

AMENDED IN ASSEMBLY JANUARY 5, 2004

AMENDED IN ASSEMBLY MARCH 20, 2003

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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 204

Introduced by Assembly Member Nation
(Coauthors: Assembly Members Chan, Hancock, Leno, Lieber,
Mullin, Wolk, and Yee)
(Coauthor: Senator Torlakson)

January 28, 2003

An act to amend Section 31164 of, and to add Sections 31165, 31166, and 31167 to, the Public Resources Code, and to add Section 9250.20 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 204, as amended, Nation. Motor vehicles: environmental impacts: mitigation.

Existing law establishes the San Francisco Bay Area Conservancy Program, which is administered by the State Coastal Conservancy (conservancy), in order to address identified resources and recreational goals of the San Francisco Bay area in a coordinated, comprehensive, and effective way. Under that program, the conservancy is authorized to undertake projects and award grants in the 9-county San Francisco Bay area in order to achieve specified goals. Existing law establishes a San Francisco Bay Area Conservancy Program Account in the State Coastal Conservancy Fund for the purposes of depositing and

distributing funds for the administration and implementation of the program. Existing law segregates the money in the account into 2 specified subaccounts.

This bill would establish a new subaccount (the Motor Vehicle Mitigation Subaccount) within the account and authorize the conservancy to request the Department of Motor Vehicles, until January 1, 2015, to collect a fee of up to \$4 \$6 upon the registration or registration renewal of every motor vehicle registered in a participating county if 3 or more eligible counties elect to participate. The bill makes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma eligible for participation. The bill would require a majority vote of the county board of supervisors in order for an eligible county to participate and for the registration fee to be imposed in that county. Until January 1, 2015, the Department of Motor Vehicles would be required to collect these fees upon the request of the conservancy.

The bill would require the funds in the new subaccount to be continuously appropriated, without regard to fiscal year, to the conservancy and to the State Water Resources Control Board in specified amounts in order to fund projects and grants in participating counties that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and motor vehicle facilities. The bill would subject authorized projects and grants to specified procedures, criteria, and priorities. The bill would require that funds be expended for projects and grants in participating counties so that, in any 2 2-year periods as prescribed, project and grant benefits are generally proportional to the revenues collected in each participating county, as specified.

The bill would require the conservancy ~~and~~, regional water quality control boards, *and designated entities*, as applicable, at least once every 2 years, to each undertake an audit of the program of projects and grants funded through the subaccount.

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

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

1 SECTION 1. The Legislature finds and declares the
2 following:



1 (a) Motor vehicles and their related facilities and
2 infrastructure, including, but not limited to, highways, streets,
3 roads, and parking lots, contribute to nonpoint source pollution
4 and environmental degradation. The adverse impacts of motor
5 vehicles and these related facilities and infrastructure on surface
6 waters, water-related habitat, and other ~~open-space~~ *natural*
7 *resources and open-space lands* may include, but are not limited
8 to, the following:

9 (1) Increased amount of impervious surfaces resulting in
10 higher total and peak water runoff and reduced dry season flows,
11 affecting water temperature, groundwater supply, erosion rates,
12 turbidity, sedimentation, and creek bank stability.

13 (2) Stream channelization and other physical structures,
14 including culverts, to accommodate street and road construction
15 that affect waterflows, erosion rates and delivery of pollutants,
16 habitat availability, the movement of fish and wildlife, and public
17 access to natural areas.

18 (3) Pollutants and fine particulates generated by automobiles
19 that enter the environment through the air, affecting the health of
20 fish, wildlife, and people.

21 (4) Increased potential for the conversion of agricultural,
22 watershed, and habitat lands to other uses.

23 (b) The State Water Resources Control Board has identified the
24 waters of the San Francisco Bay area as having impairments for
25 beneficial uses due to a combination of point and nonpoint source
26 pollution and habitat degradation, and has placed these waters on
27 the Section 303(d) list pursuant to the federal Clean Water Action
28 Plan of 1998.

29 (c) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.),
30 in conjunction with the Porter-Cologne Water Quality Control Act
31 (Div. 7 (commencing with Section 13000), Wat. C.) and other
32 statutes and regulations, mandates improved water quality in the
33 San Francisco Bay area, and requires a comprehensive approach
34 that addresses both point and nonpoint source water pollution and
35 associated habitat degradation.

36 (d) Chapter 4.5 (commencing with Section 31160) of Division
37 21 of the Public Resources Code establishes the San Francisco Bay
38 Area Conservancy Program and assigns to the State Coastal
39 Conservancy responsibility for the implementation of a
40 comprehensive program of projects and grants throughout the



1 nine-county San Francisco Bay area that includes, but is not
2 limited to, restoration, enhancement, and protection of wetlands,
3 streams, riparian areas, and watersheds.

4 (e) Existing statutory programs and regulations do not provide
5 sufficient methods to ameliorate the impacts of motor vehicles and
6 existing related facilities and infrastructure on water quality,
7 habitat, and open space.

8 (f) New methods of ameliorating the impacts of motor vehicles
9 and related facilities and infrastructure on the bay, other waters,
10 water-related habitat, and other open space are needed for the
11 nine-county San Francisco Bay area.

12 (g) Efforts to address the impacts described in this section are
13 most effective when public agencies work together and in
14 partnership with community-based organizations and interests.

15 ~~(h) A fee of up to four dollars (\$4) upon the registration or~~

16 *(h) Cities, counties, and special districts are currently*
17 *expending considerable efforts to address the environmental*
18 *impacts described in this section, but existing funding is*
19 *insufficient to fully comply with state and federal mandates.*

20 *(i) A fee of up to six dollars (\$6) upon the registration or*
21 *registration renewal of every motor vehicle registered in counties*
22 *that choose to participate in the program described in Section*
23 *31165 of the Public Resources Code is fair and reasonable in*
24 *relation to the adverse environmental burdens imposed by motor*
25 *vehicles and their related facilities, given that the cost of*
26 *remediating these environmental burdens is significantly greater*
27 *than the amount of revenues that would be raised by that fee, and*
28 *because substantial nonmotor vehicle-related fee and tax*
29 *revenues, state bond funds, penalties, and private donations are*
30 *being expended for the purposes described in Section 31165 of the*
31 *Public Resources Code.*

32 *(j) The use of the fee imposed upon the registration or*
33 *registration renewal of every motor vehicle registered in eligible*
34 *participating counties would not result in the imposition of a tax*
35 *within the meaning of Article XIII A of the California Constitution*
36 *because the amount and nature of that fee has a fair and*
37 *reasonable relationship to the adverse environmental burdens*
38 *imposed by motor vehicles and their related facilities and*
39 *infrastructure, and there is a sufficient nexus between the*
40 *imposition of those fees and the use of those fees to support the*



1 *prevention, reduction, remediation, and mitigation of the adverse*
2 *water quality and environmental impacts caused by motor*
3 *vehicles.*

4 SEC. 2. Section 31164 of the Public Resources Code is
5 amended to read:

6 31164. (a) The San Francisco Bay Area Conservancy
7 Program Account is hereby created in the State Coastal
8 Conservancy Fund, for the purpose of depositing and disbursing
9 funds for the administration and implementation of the San
10 Francisco Bay Area Conservancy Program.

11 (b) (1) The money in the account created pursuant to
12 subdivision (a) shall be segregated into three subaccounts, as
13 follows:

14 (A) The first subaccount shall contain funds that are
15 appropriated by the Legislature for the purposes of this chapter.
16 Any interest that accrues on the funds in this subaccount shall be
17 transferred to, and deposited into, the General Fund. The
18 conservancy shall account for all deposits or reimbursements of
19 funds in this subaccount that are derived from funds that were
20 appropriated by the Legislature for the purposes of this chapter.

21 (B) The second subaccount is the Motor Vehicle Mitigation
22 Subaccount and shall contain funds derived from fees collected by
23 the Department of Motor Vehicles pursuant to Section 9250.20 of
24 the Vehicle Code. Notwithstanding Section 13340 of the
25 Government Code, 90 percent of the funds in this subaccount shall
26 be continuously appropriated, without regard to fiscal year, to the
27 conservancy, and 10 percent of the funds in this subaccount shall
28 be continuously appropriated, without regard to fiscal year, to the
29 State Water Resources Control Board. Those funds may only be
30 expended for the purposes specified in Sections 31165 and 31167.

