

Bay Area Air Quality Management District
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San Francisco, CA 94105
(415) 749-5073

Legislative Committee Meeting
Monday, June 13, 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*

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) Vice Chairperson Rob Rennie called the meeting to order at 1:00 p.m.

Roll Call:

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

Absent: Directors Erin Hannigan, Lynda Hopkins, and Brad Wagenknecht.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC MEETING PROCEDURE

4. APPROVAL OF THE MINUTES OF MAY 9, 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 May 9, 2022; and the motion **carried** by the following vote of the Committee:

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

5. STATE LEGISLATIVE BUDGET UPDATE

Alan Abbs, Legislative Officer, gave an oral presentation, regarding a status update on the State Legislative Budget. This summary included items of interest to the Air District (Assembly Bill 617, Greenhouse Gas Reduction Fund, Carl Moyer Program.)

Public Comments

Public comments were given by Daniel Drazen, Enchanted Rock.

Committee Comments

The Committee and staff discussed the status of the Governor’s Gas Rebate Plan, which would send Californians who own cars up to \$800 from the state to help offset record high gas prices, capped at two vehicles; and the status of Senate Bill (SB) 457 (Portantino), which would, for taxable years beginning on or after January 1, 2023, and before January 1, 2028, allow a credit against those taxes in an amount of \$2,500 for each household member, as defined, that exceeds the number of registered vehicles, as defined, and would limit the amount of the credit allowed to \$7,500.

Committee Action

None; receive and file.

6. AIR DISTRICT-SPONSORED BILLS

Mr. Abbs 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 by an air pollution control district or an air quality management district 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. Mr. Abbs reported that this bill was doubly referred to the Senate Standing Committees on Environmental Quality and Judiciary, after being passed in the California Assembly.

- **AB 2214 (C. Garcia) - California Environmental Quality Act (CEQA): schoolsites: acquisition of property: school districts, charter schools, and private schools.** CEQA requires a lead agency to prepare and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. 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 hazardous emissions or substances safety considerations. Existing law requires the governing board of a school district to conduct a Phase I environmental assessment of a proposed schoolsite before acquiring the site. Existing law requires the State Department of Education to advise the governing board on the acquisition of new schoolsites. Existing law requires the governing board of a school district to give notice in writing of the proposed acquisition to the planning commission. Existing law requires the planning commission to investigate the proposed site and submit a written report to the governing board of the school district. Existing law prohibits the governing board from acquiring title to the property until the report of the planning commission has been received. 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. Mr. Abbs reported that in 2021, this bill's author introduced the original bill, which died Senate Appropriations. This bill was doubly referred to the Senate Standing Committees on Environmental Quality and Education (may be referred to suspense file), after being passed in the California Assembly.
- **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 doubly referred to the Senate Standing Committees on Environmental Quality and Governance & Finance, after being passed in the California Assembly.

- **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, 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 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 doubly referred to the Senate Standing Committees on Transportation and Environmental Quality, after being passed in the California Assembly.

NOTED PRESENT: Chair Cutter was noted present at 1:25 p.m.

Public Comments

No requests received.

Committee Comments

None.

Committee Action

None; receive and file.

7. STATE LEGISLATIVE UPDATE

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

- **AB 1944 (Lee)** - Local government: open and public meetings (SUPPORTED)
- **AB 2449 (Rubio)** - Open meetings: local agencies: teleconferences.
- **AB 2141 (E. Garcia)** - Greenhouse Gas Reduction Fund: community projects: funding (SUPPORTED).
- **AB 2563 (Quirk)** - Air pollution: permits: mobile fueling on-demand tank vehicles (OPPOSED). Mr. Abbs reported that this bill will not be moving forward this year.
- **AB 2852 (Bloom)** - Air pollution control districts and air quality management districts: independent special districts: funding (SUPPORTED). Mr. Abbs reported that this bill will not be moving forward this year.
- **SB 1382 (Gonzalez)** - Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption (SUPPORTED). Mr. Abbs reported that this bill is being referred to the California Assembly's Committee on Transportation next week, after being passed in the California Senate (and since this meeting, this has also been referred to the California Assembly's Committee on Revenue and Taxation.)

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed whether any California air district boards have ever had 100% remote participation prior to the 2020 pandemic; and concerns that AB 2449 would be more stringent than the current Ralph M. Brown Act. Specific concerns that Committee members had about AB 2449 included the following proposed language:

“A member of the legislative body shall only participate in the meeting remotely... if the member publicly discloses at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.”

This bill... would authorize that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency’s jurisdiction...

Committee Action

Although this was not an action item, the consensus of the Committee members present was to recommend the Board adopt an “oppose unless amended” position regarding **AB 2449 (Rubio)**. Mr. Abbs said that, while he might not be able to present on this bill to the Board prior to the bill’s final legislative hearings, he would immediately communicate to the legislators and the bill’s author the

Air District’s Legislative Committee members’ concerns regarding the following language within the bill, *“The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda...”*

OTHER BUSINESS

8. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

9. COMMITTEE MEMBER COMMENTS

Director Hudson reported that he attended the California Hydrogen Leadership Summit in early June and said that he believes that there will be an increase in hydrogen-related legislation in the future. He suggested that the Air District begins monitoring hydrogen bills, moving forward.

10. TIME AND PLACE OF NEXT MEETING

Monday, July 11, 2022, at 1:00 p.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

11. ADJOURNMENT

The meeting was adjourned at 2:01 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards