

Assembly Bill No. 1527

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

Passed the Senate September 2, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 44283 of, and to add Sections 39626.1 and 44287.2 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1527, Lieu. Motor vehicle emission reduction projects.

Existing law creates the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement Emission Reduction Program, which provide state funds to reduce emissions from motor vehicles, as provided.

This bill would require the State Air Resources Board to revise project guidelines to allow funds from specified programs and funding sources to be used for a project also funded under the Carl Moyer Memorial Air Quality Standards Attainment Program or the Goods Movement Emission Reduction Program without those additional public funds being factored into the criteria emission reduction cost-effectiveness calculations under either of those programs.

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

SECTION 1. Section 39626.1 is added to the Health and Safety Code, to read:

39626.1. (a) By January 1, 2011, the state board shall revise project guidelines pursuant to Section 39626 to allow funds from all of the following programs or funding sources to be used for a project also funded under this chapter without those additional public funds being factored into the criteria emission reduction cost-effectiveness calculations:

(1) Federal funding from programs designed to reduce greenhouse gas emissions.

(2) Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9 of Part 5).

(b) Nothing in this section authorizes the expenditure of funds for a project that does not meet all of the requirements of this

chapter, including requirements that require cost sharing or matching of funds. Subdivision (a) does not apply if the additional expenditure would not provide an incremental air quality, or greenhouse gas emission reduction, benefit greater than what would otherwise be achieved by the program. The state board shall not exclude funds from the cost-effectiveness calculation pursuant to subdivision (a), if excluding those funds would reduce the emission reduction benefits expected to be achieved from this chapter, federal greenhouse gas emission reduction programs, or the Alternative and Renewable Fuel and Vehicle Technology Program.

SEC. 2. Section 44283 of the Health and Safety Code, as amended by Section 1 of Chapter 627 of the Statutes of 2006, is amended to read:

44283. (a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than thirteen thousand six hundred dollars (\$13,600) per ton of NO_x reduced in California or a higher value that reflects state consumer price index adjustments on or after January 1, 2006, as determined by the state board. For projects obtaining reactive organic gas and particulate matter reductions, the state board shall determine appropriate adjustment factors to calculate a weighted cost-effectiveness.

(b) Only covered emission reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus covered emission reductions in California from representative project types over the life of the project.

(d) The cost of the covered emission reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275,

and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a covered emission reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness. The state board shall develop an appropriate methodology for converting incremental fuel costs over the vehicle lifetime into an initial cost for the purposes of determining project cost-effectiveness. Incremental fuel costs may not be included in project costs for fuels dispensed from any facility that was funded, in whole or in part, from the fund.

(g) For purposes of determining any grant amount pursuant to this chapter, the incremental cost of any new purchase, retrofit, repower, or add-on equipment shall be reduced by the value of any current financial incentive that directly reduces the project price, including any tax credits or deductions, grants, or other public financial assistance. Project proponents applying for funding shall be required to state in their application any other public financial assistance to the project.

(h) For projects that would repower offroad equipment by replacing uncontrolled diesel engines with new, certified diesel engines, the state board may establish maximum grant award amounts per repower. A repower project shall also be subject to the incremental cost maximum pursuant to subdivision (e).

(i) After study of available emission reduction technologies and costs and after public notice and comment, the state board may reduce the values of the maximum grant award criteria stated in this section to improve the ability of the program to achieve its goals. Every year the state board shall adjust the maximum

cost-effectiveness amount established in subdivision (a) and any per-project maximum set by the state board pursuant to subdivision (h) to account for inflation.

(j) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. Section 44283 of the Health and Safety Code, as amended by Section 2 of Chapter 627 of the Statutes of 2006, is amended to read:

44283. (a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than twelve thousand dollars (\$12,000) per ton of NO_x reduced in California or a higher value that reflects state consumer price index adjustments on or after January 1, 2015, as determined by the state board.

(b) Only NO_x reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NO_x reductions in California from representative project types over the life of the project.

(d) The cost of the NO_x reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a NO_x reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness. The state board shall develop an appropriate methodology for converting incremental fuel costs over the vehicle lifetime into an initial cost for the purposes of determining project cost-effectiveness. Incremental fuel costs may not be included in project costs for fuels dispensed from any facility that was funded, in whole or in part, from the fund.

(g) For purposes of determining any grant amount pursuant to this chapter, the incremental cost of any new purchase, retrofit, repower, or add-on equipment shall be reduced by the value of any current financial incentive that directly reduces the project price, including any tax credits or deductions, grants, or other public financial assistance. Project proponents applying for funding shall be required to state in their application any other public financial assistance to the project.

(h) For projects that would repower offroad equipment by replacing uncontrolled diesel engines with new, certified diesel engines, the state board may establish maximum grant award amounts per repower. A repower project shall also be subject to the incremental cost maximum pursuant to subdivision (e).

(i) After study of available emission reduction technologies and costs and after public notice and comment, the state board may reduce the values of the maximum grant award criteria stated in this section to improve the ability of the program to achieve its goals. Every year the state board shall adjust the maximum cost-effectiveness amount established in subdivision (a) and any per-project maximum set by the state board pursuant to subdivision (h) to account for inflation.

(j) This section shall become operative on January 1, 2015.

SEC. 4. Section 44287.2 is added to the Health and Safety Code, to read:

44287.2. (a) By January 1, 2011, the state board shall revise project grant criteria and guidelines pursuant to Section 44287 to allow funds from all of the following programs or funding sources to be used for a project also funded under this chapter without those additional public funds being factored into the criteria emission reduction cost-effectiveness calculations:

(1) Federal funding from programs designed to reduce greenhouse gas emissions.

(2) Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9).

(b) Nothing in this section authorizes the expenditure of funds for a project that does not meet all of the requirements of this chapter, including requirements that require cost sharing or matching of funds. Subdivision (a) does not apply if the additional expenditure would not provide an incremental air quality, or greenhouse gas emission reduction, benefit greater than what would otherwise be achieved by the program. The state board shall not exclude funds from the cost-effectiveness calculation pursuant to subdivision (a), if excluding those funds would reduce the emission reduction benefits expected to be achieved from this chapter, federal greenhouse gas emission reduction programs, or the Alternative and Renewable Fuel and Vehicle Technology Program.

Approved _____, 2009

Governor