing law. The provision prohibiting state and local governments from restricting trading could interfere with AQMD's ability to enforce stringent RECLAIM and NSR limits against power plants. Additionally, by creating an allowance trading market that covers half the nation, this bill presents the risk that pollution increases within the district would be offset by decreases in faraway states, doing nothing to help the local ozone and PM non-attainment problem.

A key issue raised by this bill is whether it preempts more stringent state and local regulation. While certain parts of the bill contain express "savings clauses" retaining state and local authority to be more stringent, others do not. While we would argue that the Clean Air Act generally allows state and local governments to adopt more stringent regulations, affected facilities could argue that applying stringent local programs such as New Source Review would interfere with the trading of pollution allowances, which states are prohibited from doing. Thus, the bill presents a potential erosion of state and local ability to combat air pollution as provided under the current Clean Air Act. Moreover, even if AQMD is able to retain its more stringent local standards, local industry would be placed at a competitive disadvantage compared to industries operating under the more lenient rules provided by the Clear Skies Act.

Recommended Position: Because the Clear Skies Act does not assist in reducing pollution in Southern California and potentially hinders AQMD's ability to control air pollution, staff recommends an “**oppose**” position.

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Oppose</i></p>

Assembly Bill AB 32 - (Pavley)
(Coauthors: Assembly Members Chan and Laird)
(Coauthor: Senator Simitian)

Greenhouse Gas Emissions: California Climate Action Registry

Summary: AB 32 expands the responsibilities of the California Climate Action Registry (Registry) by specifying the Registry work in coordination with the California Environmental Protection Agency (Cal EPA) and the State Energy Resources Conservation and Development Commission (CEC) to adopt procedures and protocols on greenhouse gas emissions for specified industrial sectors.

Background: Existing law requires the Secretary of the Resources Agency to establish the California Climate Action Registry as a public benefit nonprofit corporation, and makes legislative findings and declarations relating to the registry. Existing law also requires the registry to perform various functions, including, among other things, the adoption of procedures and protocols for the reporting and certification of greenhouse gas emission reductions resulting from a project or an action of a participant in the registry.

Status: AB 32 was passed 6-2 by the Assembly Committee on Natural Resources on February 28, 2005 and it has been referred to the Assembly Committee on Appropriations.

Specific Provisions:

1. This bill requires the Registry, in coordination with Cal EPA and the CEC, to adopt procedures and protocols for monitoring, estimating, calculating, reporting and certifying greenhouse gas emissions reduction projects that improve energy efficiency, utilize renewable energy, and promote conservation when tilling land.

2. This bill would also require the Registry to adopt procedures and protocols for monitoring, estimating, calculating, reporting and certifying greenhouse gas emissions from the following sectors:

- Oil and natural gas exploration, extraction, processing, refining, transmission, and distribution.
- Cement production.
- Municipal solid waste and industrial waste hauling and disposal.

3. The bill strongly encourages Cal EPA and the CEC to partially fund the development of the Registry's protocols for greenhouse gas emissions reduction projects for the above projects and protocols, including assistance in finding resources for the development of industry specific protocols.

Operational Impacts on AQMD: There are no operational impacts on the AQMD. AB 32 develops industry specific protocols for tracking CO2 emissions from oil, natural gas, cement products, solid waste, waste hauling & disposal. It also develops procedures to calculate emission reductions; and encourages funding from the California Environmental Protection Agency and the State Energy Resources Conservation and Development Commission. There are no changes in the fundamental purpose or functions of the California Climate Action Registry, a public benefit nonprofit corporation. The changes resulting from this bill will enhance opportunities to seek funding and better consideration of greenhouse gases by state agencies. AQMD is a member of this voluntary program. Staff recommends a support position & requests that the Registry re-evaluate 3rd party certification requirements for air quality agencies to reduce costs.

Support:
Natural Resources Defense Council

Opposition:
None on File

Recommended Position: SUPPORT

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i></p>

ASSEMBLY BILL

No. 32

**Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Chan and Laird)
(Coauthor: Senator Simitian)**

December 6, 2004

An act to amend Sections 42801 and 42823 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as introduced, Pavley. Greenhouse Gas Emissions: California Climate Action Registry.

Existing law requires the Secretary of the Resources Agency to establish the California Climate Action Registry (hereafter registry) as a public benefit nonprofit corporation, and makes legislative findings and declarations relating to the registry. Existing law requires the registry to perform various functions, including, among other things, the adoption of procedures and protocols for the reporting and certification of greenhouse gas emission reductions resulting from a project or an action of a participant in the registry.

This bill would revise the functions and duties of the registry by requiring the registry, in coordination with the California Environmental Protection Agency and the State Energy Resources Conservation and Development Commission, to adopt specified procedures and protocols both for monitoring, estimating, calculating, reporting, and certifying greenhouse gas emission reduction projects, and for monitoring, estimating, calculating, reporting, and certifying greenhouse gas emissions resulting from specified industrial sectors, as provided. This bill would require the registry to coordinate with state agencies to promote the development of harmonized reporting

standards, as specified, and would require the registry, to the extent possible, to coordinate with other states and regions to ensure that businesses and organizations operating both in this state and out of state follow uniform protocols when reporting to multiple registries, states, or regions.

This bill would also make additional legislative findings and declarations.

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 42801 of the Health and Safety Code is
2 amended to read:

3 42801. The Legislature finds and declares all of the following:

4 (a) It is in the best interest of the State of California, the
5 United States of America, and the earth as a whole, to encourage
6 voluntary actions to achieve all economically beneficial
7 reductions of greenhouse gas emissions from California sources.

8 (b) Mandatory greenhouse gas emissions reductions may be
9 imposed on California sources at some future point, and in view
10 of this, the state has a responsibility to use its best efforts to
11 ensure that organizations that voluntarily inventory their
12 emissions receive appropriate consideration for changes in
13 emissions quantities made prior to the implementation of any
14 mandatory programs.

15 (c) Past initiatives in the state that took early and responsible
16 action to reduce air pollution and ozone smog have demonstrated
17 political, economic, and technological leadership, and have
18 proven to benefit the state.

19 (d) The state's tradition of environmental leadership should be
20 recognized through the establishment of a registry to provide
21 documentation of greenhouse gas emissions levels voluntarily
22 achieved by sources in the state. The registry will provide
23 participants an opportunity to register greenhouse gas emissions
24 information in a consistent format using publicly reviewed and
25 adopted procedures and protocols.

26 (e) The state hereby commits to use its best efforts to ensure
27 that organizations that establish greenhouse gas emissions
28 baselines and register emissions results that are certified in

1 accordance with this chapter receive appropriate consideration
2 under any future international, federal, or state regulatory scheme
3 relating to greenhouse gas emissions. The state cannot guarantee
4 that any regulatory regime relating to greenhouse gas emissions
5 will recognize the baselines and annual results recorded in the
6 registry.

7 (f) The state hereby commits to review future international or
8 federal programs related to greenhouse gas emissions and to
9 make reasonable efforts to promote consistency between the state
10 program and these programs and to reduce the reporting burden
11 on participants, if changes to the state program are consistent
12 with the goals and intent of Section 42810.

13 (g) *The state has supported developing standardized*
14 *greenhouse gas emission accounting, reporting, and certifying*
15 *guidelines through the creation of the California Climate Action*
16 *Registry. Further industry-specific and project greenhouse gas*
17 *emissions reporting protocols are needed to facilitate*
18 *participation in the registry and to provide streamlined guidance*
19 *for certain sectors. To the extent feasible, the state hereby*
20 *commits to coordinate greenhouse gas emissions programs with*
21 *other states and regions, until a national program is established*
22 *to limit greenhouse gas emissions.*

23 SEC. 2. Section 42823 of the Health and Safety Code is
24 amended to read:

25 42823. The registry shall perform all of the following
26 functions:

27 (a) Provide participants with referrals to approved providers
28 for technical assistance and advice, upon the request of a
29 participant, on any or all of the following:

30 (1) Designing programs to establish greenhouse gas emissions
31 baselines and to monitor, estimate, calculate, report, and certify
32 greenhouse gas emissions.

33 (2) Establishing emissions reduction goals based on
34 international or federal best practices for specific industries and
35 economic sectors.

36 (3) Designing and implementing organization-specific plans
37 that improve energy efficiency or utilize renewable energy, or
38 both, and that are capable of achieving emission reduction
39 targets.

1 (4) Designing plans for the conservation and management of
2 native forest reservoirs as a means to assist participants in
3 attaining emission reduction goals and reporting annual
4 emissions results.

5 (b) In coordination with the State Energy Resources
6 Conservation and Development Commission, the registry shall
7 adopt and periodically update a list of organizations recognized
8 by the state as qualified to provide the detailed technical
9 assistance and advice in subdivision (a) and assist participants in
10 identifying and selecting providers that have expertise applicable
11 to each participant's circumstances. The registry shall coordinate
12 with the Department of Forestry and Fire Protection and the State
13 Board of Forestry and Fire Protection to provide referrals to
14 providers for purposes of paragraph (4) of subdivision (a).

15 (c) The registry shall adopt procedures and protocols for the
16 reporting and certification of greenhouse gas emission reductions
17 resulting from a project or an action of a participant. A
18 participant shall report emission reductions as a separate item in
19 its annual emissions results.

20 (d) (1) *In coordination with the California Environmental*
21 *Protection Agency and the State Energy Resources Conservation*
22 *and Development Commission, the registry shall perform both of*
23 *the following functions:*

24 (A) *Adopt procedures and protocols for monitoring,*
25 *estimating, calculating, reporting, and certifying greenhouse gas*
26 *emissions reduction projects, including, but not limited to,*
27 *projects that improve energy efficiency, utilize renewable energy,*
28 *and promote conservation tillage.*

29 (B) *Adopt procedures and protocols for monitoring,*
30 *estimating, calculating, reporting, and certifying greenhouse gas*
31 *emissions resulting from all of the following industrial sectors:*

32 (i) *Oil and natural gas exploration, extraction, processing,*
33 *refining, transmission, and distribution.*

34 (ii) *Cement production.*

35 (iii) *Municipal solid waste and industrial waste hauling and*
36 *disposal.*

37 (2) *The California Environmental Protection Agency and the*
38 *State Energy Resources Conservation and Development*
39 *Commission are strongly encouraged to partially fund the*
40 *development of the registry's protocols for greenhouse gas*

1 *emissions reduction projects under subparagraph (A), and to*
2 *assist in finding resources for the development of the registry's*
3 *industry specific protocols under subparagraph (B).*

4 (e) In coordination with the Resources Agency and consistent
5 with the data and information acquired and developed pursuant to
6 subdivision (b) of Section 25730 of the Public Resources Code,
7 the registry shall adopt procedures and protocols for the
8 monitoring, estimating, calculating, reporting, and certifying of
9 carbon stocks and carbon dioxide emissions resulting from the
10 conservation and conservation-based management, including
11 reforestation, of native forest reservoirs in California in order to
12 permit participants to include the results of those activities as a
13 participant's registered emissions results, or as a part thereof.
14 Procedures and protocols shall require, at a minimum, that those
15 forestry activities meet the following criteria in order to be
16 reported as a participant's emissions results, or as a part thereof:

17 (1) Forestry activities that are reported as a participant's
18 emissions results, or as a part thereof, shall be based on forest
19 management practices within a defined project area that exceed
20 applicable federal, state, and local land use laws and regulations,
21 including, but not limited to, the Z'berg-Nejedly Forest Practice
22 Act of 1973 (Chapter 8 (commencing with Section 4511) of Part
23 2 of Division 4 of the Public Resources Code). Applicable
24 federal, state, and local land use laws and regulations shall be
25 those in effect each time a participant registers a defined project
26 area in the registry.

27 (2) Forestry activities that are reported as a participant's
28 emissions results, or a part thereof, shall occur on forestland that
29 is permanently dedicated to forest use through a restriction,
30 granted in perpetuity, on the use that may be made of real
31 property that is consistent with the conservation purposes listed
32 in Section 170(h)(4)(A)(ii) and (iii) of Title 26 of the United
33 States Code.

34 (3) Forestry activities reported as emissions results, or as a
35 part thereof, shall reflect the amount of time that net carbon gains
36 are stored.

37 (4) Forestry activities maintain and promote native forest
38 types.

1 (5) If emissions results are derived from forest lands
2 undergoing harvest and regeneration, those results are derived
3 from natural forest management practices.

4 (f) Adopt procedures and protocols for certification of reported
5 baseline emissions and emissions results. When adopting
6 procedures and protocols for the certification, the registry shall
7 consider the availability and suitability of simplified techniques
8 and tools.

9 ~~(f)~~

10 (g) Qualify third-party organizations that have the capability to
11 certify reported baseline emissions and emissions results, and
12 that are capable of certifying the participant-reported results as
13 provided in this chapter.

14 ~~(g)~~

15 (h) Adopt procedures and protocols, including a uniform
16 format for reporting emissions baselines and emissions results to
17 facilitate their recognition in any future regulatory regime.

18 ~~(h)~~

19 (i) Maintain a record of all certified greenhouse gas emissions
20 baselines and emissions results. Separate records shall be kept for
21 direct and indirect emissions results. The public shall have access
22 to this record, except for any portion of the data or information
23 that is exempt from disclosure pursuant to the California Public
24 Records Act (Chapter 3.5 (commencing with Section 6250) of
25 Division 7 of Title 1 of the Government Code).

26 ~~(i) Encourage~~

27 (j) *Coordinate with state agencies to promote the development*
28 *of harmonized reporting standards for measuring, accounting,*
29 *reporting, and certifying greenhouse gas emissions. The registry*
30 *shall also encourage* organizations from various sectors of the
31 state's economy, and those from various geographic regions of
32 the state, to report emissions, establish baselines and reduction
33 targets, and implement efficiency improvement and renewable
34 energy programs to achieve those targets, *and, to the extent*
35 *possible, coordinate its policies and programs with policies and*
36 *programs in other states and regions to ensure that businesses*
37 *and organizations operating both in this state and out of state*
38 *follow uniform and consistent protocols when reporting to*
39 *multiple registries, states, or regions.*

40 ~~(j)~~

1 ~~(k)~~ Recognize, publicize, and promote participants.

2 ~~(k)~~—

3 ~~(l)~~ In coordination with the State Energy Resources
4 Conservation and Development Commission and the state board,
5 adopt industry-specific reporting metrics at one or more public
6 meetings.

7 ~~(l)~~—

8 ~~(m)~~ In consultation with the state board, adopt procedures and
9 protocols for the reporting and certification of reductions in
10 emissions of greenhouse gases, to the extent permitted by state
11 and federal law, for those reductions achieved prior to the
12 operative date of the regulations adopted pursuant to subdivision
13 (a) of Section 43018.5.

Assembly Bill 1697 – (Pavley)
(Principal coauthor: Senator Escutia)
Day Care Centers Licensure Location

Summary: This bill adds Section 1596.957 to the Health and Safety Code, relating to day care centers and would prohibit the department, or any licensing agency with which it contracts for licensing, from granting a license to operate a day care center in a facility that is located within 1,000 feet of a state highway, interstate freeway, or industrial site. This bill would exempt previously granted licenses from this prohibition.

Background: The California Child Day Care Facilities Act, administered by the State Department of Social Services provides for the licensure and regulation of child day care facilities, including, among others, day care centers, as defined.

Status: In print, not assigned status yet.

Specific Provisions: The bill would prohibit the department, or any licensing agency with which it contracts for licensing, from granting a license to operate a day care center in a facility that is located within 1,000 feet of a state highway, interstate freeway, or industrial site. This bill would exempt previously granted licenses from this prohibition.

Operational Impacts on AQMD: No impact. Will reduce risk to sensitive receptor which is a public health benefit.

Recommended Position: *SUPPORT* – Enactment of AB 1697 will limit the exposure of unhealthful air for students and workers of a day care centers by imposing a 1,000 ft. buffer zone between a day care center and a state highway, interstate freeway, or industrial site so as not to expose them to unhealthful emissions from mobile sources such as cars and trucks near highways and freeways or emissions from operations of an industrial site.

This bill would impose similar requirements to Public Resources Code §21151.8 which requires any school site boundary within 500 feet of the edge of the closest traffic lane of a freeway to analyze air quality and determine that neither short term or long term exposure poses significant health risks to pupils.

Bill could be more stringent by restricting more sensitive receptors from operating within 1,000 feet of freeway. Also, could be consistent with the Public Resources Code §21151.8 by limiting distance of affected sites to freeway by 500 feet.

Support

Natural Resources Defense Council

Opposition:

None on File

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support in concept.</i></p>
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ASSEMBLY BILL

No. 1697

Introduced by Assembly Member Pavley
(Principal coauthor: Senator Escutia)

February 22, 2005

An act to add Section 1596.957 to the Health and Safety Code, relating to day care centers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as introduced, Pavley. Day care centers licensure: location.

The California Child Day Care Facilities Act, administered by the State Department of Social Services provides for the licensure and regulation of child day care facilities, including, among others, day care centers, as defined.

This bill would prohibit the department, or any licensing agency with which it contracts for licensing, from granting a license to operate a day care center in a facility that is located within 1,000 feet of a state highway, interstate freeway, or industrial site. This bill would exempt previously granted licenses from this prohibition.

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 1596.957 is added to the Health and
- 2 Safety Code, to read:
- 3 1596.957. (a) The department, or any licensing agency with
- 4 which it contracts for licensing, shall not grant a license to
- 5 operate a day care center, as defined in Section 1596.76, in a

1 facility that is located within 1,000 feet a state highway,
2 interstate freeway, or industrial site, regardless of whether the
3 applicant possesses a current valid license to operate a day care
4 center at another facility.

5 (b) A license previously granted to operate a day care center in
6 a facility that is located within 1,000 feet of a state highway,
7 interstate freeway, or industrial site, that is otherwise current and
8 valid, shall remain in effect.

Senate Bill 44 – (Kehoe)
General Plans: Air Quality Element.

Summary: SB 44 would require the legislative body of each city and county, including those in the San Joaquin Valley Air Pollution Control District, to amend the appropriate elements of its general plan to include data and analyses, comprehensive goals, policies, and feasible implementation strategies to improve air quality.

Background: Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land.

Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality.

Status: SB 44 was passed 4-3 by the Senate Committee on Local Government on March 2, 2005, and was re-referred to the Senate Committee on Appropriations.

Specific Provisions:

- This bill would require the legislative body of each city and county, including those in the San Joaquin Valley Air Pollution Control District, to amend the appropriate elements of its general plan to include data and analyses, comprehensive goals, policies, and feasible implementation strategies to improve air quality no later than one year from the date specified for the next revision of its housing element that occurs after January 1, 2006
- The bill would also require each city and county, at least 45 days prior to the adoption of air quality amendments to a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review and comment, as specified. By increasing the duties of local public officials, this bill would impose a state-mandated local program.
- Within 30 days of receiving the draft elements or draft amendments, the district shall send any comments and advice to the city or county. The legislative body of

the city or county shall consider the district's comments and advice prior to the final adoption of air quality amendments to the general plan. If the district's comments and advice are not available by the time scheduled for the final adoption of the air quality element or amendments to the general plan, the legislative body of the city or county may act without them. The district's comments shall be advisory to the city or county.

- This bill would provide that no reimbursement is required by this act.

Operational Impacts on AQMD: The State of California General Plan Guidelines contains seven required elements, of which Housing is one. Unlike the other mandatory elements, the housing element is subject to detailed statutory requirements regarding its content and must be updated every five years. SB 44 requires local jurisdictions, after January 1, 2006, to update their General Plans to include information to improve air quality. The information is to include air quality goals, policies, and implementation strategies. The update is to take place no later than 1 year from the next update of the Housing element. At least 45 days prior to document submittal for adoption, it is to be submitted to the local air district for review and comment. Upon receipt, the air district has 30 days to respond with advisory comments. If no comments are received, the local jurisdiction may take action without district comments.

If the district is to comment on all draft document submittals, there will be an impact on staff resources. In our air district there are 161 local jurisdictions. The Housing element update schedule for the local jurisdictions is unknown at this time. However if they were spread out evenly, we could expect to receive approximately 3 documents each month. Depending on the size and scope of the documents, this could require .5 FTE. If additional plans were submitted concurrently, and/or a large plan such as the County of Los Angeles was submitted, additional resources would be required accordingly.

Support:
None on File

Opposition:
City of Moreno Valley

Recommended Position: SUPPORT WITH AMENDMENTS

Recommended Amendments by AQMD Staff:

- (1) Change the 30 day comment and review period to 45 days.
- (2) Clarify the kind of information that should be included in the general plan amendments.
- (3) Require CARB and/or outside districts to publish guidance describing contents of air quality elements that could feasibly limit emissions.

Arguments in Favor of Amendments:

- (1) The additional time would allow a more appropriate response time for staff.
- (2) Additional clarification is needed to ensure that the intent of the bill is to allow each affected jurisdiction to rely on existing regional data, as well as any local data, that may be readily available from a local air districts rather than mandate that each city and county produce, or cause to be produced, original comprehensive air quality information specific to the local political jurisdiction. Further clarify that relevant provisions of state implementation plans and regional air quality management plans may be summarized or incorporated by reference rather than require local jurisdictions to *“include a summary of all local, district, state, and federal policies, programs, and regulations that may improve air quality in the city or county.”*

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support with amendments.</i></p>

AMENDED IN SENATE FEBRUARY 23, 2005

SENATE BILL

No. 44

Introduced by Senator Kehoe

January 4, 2005

An act to amend Section 65302.1 of the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Kehoe. General plans: air quality element.

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality.

This bill would make ~~a legislative findings and declarations regarding finding that~~ air pollution ~~problems~~ *is a serious problem* in this state. The bill additionally would require the legislative body of each city and county, ~~other than~~ *including* those in the San Joaquin Valley Air Pollution Control District, to amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies to improve air quality no later than one year from the date specified for the next revision of its housing element.

The bill would also require each city and county, at least 45 days prior to the adoption of *an* air quality ~~amendments to element or the amendment of~~ a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review and comment, as specified. By increasing the duties of local public officials, this bill would impose a state-mandated local program.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 65302.1 of the Government Code is
2 amended to read:

3 65302.1. (a) The Legislature finds and declares ~~all of the~~
4 ~~following:~~

5 ~~(1) that~~ California has a serious air pollution problem that ~~will~~
6 ~~take is the result of many factors, including pollution from both~~
7 ~~mobile and stationary sources. Solving this problem requires the~~
8 cooperation of land use and transportation planning agencies,
9 transit operators, the *business and* development ~~community,~~
10 *communities*, air quality management districts, air pollution
11 control districts, and the public ~~to solve.~~

12 ~~(2) The solution to the problem requires changes in the way~~
13 ~~we have traditionally built our communities and constructed the~~
14 ~~transportation systems. It involves a fundamental shift in~~
15 ~~priorities from emphasis on mobility for the occupants of private~~
16 ~~automobiles to a multimodal system that more efficiently uses~~
17 ~~scarce resources. It requires a change in attitude from the public~~
18 ~~to support development patterns and transportation systems~~
19 ~~different from the status quo.~~

20 ~~(3) Air quality guidelines are recommended strategies that do,~~
21 ~~when it is feasible, all of the following:~~

1 ~~(A) Determine and mitigate project level and cumulative air~~
2 ~~quality impacts under the California Environmental Quality Act~~
3 ~~(CEQA) (Division 13 (commencing with Section 21000) of the~~
4 ~~Public Resources Code).~~

5 ~~(B) Integrate land use plans, transportation plans, and air~~
6 ~~quality plans.~~

7 ~~(C) Plan land uses in ways that support a multimodal~~
8 ~~transportation system.~~

9 ~~(D) Local action to support programs that reduce congestion~~
10 ~~and vehicle trips.~~

11 ~~(E) Plan land uses to minimize exposure to toxic air pollutant~~
12 ~~emissions from industrial and other sources.~~

13 ~~(F) Reduce particulate matter emissions from sources under~~
14 ~~local jurisdiction.~~

15 ~~(G) Support district and public utility programs to reduce~~
16 ~~emissions from energy consumption and area sources.~~

17 ~~(4) The benefits of including air quality concerns within local~~
18 ~~general plans include, but are not limited to, all of the following:~~

19 ~~(A) Lower infrastructure costs.~~

20 ~~(B) Lower public service costs.~~

21 ~~(C) More efficient transit service.~~

22 ~~(D) Lower costs for comprehensive planning.~~

23 ~~(E) Streamlining of the permit process.~~

24 ~~(F) Improved mobility for the elderly and children.~~

25 (b) The legislative body of each city and county shall *either*
26 *adopt an air quality element as part of its general plan or* amend
27 the appropriate elements of its general plan, which may include,
28 but are not limited to, the required elements dealing with land
29 use, circulation, housing, conservation, and open space, to
30 include data and ~~analysis~~, *analyses*, goals, policies, and
31 objectives, and feasible implementation strategies to improve air
32 quality.

