

AMENDED IN SENATE JUNE 30, 2011

AMENDED IN SENATE JUNE 7, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN ASSEMBLY MARCH 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 462**

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**Introduced by Assembly Member Bonnie Lowenthal**

February 15, 2011

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An act to amend ~~Section~~ *Sections 41081 and 44229* of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 462, as amended, Bonnie Lowenthal. ~~Air pollution: vehicular pollution: pollution districts: fees: schoolbuses.~~

~~Existing law authorizes specified air pollution control districts and air quality management districts, until January 1, 2015, to establish a fee of up to \$6 on the registration of motor vehicles registered in the district. Existing law requires the revenues from the first \$4 of the fee to be used for specified purposes. Existing law requires that the revenues from the last \$2 of the fee be used for specified programs that the district determines remediate air pollution harms created by motor vehicles.~~

*Existing law authorizes specified air pollution control and air quality management districts to adopt a fee applicable to motor vehicles registered in counties within that district, and requires the fee to be collected by the Department of Motor Vehicles. Existing law, until January 1, 2015, authorizes the amount of the fee to be up to \$6. Existing law requires the revenues from the first \$4 of the fee to be used for*

*specified purposes. Existing law requires that the revenues from the last \$2 of the fee be used for specified programs that the district determines remediate air pollution harms created by motor vehicles, including purchases of new schoolbuses pursuant to the State Air Resources Board's Lower-Emission School Bus Program.*

This bill would additionally authorize a district based on that determination to use the last \$2 of the fee for programs to replace onboard natural gas tanks on schoolbuses owned by a school district that are 14 years or older, with a funding amount not to exceed \$20,000 per bus and to enhance deteriorating natural gas fueling dispensers of fueling infrastructure operated by a school district, with a one-time funding amount not to exceed \$500 per dispenser, *pursuant to the Lower-Emission School Bus Program.*

This bill would incorporate additional changes in ~~Section~~ Sections 41081 and 44229 of the Health and Safety Code, proposed by AB 470, to be operative only if AB 470 and this bill are both chaptered and become effective January 1, 2012, and this bill is chaptered last.

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

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

1     SECTION 1. Section 41081 of the Health and Safety Code, as  
2     amended by Section 2 of Chapter 707 of the Statutes of 2004, is  
3     amended to read:  
4     41081. (a) Subject to Article 3.7 (commencing with Section  
5     53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the  
6     Government Code, or with the approval of the board of supervisors  
7     of each county included, in whole or in part, within the Sacramento  
8     district, the Sacramento district board may adopt a surcharge on  
9     the motor vehicle registration fees applicable to all motor vehicles  
10    registered in those counties within the Sacramento district whose  
11    boards of supervisors have adopted a resolution approving the  
12    surcharge. The surcharge shall be collected by the Department of  
13    Motor Vehicles and, after deducting the department's  
14    administrative costs, the remaining funds shall be transferred to  
15    the Sacramento district. Prior to the adoption of any surcharge  
16    pursuant to this subdivision, the district board shall make a finding  
17    that any funds allocated to the district as a result of the adoption

1 of a county transportation sales and use tax are insufficient to carry  
2 out the purposes of this chapter.

3 (b) The surcharge shall not exceed six dollars (\$6).

4 (c) After consulting with the Department of Motor Vehicles on  
5 the feasibility thereof, the Sacramento district board may provide,  
6 in the surcharge adopted pursuant to subdivision (a), to exempt  
7 from all or part of the surcharge any category of low-emission  
8 motor vehicle.

9 (d) Funds received by the Sacramento district pursuant to this  
10 section shall be used by that district as follows:

11 (1) The revenues resulting from the first four dollars (\$4) of  
12 each surcharge shall be used to implement reductions in emissions  
13 from vehicular sources, including, but not limited to, a clean fuels  
14 program and motor vehicle use reduction measures.

15 (2) The revenues resulting from the next two dollars (\$2) of  
16 each surcharge shall be used to implement the following programs  
17 that achieve emission reductions from vehicular sources and  
18 off-road engines, to the extent that the district determines the  
19 program remediates air pollution harms created by motor vehicles  
20 on which the surcharge is imposed:

21 (i)

22 (A) Projects eligible for grants under the Carl Moyer Memorial  
23 Air Quality Standards Attainment Program (Chapter 9  
24 (commencing with Section 44275) of Part 5).

