

Assembly Bill No. 1222

Passed the Assembly June 1, 2005

Chief Clerk of the Assembly

Passed the Senate August 29, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 8 (commencing with Section 39940) to Part 2 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1222, Jones. Air pollution: locomotive air pollution control: Remote Sensing Pilot Program.

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law generally designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

This bill would establish the Remote Sensing Pilot Program, and would require the state board to implement a pilot program to determine emissions from locomotives using wayside remote sensing devices. The bill would require the state board to design and implement the pilot program in consultation with an advisory group established by the state board and consisting of specified members. The bill would permit the state board to contract with an independent entity to conduct the pilot program. The bill would require the state board to submit a report to the Legislature, on or before December 31, 2006, that contains a summary of the data acquired through the pilot program and the state board's determination as to whether the remote sensing devices can meet specified objectives of the pilot program, as provided. The bill would require the South Coast Air Quality Management District, the Union Pacific Railroad, and the Burlington Northern Santa Fe Railway to reimburse the state board for its costs of implementing the pilot program established pursuant to this chapter, as specified.

Because this bill would require the South Coast Air Quality District and the Sacramento Metropolitan Air Quality Management District to perform specified functions, this 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 no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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

SECTION 1. Chapter 8 (commencing with Section 39940) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 8. REMOTE SENSING PILOT PROGRAM

39940. (a) The state board shall implement a pilot program to determine emissions from locomotives, using wayside remote sensing devices. The objectives of the pilot program are to determine whether remote sensing devices can accurately and replicably determine, with a reasonable level of precision:

- (1) The levels of nitrogen oxides, particulate matter, and carbon monoxide emissions from locomotives.
- (2) Whether a locomotive is subject to tier 0, 1, or 2 federal certification standards.
- (3) Whether the measured results can be calibrated to determine whether the locomotive emissions are above or below the applicable federal emissions certification levels.

(b) The state board shall design and implement the pilot program in consultation with the advisory group established pursuant to Section 39941.

(c) The pilot program shall collect sufficient data to ensure that a representative sample of locomotives operating in the state are tested, so that there is a sufficient basis for the state board to meet the objectives and to make the determinations that are set forth in subdivision (a). Data collection shall, at a minimum, be performed under representative conditions in northern and southern California.

39941. The state board shall establish an advisory group to make recommendations to the state board regarding the design and implementation of the pilot program.

(a) The advisory group shall consist of an even number of members, not to exceed 14, as determined by the boards of the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District.

(b) The advisory group shall consist of recognized experts in the field of remote sensing and locomotive engine technology, and representatives of citizen community groups, representatives of the South Coast Air Quality Management District, and representatives of the Sacramento Metropolitan Air Quality Management District. The advisory committee may also include representatives of the Union Pacific Railroad and the Burlington Northern Santa Fe Railway.

(2) The advisory group shall be appointed by the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District. If the Union Pacific Railroad and Burlington Northern Santa Fe Railway choose to participate, 50 percent of the members of the advisory group shall be appointed by the Union Pacific Railroad and Burlington Northern Santa Fe Railway and 50 percent shall be appointed by the South Coast Air Quality Management District and the Sacramento Metropolitan Air Quality Management District.

39942. The state board may contract with an independent entity to conduct the pilot program specified in Section 39940, and shall oversee the work of the independent entity. The state board shall implement the pilot program in consultation with the advisory group established pursuant to Section 39941 to review the design of the pilot program and to ensure quality control in collection, reporting, and evaluation of data.

39943. (a) On or before December 31, 2006, the state board shall submit a report to the Legislature that includes both of the following:

(1) A summary of data acquired through the pilot program.

(2) The state board's determination as to whether the remote sensing devices can meet the objectives of the pilot program stated in Section 39940.

(b) If the state board determines that remote sensing devices can be expected to meet objectives of the pilot program stated in Section 39940 to an extent reasonably sufficient to allow the state board to make the following projections and recommendations, the report shall also include both of the following:

(1) To the extent feasible, a projection of the amount, location, and timing of emission reductions that could be expected from the use of remote sensing devices to identify locomotives to be repaired or maintained.

(2) A projection of the cost to deploy, maintain, and use data from, a system of remote sensing devices in areas of high priority in the state, as determined by the state board, recommendations regarding the funding of such a program, and the expected cost-effectiveness of such a program compared to other opportunities for air quality improvement in the covered areas.

39944. The South Coast Air Quality Management District, the Union Pacific Railroad, and the Burlington Northern Santa Fe Railway shall each reimburse the state board for its costs of implementing the pilot program established pursuant to this chapter. The Union Pacific Railroad and the Burlington Northern Santa Fe Railway shall reimburse the state board for 25 percent of those costs, but the reimbursement shall not to exceed a total of two hundred thousand dollars (\$200,000) for both railroads. The South Coast Air Quality Management District shall reimburse the state board for the balance of the costs of implementing the pilot program, but the reimbursement shall not exceed a total of three hundred thousand dollars (\$300,000). Funds provided by the Union Pacific Railroad and Burlington Northern Santa Fe Railway shall be used only to reimburse the state board for the costs of planning, implementing, evaluating, and reporting the results of, the pilot program as it relates to the testing of locomotives operated by those railroads.

SEC. 2. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Approved _____, 2005

Governor