31 *Of the funds appropriated to the conservancy, the conservancy*
32 *shall annually transfer 40 percent of the balance generated by*
33 *each participating county that has adopted a resolution pursuant*
34 *to paragraph (2) of subdivision (a) of Section 31165 to the public*
35 *entity designated by that participating county as its program*
36 *manager.*

37 (C) The third subaccount shall contain funds that are derived
38 from all other sources, exclusive of federal funds, for the purposes
39 of this chapter, including, but not limited to, private donations, fees
40 and penalties, and local government contributions. Any interest



1 that accrues on the funds in this subaccount shall be retained in the
2 subaccount and shall be available for expenditure by the
3 conservancy for the purposes of this chapter. Not more than 3
4 percent of the funds that are deposited in this subaccount shall be
5 utilized by the conservancy for general administration and
6 planning purposes. ~~No funds shall~~ *Funds may not* be expended
7 from this subaccount for any activity that would legally require a
8 commitment of state funds in the future. Notwithstanding Section
9 13340 of the Government Code, the funds in this subaccount are
10 continuously appropriated, without regard to fiscal year, to the
11 conservancy for expenditures for the purposes of this chapter.

12 (2) All reimbursements, proceeds of sale, or other money
13 received by the conservancy for the purposes of this chapter that
14 are not expended on projects under the San Francisco Bay Area
15 Conservancy Program shall be redeposited in the appropriate
16 subaccount of the account.

17 (c) The conservancy ~~shall not be~~ *is not* required to undertake
18 any activities pursuant to this chapter until ~~such~~ *the* time that funds
19 from new sources of funding that are not currently available to the
20 conservancy for those purposes are appropriated by the
21 Legislature or otherwise deposited in the account, and until ~~such~~
22 *the* time that any administrative or general planning funds
23 expended by the conservancy for the purposes of this chapter prior
24 to any ~~such~~ appropriations or deposits being available for
25 expenditure by the conservancy are reimbursed to the State
26 Coastal Conservancy Fund.

27 SEC. 3. Section 31165 is added to the Public Resources Code,
28 to read:

29 31165. (a) (1) Until January 1, 2015, the conservancy may
30 request that the Department of Motor Vehicles collect a fee of up
31 to ~~four dollars (\$4)~~ *six dollars (\$6)* upon the registration or
32 renewal of registration of every motor vehicle registered in all
33 eligible counties that elect to participate. Pursuant to Section
34 9250.20 of the Vehicle Code, the department may begin collection
35 only after three or more eligible counties elect to participate.
36 Eligible Counties include Alameda, Contra Costa, Marin, Napa,
37 San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. The
38 registration fee shall be computed in the manner specified by
39 Section 9559 of the Vehicle Code. A county may elect to
40 participate only by a majority vote of the membership of its board



1 of supervisors. If the amount of fees collected by the department
2 in the previous fiscal year exceeds the reasonable cost of fulfilling
3 the purposes of this section as determined by the conservancy, the
4 conservancy shall request a reduced fee level to be collected by the
5 department in the current fiscal year.

6 (2) *Each participating county may designate a public entity as*
7 *the program manager for that county by resolutions adopted by the*
8 *county board of supervisors and the city councils of a majority of*
9 *the cities representing a majority of the population in the*
10 *incorporated area of that county. The county's resolution shall*
11 *specify the terms and conditions for the expenditure of funds. That*
12 *resolution shall reflect that the funds may be used only to fund*
13 *projects or programs that prevent, reduce, remediate, or mitigate*
14 *the adverse environmental impacts of motor vehicles and motor*
15 *vehicle facilities, consistent with the purposes and provisions of*
16 *this chapter. The entity designated as program manager may*
17 *expend the funds directly or may develop and implement a grant*
18 *program consistent with the terms and conditions of the county*
19 *resolution and this chapter.*

20 (b) (1) All funds appropriated to the conservancy from the
21 Motor Vehicle Mitigation Subaccount may only be used by the
22 conservancy for the purpose of administering and funding projects
23 and grants to nonprofit organizations and public agencies that
24 prevent, reduce, remediate, or mitigate the adverse environmental
25 impacts of motor vehicles and motor vehicle facilities, *or by*
26 *participating counties for those programs.* The requirements of
27 Section 31166 apply to all funds expended pursuant to this
28 paragraph.

29 (2) Up to 5 percent of the funds appropriated to the conservancy
30 from the Motor Vehicle Mitigation Subaccount may be used to
31 reimburse the conservancy for the costs incurred by the
32 conservancy under this section and Section 31167.

33 (c) (1) All funds appropriated to the State Water Resources
34 Control Board from the Motor Vehicle Mitigation Subaccount
35 shall be allocated to the regional water quality control boards
36 having jurisdiction in the nine-county San Francisco Bay area
37 described in subdivision (a) of this section. Those boards together
38 may expend the funds directly or may develop and implement a
39 grant program, only to prevent, reduce, remediate, or mitigate the
40 adverse environmental impacts of motor vehicles and motor



1 vehicle facilities on water quality, water-related habitat, and
2 watersheds within the nine-county San Francisco Bay area. In
3 developing the grant program or directly doing projects as
4 authorized by this subdivision, those regional water quality
5 control boards may use local watershed management plans as
6 defined by subdivision (c) of Section 79078 of the Water Code, or
7 other equivalent local, state, or federally supported watershed
8 protection programs. The requirements of Section 31166 apply to
9 all funds expended pursuant to this paragraph.

10 (2) Up to 5 percent of the funds appropriated to the State Water
11 Resources Control Board from the Motor Vehicle Mitigation
12 Subaccount may be used to reimburse the regional boards for costs
13 incurred by the regional boards under this section and Section
14 31167.

15 (d) (1) Projects and grants *funded from the Motor Vehicle*
16 *Mitigation Subaccount* shall be consistent with the adopted plans
17 of the applicable regional water quality control board, applicable
18 watershed management initiatives, or other adopted plans that
19 identify goals, objectives, and implementation strategies for
20 achieving the goals of and compliance with this chapter and related
21 statutes, including, but not limited to, Chapter 6 (commencing
22 with Section 1600) of Division 2 of the Fish and Game Code,
23 Article 4 (commencing with Section 13160) of Chapter 3 of,
24 Article 3 (commencing with Section 13240) of Chapter 4 of, and
25 Chapter 5.6 (commencing with Section 13390) of, Division 7 of
26 the Water Code, and Division 2 (commencing with Section 2001)
27 of this code.

28 (2) Funds ~~in~~ *from* the Motor Vehicle Mitigation Subaccount
29 may not be used to fund any part of a project or activity required
30 to satisfy a condition imposed by a permit, license, certificate, or
31 other entitlement, other than a permit, license, certificate, or
32 entitlement required for a project funded ~~in whole or in part~~, *in*
33 *whole or in part*, from funds in the subaccount, issued by one or
34 more public agencies, including, but not limited to, the mitigation
35 of significant effects on the environment of a project pursuant to
36 an approved environmental impact report or mitigated negative
37 declaration required pursuant to the California Environmental
38 Quality Act (Division 13 (commencing with Section 21000)).
39 However, funds ~~in~~ *from* the subaccount may be used to support
40 public projects or activities that are included in the implementation



1 measures of a county’s Municipal Storm Water National Pollutant
2 Discharge Elimination System Permit issued by a regional water
3 quality control board.

4 (3) Priority shall be given to those projects and grants that most
5 effectively accomplish the purposes of this section through the
6 long-term protection and restoration of natural resources impacted
7 by motor vehicles and motor vehicle facilities.

8 (4) Eligible expenditures are limited to projects and activities
9 that prevent, reduce, remediate, or mitigate the adverse water
10 quality and environmental impacts of motor vehicles and motor
11 vehicle facilities.

12 (5) To the extent feasible, in carrying out the purposes of this
13 ~~chapter, the conservancy shall utilize the services of the California~~
14 ~~Conservation Corps and Community Conservation Corps, as~~
15 ~~defined in Section 14507.5, and any other nonprofit organization~~
16 ~~that the conservancy determines has relevant and demonstrated~~
17 ~~capacity and expertise.~~

18 (6) ~~In determining priorities, and in designing and carrying out~~
19 ~~these projects, the conservancy shall consult with the appropriate~~
20 ~~Regional Water Quality Control Board. The conservancy shall~~
21 ~~also consult with local governments, affected special districts and~~
22 ~~agencies, and nonprofit organizations. Before making funds~~
23 ~~available for a grant or project pursuant to this section, the~~
24 ~~conservancy shall make findings that the expenditure of funds is~~
25 ~~consistent with the requirements of this section.~~

26 (e) ~~The use of the fees imposed upon the registration or~~
27 ~~registration renewal of every motor vehicle registered in eligible~~
28 ~~participating counties would not result in the imposition of a tax~~
29 ~~within the meaning Article XIII A of the California Constitution,~~
30 ~~because the amount and nature of the fee has a fair and reasonable~~
31 ~~relationship to the adverse environmental burdens imposed by~~
32 ~~motor vehicles and their related facilities and infrastructure, and~~
33 ~~there is a sufficient nexus between the fees imposed and the use of~~
34 ~~those fees to support the prevention, reduction, remediation, and~~
35 ~~mitigation of the adverse water quality and environmental impacts~~
36 ~~caused by motor vehicles. section, the services of the California~~
37 ~~Conservation Corps and Community Conservation Corps, as~~
38 ~~defined in Section 14507.5, and of any nonprofit organization that~~
39 ~~the administering entity determines has the relevant and~~
40 ~~demonstrated capacity and expertise, shall be utilized.~~