25 (ii)

26 (B) The new purchase, retrofit, repower, or add-on of equipment  
27 for previously unregulated agricultural sources of air pollution, as  
28 defined in Section 39011.5, within the Sacramento district, for a  
29 minimum of three years from the date of adoption of an applicable  
30 rule or standard, or until the compliance date of that rule or  
31 standard, whichever is later, if the state board has determined that  
32 the rule or standard complies with Sections 40913, 40914, and  
33 41503.1, after which period of time, a new purchase, retrofit,  
34 repower, or add-on of equipment shall not be funded pursuant to  
35 this chapter. The district shall follow any guidelines developed  
36 under subdivision (a) of Section 44287 for awarding grants under  
37 this program.

38 (iii)

39 (C) The new purchase of schoolbuses pursuant to the  
40 Lower-Emission School Bus Program adopted by the state board.

1 (iv)

2 (D) An accelerated vehicle retirement or repair program that is  
3 adopted by the state board pursuant to authority granted hereafter  
4 by the Legislature by statute.

5 (E) *The replacement of onboard natural gas fuel tanks on*  
6 *schoolbuses owned by a school district that are 14 years or older,*  
7 *not to exceed twenty thousand dollars (\$20,000) per bus, pursuant*  
8 *to the Lower-Emission School Bus Program adopted by the state*  
9 *board.*

10 (F) *The enhancement of deteriorating natural gas fueling*  
11 *dispensers of fueling infrastructure operated by a school district*  
12 *with a one-time funding amount not to exceed five hundred dollars*  
13 *(\$500) per dispenser, pursuant to the Lower-Emission School Bus*  
14 *Program adopted by the state board.*

15 (e) Not more than 5 percent of the funds collected pursuant to  
16 this section shall be used by the district for administrative expenses.

17 (f) ~~No~~A project funded by the program shall *not* be used for  
18 credit under any state or federal emissions averaging, banking, or  
19 trading program. ~~No~~ An emission reduction generated by the  
20 program shall *not* be used as marketable emission reduction credits  
21 or to offset any emission reduction obligation of any person or  
22 entity. Projects involving new engines that would otherwise  
23 generate marketable credits under state or federal averaging,  
24 banking, and trading programs shall include transfer of credits to  
25 the engine end user and retirement of those credits toward reducing  
26 air emissions in order to qualify for funding under the program.  
27 A purchase of a low-emission vehicle or of equipment pursuant  
28 to a corporate or a controlling board’s policy, but not otherwise  
29 required by law, shall generate surplus emissions reductions and  
30 may be funded by the program.

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

34 *SEC. 1.5. Section 41081 of the Health and Safety Code, as*  
35 *amended by Section 2 of Chapter 707 of the Statutes of 2004, is*  
36 *amended to read:*

37 41081. (a) Subject to Article 3.7 (commencing with Section  
38 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the  
39 Government Code, or with the approval of the board of supervisors  
40 of each county included, in whole or in part, within the Sacramento

1 district, the Sacramento district board may adopt a surcharge on  
2 the motor vehicle registration fees applicable to all motor vehicles  
3 registered in those counties within the Sacramento district whose  
4 boards of supervisors have adopted a resolution approving the  
5 surcharge. The surcharge shall be collected by the Department of  
6 Motor Vehicles and, after deducting the department's  
7 administrative costs, the remaining funds shall be transferred to  
8 the Sacramento district. Prior to the adoption of any surcharge  
9 pursuant to this subdivision, the district board shall make a finding  
10 that any funds allocated to the district as a result of the adoption  
11 of a county transportation sales and use tax are insufficient to carry  
12 out the purposes of this chapter.

13 (b) The surcharge shall not exceed six dollars (\$6).

14 (c) After consulting with the Department of Motor Vehicles on  
15 the feasibility thereof, the Sacramento district board may provide,  
16 in the surcharge adopted pursuant to subdivision (a), to exempt  
17 from all or part of the surcharge any category of low-emission  
18 motor vehicle.

