

Senate Bill No. 170

Passed the Senate August 30, 2011

Secretary of the Senate

Passed the Assembly August 25, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 170, 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, 2017, 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 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.

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

SECTION 1. Section 40004 is added to the Health and Safety Code, to read:

40004. A district may 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.

SEC. 2. Section 40005 is added to the Health and Safety Code, to read:

40005. (a) A district may 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.

(b) A district may negotiate revenue sharing agreements with recipients of district funds, including the collection of royalties. Proceeds obtained by the district from these revenue sharing agreements shall accrue to the district and be deposited into a special account that may only be used, subject to the district's ability to recover its expenses and its administrative costs, for any of the following purposes:

(1) To fund projects pursuant to Section 40004 that will lead to the prevention, mitigation, or cure of the adverse effects of air pollution, including the adverse health effects of air pollution.

(2) To fund projects to reduce or mitigate air pollution through the development or implementation of pollution controls, low or zero polluting fuels or technologies, or pollution prevention measures.

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

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

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

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

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

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

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

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

(g) Subdivisions (a) to (f), inclusive, of this section shall become inoperative on January 1, 2017. An agreement made pursuant to this section prior to January 1, 2017, shall remain in effect for the duration of the agreement.

Approved _____, 2011

Governor