

AMENDED IN SENATE MARCH 30, 1995

SENATE BILL

No. 456

Introduced by Senator Kelley

February 16, 1995

An act to add ~~Section~~ *Sections 40440.10 and 40440.11* to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 456, as amended, Kelley. Air pollution: best available control technology.

(1) Existing law, the Lewis-Presley Air Quality Management Act, prescribes the powers and duties of the South Coast Air Quality Management District with respect to air pollution control in the South Coast Air Basin. The act requires the district's rules and regulations to require the use of best available control technology, as defined, for new and modified sources, and the use of the best available retrofit control technology, as defined, for existing sources.

This bill would require the south coast district *board to hold a public hearing prior to approving any revision to the Best Available Control Technology Guidelines developed by the south coast district that amends policy or implementation procedures.*

The bill would require the south coast district, in establishing what is the best available control technology for a source, to consider only equipment, controls, or processes that result in the same or better product quality, quantity, production rate, or degree of reliability that is produced by

the equipment, controls, or processes proposed by the applicant.

The bill would require the south coast district, whenever the best available control technology requirements for emissions of one pollutant from a new source result in an increase in the emissions of another pollutant from the same source, to include the cost of reducing the emissions of both pollutants in the cost-effectiveness calculation for the first pollutant, ~~but~~

The bill would prohibit the south coast district, when the district determines the best available control technology for a source and sets an emission limitation that is more stringent than the lowest achievable emission rate required by federal law, from basing that emission limitation on the use of a particular control alternative unless the incremental cost-effectiveness value, determined as prescribed, is less than the district's established cost-effectiveness value for each pollutant.

The bill would prohibit the south coast district from establishing an emission limitation unless the district determines that the emission limitation has been met by production equipment, control equipment or a process that meets specified requirements.

The bill would prohibit the south coast district, after the district determines what is the best available control technology for a ~~large~~ source, from changing that determination for an application for a period of at least 3 years from the date that the applicant filed the application for permission to construct in good faith.

The bill would impose a state-mandated local program by imposing new duties on a district with regard to determinations relating to best available control technologies.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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



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

1 SECTION 1. *Section 40440.10 is added to the Health
2 and Safety Code, to read:*

3 *40440.10. The south coast district board shall hold a
4 public hearing to consider any proposed revision to the
5 Best Available Control Technology Guidelines developed
6 by the south coast district that amends any policy or any
7 implementation procedure, and prior to approving any
8 such revision.*

9 SEC. 2. Section 40440.11 is added to the Health and
10 Safety Code, to read:

11 40440.11. (a) In establishing what is the best available
12 control technology, as defined in Section 40405, for a
13 source, the south coast district shall consider only
14 equipment, controls, or processes that result in the same
15 or better product quality, quantity, production rate, or
16 degree of reliability that is produced by the equipment,
17 controls, or processes proposed by the applicant.

18 (b) Whenever best available control technology
19 requirements for emissions of one pollutant from a new
20 source result in an increase in the emissions of another
21 pollutant from the same source, the south coast district
22 shall include the cost of reducing the emissions of both
23 pollutants in the cost-effectiveness calculation for the first
24 pollutant.

25 (c) *If the south coast district, when it determines the
26 best available control technology for a source, adopts an
27 emission limitation that is more stringent than the lowest
28 achievable emission rate required by federal law, the
29 district shall not base that emission limitation on the use
30 of a particular control alternative unless the incremental
31 cost-effectiveness value of that alternative is less than the
32 district's established cost effectiveness value for each
33 pollutant. The district shall determine the incremental
34 cost-effectiveness value per ton of emissions reduced of
35 each progressively more stringent contemplated control
36 option as compared to the next less expensive
37 contemplated control option, by dividing the annual cost
38 of the more stringent contemplated control option by the*



1 *difference in the annual emission reduction between the*
2 *more stringent contemplated control option and the next*
3 *less stringent contemplated control option.*

4 (d) In establishing what is the best available control
5 technology for a source, the south coast district shall not
6 establish an emission limitation unless the district
7 determines that the emission limitation has been met by
8 production equipment ~~or a process~~, *control equipment,*
9 *or a process with a reasonable margin for commercial*
10 *operation* that meets both of the following requirements:

11 (1) The production equipment, *control equipment,* or
12 process is commercially available *for sale and warranted*
13 *for performance.*

14 (2) The production equipment or process has
15 achieved the best available technology requirement in
16 practice on at least one full-scale commercial operation
17 ~~for at least one life cycle of the control hardware for the~~
18 ~~industry application in question.~~ *for one year, or for the*
19 *operating cycle of the control hardware, whichever is*
20 *longer, for the application in question, to demonstrate*
21 *operating and maintenance reliability and costs.*

22 ~~(d)~~

23 (e) After the south coast district determines what is
24 the best available control technology for a ~~large~~ source,
25 the district shall not change that determination for that
26 application for at least a period of three years from the
27 date that the applicant filed the application for the
28 permission to construct in good faith.

29 SEC. 2. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because a local agency or school district has
32 the authority to levy service charges, fees, or assessments
33 sufficient to pay for the program or level of service
34 mandated by this act, within the meaning of Section 17556
35 of the Government Code.

36 Notwithstanding Section 17580 of the Government
37 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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