19 (d) Funds received by the Sacramento district pursuant to this  
20 section shall be used by that district as follows:

21 (1) The revenues resulting from the first four dollars (\$4) of  
22 each surcharge shall be used to implement reductions in emissions  
23 from vehicular sources, including, but not limited to, a clean fuels  
24 program and motor vehicle use reduction measures.

25 (2) The revenues resulting from the next two dollars (\$2) of  
26 each surcharge shall be used to implement the following programs  
27 that achieve emission reductions from vehicular sources and  
28 off-road engines, to the extent that the district determines the  
29 program remediates air pollution harms created by motor vehicles  
30 on which the surcharge is imposed:

31 (i)

32 (A) Projects eligible for grants under the Carl Moyer Memorial  
33 Air Quality Standards Attainment Program (Chapter 9  
34 commencing with Section 44275) of Part 5).

35 (ii)

36 (B) The new purchase, retrofit, repower, or add-on of equipment  
37 for previously unregulated agricultural sources of air pollution, as  
38 defined in Section 39011.5, within the Sacramento district, for a  
39 minimum of three years from the date of adoption of an applicable  
40 rule or standard, or until the compliance date of that rule or

1 standard, whichever is later, if the state board has determined that  
 2 the rule or standard complies with Sections 40913, 40914, and  
 3 41503.1, after which period of time, a new purchase, retrofit,  
 4 repower, or add-on of equipment shall not be funded pursuant to  
 5 this chapter. The district shall follow any guidelines developed  
 6 under subdivision (a) of Section 44287 for awarding grants under  
 7 this program.

8 ~~(iii)~~

9 ~~(C) The new purchase of new, or retrofit of emissions control~~  
 10 ~~equipment for existing, schoolbuses pursuant to the~~  
 11 ~~Lower-Emission School Bus Program adopted by the state board.~~

12 ~~(iv)~~

13 ~~(D) An accelerated vehicle retirement or repair program that is~~  
 14 ~~adopted by the state board pursuant to authority granted hereafter~~  
 15 ~~by the Legislature by statute.~~

16 ~~(E) The replacement of onboard natural gas fuel tanks on~~  
 17 ~~schoolbuses owned by a school district that are 14 years or older,~~  
 18 ~~not to exceed twenty thousand dollars (\$20,000) per bus, pursuant~~  
 19 ~~to the Lower-Emission School Bus Program adopted by the state~~  
 20 ~~board.~~

21 ~~(F) The enhancement of deteriorating natural gas fueling~~  
 22 ~~dispensers of fueling infrastructure operated by a school district~~  
 23 ~~with a one-time funding amount not to exceed five hundred dollars~~  
 24 ~~(\$500) per dispenser, pursuant to the Lower-Emission School Bus~~  
 25 ~~Program adopted by the state board.~~

26 (e) Not more than 5 percent of the funds collected pursuant to  
 27 this section shall be used by the district for administrative expenses.

28 (f) ~~No~~A project funded by the program shall *not* be used for  
 29 credit under any state or federal emissions averaging, banking, or  
 30 trading program. ~~No~~ An emission reduction generated by the  
 31 program shall *not* be used as marketable emission reduction credits  
 32 or to offset any emission reduction obligation of any person or  
 33 entity. Projects involving new engines that would otherwise  
 34 generate marketable credits under state or federal averaging,  
 35 banking, and trading programs shall include transfer of credits to  
 36 the engine end user and retirement of those credits toward reducing  
 37 air emissions in order to qualify for funding under the program.  
 38 A purchase of a low-emission vehicle or of equipment pursuant  
 39 to a corporate or a controlling board's policy, but not otherwise

1 required by law, shall generate surplus emissions reductions and  
2 may be funded by the program.

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

6 **SECTION 1.**

7 *SEC. 2.* Section 44229 of the Health and Safety Code, as  
8 amended by Section 4 of Chapter 707 of the Statutes of 2004, is  
9 amended to read:

10 44229. (a) After deducting all administrative costs it incurs  
11 through collection of fees pursuant to Section 44227, the  
12 Department of Motor Vehicles shall distribute the revenues to  
13 districts, which shall use the revenues resulting from the first four  
14 dollars (\$4) of each fee imposed to reduce air pollution from motor  
15 vehicles and to carry out related planning, monitoring, enforcement,  
16 and technical studies necessary for implementation of the California  
17 Clean Air Act of 1988. Fees collected by the Department of Motor  
18 Vehicles pursuant to this chapter shall be distributed to districts  
19 based upon the amount of fees collected from motor vehicles  
20 registered within each district.

