

REPORT ON 2004 AIR QUALITY LEGISLATION

SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

Introduction

This second year of the 2003-2004 session was dominated by efforts to again balance California's state budget and to work with a newly-elected Governor. After years of defeats, efforts to expand the scope of the Moyer Program and provide it with permanent, stable sources of funding were finally successful. Also overcoming strong opposition was the successful repeal of the 30-year rolling smog check exemption (keeping all 1976 and later model year vehicles in the smog check program). However, bills establishing state bidding preferences for contractors using low-emission equipment and placing a \$5.1 billion Clean Air Bond Act on the ballot were ultimately unsuccessful.

This year legislative highlights include:

- 100% of the state legislation the District opposed was defeated.
- 50% of the state legislation the District supported became law.
- Expanding the types of emissions covered by the Moyer Program to include emissions of particulate matter (PM) and reactive organic gases (ROG) from defined covered sources in the state (**AB 923**).
- Creating stable sources of revenue for Moyer programs by:
 - Authorizing air districts to increase their current \$4 annual registration fee to up to \$6 (**AB 923**),
 - Increasing the current \$1 per tire fee to \$1.75, with \$0.75 going to Moyer programs (**AB 923**), and
 - Expanding the current smog check exemption from a vehicle's first 4 years to 6 years and doubling the annual fee, with the additional revenue to support Moyer programs (**2004-2005 CA State Budget**).
- Repealing the rolling exemption from Smog Check and Smog Check II requirements for vehicles more than 30 model years old and replacing it with an exemption for vehicles manufactured prior to the 1976 model year (**AB 2683**). The bill also exempts "collector motor vehicles" from the visual and functional component of the smog check program.

The rest of this report identifies specific legislation introduced during this past year as it relates to the specific air district legislative policy positions the District Board took in March, 2004.

Significant Air Quality Program Implications

Clean Alternative Fuel Vehicles and Low Emission Vehicles

On the success side of the ledger, **AB 923 (Firebaugh/Pavley)**, signed by the Governor, provides stable funding for an expanded Moyer program. The program had been limited to reducing NOx emissions by providing incentives to replace dirty diesel engines in trucks, school buses, ag pumps, etc. Under this new law, Particulate Matter (PM) and Reactive Organic Gases (ROG) sources will also be eligible for Moyer incentive funding. These sources include school bus replacement/retrofit, passenger vehicle clean-up, and agricultural engine programs.

This bill's "stable funding" for Moyer comes from authorizing air districts to increase their current \$4 annual registration fee to up to \$6 and increasing the current \$1 per tire fee to \$1.75 for two years (with \$0.75 going to Moyer programs), then in 2007, reducing that fee to \$1.50 (with \$0.50 going to Moyer programs). The bill also makes agricultural sources eligible for Moyer incentives for at least 3 years after rule adoption or the rule compliance date, whichever is later. This bill was indeed a collaborative effort among the Administration, industry, agriculture, environmentalists and others (everyone except the tire industry). The provisions of this bill sunset on January 1, 2015.

California's 2004-2005 Budget included doubling the current fee on newer vehicles currently exempt from smog check (those vehicles 4 years old and newer) and exempting two additional model years (years 5 and 6) from smog check (also paying \$12 per year for the privilege of skipping smog check). These fees will generate about \$6.8 million to retire gross-polluting vehicles and provide assistance for low income families to help with smog-related vehicle repairs and \$61 million will be used to fund the statewide Moyer program.

Also included as part of the 2004-2005 budget, the SECAT (the Sacramento Emergency Clean Air Transportation) program was earmarked to receive \$29 million over the next three fiscal years: 04-05: \$4.83M, 05-06: \$18.285M, and 06-07: \$6.038M.

AB 1394 (Levine/Montanez) - Expands the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) to include heavy-duty fleet modernization projects that reduce emissions of oxides of nitrogen (NOx) or particulate matter (PM). This was the bill initially intended to make natural gas more competitive for Moyer funding, and although some provisions of this bill are redundant with the passage of **AB 923**, **AB 1394's** fleet modernization component will be a benefit to the Moyer Program.

AB 471 (Simitian) - Prohibits a cruise ship from conducting any onboard incineration within 3 miles of the CA coast. Although the Assembly version prohibited incinerating garbage within 90 miles of the coast and using only CA diesel when within 25 miles of the coast, the Senate amended the bill to its current 3-mile prohibition and was subsequently signed by the Governor.

AB 1009 (Pavley) - Requires that any commercial truck over 10,000 pounds operating in California present evidence, upon demand, that its engine meets the federal emissions standards for that engine's model year

AB 1971 - (Lowenthal) - This bill is a follow-up to the author's AB 2650 (which established a \$250 fine for operating a marine terminal in a manner that causes truck engines to idle in excess of 30 minutes). This bill simply enacts technical cleanup changes to those provisions. Supporters noted that this bill will make AB 2650 more effective by explicitly covering all trucks waiting to load or unload at maritime ports, rather than solely those that are idling.

AB 2353 (Leslie) - Authorizes, until January 1, 2009, the establishment of rules for the operation of neighborhood electric vehicles (NEVs) within the Cities of Lincoln and Rocklin - essentially authorizing Placer County and the cities in that county to allow these vehicles to travel alongside roadways with speed limits of up to 55 mph.

Bills that were not successful include:

AB 1468 (Kehoe) - Would have required the CEC and ARB to, by January 1, 2010, implement measures to reduce on-road petroleum demand to 2004 levels;

AB 2526 (Oropeza) - Would have diverted ¼¢ per gallon from the diesel fuel tax for the Moyer Program;

AB 2541 (Frommer) - Would have required California's Dept. of General Services to develop a Low Emission Contractor Incentive Program;

AB 2847 (Oropeza) - Would imposed a \$0.05 per gallon fee on gas and diesel for state and local transportation projects as well as mitigating the air quality impacts of those projects;

SB 2953 (Canciamilla) - Would have set a precedent by allowing the use of Moyer funds to "incentivize" the purchase and use of technology currently required by law (Moyer funds are currently restricted to projects that achieve emission reductions beyond those required by law); and

SB 1078 (Chesbro) - Would have required a \$0.50 per ton tipping fee on waste haulers to fund retrofit/repower program to comply with ARB Best Available Control Technology (BACT) regulations.

Market-Based Transportation Control Measures

A bill that would have required State agencies in Sacramento to explore the use of alternative work schedules and telecommuting to reduce commute trips (**AB 753 - Leslie**) was amended in June, 2004 to deal with survivor benefits for firefighters.

Bicycle and Pedestrian Projects/Programs

SB 1087 (Soto) - This bill, signed by the Governor, extends the January 1, 2005, sunset date on the Safe Routes to School Program until January 1, 2008, and also extends the grant program until January 1, 2008. **AB 1475 (Soto, 1999)**, established the Safe Routes Program and redirected one-third (approximately \$20 million) of the annual \$60 million in Hazard Elimination/Safety funds to the new program. As a consequence, the state and local transportation agencies' \$30 million annual shares were reduced to \$20 million each.

1381 SB (Kuehl) - This bill, vetoed by the Governor, would have required the Director of Transportation (Caltrans) to establish a task force, or to utilize any existing task force, committee, or working group, to make recommendations to help ensure that state and local policies enhance bicycling and walking, improve safety, and seek adequate funding for these purposes. The bill required the department to update and maintain a database developed in connection with a statewide rail right-of-way survey and abandoned rail corridors evaluation being conducted by the department. The bill also would have required a department policy regarding accommodation of nonmotorized travel a state policy and would require the department to fully implement the policy.

Smog Check

AB 2683 (Lieber) - This bill repeals the rolling exemption from Smog Check and Smog Check II requirements for vehicles more than 30 model years old and replaces it with an exemption for vehicles manufactured prior to the 1976 model year. The bill would exempt "collector motor vehicles" from the visual and functional component of the smog check program, if a vehicle is at least 35 years old, is insured as a collector vehicle, complies with the emissions (tailpipe) standards and passes the fuel cap and liquid leak inspection requirements.

SB 1615 (Denham) - This bill exempts out-of-state vehicles that were manufactured prior to the 1976 model year old from the smog check requirement upon initial registration (conforming out of state vehicle smog check requirements to in-state vehicle smog check requirements).

AB 2128 (Jackson) - Under current law, the proceeds from the \$6 smog abatement fee are split \$2 for High Polluter Repair or Removal Account (HPRRA) and \$4 for Vehicle Inspection Repair Fund (VIRF). This bill would reverse that allocation formula. The author believes that the level of reserves in VIRF allows for this diversion, so that vehicle scrappage programs financed by HPRRA can be expanded. ARB estimates that removing from the road vehicles that have failed Smog Check could reduce air emissions by as much as 25% and concludes, "By investing a small amount of revenue in the program, Californians will see dramatic improvements in air quality."

Air Pollution Control Measures

AB 1468 (Pavley) - This bill would have required air districts to inspect negative air machines (used for asbestos removal) on a monthly basis was "gutted and amended" to require the CEC and ARB to, by January 1, 2010, implement measures to reduce on-road petroleum demand to 2004 levels (See page 2 - "Bills that were not successful").

Other unsuccessful Air Pollution Control Measure bills include:

AB 2863 (Pavley) - This measure would have, beginning January 1, 2006, required a school district applying for state school facilities funds to include in its plans for new construction and modernization of a school building an indoor air quality management plan, and would have authorized the use of certain funds to prevent indoor air problems in school facilities had the bill not died in Assembly Appropriations.

SB 706 (Florez) - The bill would have required ABB and air districts to adopt hearth product standards consistent with current applicable control measures but was amended to deal with foster family issues.

SB 1211 (Ortiz) - This bill would have allowed criminal prosecution following a civil recovery for air quality violations (current air quality law prohibits criminal prosecution once a civil resolution has been reached).

SB 1224 (Ortiz) - Would have required air districts to notify other agencies regarding hazardous waste disposal and coordinate with a Certified Unified Program Agency (CUPA) - the bill was amended to replace air districts with school districts (the bill died in Senate Education).

SB 1397 (Escutia) - Would have authorized the South Coast Air Quality Management District (SCAQMD) to implement a rail yard source emission reduction program and a locomotive emission impact mitigation program but failed passage on the Assembly Floor.

No legislation was introduced this year regarding the following District legislative policy areas:

Restriction of Local Control Over Regulation of Leaf Blowers
Prohibiting Penalties When Violations are Disclosed Through Self-Audits
Elimination of Local Control Over Current Fee Authority
Restriction of Local Control Over Expenditure of Penalty Fees
Authorizing State/Federal Agencies to Collect Duplicate Fees
Transported Air Pollutants

Other Pertinent Air Quality Legislation

HOV / HOT Lanes

Both of the following were signed into law and will take effect beginning January 1, 2005:

AB 2628 (Pavley) - Would allow up to 75,000 specified "hybrid vehicles" (Ultra Low Emission Vehicle [ULEV] & Federal Inherently Low Emission Vehicle [ILEV] or an Advanced Technology - Partial Zero Emission Vehicle [AT-PZEV] which also gets at least 45 mpg) to use the HOV lanes. There are a lot of caveats regarding discontinuing the issuance of "hybrid decals" when Caltrans determines Level of Service (LOS) has been "significantly" degraded. .

AB 2032 (Dutra) - This bill is jointly sponsored by SANDAG, VTA and SSCLJPA (a joint powers entity, made up of transportation agencies in Alameda and Santa Clara Counties). This bill would allow for the demonstration of HOT lanes in the Bay Area and San Diego regions of the state (limited to two per county). Under the demonstration, revenue from solo drivers willing to pay a fee to avoid traffic in the neighboring mixed flow lanes is used to fund expanded express bus service and HOV facilities in the corridor, enforcement by CHP and project operating costs.