

AMENDED IN ASSEMBLY MARCH 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1901

Introduced by Assembly Member Shirley Horton
(Principal coauthor: Assembly Member Oropeza)

January 25, 2006

An act to add and repeal Chapter 8.7 (commencing with Section 44267) of Part 7 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1901, as amended, Shirley Horton. Air pollution: truck retrofit revolving loan program.

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. *Existing law establishes the State Energy Resources Conservation and Development Commission as the state's principal energy policy and planning organization.* Existing law establishes various grant programs, including, but not limited to, zero-emission vehicle grants, to encourage the purchase of low- or zero-emissions vehicles.

This bill would establish, until January 1, 2012, the Truck Retrofit Revolving Loan Program (program) in the ~~state board~~ *commission* to help finance, through direct loans, the retrofitting of trucks *of large*

~~and small businesses, as defined, with bundled energy efficiency and emission reduction equipment kits SmartWay Upgrade Kits, as defined, by businesses, as specified that would be required to have specified emission control devices and may have other specified equipment.~~ The bill would create the Truck Retrofit Revolving Loan Program Fund in the State Treasury, and would require the moneys in the fund, upon annual appropriation by the Legislature, to be used for the purpose of providing loans for program purposes.

This bill would prescribe requirements for repayment of the allocations made pursuant to the program and would authorize the Department of Finance to audit the expenditure of an allocation or the computation of specified payments.

This bill would require the ~~state board~~ *commission*, by October 1, 2008, and by October 1 annually thereafter, to submit to the Legislature a report on the number of trucks retrofitted pursuant to the program, the energy cost savings and emission reductions resulting from the retrofit, and the amount of interest accrued.

This bill would provide that the termination of the program on January 1, 2012, would not terminate the obligation to repay any loans outstanding as of that date.

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

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

1 SECTION 1. Chapter 8.7 (commencing with Section 44267)
2 is added to Part 7 of Division 26 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 8.7. TRUCK RETROFIT REVOLVING LOAN PROGRAM

6
7 44267. As used in this chapter, the following terms have the
8 following meanings:

9 (a) "Allocation" means a loan of funds by the ~~state board~~ *State*
10 *Energy Resources Conservation and Development Commission*
11 pursuant to this chapter.

12 (b) ~~"Bundled energy efficiency improvement and emission~~
13 ~~reduction equipment kit" means a retrofit kit that includes all of~~
14 ~~the following:~~

15 (1) ~~Aerodynamic improver package.~~

1 ~~(2) Single wide low-resistance tires.~~

2 ~~(3) Particulate trap.~~

3 ~~(4) Onboard idling reduction technology.~~

4 (b) “Commission” means the State Energy Resources
5 Conservation and Development Commission.

6 (c) “Eligible business” means a small or large business that is
7 a truck owner-operator or that owns a truck fleet.

8 (d) “Fund” means the Truck Retrofit Revolving Loan Program
9 Fund established by Section 44267.4.

10 (e) “Large business” means an independently owned and
11 operated business that has ~~its principal office located in~~
12 ~~California, the officers of which are domiciled~~ a fleet that
13 operates at least 75 percent of the time in California, and that,
14 together with its affiliates, has more than 100 employees, and
15 average annual gross receipts of more than ten million dollars
16 (\$10,000,000) over the previous three years, or is a manufacturer
17 with more than 100 employees.

18 (f) “Manufacturer” means a business that is both of the
19 following:

20 (1) Primarily engaged in the chemical or mechanical
21 transformation of raw materials or processed substances into new
22 products.

23 (2) Classified between Codes 2000 to 3999, inclusive, of the
24 Standard Industrial Classification (SIC) Manual published by the
25 United States Office of Management and Budget, 1987 edition.

26 (g) “Program” means the Truck Retrofit Revolving Loan
27 Program created by Section 44267.2.

28 ~~(h.)~~

29 (h) “Small business” means an independently owned and
30 operated business that is not dominant in its field of operation,
31 ~~the principal office of which is located in California, the officers~~
32 ~~of which are domiciled~~ has a single truck or fleet that operates at
33 least 75 percent of the time in California, and that, together with
34 affiliates, has 100 or fewer employees, and average annual gross
35 receipts of ten million dollars (\$10,000,000) or less over the
36 previous three years, or is a manufacturer with 100 or fewer
37 employees.

38 (i) “SmartWay Upgrade Kit” means a kit, established
39 pursuant to the SmartWay Transport Partnership between the
40 United States Environmental Protection Agency and the freight

1 industry, that includes emission control devices, including, but
2 not limited to, diesel oxidation catalysts and particulate filters,
3 and may include the following:

4 (1) Improved tractor or trailer aerodynamics.

5 (2) Single wide low-rolling resistance tires.

6 (3) Idle reduction technology that complies with standards of
7 the federal Environmental Protection Agency SmartWay
8 Program.

9 ~~(f)~~

10 (j) "Truck" means a motor vehicle having a manufacturer's
11 gross vehicle weight rating greater than 33,000 pounds.

12 44267.2. The Truck Retrofit Revolving Loan Program is
13 hereby established in the ~~state board~~ *commission* for truck
14 owner-operators and truck fleets for the purpose of funding,
15 through direct loans, the retrofitting of trucks with ~~bundled~~
16 ~~energy efficiency improvement and emission reduction~~
17 ~~equipment kits~~ a *SmartWay Upgrade Kit*.

18 44267.4. (a) The Truck Retrofit Revolving Loan Program
19 Fund is hereby created in the State Treasury and, upon annual
20 appropriation by the Legislature, shall be used for allocation by
21 the ~~state board~~ *commission*.

22 (b) The moneys in the fund shall consist of all moneys
23 authorized or required to be deposited in the fund by the
24 Legislature and all moneys received by the ~~state board~~
25 *commission* pursuant to Section 44268.4.

26 (c) The moneys in the fund shall be disbursed by the
27 Controller for the purposes of this chapter as authorized by the
28 ~~state board~~ *commission*.

29 44267.6. (a) (1) An eligible business may submit an
30 application to the ~~state board~~ *commission* for an allocation for the
31 purpose of financing all or a portion of the costs incurred in
32 retrofitting a truck with a ~~bundled energy efficiency~~
33 ~~improvement and emission reduction equipment kit~~ *SmartWay*
34 *Upgrade Kit*. The application shall be in a form and contain
35 information as prescribed by the ~~state board~~ *commission*.

36 (b) An application may be for the purposes of financing the
37 eligible business' share of the costs that are to be jointly funded
38 through a state, local, or federal-local program.

39 44267.8. (a) Applications may be approved by the ~~state~~
40 ~~board~~ *commission* only in those instances where the eligible

business has furnished information satisfactory to the ~~state board~~
~~commission~~ that the costs of retrofitting the truck, plus interest on
state funds loaned, calculated in accordance with Section
44268.4, will be recovered through savings in the cost of energy
to the business ~~and emission reduction~~ during the repayment
period of the allocation. The savings shall be calculated in a
manner prescribed by the ~~state board~~ *commission*.

(b) In approving an application, the ~~state board~~ *commission*
shall also consider all of the following:

(1) The length of time that the eligible business has been in
operation.

(2) The eligible business' credit rating.

44268. (a) A small business may receive an allocation made
pursuant to this chapter to retrofit up to five trucks.

(b) A large business may receive an allocation made pursuant
to this chapter to retrofit up to 10 trucks.

(c) An eligible business shall not receive more than three
hundred thousand dollars (\$300,000) in allocations made
pursuant to this chapter.

44268.2. (a) An allocation made pursuant to this chapter
shall be used for the purposes specified in the approved
application.

(b) In the event that the ~~state board~~ *commission* determines
that an allocation has been expended for purposes other than
those specified in an approved application, it shall immediately
request the return of the full amount of the allocation. The
eligible business shall immediately comply with that request.

(c) An allocation made by the ~~state board~~ *commission* pursuant
to this chapter shall be secured by the trucks that are retrofitted.

44268.4. (a) An eligible business to which an allocation has
been made under this chapter shall repay the principal amount of
the allocation, plus interest, in either ~~12 or 24~~ 24 or 36 monthly
payments, as determined by the ~~state board~~ *commission*. The first
monthly payment shall be made on or before the first of the
month following the month in which the retrofit is completed.
The repayment period may not exceed the life of the truck, as
determined by the ~~state board~~ *commission*.

(b) Notwithstanding any other provision of law, the ~~state board~~
~~commission~~ shall, unless it determines that the purposes of this
chapter would be better served by establishing an alternative

1 interest rate schedule, periodically set interest rates on the loans
2 based on surveys of existing financial markets and at rates not
3 less than 3 percent per annum.

4 44268.5. *To maximize participation and anticipated benefits,*
5 *the commission shall market the loan program, providing special*
6 *outreach to minority and small trucking businesses and private*
7 *truck owners. Loan program marketing and promotional*
8 *materials shall be available in Spanish and English and be easily*
9 *understandable to the trucking community.*

10 44268.6. (a) In furtherance of the purposes of this chapter,
11 ~~the state board has the power and authority to~~ *commission may*
12 *do all of the following:*

13 (1) Borrow money, for the purpose of obtaining money to
14 make allocations pursuant to this chapter, from the California
15 Infrastructure and Economic Development Bank and the
16 California Consumer Power and Conservation Financing
17 Authority from the proceeds of revenue bonds issued by any of
18 those agencies.