1 (6) *In determining priorities, and in designing and carrying out*
 2 *these projects, the conservancy and entities designated as program*
 3 *managers under paragraph (2) of subdivision (a) shall consult*
 4 *with the appropriate Regional Water Quality Control Board and*
 5 *with local governments, affected special districts and agencies,*
 6 *and nonprofit organizations. Before making funds available for a*
 7 *grant or project pursuant to this section, the conservancy, regional*
 8 *board, or local program manager, as appropriate, shall make*
 9 *findings that the expenditure of funds is consistent with the*
 10 *requirements of this section.*

11 SEC. 4. Section 31166 is added to the Public Resources Code,
 12 to read:

13 31166. Funds *in the Motor Vehicle Mitigation Subaccount*
 14 *shall be expended for projects within those counties that elect to*
 15 *participate pursuant to Section 31165. In counties that do not elect*
 16 *to participate pursuant to Section 31165, ~~no funds may~~ funds in the*
 17 *Motor Vehicle Mitigation Subaccount may not be expended.*
 18 *Funds shall be distributed to entities designated under paragraph*
 19 *(2) of subdivision (a) of Section 31165 for projects and grants in*
 20 *participating counties in a manner that, over any two two-year*
 21 *periods prescribed by Section 31167, project and grant benefits are*
 22 *proportional to the revenues collected in each participating county*
 23 *pursuant to Section 9250.20 of the Vehicle Code for vehicles*
 24 *registered in that county. The funds transferred to participating*
 25 *counties under subparagraph (B) of paragraph (1) of subdivision*
 26 *(b) of Section 31164 shall be counted toward the proportional*
 27 *benefit.*

28 SEC. 5. Section 31167 is added to the Public Resources Code,
 29 to read:

30 31167. The conservancy ~~and~~, the regional water quality
 31 control boards, *and any entity designated under paragraph (2) of*
 32 *subdivision (a) of Section 31165, as applicable, shall, at least once*
 33 *every two years, each undertake an audit of the program of projects*
 34 *and grants funded, in whole or in part, through the Motor Vehicle*
 35 *Mitigation Subaccount. The audit shall, at a minimum, evaluate*
 36 *the degree to which resources adversely impacted by motor*
 37 *vehicles and motor vehicle-related facilities and infrastructure*
 38 *have been protected, restored, or rehabilitated, the level of*
 39 *matching funds obtained, and the distribution of funds and*
 40 *projected benefits by county. The audit shall be made available to*



1 the Legislature, participating counties, other interested agencies,
2 and the public upon request.

3 SEC. 6. Section 9250.20 is added to the Vehicle Code, to read:

4 9250.20. (a) The department shall, if requested by the State
5 Coastal Conservancy pursuant to subdivision (a) of Section 31165
6 of the Public Resources Code, collect a fee of up to ~~four dollars~~
7 ~~(\$4)~~ *six dollars (\$6)*, upon the registration or renewal of
8 registration of any motor vehicle registered in the Counties of
9 Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo,
10 Santa Clara, Solano, or Sonoma, except those vehicles that are
11 expressly exempted under this code from the payment of
12 registration fees. The department shall begin collecting the fee in
13 each county on January 1 of the fiscal year immediately following
14 the date the department receives the request to do so from the State
15 Coastal Conservancy. The fee shall be included by the department
16 in any fee statement or notice as part of its designation of
17 county/district fees.

18 (b) After deducting necessary and reasonable costs incurred by
19 the department pursuant to this section, the department shall remit
20 the balance of the revenues received pursuant to this section to the
21 Treasurer who shall deposit those revenues in the Motor Vehicle
22 Mitigation Subaccount established pursuant to subparagraph (B)
23 *of paragraph (1) of subdivision (b)* of Section 31164 of the Public
24 Resources Code. The department shall, upon remittance, notify
25 the Treasurer, the State Water Resources Control Board, ~~and~~ the
26 State Coastal Conservancy, *and any entity designated under*
27 *paragraph (2) of subdivision (a) of Section 31165* of the total
28 amount remitted from each participating county.

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