21 (b) Notwithstanding the provisions of Sections 44241 and 44243,  
22 a district shall use the revenues resulting from the next two dollars  
23 (\$2) of each fee imposed pursuant to Section 44227 to implement  
24 the following programs that the district determines remediate air  
25 pollution harms created by motor vehicles on which the surcharge  
26 is imposed:

27 (1) Projects eligible for grants under the Carl Moyer Memorial  
28 Air Quality Standards Attainment Program (Chapter 9  
29 (commencing with Section 44275) of Part 5).

30 (2) The new purchase, retrofit, repower, or add-on equipment  
31 for previously unregulated agricultural sources of air pollution, as  
32 defined in Section 39011.5, for a minimum of three years from  
33 the date of adoption of an applicable rule or standard, or until the  
34 compliance date of that rule or standard, whichever is later, if the  
35 state board has determined that the rule or standard complies with  
36 Sections 40913, 40914, and 41503.1, after which period of time,  
37 a new purchase, retrofit, repower, or add-on of equipment shall  
38 not be funded pursuant to this chapter. The districts shall follow  
39 any guidelines developed under subdivision (a) of Section 44287  
40 for awarding grants under this program.

1 (3) The new purchase of schoolbuses pursuant to the  
2 Lower-Emission School Bus Program adopted by the state board.

3 (4) An accelerated vehicle retirement or repair program that is  
4 adopted by the state board pursuant to authority granted hereafter  
5 by the Legislature by statute.

6 (5) The replacement of onboard natural gas fuel tanks on  
7 schoolbuses owned by a school district that are 14 years or older,  
8 not to exceed twenty thousand dollars (\$20,000) per bus, *pursuant*  
9 *to the Lower-Emission School Bus Program adopted by the state*  
10 *board.*

11 (6) The enhancement of deteriorating natural gas fueling  
12 dispensers of fueling infrastructure operated by a school district  
13 with a one-time funding amount not to exceed five hundred dollars  
14 (\$500) per dispenser, *pursuant to the Lower-Emission School Bus*  
15 *Program adopted by the state board.*

16 (c) The Department of Motor Vehicles may annually expend  
17 not more than 1 percent of the fees collected pursuant to Section  
18 44227 on administrative costs.

19 (d) A project funded by the program shall not be used for credit  
20 under any state or federal emissions averaging, banking, or trading  
21 program. An emission reduction generated by the program shall  
22 not be used as marketable emission reduction credits or to offset  
23 any emission reduction obligation of any person or entity. Projects  
24 involving new engines that would otherwise generate marketable  
25 credits under state or federal averaging, banking, and trading  
26 programs shall include transfer of credits to the engine end user  
27 and retirement of those credits toward reducing air emissions in  
28 order to qualify for funding under the program. A purchase of a  
29 low-emission vehicle or of equipment pursuant to a corporate or  
30 a controlling board's policy, but not otherwise required by law,  
31 shall generate surplus emissions reductions and may be funded by  
32 the program.

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

36 ~~SEC. 1.5.~~

37 *SEC. 2.5.* Section 44229 of the Health and Safety Code, as  
38 amended by Section 4 of Chapter 707 of the Statutes of 2004, is  
39 amended to read:

1 44229. (a) After deducting all administrative costs it incurs  
2 through collection of fees pursuant to Section 44227, the  
3 Department of Motor Vehicles shall distribute the revenues to  
4 districts, which shall use the revenues resulting from the first four  
5 dollars (\$4) of each fee imposed to reduce air pollution from motor  
6 vehicles and to carry out related planning, monitoring, enforcement,  
7 and technical studies necessary for implementation of the California  
8 Clean Air Act of 1988. Fees collected by the Department of Motor  
9 Vehicles pursuant to this chapter shall be distributed to districts  
10 based upon the amount of fees collected from motor vehicles  
11 registered within each district.

12 (b) Notwithstanding the provisions of Sections 44241 and 44243,  
13 a district shall use the revenues resulting from the next two dollars  
14 (\$2) of each fee imposed pursuant to Section 44227 to implement  
15 the following programs that the district determines remediate air  
16 pollution harms created by motor vehicles on which the surcharge  
17 is imposed:

18 (1) Projects eligible for grants under the Carl Moyer Memorial  
19 Air Quality Standards Attainment Program (Chapter 9  
20 (commencing with Section 44275) of Part 5).

21 (2) The new purchase, retrofit, repower, or add-on equipment  
22 for previously unregulated agricultural sources of air pollution, as  
23 defined in Section 39011.5, for a minimum of three years from  
24 the date of adoption of an applicable rule or standard, or until the  
25 compliance date of that rule or standard, whichever is later, if the  
26 state board has determined that the rule or standard complies with  
27 Sections 40913, 40914, and 41503.1, after which period of time,  
28 a new purchase, retrofit, repower, or add-on of equipment shall  
29 not be funded pursuant to this chapter. The districts shall follow  
30 any guidelines developed under subdivision (a) of Section 44287  
31 for awarding grants under this program.

32 (3) The purchase of new, or retrofit of emissions control  
33 equipment for existing, schoolbuses pursuant to the  
34 Lower-Emission School Bus Program adopted by the state board.

35 (4) An accelerated vehicle retirement or repair program that is  
36 adopted by the state board pursuant to authority granted hereafter  
37 by the Legislature by statute.

38 (5) The replacement of onboard natural gas fuel tanks on  
39 schoolbuses owned by a school district that are 14 years or older,  
40 not to exceed twenty thousand dollars (\$20,000) per bus, *pursuant*

1 *to the Lower-Emission School Bus Program adopted by the state*  
2 *board.*

3 (6) The enhancement of deteriorating natural gas fueling  
4 dispensers of fueling infrastructure operated by a school district  
5 with a one-time funding amount not to exceed five hundred dollars  
6 (\$500) per dispenser, *pursuant to the Lower-Emission School Bus*  
7 *Program adopted by the state board.*

8 (c) The Department of Motor Vehicles may annually expend  
9 not more than 1 percent of the fees collected pursuant to Section  
10 44227 on administrative costs.

11 (d) A project funded by the program shall not be used for credit  
12 under any state or federal emissions averaging, banking, or trading  
13 program. An emission reduction generated by the program shall  
14 not be used as marketable emission reduction credits or to offset  
15 any emission reduction obligation of any person or entity. Projects  
16 involving new engines that would otherwise generate marketable  
17 credits under state or federal averaging, banking, and trading  
18 programs shall include transfer of credits to the engine end user  
19 and retirement of those credits toward reducing air emissions in  
20 order to qualify for funding under the program. A purchase of a  
21 low-emission vehicle or of equipment pursuant to a corporate or  
22 a controlling board's policy, but not otherwise required by law,  
23 shall generate surplus emissions reductions and may be funded by  
24 the program.

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

28 ~~SEC. 2.~~

29 ~~SEC. 3. Section 1.5-(a) Section 1.5 of this bill incorporates~~  
30 ~~amendments to Section 41081 of the Health and Safety Code~~  
31 ~~proposed by both this bill and AB 470. It shall only become~~  
32 ~~operative if (1) both bills are enacted and become effective on or~~  
33 ~~before January 1, 2012, (2) each bill amends Section 41081 of the~~  
34 ~~Health and Safety Code, and (3) this bill is enacted after AB 470,~~  
35 ~~in which case Section 1 of this bill shall not become operative.~~

36 (b) Section 2.5 of this bill incorporates amendments to Section  
37 44229 of the Health and Safety Code proposed by both this bill  
38 and AB 470. It shall only become operative if (1) both bills are  
39 enacted and become effective on or before January 1, 2012, (2)  
40 each bill amends Section 44229 of the Health and Safety Code,

1 and (3) this bill is enacted after AB 470, in which case Section 1  
2 2 of this bill shall not become operative.

O