19 (2) Pledge, to provide collateral in connection with the
20 borrowing of money pursuant to paragraph (1), loans made
21 pursuant to this chapter or the principal and interest payments on
22 loans made pursuant to this chapter.

23 (3) Sell allocations made pursuant to this chapter, at prices
24 determined in the sole discretion of ~~the state board~~ *commission*,
25 to the California Infrastructure and Economic Development Bank
26 and the California Consumer Power and Conservation Financing
27 Authority to raise funds to enable ~~the state board~~ *commission* to
28 make loans to eligible businesses.

29 (4) Enter into loan agreements or other contracts necessary or
30 appropriate in connection with the pledge or sale of loans
31 pursuant to paragraph (2) or (3), or the borrowing of money as
32 provided in paragraph (1), containing any provisions that may be
33 required by the California Infrastructure and Economic
34 Development Bank or the California Consumer Power and
35 Conservation Financing Authority as conditions of issuing bonds
36 to fund loans to, or the purchase of loans from, ~~the state board~~
37 *commission*.

38 (b) In connection with the pledging of loans or of the principal
39 and interest payment on loans, pursuant to paragraph (2) of
40 subdivision (a), ~~the state board~~ *commission* may enter into pledge

1 agreements setting forth the terms and conditions pursuant to
2 which the ~~state board~~ *commission* is pledging loans or the
3 principal and interest payment on loans, and may also agree to
4 have the loans held by bond trustees or by independent collateral
5 or escrow agents and to direct that payments received on those
6 loans be paid to those trustee, collateral, or escrow agents.

7 (c) The ~~state board~~ *commission* may employ financial
8 consultants, legal advisers, accountants, and other service
9 providers, as may be necessary in its judgment, in connection
10 with activities pursuant to this chapter.

11 (d) Notwithstanding any other provision of law, this chapter
12 provides a complete, separate, additional, and alternative method
13 for implementing the measures authorized by this chapter,
14 including the authority of the eligible businesses to have
15 borrowed and to borrow in the future pursuant to loans made
16 pursuant to this chapter, and is supplemental and additional to
17 powers conferred by other laws.

18 44268.8. The Department of Finance, at its discretion, may
19 audit the expenditure of any allocation made pursuant to this
20 chapter or the computation of any payment made pursuant to
21 Section 44268.4.

22 44270. In addition to the powers specifically granted to the
23 ~~state board~~ *commission* by the other provisions of this chapter,
24 the ~~state board~~ *commission* shall have the following powers:

25 (a) To establish qualifications and priorities, consistent with
26 the objectives of this chapter, for making allocations.

27 (b) To establish procedures and policies that may be necessary
28 for the administration of this chapter.

29 44270.2. The ~~state board~~ *commission* may expend from the
30 fund an amount to pay for the actual administrative costs
31 incurred by the ~~state board~~ *commission* pursuant to this chapter.
32 That amount shall not exceed 5 percent of the total appropriation,
33 to be held in reserve and used to defray costs incurred by the
34 ~~state board~~ *commission* for allocations made by the ~~state board~~
35 *commission* pursuant to this chapter.

36 44270.4. On or before October 1, 2008, and on or before
37 October 1 annually thereafter, the ~~state board~~ *commission* shall
38 submit a report to the Legislature on all of the following:

39 (a) The number of trucks retrofitted by allocations made
40 pursuant to this chapter.

1 (b) The energy cost savings to the businesses resulting from
2 the retrofitting of the trucks.

3 (c) The emission reductions resulting from the retrofitting of
4 the trucks.

5 (d) The amount of interest accrued.

6 44270.6. (a) Except as provided in subdivisions (b) and (c),
7 this chapter shall remain in effect only until January 1, 2012, and
8 as of that date is repealed, unless a later enacted statute, which is
9 enacted before January 1, 2012, deletes or extends that date.

10 (b) All loans outstanding as of January 1, 2012, shall continue
11 to be repaid on a monthly basis, as specified in Section 44268.4,
12 until paid in full. The repeal of certain sections of this chapter
13 does not terminate the obligation to repay loans, outstanding as
14 of January 1, 2012, due and payable to the ~~state board~~
15 *commission*, or any provision necessary to carry out this
16 obligation. All unexpended moneys in the fund on January 1,
17 2012, and thereafter, except to the extent those funds are
18 encumbered pursuant to Section 44268.6, shall revert to the
19 General Fund.

20 (c) Nothing in this section shall be construed to prohibit the
21 ~~state board~~ *commission*, after January 1, 2012, from maintaining
22 a truck retrofitting revolving loan program that ~~make~~ *makes*
23 allocations to eligible businesses to retrofit trucks with ~~bundled~~
24 ~~energy efficiency improvement and emission reduction~~
25 ~~equipment kits~~ *a SmartWay Upgrade Kit* that does not require an
26 appropriation from the General Fund.