

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

Legislative Committee Meeting  
Monday, May 9, 2022

### **APPROVED MINUTES**

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

**This meeting was conducted under procedures in accordance with Assembly Bill 361. Members of the Committee participated by teleconference.**

#### **1. CALL TO ORDER - ROLL CALL**

Opening Comments: Legislative Committee (Committee) Chair Pauline Russo Cutter called the meeting to order at 1:02 p.m.

Roll Call:

Present: Committee Chairperson Pauline Russo Cutter; Vice Chairperson Rob Rennie; and Directors Margaret Abe-Koga, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Sergio Lopez, and Brad Wagenknecht.

Absent: None.

#### **2. PLEDGE OF ALLEGIANCE**

#### **3. PUBLIC MEETING PROCEDURE**

#### **4. APPROVAL OF THE MINUTES OF APRIL 11, 2022**

Public Comments

No requests received.

Committee Comments

None.

## Committee Action

Director Hudson made a motion, seconded by Director Haubert, to **approve** the minutes of April 11, 2022; and the motion **carried** by the following vote of the Committee:

AYES: Abe-Koga, Cutter, Haubert, Hopkins, Hudson, Rennie, and Wagenknecht.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Hannigan and Lopez.

## 5. AIR DISTRICT-SPONSORED BILLS

Alan Abbs, Legislative Officer, gave the staff presentation *Air District-Sponsored Bills*, which referenced four bills:

- **Assembly Bill (AB) 1897 (Wicks) – Nonvehicular Air Pollution Control: civil penalties: refineries.** Existing law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Under existing law, a person who violates this provision, or any other statute, rule, regulation, permit, or order, as provided, is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A violator who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount, as specified. Existing law requires the civil penalties to be assessed and recovered in a court of competent jurisdiction through a civil action brought by the Attorney General, a district attorney, or the attorney for the district in which the violation occurs. Existing law precludes prosecution under specified statutes if civil penalties are recovered for the same offense. This bill would make a person who violates the above provision liable for a civil penalty of not more than \$30,000 if the violation results from a discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, as defined, the discharge results in a disruption to the community, and the discharge contains or includes one or more toxic air contaminants, as specified. The bill would additionally make a person who violates this provision liable for a civil penalty of not more than \$100,000 for a subsequent violation within a 12-month period. The bill would require civil penalties collected pursuant to this provision, above the costs of prosecution, to be expended to mitigate the effects of air pollution in communities affected by the violation. The bill would prohibit this provision from applying if the violation is caused by unforeseen and unforeseeable criminal acts, acts of war, acts of terrorism, or civil unrest. The bill would preclude prosecution under specified statutes if civil penalties are recovered pursuant to this provision. The bill would authorize the Attorney General, a district attorney, or an attorney for the district in which the violation occurs who prevails in a civil action for a violation of the above provisions, or any other statute, rule, regulation, permit, or order, as

provided, to recover the actual costs of investigation, expert witness fees, and reasonable attorney's fees. Mr. Abbs reported that this bill was well received at the Assembly's Committee on Natural Resources, and in the Assembly's Judiciary Committee. The first hearing is set for May 11, 2022, and the bill may be referred to suspense file. The California Council for Environmental and Economic Balance and Western States Petroleum Association oppose this bill.