33 (c) The adoption of ~~air quality amendments to an air quality~~
34 ~~element or the amendment of~~ a general plan to comply with the
35 requirements of subdivision ~~(d)~~ (b) shall include all of the
36 following:

37 (1) A report describing local air quality conditions including
38 air quality monitoring data, emission inventories, lists of
39 significant source categories, attainment status and designations,
40 and applicable state and federal air quality plans and

1 transportation plans. *This report shall include a summary of*
2 *local, district, state, and federal policies, programs, and*
3 *regulations that may improve air quality in the city or county.*

4 ~~(2) A summary of local, district, state, and federal policies,~~
5 ~~programs, and regulations that may improve air quality in the city~~
6 ~~or county.~~

7 ~~(3)–~~

8 (2) A comprehensive set of goals, policies, and objectives that
9 ~~may improve air quality consistent with the strategies listed in~~
10 ~~paragraph (3) of subdivision (a).~~ *may improve air quality.*

11 ~~(4)–~~

12 (3) A set of feasible implementation measures designed to
13 carry out those goals, policies, and objectives.

14 (d) At least 45 days prior to the adoption of ~~air quality~~
15 ~~amendments to an air quality element or the amendment of a~~
16 general plan pursuant to this section, each city and county shall
17 send a copy of its draft document to the air quality management
18 district or air pollution control district in which the city or county
19 is located. The district may review the draft ~~elements or draft~~
20 amendments to determine whether they may improve air quality
21 consistent with the strategies listed in paragraph (3) of
22 subdivision (a). Within 30 days of receiving the draft ~~elements or~~
23 ~~draft~~ amendments, the district shall send any comments and
24 advice to the city or county. The legislative body of the city or
25 county shall consider the district's comments and advice prior to
26 the final adoption of air quality amendments to the general plan.
27 If the district's comments and advice are not available by the
28 time scheduled for the final adoption of ~~air quality~~ *the air quality*
29 ~~element or~~ amendments to the general plan, the legislative body
30 of the city or county may act without them. The district's
31 comments shall be advisory to the city or county.

32 (e) (1) The legislative body of each city and county within the
33 jurisdictional boundaries of the San Joaquin Valley Air Pollution
34 Control District shall comply with this section no later than one
35 year from the date specified in Section 65588 for the next
36 revision of its housing element that occurs after January 1, 2004.

37 (2) The legislative bodies of all other cities and counties shall
38 comply with this section no later than one year from the date
39 specified in Section 65588 for the next revision of its housing
40 element that occurs after January 1, 2006.

1 *SEC. 2. Nothing in this act shall be interpreted to expand the*
2 *application of the California Environmental Quality Act*
3 *(Division 13 (commencing with Section 21000) of the Public*
4 *Resources Code), the existing authorities of the affected local*
5 *governments, or any air quality management district or air*
6 *pollution control district.*

7 ~~SEC. 2.~~

8 *SEC. 3. The Legislature finds and declares that Sections*
9 *65104 and 66014 of the Government Code provide local agencies*
10 *with authority to levy fees sufficient to pay for the program or*
11 *level of service mandated by this act.*

12 ~~SEC. 3.~~

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

Senate Bill 225 - (Soto)
Carl Moyer Program
(Coauthor: Assembly Member Chu)

Summary: SB 225 would allow the State Air Resources Board to determine a higher value for the cost-effectiveness test in the Carl Moyer program. The higher value would be tied to the state consumer price index. When adjusted for inflation, projects with a cost effectiveness higher than \$13,600 per ton of NO_x reduced in California would qualify for funding under the Carl Moyer program.

Background: Existing law establishes the Carl Moyer Program, which provides grants to off-set the incremental cost of eligible projects that reduce oxides of nitrogen from heavy-duty mobile sources in the state. Existing law, until January 1, 2015, prohibits grants for projects with a cost-effectiveness of more than \$13,600 per ton of NO_x reduced in California, and on or after that date, reduces that dollar amount to \$12,000.

This bill is sponsored by CAPCOA and is the intended vehicle for providing additional funding for “large emission reduction programs” as well as to make various technical and clarifying changes and corrections to the LERP legislation from 2004.

Status: SB 225 may be acted upon on or after March 18, 2005.

Specific Provisions:

- This bill allows California Air Resources Board to adjust the cost-effectiveness maximum for awards under the Carl Moyer Program by the California consumer price index in order to keep up with inflation.

Operational Impacts on AQMD: Increased cost effectiveness calculated in accordance with the state’s consumer price index will provide more money for projects funded by the Carl Moyer Program. While the bill only applies to projects that reduce NO_x in California, and does not include Particulate Matter (PM₁₀) or Hydrocarbons, staff does recommend a support position.

Support:
None on File

Opposition:
None on File

RECOMMENDED POSITION: *SUPPORT*

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>

Introduced by Senator Soto
(Coauthor: Assembly Member Chu)

February 15, 2005

An act to amend Section 44283 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 225, as introduced, Soto. Carl Moyer program.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer program), which provides grants to offset the incremental cost of eligible projects that reduce oxides of nitrogen from heavy-duty mobile sources in the state. Existing law, until January 1, 2015, prohibits grants for projects with a cost-effectiveness of more than \$13,600 per ton of NO_x reduced in California, and on and after that date reduces that dollar amount to \$12,000.

This bill would allow the State Air Resources Board to determine a higher value that reflects state consumer price index adjustments.

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 44283 of the Health and Safety Code, as
- 2 amended by Section 9 of Chapter 707 of the Statutes of 2004, is
- 3 amended to read:
- 4 44283. (a) Grants shall not be made for projects with a
- 5 cost-effectiveness, calculated in accordance with this section, of
- 6 more than thirteen thousand six hundred dollars (\$13,600) per
- 7 ton of NO_x reduced in California *or a higher value that reflects*

1 *state consumer price index adjustments on or after January 1,*
2 *2006, as determined by the state board.* For projects obtaining
3 reactive organic gas and particulate matter reductions, the state
4 board shall determine appropriate adjustment factors to calculate
5 a weighted cost-effectiveness.

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

12 (c) The state board shall develop protocols for calculating the
13 surplus covered emission reductions in California from
14 representative project types over the life of the project.

15 (d) The cost of the covered emission reduction is the amount
16 of the grant from the program, including matching funds
17 provided pursuant to subdivision (e) of Section 44287, plus any
18 other state funds, or funds under the district's budget authority or
19 fiduciary control, provided toward the project. The state board
20 shall establish reasonable methodologies for evaluating project
21 cost-effectiveness, consistent with the definition contained in
22 paragraph (4) of subdivision (a) of Section 44275, and with
23 accepted methods, taking into account a fair and reasonable
24 discount rate or time value of public funds.

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

30 (f) Funds under a district's budget authority or fiduciary
31 control may be used to pay for the incremental cost of liquid or
32 gaseous fuel, other than standard gasoline or diesel, which is
33 integral to a covered emission reducing technology that is part of
34 a project receiving grant funding under the program. The fuel
35 shall be approved for sale by the state board. The incremental
36 fuel cost over the expected lifetime of the vehicle may be offset
37 by the district if the project as a whole, including the incremental
38 fuel cost, meets all of the requirements of this chapter, including
39 the maximum allowed cost-effectiveness. The state board shall
40 develop an appropriate methodology for converting incremental

1 fuel costs over the vehicle lifetime into an initial cost for the
2 purposes of determining project cost-effectiveness. Incremental
3 fuel costs may not be included in project costs for fuels dispensed
4 from any facility that was funded, in whole or in part, from the
5 fund.

6 (g) For purposes of determining any grant amount pursuant to
7 this chapter, the incremental cost of any new purchase, retrofit,
8 repower, or add-on equipment shall be reduced by the value of
9 any current financial incentive that directly reduces the project
10 price, including any tax credits or deductions, grants, or other
11 public financial assistance. Project proponents applying for
12 funding shall be required to state in their application any other
13 public financial assistance to the project.

14 (h) For projects that would repower offroad equipment by
15 replacing uncontrolled diesel engines with new, certified diesel
16 engines, the state board may establish maximum grant award
17 amounts per repower. A repower project shall also be subject to
18 the incremental cost maximum pursuant to subdivision (e).

19 (i) After study of available emission reduction technologies
20 and costs and after public notice and comment, the state board
21 may reduce the values of the maximum grant award criteria
22 stated in this section to improve the ability of the program to
23 achieve its goals. Every year the state board shall adjust the
24 maximum cost-effectiveness amount established in subdivision
25 (a) and any per-project maximum set by the state board pursuant
26 to subdivision (h) to account for inflation.

27 (j) This section shall remain in effect only until January 1,
28 2015, and as of that date is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2015, deletes or extends
30 that date.

31 SEC. 2. Section 44283 of the Health and Safety Code, as
32 added by Chapter 707 of the Statutes of 2004, is amended to
33 read:

34 44283. (a) Grants shall not be made for projects with a
35 cost-effectiveness, calculated in accordance with this section, of
36 more than twelve thousand dollars (\$12,000) per ton of NO_x
37 reduced in California *or a higher value that reflects state*
38 *consumer price index adjustments on or after January 1, 2015,*
39 *as determined by the state board.*

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

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

10 (d) The cost of the NO_x reduction is the amount of the grant
11 from the program, including matching funds provided pursuant to
12 subdivision (e) of Section 44287, plus any other state funds, or
13 funds under the district's budget authority or fiduciary control,
14 provided toward the project. The state board shall establish
15 reasonable methodologies for evaluating project
16 cost-effectiveness, consistent with the definition contained in
17 subdivision (c) of Section 44275, and with accepted methods,
18 taking into account a fair and reasonable discount rate or time
19 value of public funds.

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

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

1 (g) For purposes of determining any grant amount pursuant to
2 this chapter, the incremental cost of any new purchase, retrofit,
3 repower, or add-on equipment shall be reduced by the value of
4 any current financial incentive that directly reduces the project
5 price, including any tax credits or deductions, grants, or other
6 public financial assistance. Project proponents applying for
7 funding shall be required to state in their application any other
8 public financial assistance to the project.

9 (h) For projects that would repower offroad equipment by
10 replacing uncontrolled diesel engines with new, certified diesel
11 engines, the state board may establish maximum grant award
12 amounts per repower. A repower project shall also be subject to
13 the incremental cost maximum pursuant to subdivision (e).

14 (i) After study of available emission reduction technologies
15 and costs and after public notice and comment, the state board
16 may reduce the values of the maximum grant award criteria
17 stated in this section to improve the ability of the program to
18 achieve its goals. Every year the state board shall adjust the
19 maximum cost-effectiveness amount established in subdivision
20 (a) and any per-project maximum set by the state board pursuant
21 to subdivision (h) to account for inflation.

22 (j) This section shall become operative on January 1, 2015.

Senate Bill 250 – (Senator Campbell)
Air Pollution: Vehicular Air Pollution – Hydrogen Fuel

Summary: This bill seeks to implement a hydrogen based alternative fuel program.

The proposal would require the state board to facilitate a steady, sustainable transition to broad-based renewable hydrogen fuel in this state, explore options to streamline the permitting process, and provide guidelines to local permitting agencies for hydrogen fuel codes and standards.

