

AMENDED IN ASSEMBLY JUNE 23, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 16, 2011

SENATE BILL

No. 170

Introduced by Senator Pavley

February 3, 2011

An act to add Sections 40004 and 40005 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as amended, Pavley. Air districts: adverse effects of air pollution: intellectual property.

Existing law authorizes local and regional districts to have the primary responsibility for control of air pollution from all sources, other than emissions from motor vehicles.

This bill would authorize the districts to sponsor, coordinate, and promote projects that will lead to the prevention, mitigation, or cure of the adverse effects of air pollution, including the adverse health effects of air pollution. The bill, until January 1, 2018, would authorize a district to negotiate what share, if any, of the intellectual property, or benefits resulting from intellectual property, developed from the use of district funds, including funds discharged as grants, will accrue to that district. The bill would require revenues generated from revenue sharing agreements to be deposited into a special account and used for specified purposes. Under certain circumstances, the bill would prohibit a district from receiving a benefit pursuant to these provisions in excess of the amount of the district's investment. If the state or a subdivision of the

state purchases or licenses a ~~good, service, or process~~ *process, machine, or article of manufacture* for which a district accrues a benefit resulting from the intellectual property interest, the bill would require the district, upon the request of the Department of General Services, to provide reimbursement to the General Fund for the amount of the benefit accrued. The bill would require a district that attempts to negotiate for benefits pursuant to these provisions to report annually to the Legislature, as provided.

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

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

1 SECTION 1. Section 40004 is added to the Health and Safety
 2 Code, to read:
 3 40004. A district may sponsor, coordinate, and promote projects
 4 that will lead to the prevention, mitigation, or cure of the adverse
 5 effects of air pollution, including the adverse health effects of air
 6 pollution.
 7 SEC. 2. Section 40005 is added to the Health and Safety Code,
 8 to read:
 9 40005. (a) A district may negotiate what share, if any, of the
 10 intellectual property, or benefits resulting from intellectual
 11 property, developed from the use of district funds, including funds
 12 discharged as grants, will accrue to that district.
 13 (b) A district may negotiate revenue sharing agreements with
 14 recipients of district funds, including the collection of royalties.
 15 Proceeds obtained by the district from these revenue sharing
 16 agreements shall accrue to the district and be deposited into a
 17 special account that may only be used, subject to the district's
 18 ability to recover its expenses and its administrative costs, for
 19 ~~either~~ *any* of the following purposes:
 20 (1) To fund projects pursuant to Section 40004 that will lead to
 21 the prevention, mitigation, or cure of the adverse effects of air
 22 pollution, including the adverse health effects of air pollution.
 23 ~~(2) To develop low-polluting fuels or technologies.~~
 24 (2) *To fund projects to reduce or mitigate air pollution through*
 25 *the development or implementation of pollution controls, low or*
 26 *zero polluting fuels or technologies, or pollution prevention*
 27 *measures.*

1 (c) A district shall not receive a benefit pursuant to this section
2 in excess of the amount of the district's investment in the
3 development of a process, machine, or article of manufacture, if
4 the district adopts a rule or regulation that mandates the use of that
5 process, machine, or article of manufacture and that regulation or
6 rule was adopted after the development of the process, machine,
7 or article of manufacture.

8 (d) If the state or a subdivision of the state purchases or licenses
9 a ~~good, service, or process~~ *process, machine, or article of*
10 *manufacture* for which a district accrues a benefit resulting from
11 an intellectual property interest negotiated pursuant to subdivision
12 (a) or (b), upon the request of the Department of General Services,
13 the district shall prepare reimbursement to the General Fund for
14 the amount of the benefit accrued.

15 (e) (1) A district that attempts to negotiate for benefits pursuant
16 to this section shall report annually to the Legislature. The report
17 shall include all of the following:

18 (A) The number of district-funded projects and the number of
19 district-funded projects for which a benefit was negotiated,
20 regardless of the outcome of the negotiation.

21 (B) The outcome of all negotiations regarding intellectual
22 property pursuant to this section, including agreed terms for
23 revenue sharing.

24 (C) A list of all district-funded projects from previous years that
25 have resulted in a benefit pursuant to this section, if any, and the
26 total amount of that benefit to date.

27 (2) A district may include a report required by this section as
28 part of another report submitted to the Legislature by the district.

29 (f) *This section does not apply to a contract governed by Chapter*
30 *14.27 (commencing with Section 67325) of Part 40 of Division 5*
31 *of Title 3 of the Education Code.*

32 (~~f~~)

33 (g) Subdivisions (a) to ~~(e)~~ (f), inclusive, of this section shall
34 become inoperative on January 1, 2018. An agreement made
35 pursuant to this section prior to January 1, 2018, shall remain in
36 effect for the duration of the agreement.