- **AB 2214 (C. Garcia) - California Environmental Quality Act (CEQA): schoolsites: acquisition of property: school districts, charter schools, and private schools.** CEQA prohibits an Environmental Impact Report or Negative Declaration from being approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless certain conditions are met relating to, among other things, hazardous emissions or substances safety considerations. This bill would impose those prohibitions on the governing body of a charter school and the governing body of a private school, and would make the provisions relating to school districts also applicable to charter schools and private schools. The bill would apply the Phase I environmental assessment requirements to charter schools and private schools, without conditioning the requirements on the receipt of state funds. CEQA requires the Office of Planning and Research to prepare and adopt guidelines to implement CEQA, and requires those guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that are required to be exempt from CEQA. Mr. Abbs reported that this bill was doubly referred and passed by the Assembly's Committee on Education and the Assembly's Committee on Environmental Safety and Toxic Materials. The next hearing is scheduled for May 11, 2022, and the bill may be referred to suspense file.
- **AB 2721 (Lee) – Bay Area Air Quality Management District: district board: compensation.** Existing law establishes the Bay Area Air Quality Management District, which is vested with the authority to regulate air emissions located in the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma. Existing law establishes a district board to govern the district and prescribes the membership of the district board. Existing law authorizes the district board to provide, by ordinance, compensation not to exceed \$100 per day for board members for attending meetings of the board or committees of the board or while on official business of the district and not to exceed \$6,000 per year. Existing law also requires board members to receive actual and necessary expenses incurred in the performance of their duties. This bill would revise the amount of compensation that a member of the board may receive for attending a meeting of the board or attending a meeting while on official business of the district to an amount not to exceed \$100 per meeting and \$200 per day. The bill would also authorize a member of the board to receive compensation for active transportation travel to one of these meetings and would subject this compensation to the \$6,000 total annual compensation limit. Mr. Abbs reported that this bill was passed in the Assembly's Committee on Natural Resources, and as there was no fiscal component, it was heard and passed on the Assembly floor. The bill will next be heard in the Senate's Environmental Quality and Governance & Finance Committees.
- **AB 2836 (E. Garcia) – Carl Moyer Memorial Air Quality Standards Attainment Program: vehicle registration fees: California tire fee.** Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from sources in the state and for

funding a fueling infrastructure demonstration program and technology development efforts. Existing law, beginning January 1, 2024, limits the Carl Moyer Program to funding projects that reduce emissions of oxides of nitrogen (NOx) from covered sources. Existing law, until January 1, 2024, defines covered source for purposes of the Carl Moyer Program to include any marine vessel and any other category necessary for the state and air districts to meet air quality goals. This bill would extend the current authorization for the Carl Moyer Program to fund a broader range of projects that reduce emissions from covered sources until January 1, 2034. Mr. Abbs reported that this bill was double-referred and passed in the Assembly's Committees on Natural Resources and Transportation. A date has yet to be determined for an Assembly Appropriations hearing.

NOTED PRESENT: Director Hannigan was noted present at 1:18 p.m.

#### Public Comments

No requests received.

#### Committee Comments

The Committee and staff discussed when AB 2721 would take effect, if approved by the Governor; and regarding AB 2721, the proposed per day and per year maximum amounts, and how other regional Bay Area agencies are paying their Board members.

#### Committee Action

None; receive and file.

## **6. STATE LEGISLATIVE UPDATE**

Mr. Abbs provided an oral update regarding bills that the Air District has taken positions on during the 2022 Legislative Session, including:

- **AB 1944 (Lee)** - Local government: open and public meetings (SUPPORTED)
- **AB 2141 (E. Garcia)** - Greenhouse Gas Reduction Fund: community projects: funding (SUPPORTED)
- **AB 2206 (Lee)** - Nonattainment basins: employee parking: parking cash-out program (SUPPORTED)
- **AB 2563 (Quirk)** - Air pollution: permits: mobile fueling on-demand tank vehicles (OPPOSED)
- **AB 2816 (Ting)** - State Air Resources Board: zero-emission incentive programs: requirements (OPPOSED UNLESS AMENDED)
- **AB 2852 (Bloom)** - Air pollution control districts and air quality management districts: independent special districts: funding (SUPPORTED)
- **AB 2910 (Santiago)** - Nonvehicular air pollution: civil penalties (SUPPORTED)
- **Senate Bill (SB) 1235 (Borgeas)** - Air pollution: portable equipment: emergency events (OPPOSED)

- **SB 1382 (Gonzalez)** - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption (SUPPORTED)
- **SB 1393 (Archuleta)** - Energy: appliances: local requirements (OPPOSED)

NOTED PRESENT: Director Lopez was noted present at 1:30 p.m.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed which legislators are opposing AB 1944; and Board members' concerns about having to identify the address of their teleconference location in the noticing of a meeting agenda or having the location be accessible to the public.

Committee Action

None; receive and file.

**OTHER BUSINESS**

**7. PUBLIC COMMENT ON NON-AGENDA MATTERS**

No requests received.

**8. COMMITTEE MEMBER COMMENTS**

Director Hudson expressed his desire for a future Air & Waste Management Association Conference to be held in Honolulu, Hawaii.

**9. TIME AND PLACE OF NEXT MEETING**

Monday, June 13, 2022, at 1:00 p.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

**10. ADJOURNMENT**

The meeting was adjourned at 1:54 p.m.

*/s/ Marcy Hiratzka*  
Marcy Hiratzka  
Clerk of the Boards