Background: Existing law designates the State Air Resources Board as the entity with the responsibility for the control of air pollution from vehicular sources. Existing law authorizes the state board to adopt and implement motor vehicle emission standards and motor vehicle fuel specifications, and existing state board regulations establish specifications for alternative motor vehicle fuels, including hydrogen.

Status: Assigned to EQ committee, no date set.

Specific Provisions: The bill authorizes the implementation of a hydrogen fuel program based on a carefully designed phased approach that closely couples station deployment with commercialization of vehicles and other products. The bill includes the following requirements for the California Environmental Protection Agency:

- Facilitate a steady, sustainable transition to broad-based, renewable hydrogen fuel in this state.
- Explore options to streamline the permitting process.
- Provide guidelines to local permitting agencies for hydrogen fuel codes and standards.

Operational Impacts on AQMD: Unknown until scope of program is determined and AQMD's role is proposed.

Recommended Position: SUPPORT: the language in the bill provides guidance to CalEPA, directing them to *"facilitate a steady, sustainable transition to broad-based renewable hydrogen fuel in the state."* Given the long lead times inherent in such a transition, and the commercial business case requirements needed to achieve a sustainable transition, we believe that the legislation is very amenable with the goals of the District and consistent with the direction of the Governor's Hydrogen Highway.

Support:
None on File

Opposition:
None on File

March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i>

Introduced by Senator Campbell

February 15, 2005

An act to add Section 43830.5 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 250, as introduced, Campbell. Vehicular air pollution control: hydrogen fuel.

Existing law designates the State Air Resources Board as the entity with the responsibility for the control of air pollution from vehicular sources. Existing law authorizes the state board to adopt and implement motor vehicle emission standards and motor vehicle fuel specifications, and existing state board regulations establish specifications for alternative motor vehicle fuels, including hydrogen.

This bill would require the California Environmental Protection Agency to facilitate a steady, sustainable transition to broadbased, renewable hydrogen fuel in this state, explore options to streamline the permitting process, and provide guidelines to local permitting agencies for hydrogen fuel codes and standards.

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 43830.5 is added to the Health and
- 2 Safety Code, to read:
- 3 43830.5. (a) It is the intent of the Legislature that California
- 4 implement a hydrogen fuel program based on a carefully
- 5 designed phased approach that closely couples station

1 deployment with commercialization of vehicles and other
2 products.

3 (b) The Legislature finds and declares that the California
4 Environmental Protection Agency has developed a hydrogen
5 economy blueprint plan to make hydrogen fuel accessible to all
6 Californians who need it by 2010.

7 (c) The California Environmental Protection Agency shall do
8 all of the following:

9 (1) Facilitate a steady, sustainable transition to broadbased,
10 renewable hydrogen fuel in this state.

11 (2) Explore options to streamline the permitting process.

12 (3) Provide guidelines to local permitting agencies for
13 hydrogen fuel codes and standards.

Senate Bill 760 – (Lowenthal)

Ports: Congestion Relief: Security Enhancement: Environmental Mitigation: User Fee.

Summary: This bill seeks to impose a fee on each shipping container processed in the Port of Los Angeles and the Port of Long Beach a fee of \$30 per twenty-foot equivalent (TEU), with 1/3 of the fee going to the ports, 1/3 going to the California Transportation Commission and 1/3 going to the South Coast Air Quality Management District..

The proposal would:

1. Require the California Transportation Commission to use the funds received to alleviate congestion on the highways serving the ports by improving the rail system.
2. Require the ports to use the funds retained as specified above exclusively for the purpose of funding projects to improve the security of the ports.
3. Require the South Coast Air Quality Management District to use the funds received under these provisions to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail.

Background: Due to unanticipated growth at the ports and new federal security requirements that are applicable to those ports, it is necessary to enhance the security of the ports and mitigate the environmental pollution from the operation of the ports. Existing law regulates the operation of ports and harbors. This bill would add Section 1745 to the Harbors and Navigation Code, relating to ports.

Status: May be acted upon on or after March 27, 2005.

Specific Provisions: The bill authorizes a fee of \$30 per twenty-foot equivalent unit (TEU), payable to the port by the marine terminal operator processing the container. The port will retain one third of the funds collected and transmit one third to the California Transportation Commission and one third to the South Coast Air Quality Management District. These funds will be spent specifically on:

- Alleviating congestion on the highways serving the ports by improving the rail system that transports shipments from and to these ports and the on-dock rail facilities at those ports, while prohibiting it from using the funds to construct, maintain, or improve highways.
- Improve the security of the ports, including the screening of shipping containers and consulting with the U.S. Coast Guard, Department of Homeland Security, and other state and federal agencies that may assist the ports in determining which projects are best suited to protecting the ports and their surrounding communities.

- Mitigating environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail. Projects funded by the district would be limited to reducing emission from sources located at the ports, to include replacing highly-polluting engines with cleaner engines and retiring the engines that have been replaced, assisting the ports with implementing or enhancing the use of cold-iron technology, and other projects that the district determines reduce emissions from sources located at the ports.

Operational Impacts on AQMD: This bill would provide the district with the funds and authority to take on projects to mitigate the environmental pollution occurring at the ports within the South Coast Air Basin. The current staff is expected to be able to handle any new projects.

Recommended Position: SUPPORT– Enactment of SB 760 is expected to provide the district with the opportunity to fund additional projects to mitigate environmental pollution in the South Coast Air Basin.

Support:
None on File

Opposition:
None on File

March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:
Support and directed staff to seek clarification of recovery of administrative costs.

Introduced by Senator LowenthalFebruary 22, 2005

An act to add Section 1745 to the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as introduced, Lowenthal. Ports: congestion relief: security enhancement: environmental mitigation: user fee.

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

This bill would impose on each shipping container processed in the Port of Los Angeles and the Port of Long Beach a fee of \$30 per twenty-foot equivalent unit (TEU), payable to the port by the marine terminal operator processing the container.

The bill would require the ports to retain 1/3 of the funds derived from imposition of the fee and transmit the remaining 2/3 in the amount of 1/2 to the California Transportation Commission and 1/2 to the South Coast Air Quality Management District.

The bill would require the commission to use the funds received under these provisions to alleviate congestion on the highways serving the ports by improving the rail system that transports shipments from and to those ports and the on-dock rail facilities at those ports.

The bill would prohibit commission from using the funds to construct, maintain, or improve highways.

The bill would require the commission to consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura in the process for selecting projects for funding.

The bill would require the ports to use the funds retained as specified above exclusively for the purpose of funding projects to

improve the security of the ports, including the screening of shipping containers.

The bill would require the ports, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the Office of Homeland Security, and other state and federal agencies that may assist the ports in determining which projects are best suited to protecting the ports and their surrounding communities.

The bill would require the South Coast Air Quality Management District to use the funds receive under these provisions to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail.

The bill would authorize projects funded by the district to be limited to reducing emission from sources located at the ports, to include replacing highly-polluting engines with cleaner engines and retiring the engines that have been replaced, assisting the ports with implementing or enhancing the use of cold-iron technology, and other projects that the district determines reduce emissions from sources located at the ports.

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

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

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

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

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

- 1 SECTION 1. Section 1745 is added to the Harbors and
- 2 Navigation Code, to read:
- 3 1745. (a) The Legislature hereby finds and declares all of the
- 4 following:

1 (1) There is a need to mitigate the enormous burden imposed
2 on the highway transportation system serving the Ports of Los
3 Angeles and Long Beach by the overland movement of cargo
4 shipped from and to those ports.

5 (2) Due to unanticipated growth at the ports and new federal
6 security requirements that are applicable to those ports, it is
7 necessary to enhance the security of the ports.

8 (3) The operation of the ports causes environmental pollution
9 that requires mitigation.

10 (4) Accordingly, it is the intent of the Legislature to alleviate
11 these burdens by imposing a fee on shipping containers
12 processed through those ports and using the funds derived
13 therefrom to do all of the following:

14 (A) Improve the rail system that serves as an alternative to
15 shipping via the highway by commercial vehicle, including, but
16 not limited to, the on-dock rail facilities at those ports.

17 (B) Enhance the security at the ports.

18 (C) Mitigate the environmental pollution caused by port
19 operations.

20 (b) There is hereby imposed on each shipping container
21 processed in the Port of Los Angeles and the Port of Long Beach
22 a fee of thirty dollars (\$30) per twenty-foot equivalent unit
23 (TEU), payable to the port by the marine terminal operator
24 processing the container.

25 (c) The Port of Los Angeles and the Port of Long Beach shall
26 retain one-third of the funds received under subdivision (b) and
27 shall transmit the remaining two-thirds on a quarterly basis as
28 follows:

29 (1) One-half to the California Transportation Commission.

30 (2) One-half to the South Coast Air Quality Management
31 District.

32 (d) (1) The California Transportation Commission shall use
33 the funds received under paragraph (1) of subdivision (c) to
34 alleviate congestion on the highways serving the Ports of Los
35 Angeles and Long Beach by improving the rail system that
36 transports shipments from and to those ports and the on-dock rail
37 facilities at those ports.

38 (2) The funds received by the commission shall not be used to
39 construct, maintain, or improve highways.

1 (3) In the process for selecting projects for funding under this
2 subdivision, the commission shall consult with the transportation
3 commissions for the Counties of Los Angeles, Orange, Riverside,
4 San Bernardino, and Ventura.

5 (4) Projects that may be funded under this subdivision include,
6 but are not limited to, all of the following:

7 (A) Rail grade separations to relieve highway congestion.

8 (B) Expansion of on-dock rail facilities.

9 (C) Other projects that facilitate the movement of cargo by rail
10 and thus alleviate congestion on highways serving the ports.

11 (e) (1) The ports shall use the funds retained under subdivision
12 (c) exclusively for the purpose of funding projects to improve the
13 security of the ports, including, but not limited to, the screening
14 of shipping containers.

15 (2) In selecting projects for funding under this subdivision, the
16 ports shall consult with the United States Coast Guard, the
17 federal Department of Homeland Security, the Office of
18 Homeland Security, and other state and federal agencies that may
19 assist the ports in determining which projects are best suited to
20 protecting the ports and their surrounding communities.

21 (f) (1) The South Coast Air Quality Management District shall
22 use the funds received under paragraph (2) of subdivision (c) to
23 mitigate environmental pollution caused by the movement of
24 cargo to and from the ports via commercial motor vehicles,
25 ocean-going vessels, and rail.

26 (2) Projects funded by the district under this subdivision shall
27 be limited to reducing emission from sources located at the ports
28 and may include, but need not be limited to, all of the following:

29 (A) Replacing high-polluting engines with cleaner engines and
30 retiring the engines that have been replaced.

31 (B) Assisting the ports with implementing or enhancing the
32 use of cold-iron technology.

33 (C) Other projects that the district determines reduce
34 emissions from sources located at the ports.

35 SEC. 2. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code.

Senate Bill 761 – (Lowenthal)
Air Resources: Marine Terminals.

Summary: This bill seeks to require each marine terminal in the state to operate in a manner that does not cause trucks to exceed a turn time of 60 minutes while conducting business at the marine terminal. Turn time is defined as the amount of time spent at the marine terminal from the time a truck enters the first gate or the queue of the marine terminal to the time the truck leaves the exit gate at the marine terminal.

Background: Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to enter the terminal, among other requirements. Existing law provides for exemptions from that requirement if the marine terminal provides fully staffed receiving and delivery gates for specified amounts of time. Existing law specifies that if a marine terminal implements a scheduling or appointment system, as provided, the terminal shall only be subject to a fine for a truck that makes use of the system and that idles or queues for more than 30 minutes, as provided.

This bill would additionally require each marine terminal in the state to operate in a manner that does not cause trucks to exceed a turn time, as defined, of 60 minutes while conducting business at a marine terminal, and would eliminate specified exemptions for marine terminals meeting certain operational requirements. This bill would also require each marine terminal to implement a scheduling or appointment system for trucks to enter the terminal, as provided.

Status: In print, not yet assigned to committee.

