

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

APPROVED MINUTES

Summary of Board of Directors
Legislative Committee Meeting
Monday, July 11, 2022

This meeting was conducted under procedures authorized by executive order Assembly Bill 361. Members of the Committee participated by teleconference.

1. CALL TO ORDER – ROLL CALL

Legislative Committee (Committee) Chairperson, Pauline Russo Cutter, called the meeting to order at 1:00 p.m.

Roll Call:

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

Absent: Directors Erin Hannigan and Brad Wagenknecht.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC MEETING PROCEDURE

4. APPROVAL OF THE MINUTES OF JUNE 13, 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 June 13, 2022; and the motion carried by the following vote of the Committee:

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

5. STATE LEGISLATIVE BUDGET UPDATE

Alan Abbs, Legislative Officer, gave the staff presentation *State Legislative Budget Update*, including: outcome; outline; requested action; and 2022-23 State Budget versus previous year. Mr. Abbs explained the development of the 2022-23 State Budget, which was approved by the Governor and is 95% complete. He noted that there was an error on slide 5; “Assembly Bill (AB) 836 – Clean Air Centers” is actually the overall budget for resilience centers.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed which funds are still to be allocated for the 2022-23 State Budget; whether climate change or equity is the bigger priority; whether the Air District should receive a larger allocation of AB 617 funding than other California air districts; how the Air District made up the difference in previous years when the State issued less AB 617 funding, and how that affected the Air District’s annual budget; candidate Bay Area AB 617 communities; why resiliency centers, zero-emission lawn and garden, and woodstove replacement programs were not funded in the 2022-23 State Budget; and whether the California Energy Commission would willing to consider hydrogen fueling stations.

Committee Action

None; receive and file.

6. AIR-DISTRICT SPONSORED BILLS

Mr. Abbs gave the staff presentation *Air District-Sponsored Bills*, providing updates on the following bills:

- **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. This bill is scheduled to be heard in the Senate Standing Committee on Appropriations on August 1, and the Air District is still reaching out to Senators for support.

- **AB 2214 (C. Garcia and Lee): California Environmental Quality Act: schoolsites: acquisition of property: school districts, charter schools, and private schools.** The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, 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, among other things, hazardous emissions or substances safety considerations, as provided. Existing law requires the governing board of a school district, as a condition of receiving state funding under the Leroy F. Greene School Facilities Act of 1998, to conduct a Phase I environmental assessment of a proposed schoolsite before acquiring the site, as provided. Existing law requires the State Department of Education, upon the request of the governing board of a school district, to advise the governing board on the acquisition of new schoolsites, as specified. Existing law requires the governing board of a school district, before acquiring title to property for a new schoolsite or for an addition to a present schoolsite, 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, as provided. 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, and related requirements, 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, as provided. 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. By imposing new requirements on school districts, charter schools, lead agencies, cities, and counties, the 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 with regard to certain mandates no reimbursement is required by this act for a specified reason. This bill is scheduled to be heard in the Senate Standing Committee on Appropriations on August 1, where it died in 2021.

- **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. The date on which this bill will be heard on the Senate floor is yet to be determined.

- **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. Existing law authorizes the Sacramento Metropolitan Air Quality Management District to adopt a surcharge on motor vehicle registration fees applicable to all motor vehicles registered in counties within the district. Existing law, until January 1, 2024, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer Program, among other programs. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by the district, and requires the department, after deducting its administrative costs, to distribute the revenues

to the district. Beginning January 1, 2024, existing law returns the surcharge limit to its previous amount of \$4. This bill would extend the authorization to increase the surcharge to \$6 until January 1, 2034. This bill is scheduled to be heard in the Senate Standing Committee on Appropriations on August 1.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed whether an air district's hearing board may determine civil penalties, and which entity determines fine amounts.

Committee Action

None; receive and file.

7. STATE LEGISLATIVE UPDATE

Mr. Abbs reported the following:

- **California Proposition 30, Tax on Income Above \$2 Million for Zero-Emissions Vehicles and Wildfire Prevention Initiative**, made the ballot deadline for November. It would increase the tax on personal income above \$2 million by 1.75% and dedicate the revenue to zero-emission vehicle subsidies, zero-emission vehicle infrastructure, and wildfire suppression and prevention programs. As the Air District was asked to take a position on this, the Board will be asked to consider doing so.
- **AB 2910 (Santiago): Nonvehicular air pollution: civil penalties**. Existing law generally designates air pollution control 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 maximum civil penalties for any person for violations of air pollution laws from nonvehicular sources. A person who violates these laws and who acts negligently is liable for a civil penalty in a greater amount, as specified. Existing law annually adjusts the maximum penalties for violations of these laws based on the California Consumer Price Index. This bill would increase the maximum amount of those civil penalties and would subject those maximum amounts to the annual adjustment based on the California Consumer Price Index, as specified. This bill would also require any moneys, above the costs of prosecution and other specified costs, collected from penalties assessed by specified air pollution control districts and air quality management districts in excess of \$10,000 for violations of air pollution control laws from nonvehicular sources that occurred in disadvantaged communities to be used to mitigate air pollution in the community or communities affected by the violation. This is a companion bill to AB 1897. This bill made its way through the Assembly committee process and was voted on the Assembly Floor on May 26, 2022, where it received a vote in favor of 52:17. In the Senate, AB 2910 was double-referred to the Senate Environmental Quality Committee and the Senate Judiciary Committee and made it out of each committee favorably with a vote of 5:2 and 9:1, respectively. AB 2910 has since

been referred to the Senate Appropriations Committee and is scheduled to be heard on August 1, 2022.

- **Senate Bill (SB) 1382 (Gonzalez and Becker): Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.** Existing law establishes the Clean Cars 4 All Program, which is administered by the State Air Resources Board, to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. Existing law requires the implementing regulations to ensure, among other things, that there is improved coordination, integration, and partnerships with other specified programs that target disadvantaged communities. Existing law creates the enhanced fleet modernization program to provide compensation for the retirement and replacement of passenger vehicles and light-duty and medium-duty trucks that are high polluters. Existing law requires the state board to annually post on its internet website a performance analysis of the replacement and mobility options component of the programs that includes information regarding how incentive levels can be modified to maximize participation and emissions reductions. This bill would require the implementing regulations for the Clean Cars 4 All Program to additionally ensure that the state board coordinates with local air districts and local nonprofit and community organizations, as provided, to identify barriers to accessing the Clean Cars 4 All Program and to develop outreach protocols and metrics to assess the success of outreach across the districts. The bill would additionally require that the performance analysis include an assessment identifying populations that are eligible for, but underserved by the Clean Cars 4 All Program, as provided, and would require the assessment to identify barriers preventing the underserved populations from participating in the program and to propose strategies to overcome those barriers. The bill would require the state board to consider specified metrics in allocating funding to districts participating in the Clean Cars 4 All Program. The bill would authorize up to 10% of the moneys allocated by the state board for the Clean Cars 4 All Program to be used for outreach programs in accordance with specified requirements. Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes. This bill, on or after January 1, 2023, and until January 1, 2028, would provide an exemption from those taxes with respect to the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle, as defined, sold to a qualified buyer, as defined. The bill would provide that this exemption does not apply to specified state sales and use taxes from which the proceeds are deposited into the Local Revenue Fund, the Local Revenue Fund 2011, or the Local Public Safety Fund. Existing law requires a bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements. This bill would include additional information required for a bill authorizing a new tax credit. This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes. This bill made its way through the Senate committee process and was voted on the Senate Floor on May 26, 2022, where it received a vote in favor of 33:5. In the Assembly, SB 1382 was doubly referred to the Assembly Transportation Committee and the Assembly

Revenue and Taxation Committee and made it out of each committee favorably with a vote of 13:0 and 9:1, respectively. SB 1382 has since been ordered to the Assembly Appropriations Committee, hearing date pending. Assembly Member Jim Cooper, the author of the program's original bill, asked Mr. Abbs to be a witness.

Public Comments

None; receive and file.

Committee Comments

The Committee and staff discussed California Proposition 30, and the motivation of its supporters.

Committee Action

None; receive and file.

8. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

9. COMMITTEE MEMBERS' COMMENTS

Director Hudson reminded Board members that Board and committee meetings will be fully remote, without a hybrid option, until further notice.

10. TIME AND PLACE OF NEXT MEETING

Monday, October 3, 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 adjourned at 1:58 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards