

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 470**

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**Introduced by Assembly Member Halderman**

February 15, 2011

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An act to amend ~~Section 40322.5~~ *Sections 41081 and 44229* of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as amended, Halderman. ~~Regional air~~ *Air pollution control districts: governing board membership. districts: fees: schoolbus retrofits.*

*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 to 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 to retrofit existing schoolbuses pursuant to the State Air Resources Board's Lower-Emission School Bus Program.*

~~Existing law requires the governing board of each regional air pollution control district, as defined, to include both county supervisors and mayors or city council members, as specified.~~

~~This bill would make technical, nonsubstantive changes to this requirement.~~

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

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

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

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

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

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

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

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

12 (ii) The new purchase, retrofit, repower, or add-on of equipment  
13 for previously unregulated agricultural sources of air pollution, as  
14 defined in Section 39011.5, within the Sacramento district, for a  
15 minimum of three years from the date of adoption of an applicable  
16 rule or standard, or until the compliance date of that rule or  
17 standard, whichever is later, if the state board has determined that  
18 the rule or standard complies with Sections 40913, 40914, and  
19 41503.1, after which period of time, a new purchase, retrofit,  
20 repower, or add-on of equipment shall not be funded pursuant to  
21 this chapter. The district shall follow any guidelines developed  
22 under subdivision (a) of Section 44287 for awarding grants under  
23 this program.

24 (iii) The ~~new~~ purchase of *new, or retrofit of existing*, schoolbuses  
25 pursuant to the Lower-Emission School Bus Program adopted by  
26 the state board.

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

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

32 (f) ~~No~~ A project funded by the program shall *not* be used for  
33 credit under any state or federal emissions averaging, banking, or  
34 trading program. ~~No~~ An emission reduction generated by the  
35 program shall *not* be used as marketable emission reduction credits  
36 or to offset any emission reduction obligation of any person or  
37 entity. Projects involving new engines that would otherwise  
38 generate marketable credits under state or federal averaging,  
39 banking, and trading programs shall include transfer of credits to  
40 the engine end user and retirement of those credits toward reducing

1 air emissions in order to qualify for funding under the program.  
2 A purchase of a low-emission vehicle or of equipment pursuant  
3 to a corporate or a controlling board's policy, but not otherwise  
4 required by law, shall generate surplus emissions reductions and  
5 may be funded by the program.

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

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

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

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

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

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

1 any guidelines developed under subdivision (a) of Section 44287  
2 for awarding grants under this program.

3 (3) ~~The new purchase of new, or retrofit of existing,~~ schoolbuses  
4 pursuant to the Lower-Emission School Bus Program adopted by  
5 the state board.

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

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

12 ~~(1) During the first year after the operative date of this chapter,~~  
13 ~~not more than 5 percent of the fees collected may be used for~~  
14 ~~administrative costs:~~

15 ~~(2) During the second year after the operative date of this~~  
16 ~~chapter, not more than 3 percent of the fees collected may be used~~  
17 ~~for administrative costs:~~

18 ~~(3) During any year subsequent to the second year after the~~  
19 ~~operative date of this chapter, not more than 1 percent of the fees~~  
20 ~~collected may be used for administrative costs:~~

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

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

38 ~~SECTION 1. Section 40322.5 of the Health and Safety Code~~  
39 ~~is amended to read:~~

1     ~~40322.5.—(a) Notwithstanding any other provision of this~~  
2 ~~chapter, on and after July 1, 1994, the membership of the governing~~  
3 ~~board of each regional district, including any district formed on~~  
4 ~~or after that date, shall include (1) one or more members who are~~  
5 ~~mayors, city council members, or both, and (2) one or more~~  
6 ~~members who are county supervisors.~~

7     ~~(b) The number of those members and their composition shall~~  
8 ~~be determined jointly by the counties and cities within the district,~~  
9 ~~and shall be approved by a majority of the counties, and by a~~  
10 ~~majority of the cities that contain a majority of the population in~~  
11 ~~the incorporated area of the district.~~

12     ~~(c) The governing board shall reflect, to the extent feasible and~~  
13 ~~practicable, the geographic diversity of the district and the variation~~  
14 ~~of population between the cities in the district.~~

15     ~~(d) The members of the governing board who are mayors or~~  
16 ~~city council members shall be selected by a majority of the cities~~  
17 ~~in the district. The members of the governing board who are county~~  
18 ~~supervisors shall be selected by a majority of the counties in the~~  
19 ~~district.~~

20     ~~(e) If a district fails to comply with subdivisions (a) and (b), the~~  
21 ~~membership of the governing board shall be determined as follows:~~

22     ~~(1) In districts in which the population in the incorporated areas~~  
23 ~~represents 35 percent or less of the total county population,~~  
24 ~~one-fourth of the members of the governing board shall be mayors~~  
25 ~~or city council members, and three-fourths shall be county~~  
26 ~~supervisors.~~

27     ~~(2) In districts in which the population of the incorporated areas~~  
28 ~~represents between 36 and 50 percent of the total county~~  
29 ~~population, one-third of the members of the governing board shall~~  
30 ~~be mayors or city council members, and two-thirds shall be county~~  
31 ~~supervisors.~~

32     ~~(3) In districts in which the population of the incorporated areas~~  
33 ~~represents more than 50 percent of the total county population,~~  
34 ~~one-half of the members of the governing board shall be mayors~~  
35 ~~or city council members, and one-half shall be county supervisors.~~

36     ~~(4) The number of those members shall be determined as~~  
37 ~~provided in subdivision (b) and the members shall be selected~~  
38 ~~pursuant to subdivision (d).~~

39     ~~(5) For purposes of paragraphs (1) to (3), inclusive, if any~~  
40 ~~number that is not a whole number results from the application of~~

1 the term “one-fourth,” “one-third,” “one-half,” “two-thirds,” or  
2 “three-fourths,” the number of county supervisors shall be increased  
3 to the nearest integer, and the number of mayors or city council  
4 members decreased to the nearest integer.

5 (f) ~~This section does not apply to a district if the membership~~  
6 ~~of the governing board of the district includes both county~~  
7 ~~supervisors and mayors or city council members on June 30, 1994.~~

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