Specific Provisions: The bill amends section 40720 of the Health and Safety Code to include:

- A requirement that each marine terminal in the state shall operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to enter the gate into the marine terminal, and that does not cause trucks to exceed a turn time of 60 minutes while conducting business at the marine terminal.
- Removal of a provision that stated that the code did not apply to any marine terminal that provided, as determined by the district, two continuous hours of uninterrupted, fully staffed receiving and delivery gates two hours prior to and after, peak commuter hours each day, at least five days per week.

Operational Impacts on AQMD: Additional staff time will be required for enforcement of tighter restrictions.

Recommended Position: **SUPPORT WITH AMENDMENTS**, section 40720(c) states "The district may seek reimbursement for monitoring and enforcement costs from the

marine terminals within its jurisdiction." Instead of "*seek*", state "*adopt a regulation to require fees sufficient for.*" Additionally, insert language that would allow for additional time in cases when federal officials pull vehicles aside for customs and security inspections.

Support:

None on File

Opposition:

None on File

March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Support.

Introduced by Senator Lowenthal

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

SB 761, as introduced, Lowenthal. Air resources: Marine terminals.

(1) Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to enter the terminal, among other requirements. Existing law provides for exemptions from that requirement if the marine terminal provides fully staffed receiving and delivery gates for specified amounts of time. Existing law specifies that if a marine terminal implements a scheduling or appointment system, as provided, the terminal shall only be subject to a fine for a truck that makes use of the system and that idles or queues for more than 30 minutes, as provided.

This bill would additionally require each marine terminal in the state to operate in a manner that does not cause trucks to exceed a turn time, as defined, of 60 minutes while conducting business at a marine terminal, and would eliminate specified exemptions for marine terminals meeting certain operational requirements. This bill would also require each marine terminal to implement a scheduling or appointment system for trucks to enter the terminal, as provided.

(2) The bill would make certain findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

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

Vote: majority. Appropriation: 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 a
4 manner that does not cause trucks to idle or queue for more than
5 30 minutes while waiting to enter the gate into the marine
6 terminal, and that does not cause trucks to exceed a turn time of
7 60 minutes while conducting business at the marine terminal.

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

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

14 (3) Citations for violations of this subdivision shall be issued
15 by the applicable district, and shall include the truck license plate
16 number or other unique identifier, which may include, but is not
17 limited to, the cargo container number, the name of the marine
18 terminal and port at which the violation occurred, and the date
19 and time of the violation.

20 (4) Any action taken by the marine terminal to assess, or seek
21 reimbursement from, the driver or owner of a truck for a
22 violation of this subdivision shall constitute a violation of Article
23 3 (commencing with Section 42400) of Chapter 4 of Part 4.

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

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

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

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

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

17 (8) *For the purposes of this subdivision, "turn time" means the*
18 *amount of time spent at the marine terminal from the time a truck*
19 *enters the first gate or the queue of the marine terminal until the*
20 *time the truck leaves the exit gate at the marine terminal.*

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

26 ~~(2) For the purposes of this subdivision, "peak commuter~~
27 ~~hours" shall be those hours determined by the district, in~~
28 ~~consultation with the owners and operators of the marine~~
29 ~~terminals within the jurisdiction of each district and any labor~~
30 ~~union that is represented at those marine terminals. The district~~
31 ~~shall notify the marine terminals of the final determination of the~~
32 ~~peak commuter hours.~~

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

38 ~~(d) Subdivision (a) does not apply to any marine terminal that~~
39 ~~operates fully staffed receiving and delivery gates for 70 hours,~~
40 ~~five days per week, if that marine terminal is located at a port~~

1 ~~that processes more than 3 million containers (20-foot equivalent~~
2 ~~units (TEUs)) annually.~~

3 ~~(e)–~~

4 (c) The district shall determine the necessary level of
5 monitoring and enforcement commensurate with the level of the
6 truck idling or queuing problem existing within its jurisdiction.
7 *The district may seek reimbursement for monitoring and*
8 *enforcement costs from the marine terminals within its*
9 *jurisdiction.*

10 ~~(f)–~~

11 (d) For the purposes of this section, “marine terminal” means
12 a facility that meets all of the following criteria:

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

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

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

17 (A) Piers.

18 (B) Wharves.

19 (C) Slips.

20 (D) Berths.

21 (E) Quays.

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

24 ~~(g)–~~

25 ~~(e) Notwithstanding paragraph (1) of subdivision (a), if a~~
26 ~~marine terminal implements a scheduling or appointment system~~
27 ~~for trucks to enter the terminal, the terminal shall be subject to a~~
28 ~~fine pursuant to subdivision (a) only for a truck that makes use of~~
29 ~~the system and that idles or queues for more than 30 minutes~~
30 ~~while waiting to enter the gate into the terminal, commencing~~
31 ~~from the start of the appointment or the time the truck arrives,~~
32 ~~whichever is later. The~~ *Each marine terminal shall implement a*
33 *scheduling or appointment system for trucks to enter the terminal*
34 *that shall meet all of the following requirements:*

35 (1) Provide appointments on a first-come-first-served basis.

36 (2) Provide appointments that last at least 60 minutes and are
37 continuously staggered throughout the day.

38 (3) Not discriminate against any motor carrier that conducts
39 transactions at the marine terminal in scheduling appointments.

1 (4) Not interfere with a double transaction once inside the
2 gate.

3 (5) Not turn away or fine a motor carrier if that motor carrier
4 misses an appointment.

5 (6) *Provide appointments for empty carriers.*

6 (7) *Require all motor carriers conducting business at the Port*
7 *of Los Angeles and the Port of Long Beach to use an*
8 *appointment while conducting business at those ports.*

9 SEC. 2. The Legislature finds and declare that due to the
10 unique circumstances relating to air quality in the communities
11 surrounding ports in the Bay Area Air Quality Management
12 District and the South Coast Air Quality Management District, a
13 statute of general applicability cannot be enacted within the
14 meaning of subdivision (b) of Section 16 of Article IV of the
15 California Constitution.

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

Senate Bill 762 – (Lowenthal)
**Vehicular Sources: California Intermodal Port Congestion
and Environmental Quality.**

Summary: This bill seeks to create the Los Angeles—Long Beach Area Intermodal Joint Powers Authority and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the Los Angeles—Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC), respectively which are also established by this bill.

This bill would permit the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for their truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. It would also make certain legislative findings and declarations relating to air pollution in port areas.

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

Status: In Print, not yet assigned to committee.

Specific Provisions: The LAIPC shall:

- Be funded by port permit fees imposed upon motor carriers consistent with this article.
- Determine the number of intermodal truck trips that pass through the Port of Long Beach and the Port of Los Angeles on an average daily basis. and the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange.
- Ascertain the number of drivers necessary to make at least three round trips to and from the port.
- Develop a system to ensure that there are a sufficient number of trucks to meet short term or peak demand.

Operational Impacts on AQMD: Minimal staff time for document review and participation in meetings.

Recommended Position: SUPPORT IN CONCEPT

Support:

None on File

Opposition

None on File

March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Support in concept.

Introduced by Senator LowenthalFebruary 22, 2005

An act to add Chapter 9.9 (commencing with Section 44299.87) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as introduced, Lowenthal. Vehicular sources: California Intermodal Port Congestion and Environmental Quality.

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

This bill would create the Los Angeles—Long Beach Area Intermodal Joint Powers Authority and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the Los Angeles—Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC), respectively, which are also established by this bill.

This bill would permit the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for their truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange.

This bill would also make certain legislative findings and declarations relating to air pollution in port areas.

This bill would make certain findings and declarations regarding the inapplicability of a general statute without the meaning of Section 16 of Article IV of the California Constitution.

This bill would impose a state-mandated local program by imposing additional duties on specific air quality management districts,

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 shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Air pollution in California is an ongoing problem that
- 4 impacts the health and safety of its residents.
- 5 (2) California ocean marine terminals are congested with long
- 6 lines forcing trucks to idle for extended periods of time. Idling
- 7 trucks emit air contaminants, including oxides of nitrogen,
- 8 carbon dioxide, and particulate matter.
- 9 (3) Many of the idling trucks contain engines that are exempt
- 10 from present emission standards. The air contaminants emitted
- 11 from these trucks significantly increase pollution and
- 12 dramatically reduce air quality in the area in and around the
- 13 ports.
- 14 (4) Many marine terminals and ports in California are close to
- 15 residential areas and businesses frequented by the public. Many
- 16 port truck drivers are forced to continue to drive old and
- 17 environmentally harmful trucks because they are unable to afford
- 18 to purchase a new truck. The lines of idling trucks are so long
- 19 that many drivers wait upwards of four hours before receiving a
- 20 load, preventing them from hauling more than two loads a day,
- 21 leaving them in financial ruin.

(b) It is the intent of the Legislature to create the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC) to evaluate and regulate intermodal port traffic.

(c) It is further the intent of the Legislature to establish the Los Angeles—Long Beach Area Intermodal Joint Powers Authority to oversee the functions of the LAIPC and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the OAIPC. .

SEC. 2. Chapter 9.9 (commencing with Section 44299.87) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9.9. CALIFORNIA INTERMODAL PORT CONGESTION
AND ENVIRONMENTAL QUALITY

Article 1. Los Angeles—Long Beach Area Regional
Intermodal Port Congestion and Environmental Quality
Commission

44299.87. The Los Angeles—Long Beach Area Intermodal Joint Powers Authority (LAJPA), a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the County of Los Angeles, the Cities of Los Angeles and Long Beach, and the South Coast Air Quality Management District, is hereby created for the exclusive purpose of overseeing the Los Angeles—Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission established pursuant to this article.

44299.88. (a) (1) The Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) is hereby established.

(2) The commission shall be composed of 14 members, as follows:

(A) A representative of the South Coast Air Quality Management District.

(B) A representative of the City of Long Beach.

- 1 (C) A representative of the City of Los Angeles.
- 2 (D) A representative of the Port of Long Beach.
- 3 (E) A representative of the Port of Los Angeles.
- 4 (F) A representative of the shipping line industry to be
- 5 nominated by the Pacific Merchant Shipping Association.
- 6 (G) A representative of labor representing ground
- 7 transportation workers to be nominated by the California State
- 8 Federation of Labor.
- 9 (H) A representative of labor representing workers inside port
- 10 terminals to be nominated by the California State Federation of
- 11 Labor.
- 12 (I) A representative of business that utilizes shipping services
- 13 in the Port of Long Beach or Port of Los Angeles to be
- 14 nominated by the California Retailers Association.
- 15 (J) A representative of the trucking industry to be nominated
- 16 by the California Trucking Association.
- 17 (K) A representative of an environmental organization that
- 18 has, as a major focus, air quality issues to be nominated by ____.
- 19 (L) A representative of a community group from a community
- 20 adjacent to the Port of Long Beach or the Port of Los Angeles to
- 21 be nominated by ____.
- 22 (M) A member of the Los Angeles County Board of
- 23 Supervisors.
- 24 (N) The Secretary of the Business, Transportation and
- 25 Housing Agency or his or her designee, as an ex officio member.
- 26 (b) Except for the initial appointments to the LAIPC, each
- 27 commission member, other than the ex-officio member identified
- 28 in subparagraph (N) of paragraph (2) of subdivision (a), or his or
- 29 her designee, shall serve a four-year term, to be staggered so that
- 30 approximately one-third of the appointments expire in each year.
- 31 A person may not be appointed to serve more than two
- 32 consecutive terms. The LAJPA shall appoint the initial members
- 33 of the commission.
- 34 (c) In carrying out its duties and responsibilities the LAIPC
- 35 may do all of the following:
- 36 (1) Meet at least once each quarter.
- 37 (2) Employ staff, including any clerical, legal, and technical
- 38 assistance as may appear necessary.
- 39 (3) Establish advisory committees.

1 (4) Employ all other appropriate strategies necessary or
2 convenient to enable it to fully and adequately perform its duties
3 and exercise the powers expressly granted.

4 (d) The LAIPC shall develop and adopt member rules relating
5 to conflicts of interest.

6 (e) The LAIPC shall be funded by port permit fees imposed
7 upon motor carriers consistent with this article.

8 44299.89. (a) The LAIPC shall determine the number of
9 intermodal truck trips that pass through the Port of Long Beach
10 and the Port of Los Angeles on an average daily basis and the
11 number of intermodal trucks needed to efficiently move
12 intermodal freight from marine terminals to the first point of
13 delivery, unloading, or interchange.

14 (b) The LAIPC shall ascertain the number of drivers necessary
15 to make at least three round trips to and from the port. The
16 LAIPC shall grant port permit authority consistent with
17 subdivision (a) of Section 44299.90 so that the total number of
18 trucks delivering intermodal freight to and from the port shall not
19 exceed the number necessary for each truck to make at least three
20 round trips to and from the port.

21 (c) The LAIPC shall develop a system to ensure that there are
22 a sufficient number of trucks to meet short term or peak demand.
23 The LAIPC shall establish a system, consistent with
24 environmental goals, to permit the transfer of vehicles or drivers
25 between authorized motor carriers and the updating of fleets
26 when new vehicles come into service or leave service.

27 44299.90. (a) Except as provided by subdivision (d), and
28 consistent with requirements of Section 44299.89, the LAIPC
29 shall grant to each motor carrier qualified under subdivision (b) a
30 port permit for authority to enter a specific port to pick up or
31 deliver intermodal freight for its truck fleet until the total fleet
32 size determined pursuant to Section 44299.89 is reached. Each
33 motor carrier shall be required to make an application for a port
34 permit pursuant to this section on behalf of any employee driver
35 or owner-operator, whether the owner-operator operates under
36 his or her own operating authority or operates as a subhauler
37 under the operating authority of an overlying motor carrier. A
38 motor carrier shall not require, as a condition of employment or
39 dispatch, that an employee driver or owner-operator driver

1 operating under the operating authority of the motor carrier pay
2 for any portion of the cost of the port permit.

3 (b) The LAIPC shall grant a port permit to a motor carrier on
4 the basis of a combined score derived from the following factors:

5 (1) The motor carrier's seniority of service in regularly
6 delivering intermodal freight to and from the particular port.

7 (2) Satisfactory ratings on a biennial inspection of terminal
8 report.

9 (3) The age of the motor carrier's fleet.

10 (4) Proof of adequate insurance, as established by the
11 commission.

12 (5) Any other criteria the LAIPC shall establish.

13 (c) A port permit shall not be issued to a motor carrier if its
14 fleet contains more than ____ percent of truck tractors older than
15 the 1994 model year.

16 (d) Where casual drivers are needed to fulfill short term or
17 peak demand, those drivers may be dispatched from a hiring hall.

18 (e) Each motor carrier issued a port permit shall pay an annual
19 fee of ____ dollars (\$ ____), to be used to fund the LAIPC.

20 (f) A port permit shall be renewed every ____ years.

21 44299.91. Each truck dispatched from a motor carrier that has
22 been issued a port permit shall display an identification sticker
23 authorizing the truck to enter the port. No truck may pick up or
24 deliver freight at a particular port if that truck is not part of the
25 fleet of a motor carrier that possesses a permit for that port.

26 44299.92. (a) The LAIPC may establish rules and regulations
27 as necessary to implement the provisions of this article. The
28 LAIPC shall also establish fleet emissions rules and regulations
29 for trucks operating in and out of ports to reduce air emissions
30 caused by the idling or queuing of trucks.

31 (b) For the purposes of this article, "motor carrier" means both
32 a motor carrier for hire and a proprietary motor carrier.

33
34 Article 2. Oakland Area Regional Intermodal Port Congestion
35 and Environmental Quality Commission
36

37 44299.93. The Oakland Area Intermodal Joint Powers
38 Authority (OAJPA), a public entity created pursuant to Article 1
39 (commencing with Section 6500) of Chapter 5 of Division 7 of
40 Title 1 of the Government Code, and composed of the County of

1 Alameda, the City of Oakland, and the Bay Area Air Quality
2 Management District, is hereby created for the exclusive purpose
3 of overseeing the Oakland Area Regional Intermodal Port
4 Congestion and Environmental Quality Commission established
5 pursuant to this article.

6 44299.94. (a) (1) The Oakland Area Regional Intermodal
7 Port Congestion and Environmental Quality Commission
8 (OAIPC) is hereby established.

9 (2) The commission shall be composed of 12 members, as
10 follows:

11 (A) A representative of the Bay Area Air Quality Management
12 District.

13 (B) A representative of the City of Oakland.

14 (C) A representative of the Port of Oakland.

15 (D) A representative of the Alameda County Board of
16 Supervisors.

17 (E) A representative of the shipping line industry to be
18 nominated by the Pacific Merchant Shipping Association.

19 (F) A representative of labor representing ground
20 transportation workers to be nominated by the California State
21 Federation of Labor.

22 (G) A representative of labor representing workers inside port
23 terminals to be nominated by the California State Federation of
24 Labor.

25 (H) A representative of business that utilizes shipping services
26 in the Port of Oakland to be nominated by the California
27 Retailers Association.

28 (I) A representative of the trucking industry to be nominated
29 by the California Trucking Association.

30 (K) A representative of an environmental organization that
31 has, as a major focus, air quality issues to be nominated by
32 _____.

33 (L) A representative of a community group from a community
34 adjacent to the Port of Oakland to be nominated by _____.

35 (M) The Secretary of the Business, Transportation and
36 Housing Agency or his or her designee, as an ex officio member.

37 (b) Except for the initial appointments to the OAIPC, each
38 commission member, other than the ex-officio member identified
39 in subparagraph (M) of paragraph (2) of subdivision (a), or his or
40 her designee, shall serve a four-year term, to be staggered so that

1 approximately one-third of the appointments expire in each year.
2 A person may not be appointed to serve more than two
3 consecutive terms. The OAJPA shall appoint the initial members
4 of the committee.

5 (c) In carrying out its duties and responsibilities the OAIPC
6 may do all of the following:

7 (1) Meet at least once each quarter.

8 (2) Employ staff, including any clerical, legal, and technical
9 assistance as may appear necessary.

10 (3) Establish advisory committees.

11 (4) Employ all other appropriate strategies necessary or
12 convenient to enable it to fully and adequately perform its duties
13 and exercise the powers expressly granted.

14 (d) The OAIPC shall develop and adopt member rules relating
15 to conflicts of interest.

16 (e) The OAIPC shall be funded by port permit fees imposed
17 upon motor carriers consistent with this article.

18 44299.95. (a) The OAIPC shall determine the number of
19 intermodal truck trips that pass through the Port of Oakland on an
20 average daily basis and the number of intermodal trucks needed
21 to efficiently move intermodal freight from marine terminals to
22 the first point of delivery, unloading, or interchange.

23 (b) The OAIPC shall ascertain the number of drivers necessary
24 to make at least three round trips to and from the port. The
25 OAIPC shall grant port permit authority consistent with
26 subdivision (a) of Section 44299.96 so that the total number of
27 trucks delivering intermodal freight to and from the port shall not
28 exceed the number necessary for each truck to make at least three
29 round trips to and from the port.

30 (c) The OAIPC shall develop a system to ensure that there are
31 a sufficient number of trucks to meet short term or peak demand.
32 The OAIPC shall establish a system, consistent with
33 environmental goals, to permit the transfer of vehicles or drivers
34 between authorized motor carriers and the updating of fleets
35 when new vehicles come into service or leave service.

36 44299.96. (a) Except as provided by subdivision (d), and
37 consistent with requirements of Section 44299.95, the OAIPC
38 shall grant to each motor carrier qualified under subdivision (b) a
39 port permit for authority to enter a specific port to pick up or
40 deliver intermodal freight for its truck fleet until the total fleet

1 size determined pursuant to Section 44299.95 is reached. Each
2 motor carrier shall be required to make an application for a port
3 permit pursuant to this section on behalf of any employee driver
4 or owner-operator, whether the owner-operator operates under
5 his or her own operating authority or operates as a subhauler
6 under the operating authority of an overlying motor carrier. A
7 motor carrier shall not require, as a condition of employment or
8 dispatch, that an employee driver or owner-operator driver
9 operating under the operating authority of the motor carrier pay
10 for any portion of the cost of the port permit.

11 (b) The OAIPC shall grant a port permit to a motor carrier on
12 the basis of a combined score derived from the following factors:

13 (1) The motor carrier's seniority of service in regularly
14 delivering intermodal freight to and from the particular port.

15 (2) Satisfactory ratings on a biennial inspection of terminal
16 report.

17 (3) The age of the motor carrier's fleet.

18 (4) Proof of adequate insurance, as established by the
19 commission.

20 (5) Any other criteria the OAIPC shall be establish.

21 (c) A port permit shall not be issued to a motor carrier if its
22 fleet contains more than ____ percent of truck tractors older than
23 the 1994 model year.

24 (d) Where casual drivers are needed to fulfill short term or
25 peak demand, those drivers may be dispatched from a hiring hall.

26 (e) Each motor carrier issued a port permit shall pay an annual
27 fee of ____ dollars (\$____), to be used to fund the OAIPC.

28 (f) A port permit shall be renewed every ____ years.

29 44299.97. Each truck dispatched from a motor carrier that has
30 been issued a port permit shall display an identification sticker
31 authorizing the truck to enter the port. No truck may pick up or
32 deliver freight at a particular port if that truck is not part of the
33 fleet of a motor carrier that possesses a permit for that port.

34 44299.98. (a) The OAIPC may establish rules and regulations
35 as necessary to implement the provisions of this article. The
36 OAIPC shall also establish fleet emissions rules and regulations
37 for trucks operating in and out of ports to reduce air emissions
38 caused by the idling or queuing of trucks.

39 (b) For the purposes of this article, "motor carrier" means both
40 a motor carrier for hire and a proprietary motor carrier.

1 SEC. 3. The Legislature finds and declares that, due to the
2 unique circumstances relating to air quality in the communities
3 surrounding the Port of Los Angeles, the Port of Long Beach,
4 and the Port of Oakland, a statute of general applicability cannot
5 be enacted within the meaning of subdivision (b) of Section 16 of
6 Article IV of the California Constitution.

7 SEC. 4. No reimbursement shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title 2 of the
9 Government Code for costs mandated by the state pursuant to
10 this act. It is recognized, however, that a local agency or school
11 district may pursue any remedies to obtain reimbursement
12 available to it under Part 7 (commencing with Section 17500)
13 and any other provisions of law.

Senate Bill 763 – (Lowenthal)
Ports: Priority Berthing Program.

Summary: This bill would require the Port of Los Angeles and the Port of Long Beach to develop a program to provide priority berthing to ocean-going vessels that use fuel with not more than 0.2% sulfur content. It would require the program to be implemented by the ports by June 1, 2006.

Background: Existing law regulates the operation of ports and harbors.

Status: In print, not yet assigned to committee.

Specific Provisions:

- (a) The Port of Los Angeles and the Port of Long Beach shall develop a program to provide priority berthing to ocean-going vessels that use fuel with not more than 0.2 percent sulfur content.
- (b) The program shall provide that if there is a line or queue for ocean-going vessels waiting to dock at the port, ocean-going vessels that use fuel with not more than 0.2 percent sulfur content are authorized to move to the front of the line or queue and receive priority for docking.
- (c) The ports shall implement this program by June 1, 2006.

Operational Impacts on AQMD: Minimal staff time for document review and meeting participation.

Recommended Position: SUPPORT WITH AMENDMENT that berthing priority should be first for use of 0.2% sulfur fuel in main and auxiliary engines, followed by the use of 0.2% sulfur fuel in auxiliary engines only.

Support

None on File

Opposition:

None on File

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>

Introduced by Senator LowenthalFebruary 22, 2005

An act to add Section 1735 to the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 763, as introduced, Lowenthal. Ports: priority berthing program.

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

This bill would require the Port of Los Angeles and the Port of Long Beach to develop a program to provide priority berthing to ocean-going vessels that use fuel with not more than 0.2% sulfur content. The bill would require the program to be implemented by the ports by June 1, 2006.

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

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

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

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

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

1 SECTION 1. Section 1735 is added to the Harbors and
2 Navigation Code, to read:

3 1735. (a) The Port of Los Angeles and the Port of Long Beach
4 shall develop a program to provide priority berthing to
5 ocean-going vessels that use fuel with not more than 0.2 percent
6 sulfur content.

7 (b) The program shall provide that if there is a line or queue
8 for ocean-going vessels waiting to dock at the port, ocean-going
9 vessels that use fuel with not more than 0.2 percent sulfur content
10 are authorized to move to the front of the line or queue and
11 receive priority for docking.

12 (c) The ports shall implement this program by June 1, 2006.

13 SEC. 2. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

Senate Bill 764 – (Lowenthal)
Air Resources: South Coast Air Quality Management District: Ports

Summary: This bill would require the Port of Los Angeles and the Port of Long Beach to develop a baseline for air quality for their respective ports, in consultation with specified agencies. It would require the air quality baseline to be based on the level of emissions from specified sources, and would require the Port of Los Angeles and the Port of Long Beach to hold public hearings on the baseline data and discuss potential mitigation and control measures to reduce emissions from sources at the port, develop a date for which it will meet their 2001 baseline for each source listed, which shall be no later than January 1, 2008, and report to the south coast district and the State Air Resources Board regarding the port's compliance, as specified.

Background: Existing law provides for the regulation of ports and harbors. Existing law, the Lewis-Presley Air Quality Management Act, establishes the South Coast Air Quality Management District (south coast district) as the sole and exclusive local agency within those portions of the Counties of Los Angeles, Orange, Riverside, and San Bernardino that are included within the South Coast Air Basin.

Status: In print, not yet assigned to committee .

Specific Provisions:

The Port of Los Angeles shall develop a baseline for air quality for the port. The baseline shall be based on data collected by the port regarding the level of emissions in the port during 2001 from all of the following sources:

- (1) Oceangoing vessels and harbor craft.
- (2) Cargo handling equipment.
- (3) Rail locomotives.
- (4) Commercial motor vehicles.

The air quality baseline shall also be based on data collected by the port regarding the level of emissions in the port during 2001 from all of the following air pollutants:

- (1) Oxides of nitrogen (NOx).
- (2) Carbon monoxide (CO).
- (3) PM 2.5 and PM10, as defined in Section 39614.
- (4) Particulate matter from diesel fuel.
- (5) Sulfur dioxide (SO2).

Operational Impacts on AQMD: Staff time to participate in meetings and track developments.

Recommended Position: SUPPORT WITH AMENDMENTS to encompass emissions from port-related sources as they travel throughout the air basin, e.g., trucks and locomotives, and also to drop the CO requirement.

Support:
None on File

Opposition:
None on File

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support with amendments.</i></p>

Introduced by Senator Lowenthal

February 22, 2005

An act to add Sections 40459.2 and 40459.3 to the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 764, as introduced, Lowenthal. Air resources: South Coast Air Quality Management District: ports.

(1) Existing law provides for the regulation of ports and harbors. Existing law, the Lewis-Presley Air Quality Management Act, establishes the South Coast Air Quality Management District (south coast district) as the sole and exclusive local agency within those portions of the Counties of Los Angeles, Orange, Riverside, and San Bernardino that are included within the South Coast Air Basin.

This bill would require the Port of Los Angeles and the Port of Long Beach to develop a baseline for air quality for their respective ports, in consultation with specified agencies. This bill would require the air quality baseline to be based on the level of emissions from specified sources, and would require the Port of Los Angeles and the Port of Long Beach to hold public hearings on the baseline data and discuss potential mitigation and control measures to reduce emissions from sources at the port, develop a date for which it will meet their 2001 baseline for each source listed, which shall be no later than January 1, 2008, and report to the south coast district and the State Air Resources Board regarding the port's compliance, as specified.

This bill would also make legislative findings and declarations relating to air quality.

(2) This bill would make findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 or Article IV of the California Constitution.

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

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

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

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

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

3 (a) Exhaust fumes from diesel fuel are known to cause cancer.

4 (b) A landmark study conducted by the South Coast Air
5 Quality Management District, the "Multiple Air Toxics Exposure
6 Study," found that 70 percent of all serious health risks
7 attributable to mobile pollution sources are attributable to diesel
8 engine exhaust.

9 (c) The federal Clean Air Act (42 U.S.C. Sec. 7401, et seq.)
10 requires certain regions that have high levels of air pollution
11 demonstrate that construction of new highways will not worsen
12 air pollution.

13 SEC. 2. Section 40459.2 is added to the Health and Safety
14 Code, to read:

15 40459.2. The Port of Los Angeles shall develop a baseline for
16 air quality for the port. In developing this baseline, the port shall
17 consult with the south coast district, the state board and any other
18 state or federal agency necessary to compile an accurate baseline
19 inventory.

20 (a) The air quality baseline shall be based on data collected by
21 the port regarding the level of emissions in the port during 2001
22 from all of the following sources:

23 (1) Oceangoing vessels and harbor craft.

24 (2) Cargo handling equipment.

25 (3) Rail locomotives.

26 (4) Commercial motor vehicles, as defined in subdivision (b)
27 of Section 15210 of the Vehicle Code.

1 (b) The air quality baseline shall be based on data collected by
2 the port regarding the level of emissions in the port during 2001
3 from all of the following air pollutants:

- 4 (1) Oxides of nitrogen (NO_x).
- 5 (2) Carbon monoxide (CO).
- 6 (3) PM 2.5 and PM10, as defined in Section 39614.
- 7 (4) Particulate matter from diesel fuel.
- 8 (5) Sulfur dioxide (SO₂).

9 (c) The Port of Los Angeles shall hold public hearings on the
10 baseline data and discuss potential mitigation and control
11 measures to reduce emissions from sources at the port.

12 (d) The Port of Los Angeles shall conduct an annual emission
13 inventory, beginning January 1, 2006, for emission year 2005,
14 and each year thereafter, in order to compare the current
15 emissions versus the 2001 emission baseline.

16 (e) The Port of Los Angeles shall develop a date for which it
17 will meet its 2001 baseline for each source listed, which shall be
18 no later than January 1, 2008.

19 (f) On January 1, 2007, and on January 1 of each year
20 thereafter, the Port of Los Angeles shall report to the south coast
21 district and the state board regarding the port's compliance with
22 subdivision (d), including, but not limited to, an accounting of
23 the port's programs and efforts that are directed towards that
24 compliance.

25 (g) Nothing in this section prevents the state board or the south
26 coast district from adopting and implementing regulations for
27 any source at any port in this state.

28 SEC. 3. Section 40459.3 is added to the Health and Safety
29 Code, to read:

30 40459.3. The Port of Long Beach shall develop a baseline for
31 air quality for the port. In developing this baseline, the port shall
32 consult with the south coast district, the state board and any other
33 state or federal agency necessary to compile an accurate baseline
34 inventory.

35 (a) The air quality baseline shall be based on data collected by
36 the port regarding the level of emissions in the port during 2002
37 from all of the following sources:

- 38 (1) Oceangoing vessels and harbor craft.
- 39 (2) Cargo handling equipment.
- 40 (3) Rail locomotives.

1 (4) Commercial motor vehicles, as defined in subdivision (b)
2 of Section 15210 of the Vehicle Code.

3 (b) The air quality baseline shall be based on data collected by
4 the port regarding the level of emissions in the port during 2002
5 from all of the following air pollutants:

6 (1) Oxides of nitrogen (NO_x).

7 (2) Carbon monoxide (CO).

8 (3) PM 2.5 and PM10, as defined in Section 39614.

9 (4) Particulate matter from diesel fuel.

10 (5) Sulfur dioxide (SO₂).

11 (c) The Port of Long Beach shall hold public hearings on the
12 baseline data and discuss potential mitigation and control
13 measures to reduce emissions from sources at the port.

14 (d) The Port of Long Beach shall conduct an annual emission
15 inventory, beginning January 1, 2006, for emission year 2005,
16 and each year thereafter, in order to compare the current
17 emissions versus the 2002 emission baseline.

18 (e) The Port of Long Beach shall develop a date for which it
19 will meet their 2002 baseline for each source listed, which shall
20 be no later than January 1, 2008.

21 (f) On January 1, 2007, and on January 1 of each year
22 thereafter, the Port of Long Beach shall report to the south coast
23 district and the state board the port's compliance with subdivision
24 (e), including, but not limited to, an accounting of the port's
25 programs and efforts that are directed towards that compliance.

26 (g) Nothing in this section prevents the state board or the south
27 coast district from adopting and implementing regulations for
28 any source at any port in this state.

29 SEC. 4. The Legislature finds and declares that due to the
30 unique circumstances relating to air quality in port areas in the
31 South Coast Air Quality Management District, a statute of
32 general applicability cannot be enacted within the meaning of
33 subdivision (b) of Section 16 of Article IV of the California
34 Constitution.

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

Assembly Bill 1101 - (Oropeza)
Air pollution: diesel magnet sources

Summary: AB 1101 expresses the legislature's intent to define diesel magnet sources to include ports, airports, rail yards, distribution centers, and intermodal sites, and to establish the time frame for districts to review and, if necessary, revise policies and procedures, and for the largest diesel magnet sources to comply with the requirements applicable to traditional stationary sources. This bill would also make legislative findings and declarations relating to diesel magnet sources of air pollution.

Background: Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and non-vehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources, including stationary sources. Existing law establishes the Protect California Air Act of 2003, and provides that the primary mechanism for controlling stationary sources is the existing new source review program of the districts.

Status: Not yet assigned to committee.

Specific Provisions:

- (1) The people of California have a right to know when industrial or commercial operations result in emission of toxic air contaminants that may pose a significant health risk to the people exposed to those emissions.
 - prioritization of diesel emissions
 - public notification for high risk facility
- (2) Recent studies show that particle emissions in diesel exhaust are highly toxic, and account for upwards of 70 percent of the statewide cancer risk due to toxic pollutants in ambient air.
- (3) Industrial and commercial operations that involve or attract high levels of diesel traffic or other diesel engine use can pose substantially higher risks to the public near the facilities.
- (4) Available data indicate that these diesel magnet sources may pose risks to the surrounding communities.
- (5) Large diesel magnet sources should comply with requirements to prepare and submit inventories of their emissions, prepare health risks assessments, notify the public of significant risks, and reduce unacceptably high risks.

- (6) It is the intent of the Legislature to define diesel magnet sources to include ports, airports, rail yards, distribution centers, and intermodal sites, and to establish the time frame for districts to review and, if necessary, revise policies and procedures, and for the largest diesel magnet sources to comply with these requirements.

Operational Impacts on AQMD: Effects on areas(s) of AQMD functional responsibility: This represents a workload increase for staff.

If passed, planning staff would need to implement legislation and evaluate health risk assessments. Engineering staff would possibly process permits and enforcement staff would inspect sites

The District should also review policies and procedures that implement existing law and, if necessary, revise them to appropriately address large diesel magnet sources. Review of existing policies and procedures, and the preparation of inventories, health risk assessments, public notification, and risk reduction should be carried out under a coordinated process and schedule. The changes resulting from this bill will enhance opportunities to seek funding and better consideration of diesel emissions by state agencies. Staff recommends a support position.

Recommended Position: *SUPPORT IN CONCEPT:* The positive aspect of this bill is that it would apply the same process to large diesel magnet facilities that have been in place for traditional stationary permitted sources. We would be able to disclose and control sources that have largely escaped scrutiny. There would also be benefits to communities, including the right to know about toxic exposures and the potential for reductions to occur for high risk facilities. Another benefit is that it will reduce PM regionally, which will help with PM attainment. One potential negative impact is that community members may not be satisfied with the level of risk reduction that is technically achievable at this time

These types of large magnet sources for diesel emissions can pose high risk to the surrounding communities and contribute to the overall Basin cancer risk from diesel emissions. Also see 'positive aspects' above. This bill is sponsored by CAPCOA. Staff is working with CAPCOA and the author to develop amendments to refine the bill.

Support:
None on File

Opposition:
None on File

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support in concept.</i></p>
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ASSEMBLY BILL

No. 1101

Introduced by Assembly Member Oropenza

February 22, 2005

An act relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1101, as introduced, Oropenza. Air pollution: diesel magnet sources.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources, including stationary sources. Existing law establishes the Protect California Air Act of 2003, and provides that the primary mechanism for controlling stationary sources is the existing new source review program of the districts.

This bill would express the legislature's intent to define diesel magnet sources to include ports, airports, rail yards, distribution centers, and intermodal sites, and to establish the time frame for districts to review and, if necessary, revise policies and procedures, and for the largest diesel magnet sources to comply with the requirements applicable to traditional stationary sources. This bill would also make legislative findings and declarations relating to diesel magnet sources of air pollution.

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

3 (1) The people of California have a right to know when
4 industrial or commercial operations result in emission of toxic air
5 contaminants that may pose a significant health risk to the people
6 exposed to those emissions.

7 (2) Existing law requires facilities whose operations result in
8 emission of toxic air contaminants to prepare inventories of those
9 emissions and submit them to the local air districts for
10 prioritization.

11 (3) Existing law also requires facilities that are designated
12 high priority to prepare health risk assessments, and if the
13 assessment shows the potential health risks to be significant, to
14 notify the public of those risks.

15 (4) Existing law further requires facilities that pose
16 unacceptably high risks to public health to prepare plans to
17 reduce those risks, and to implement the plans according to a
18 specified schedule.

19 (5) Traditional stationary sources, both large and small, have
20 already complied with these requirements by preparing
21 inventories of their emissions, and where applicable, preparing
22 health risk assessments, notifying the public, and implementing
23 risk reduction.

24 (6) Recent studies show that particle emissions in diesel
25 exhaust are highly toxic, and account for upwards of 70 percent
26 of the statewide cancer risk due to toxic pollutants in ambient air.

27 (7) Industrial and commercial operations that involve or attract
28 high levels of diesel traffic or other diesel engine use can pose
29 substantially higher risks to the public near the facilities.

30 (8) Available data indicate that these diesel magnet sources
31 may pose risks to the surrounding communities that are far
32 greater than risks posed by most traditional stationary sources,
33 and that far greater numbers of people are affected by the
34 emissions. These diesel magnet sources meet the statutory
35 definition of "facility" under existing law, but to date have not
36 submitted inventories or taken other actions in compliance with
37 existing statutes.

1 (9) Large diesel magnet sources should comply with
2 requirements to prepare and submit inventories of their
3 emissions, prepare health risks assessments, notify the public of
4 significant risks, and reduce unacceptably high risks.

5 (10) Local air pollution control districts and air quality
6 management districts should review policies and procedures that
7 implement existing law and, if necessary, revise them to
8 appropriately address large diesel magnet sources. Review of
9 existing policies and procedures, and the preparation of
10 inventories, health risk assessments, public notification, and risk
11 reduction should be carried out under a coordinated process and
12 schedule.

13 (b) It is the intent of the Legislature to define diesel magnet
14 sources to include ports, airports, rail yards, distribution centers,
15 and intermodal sites, and to establish the time frame for districts
16 to review and, if necessary, revise policies and procedures, and
17 for the largest diesel magnet sources to comply with these
18 requirements.

Assembly Bill 1220 – (Jones) **Air Quality: Portable Equipment Registration**

Summary: This bill would require the state board to include a uniform statewide district fee schedule for the recovery of actual costs of enforcement of the statewide registration program, emissions limitations, and emissions control requirements.

The proposal would:

1. Require districts to approve and submit to the state board the actual costs of enforcement and would require the state board to adjust its fees to fully reimburse districts for those actual costs, as part of the state's next billing cycle.
2. Permit district boards to require hour meters to determine engine use and additional notification by operators of engine movement into and within an air district to ensure proper enforcement of the statewide registration program.

Background: The proposed AB 1220 is intended to improve the deficiencies in the current statewide regulations developed for and applied to portable equipment. Statewide there are some 33,000 portable internal combustion engines larger than 50 horsepower with over 95% using diesel fuel. Presently only less than half of these engines are registered under the statewide registration program, with about half operating without any registration under the statewide program or under permit from local districts. These engines emit over 55 tons per day of nitrogen oxides (NOx), an ozone precursor, and over 4 tons per day of toxic fine particulate matter (PM10) known to pose significant health risk. It is estimated that about half of all these engines are operating in the AQMD area.

To that extent the proposed bill would strengthen AQMD's capability to enforce the existing regulations and address some of the deficiencies in the existing regulation to reduce ozone forming and toxic emissions from portable equipment. However, the bill language needs to be slightly modified to ensure that appropriate and timely emission reductions and controls are applied to portable equipment and that adequate cost recovery is provided to AQMD (and other districts) to be able to establish an effective compliance program to regulate these sources in a manner similar to the stationary equipment, or even portable equipment presently regulated by AQMD.

Status: In print, not yet assigned to committee.

Specific Provisions: This bill requires, not later than July 31, 2007, that the state board submit to the Legislature and affected districts, a report containing information relating to emission limitations and emission control requirements, as provided.

The bill overall has positive provisions since it allows AQMD to adopt requirements such as hour meters and notifications to improve the enforceability of the regulations. The bill also requires CARB to evaluate emissions from operation of portable equipment and identify emission reduction technologies that may be applied to portable equipment. Also the bill attempts to establish a uniform statewide district fee schedule for recovery of the actual costs of enforcement program.

Unless some of the language in the bill is modified one could argue that some of the things required in the bill is either already being achieved or does not provide the adequate mechanism to implement. For example in evaluating emissions and identifying emission reduction technologies, CARB should be required to consider emission reductions levels and time frames, as well as technologies, utilized for stationary equipment to the extent that it applies to portable equipment. Also CARB should periodically revise and update their regulations for not only BACT, but also for BARCT.

Finally, the establishment of a uniform statewide district fee for recovery of actual cost can arguably be only established retrospectively based on the number of inspections made and the cost burdened in the previous year. The statewide district fee should be established as an annual compliance flat fee for all portable equipment in order to allow districts develop and implement an effective compliance program similar and consistent with the way it is established for stationary equipment or even portable equipment regulated by AQMD. This approach is necessary because inspection of portable equipment is even more costly than stationary equipment, because AQMD inspectors have to spend more resources to first find and then inspect such equipment. This is one of the major reasons why presently AQMD and other districts have not been able to establish an effective enforcement program.

Operational Impacts on AQMD: This bill, ~~with appropriate amendments,~~ should assist AQMD's progress towards attainment and toxics emissions reductions and will improve AQMD's enforcement capability to better regulate and enforce portable equipment operations.

Recommended Position: SUPPORT

Support:
None on File

Opposition:
None on File

<p>March 11, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support.</i></p>

ASSEMBLY BILL

No. 1220

Introduced by Assembly Member Jones

February 22, 2005

An act to amend Sections 41752 and 41755 of, and to add Section 41756 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1220, as introduced, Jones. Air quality: portable equipment registration.

(1) Existing law authorizes air pollution control districts and air quality management districts to establish a permit system requiring persons who build, erect, alter, operate, or use any article, machine, equipment, or contrivance that may cause the issuance of air contaminants to obtain a permit to ensure compliance with applicable air quality standards.

Existing law requires the State Air Resources Board to establish, by regulation, an optional statewide registration program for portable equipment, as defined, and requires that the regulations adopted by the state board, on or before July 1, 1997, include specified provisions. Existing law requires any recordkeeping and reporting requirements prescribed by the state board for the purpose of tracking engine utilization and movement to be the minimum that is necessary to provide sufficient emission inventory data and allow adequate enforcement of the registration program. Existing law requires districts to enforce the statewide registration program, emission limitations, and emission control requirements established by the state board and requires the state board to include a uniform statewide district fee schedule for the recovery of the reasonable costs of

enforcement of the statewide registration program, emissions limitations, and emissions control requirements.

This bill would require the state board to instead include a uniform statewide district fee schedule for the recovery of the actual costs of enforcement, as provided. This bill would require districts to approve and submit to the state board the actual costs of enforcement and would require the state board to adjust its fees to fully reimburse districts for those actual costs, as part of the state's next billing cycle. This bill would permit district boards to require hour meters to determine engine use and additional notification by operators of engine movement into and within an air district to ensure proper enforcement of the statewide registration program. This bill would also require, not later than July 31, 2007, that the state board submit to the Legislature and affected districts, a report containing information relating to emission limitations and emission control requirements, as provided.

(2) Because this bill would require districts to approve and submit to the state board the actual costs of enforcement of the registration program, this bill would impose a state-mandated local program.

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

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

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

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

- 1 SECTION 1. Section 41752 of the Health and Safety Code is
- 2 amended to read:
- 3 41752. (a) At the earliest feasible date, but not later than July
- 4 1, 1997, the state board shall do all of the following:
- 5 (1) Evaluate the emissions from the operation of portable
- 6 equipment and identify emission reduction technologies that may
- 7 be applied to portable equipment.
- 8 (2) After holding at least one public hearing, establish, by
- 9 regulation, emission limits and emission control requirements,
- 10 consistent with Section 41754, and an optional registration

1 program for portable equipment that is, or may be, used in more
2 than a single district.

3 (b) The registration program shall take effect on the date
4 specified by the state board in the regulation, but not later than
5 180 days from the date that the state board adopts the regulation.

6 (c) The program shall provide for the voluntary registration of
7 portable equipment, and may provide for the renewal of a
8 registration not more than once every three years.

9 (d) (1) The state board may establish a schedule of fees for
10 purposes of this article to be assessed on persons seeking to
11 register, or to renew the registration of, portable equipment. The
12 state board may establish separate fees for the initial registration
13 and for the renewal of a registration. The fees charged, in the
14 aggregate, shall not exceed the reasonable cost to the state board
15 of administering the registration program, and adopting the
16 regulations specified in Section 41754.

17 (2) The state board shall, in adopting the regulations specified
18 in Section 41754, include a uniform statewide district fee
19 schedule for the recovery of the ~~reasonable~~ *actual* costs of
20 enforcement pursuant to Section 41755. *The districts shall*
21 *annually approve and submit to the state board the actual costs*
22 *of enforcement of this article, pursuant to Section 41755, and the*
23 *state board shall adjust its fees to fully reimburse districts for*
24 *those actual costs, as part of the state's next billing cycle.*

25 (e) Notwithstanding Section 41754, the state board may
26 periodically revise and update the regulations adopted pursuant
27 to this section, including, but not limited to, revising and
28 updating a determination of best available control technology
29 (BACT) for portable internal combustion engines.

30 SEC. 2. Section 41755 of the Health and Safety Code is
31 amended to read:

32 41755. (a) Districts shall enforce the statewide registration
33 program, emission limitations, and emission control requirements
34 established by the state board pursuant to this article in the same
35 manner as a district rule or regulation. *District boards, by*
36 *regulation, may require hour meters to determine engine use and*
37 *additional notification by operators of engine movement into and*
38 *within an air district to ensure proper enforcement of the*
39 *statewide registration program.*

1 (b) (1) Source testing of engines for compliance purposes
2 shall not be required more frequently than once every three years,
3 except where evidence of engine tampering, lack of proper
4 engine maintenance, or other problems or operating conditions
5 that could affect emissions from the engine are identified.

6 (2) A district may conduct source testing to determine
7 compliance with mass emission limits where there is an
8 indication of noncompliance.

9 (3) Except as required for purposes of paragraph (2), source
10 testing of engine emissions for compliance purposes shall not be
11 required of engines for which there is no applicable emission
12 limit.

13 SEC. 3. Section 41756 is added to the Health and Safety
14 Code, to read:

15 41756. (Not later than July 31, 2007, the state board shall
16 submit to the Legislature and affected districts, a report
17 comparing the stringency and effectiveness of emission
18 limitations and emission control requirements established by the
19 state board for sources within the statewide registration program,
20 to the stringency and effectiveness of these limitations or
21 requirements established by districts for comparable stationary
22 source engines that are not included in the program, and for
23 public fleet engine requirements.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 this act provides for offsetting savings to local agencies or school
27 districts that result in no net costs to the local agencies or school
28 districts, within the meaning of Section 17556 of the Government
29 Code.