

Assembly Bill No. 2042

Passed the Assembly August 25, 2004

Chief Clerk of the Assembly

Passed the Senate August 19, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to add Sections 40459.1, 40459.2, and 40459.3 to the Health and Safety Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

AB 2042, Lowenthal. Ports: Port of Los Angeles: Port of Long Beach: air pollution.

(1) Existing law provides for the regulation of ports and harbors. Existing law, the Lewis-Presley Air Quality Management Act, establishes the South Coast Air Quality Management District (south coast district) as the sole and exclusive local agency within those portions of the Counties of Los Angeles, Orange, Riverside, and San Bernardino that are included within the South Coast Air Basin.

This bill would require the south coast district, on or before September 1, 2005, to establish a baseline for air quality for the Port of Los Angeles and the Port of Long Beach. The air quality baseline would be based on data collected by the district regarding the level of emissions in those ports during 2004 from oceangoing vessels and harbor craft, cargo handling equipment, rail locomotives, and commercial motor vehicles, as defined. The air quality baseline would also be based on data collected by the district regarding the emissions levels in those ports during 2004 from oxides of nitrogen, carbon monoxide, particulate matter, and sulfur dioxide.

The bill would require the south coast district, the State Air Resources Board (state board), the Port of Los Angeles, and the Port of Long Beach to develop and enter into a Memorandum of Agreement (MOA) to implement emission control measures related to operations at each of those ports.

The bill would require the MOA to include certain provisions, including (a) a requirement that, on or before January 1, 2006, and on or before January 1 of each year thereafter, the level of air pollution at the Port of Los Angeles and the Port of Long Beach not exceed the specified baseline; (b) a requirement that the Port of Long Beach and the Port of Los Angeles reimburse the board for all costs incurred as a result of developing the MOA; and (c) a requirement that the Port of Los Angeles and the Port of Long



Beach waive any claim to reimbursement by the state for costs incurred as a result of developing and implementing the MOA.

The bill would require the south coast district, the state board, the Port of Los Angeles, and the Port of Long Beach, in developing the MOA, to consult with the federal Environmental Protection Agency, industry stakeholders, community and homeowner groups near the Port of Los Angeles and the Port of Long Beach, and environmental organizations.

The bill would require the Ports of Los Angeles and Long Beach, if the MOA has not been entered into by all of the necessary parties on or before September 1, 2005, to develop a baseline for air quality for each port, based on data collected by the port regarding the level of emissions in the port during 2004 from certain sources and regarding the level of emissions in each port during 2004 from certain air pollutants. The bill would require the ports to submit the baselines to the south coast district for approval. The bill would require the ports, on or before January 1, 2006, and on or before January 1 of each year thereafter, to operate in a manner that prevents the level of air pollution at each port from exceeding the specified baseline. The bill would require the ports, on March 1, 2006, and on March 1 of each year thereafter, to report to the district regarding their respective compliance with the limitation requirement relating to port operation, including an accounting of the programs and efforts that are directed towards that compliance. To the extent that these requirements would impose additional duties upon the ports and the south coast district, the bill would establish a state-mandated local program.

(2) 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

- (a) Exhaust fumes from diesel fuel are known to cause cancer.



(b) A landmark study conducted by the South Coast Air Quality Management District, the “Multiple Air Toxics Exposure Study,” found that 70 percent of all serious health risks attributable to mobile pollution sources are attributable to diesel engine exhaust.

(c) The federal Clean Air Act (42 U.S.C. Sec. 7401, et seq.) requires certain regions that have high levels of air pollution demonstrate that construction of new highways will not worsen air pollution.

SEC. 2. Section 40459.1 is added to the Health and Safety Code, to read:

40459.1. (a) (1) On or before September 1, 2005, the south coast district shall establish a baseline for air quality for the Port of Los Angeles and the Port of Long Beach.

(2) The air quality baseline shall be based on data collected by the south coast district regarding the level of emissions in those ports during 2004 from the following sources:

(A) Oceangoing vessels and harbor craft.

(B) Cargo handling equipment.

(C) Rail locomotives.

(D) Commercial motor vehicles, as defined in subdivision (b) of Section 15210 of the Vehicle Code.

(3) The air quality baseline shall be based on data collected by the south coast district regarding the emissions levels in those ports during 2004 from the following air pollutants:

(A) Oxides of nitrogen (NO_x).

(B) Carbon monoxide(CO).

(C) PM 2.5 and PM10, as defined in Section 39614.

(D) Particulate matter from diesel fuel.

(E) Sulfur dioxide (SO₂).

(b) On or before September 1, 2005, the south coast district, the state board, the Port of Los Angeles, and the Port of Long Beach shall develop and enter into a Memorandum of Agreement (MOA) to implement emission control measures related to operations at each of those ports.

(c) The MOA shall include all of the following provisions:

(1) A requirement that, on or before January 1, 2006, and on or before January 1 of each year thereafter, the level of air pollution at the Port of Los Angeles and the Port of Long Beach not exceed the baseline established under subdivision (a).



(2) Enforcement provisions that are within the jurisdiction of the implementing agencies.

(3) A process for public input and comment on any proposal prior to final agreement.

(4) A requirement that the Port of Long Beach and the Port of Los Angeles reimburse the state board for all costs incurred as a result of developing the MOA.

(5) A requirement that the Port of Los Angeles and the Port of Long Beach waive any claim to reimbursement by the state for costs incurred as a result of developing and implementing the MOA.

(d) In developing the MOA, the south coast district, the state board, the Port of Los Angeles, and the Port of Long Beach shall consult with the federal Environmental Protection Agency, industry stakeholders, community and homeowner groups near the Port of Los Angeles and the Port of Long Beach, and environmental organizations.

(e) Nothing in the MOA shall affect efforts to regulate port emissions.

SEC. 3. Section 40459.2 is added to the Health and Safety Code, to read:

40459.2. If the Memorandum of Agreement required under Section 40459.1 has not been entered into by all of the necessary parties on or before September 1, 2005, all of the following shall apply on that date:

(a) (1) The Port of Los Angeles shall develop a baseline for air quality for the port.

(2) The air quality baseline shall be based on data collected by the port regarding the level of emissions in the port during 2004 from the following sources:

(A) Oceangoing vessels and harbor craft.

(B) Cargo handling equipment.

(C) Rail locomotives.

(D) Commercial motor vehicles, as defined in subdivision (b) of Section 15210 of the Vehicle Code.

(3) The air quality baseline shall be based on data collected by the port regarding the level of emissions in the port during 2004 from the following air pollutants:

(A) Oxides of nitrogen (NO_x).

(B) Carbon monoxide (CO).



- (C) PM 2.5 and PM10, as defined in Section 39614.
- (D) Particulate matter from diesel fuel.
- (E) Sulfur dioxide (SO₂).

(4) The Port of Los Angeles shall submit the baseline developed by it to the south coast district for approval.

(b) On or before January 1, 2006, and on or before January 1 of each year thereafter, the Port of Los Angeles shall operate the port in a manner that prevents the level of air pollution at the port from exceeding the baseline developed and approved under subdivision (a).

(c) On March 1, 2006, and on March 1 of each year thereafter, the Port of Los Angeles shall report to the south coast district regarding the port's compliance with subdivision (b), including, but not limited to, an accounting of the port's programs and efforts that are directed towards that compliance.

(d) This section is intended to grant only oversight authority to the south coast district with respect to the baseline developed by the Port of Los Angeles under subdivision (a).

(e) Nothing in this section prevents the state board or the south coast district from adopting and implementing regulations for any source at any port in this state.

SEC. 4. Section 40459.3 is added to the Health and Safety Code, to read:

40459.3. If the Memorandum of Agreement required under Section 40459.1 has not been entered into by all of the necessary parties on or before September 1, 2005, all of the following shall apply on that date:

(a) (1) The Port of Long Beach shall develop a baseline for air quality for the port.

(2) The air quality baseline shall be based on data collected by the port regarding the level of emissions in the port during 2004 from the following sources:

- (A) Oceangoing vessels and harbor craft.
- (B) Cargo handling equipment.
- (C) Rail locomotives.

(D) Commercial motor vehicles, as defined in subdivision (b) of Section 15210 of the Vehicle Code.

(3) The air quality baseline shall be based on data collected by the port regarding the level of emissions in the port during 2004 from the following air pollutants:



- (A) Oxides of nitrogen (NO_x).
- (B) Carbon monoxide (CO).
- (C) PM 2.5 and PM10, as defined in Section 39614.
- (D) Particulate matter from diesel fuel.
- (E) Sulfur dioxide (SO₂).

(4) The Port of Long Beach shall submit the baseline to the south coast district for approval.

(b) On or before January 1, 2006, and on or before January 1 of each year thereafter, the Port of Long Beach shall operate the port in a manner that prevents the level of air pollution at the port from exceeding the baseline developed and approved under subdivision (a).

(c) On March 1, 2006, and on March 1 of each year thereafter, the Port of Long Beach shall report to the south coast district regarding the port's compliance with subdivision (b), including, but not limited to, an accounting of the port's programs and efforts that are directed towards that compliance.

(d) This section is intended to grant only oversight authority to the south coast district with respect to the baseline developed by the Port of Long Beach under subdivision (a).

(e) Nothing in this section prevents the state board or the south coast district from adopting and implementing regulations for any source at any port in this state.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Approved _____, 2004

Governor

