

Assembly Bill No. 462

CHAPTER 216

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

[Approved by Governor September 6, 2011. Filed with
Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 462, Bonnie Lowenthal. Air pollution districts: fees: schoolbuses.

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 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.

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

SECTION 1. Section 41081 of the Health and Safety Code, as amended by Section 2 of Chapter 707 of the Statutes of 2004, is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable

to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Prior to the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) 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. 1.5. Section 41081 of the Health and Safety Code, as amended by Section 2 of Chapter 707 of the Statutes of 2004, is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Prior to the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

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

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

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

(1) The revenues resulting from the first four dollars (\$4) of each surcharge shall be used to implement reductions in emissions from vehicular

sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures.

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

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

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

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

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

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

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

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

(f) A project funded by the program shall not be used for credit under any state or federal emissions averaging, banking, or trading program. An emission reduction generated by the program shall not be used as marketable emission reduction credits or to offset any emission reduction obligation of any person or entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not

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

(g) 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. 2. Section 44229 of the Health and Safety Code, as amended by Section 4 of Chapter 707 of the Statutes of 2004, is amended to read:

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

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

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

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

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

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

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

(6) The enhancement of deteriorating natural gas fueling dispensers of fueling infrastructure operated by a school district with a one-time funding

amount not to exceed five hundred dollars (\$500) per dispenser, pursuant to the Lower-Emission School Bus Program adopted by the state board.

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

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

(e) 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. 2.5. Section 44229 of the Health and Safety Code, as amended by Section 4 of Chapter 707 of the Statutes of 2004, is amended to read:

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

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

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

(2) The new purchase, retrofit, repower, or add-on equipment for previously unregulated agricultural sources of air pollution, as defined in Section 39011.5, for a minimum of three years from the date of adoption of an applicable rule or standard, or until the compliance date of that rule or standard, whichever is later, if the state board has determined that the rule or standard complies with Sections 40913, 40914, and 41503.1, after which period of time, a new purchase, retrofit, repower, or add-on of

equipment shall not be funded pursuant to this chapter. The districts shall follow any guidelines developed under subdivision (a) of Section 44287 for awarding grants under this program.

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

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

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

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

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

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

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

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

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

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