

AMENDED IN SENATE APRIL 24, 2003

AMENDED IN SENATE APRIL 3, 2003

SENATE BILL

No. 981

Introduced by Senators Soto and Romero

February 21, 2003

An act to add Division 29 (commencing with Section 38000) to the Public Resources Code, relating to petroleum pollution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 981, as amended, Soto. Children's Health and Petroleum Pollution Remediation Act of 2003.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires the state board to compile, and make generally available to the public, emission inventory data from throughout the state.

This bill would enact the Children's Health and Petroleum Pollution Remediation Act of 2003, which would require the operator of every refinery to pay the equivalent of a \$0.30 fee for each barrel of crude oil received at a refinery within the state that is used for the production of gasoline and diesel fuel to the State Board of Equalization on a monthly basis based on the number of barrels of crude oil received during the previous month.

The bill would establish the continuously appropriated Children's Health and Petroleum Pollution Remediation Trust Fund in the State Treasury.

The bill would require the state board, on January 1 of each year, to provide a breakdown of each district's relative contribution to the state emissions inventory, and would require the Controller, as soon as practicable, but not later than March 1 of each year, to allocate moneys from the fund to each district in proportion to each district's share of the state emission inventory. The bill would prohibit the Controller from transferring less than \$250,000 to a district. The bill would require the moneys allocated to each district from the fund to be expended to fund petroleum pollution source reduction programs and public health remediation programs, to the extent the district determines those revenues relate to the relative harm caused, or are intended to mitigate or prevent the relative harm created, by diesel and gasoline fuel in that district's jurisdiction.

The bill would require each district that receives moneys from the fund to develop and adopt at a regularly noticed public hearing, a districtwide petroleum pollution mitigation program comprised of petroleum pollution source reduction and public health remediation programs that it determines will mitigate or prevent the relative harm caused by diesel and gasoline fuel in that district. The bill would require each district to make a determination that a clear nexus exists between the relative public health harm caused by the refining and combustion of gasoline and diesel fuels within its jurisdiction and the pollution source reduction programs and public health programs funded.

The bill would require each district that receives moneys from the fund to establish funding priorities for public health programs and petroleum pollution source reduction projects, and to coordinate with any local, state, and federal agencies, and private organizations concerned with mitigating the public health harm caused by the refining and combustion of gasoline and diesel fuels that it determines appropriate. The bill would impose additional requirements on the Bay Area Air Quality Management District, the Sacramento Metropolitan Air Quality Management District, the San Diego Air Pollution Control District, the San Joaquin Valley Unified Air Pollution Control District, and the South Coast Air Quality Management District relating to the solicitation of public comments and identification of additional funding for district petroleum pollution mitigation programs, and would require



each of those districts to annually review and adopt its petroleum pollution mitigation program.

The bill would require the moneys allocated to each district from the fund to be expended in a manner that directly addresses air pollution or health impacts resulting from the refining and combustion of gasoline and diesel fuel in communities with the most significant exposure to air pollution.

The bill would authorize up to 3% of the moneys allocated to each district to be used for administration and overhead costs.

By requiring each district that receives moneys from the fund to perform specific duties, this bill would impose a state-mandated local program.

(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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Petroleum products have been shown to cause public health
4 and environmental degradation problems, and these problems
5 have stimulated a movement to address these concerns. The Carl
6 Moyer Memorial Air Quality Standards Attainment Program was
7 established soon after the State Air Resources Board determined
8 that diesel particulate is a cancer-causing toxic air contaminant.
9 The Lower-Emission School Bus Replacement Program was
10 created shortly thereafter.

11 (b) Recent studies indicate that there are 2.5 million people in
12 California with asthma, 500,000 of them children. Asthma is the
13 most common chronic childhood disease, which affects more than
14 one in 20 children, and is the leading cause of school absences and
15 hospital admissions for children in California. Additional studies
16 generally support a direct correlation between air quality and
17 respiratory health.



1 (c) Some toxic air pollutants found in gasoline and the exhaust
2 from the combustion of petroleum products, including, but not
3 limited to, benzene and diesel particulate matter, are also known
4 to cause cancer in humans. Studies have linked particulate
5 pollution to lung cancer and at least one investigation found a
6 possible link between brain cancer and air pollution.

7 (d) Combustion of transportation fuel, including, but not
8 limited to, gasoline and diesel, is the major source of ozone
9 precursors and of particulate matter throughout the urbanized
10 state, and particularly in the South Coast Air Basin.

11 (e) To clean up current petroleum-related air pollution and to
12 protect public health, it is necessary to establish a stable funding
13 source dedicated specifically to the purposes of air pollution
14 cleanup and prevention, and the treatment and education of
15 sensitive populations suffering from exposure to
16 petroleum-related pollution.

17 (f) Air pollution control districts and air quality management
18 districts are primarily responsible for reducing the local health
19 effects associated with air quality in their respective air basins.
20 Districts have experience in identifying and prioritizing
21 cost-effective programs aimed at reducing public health risks
22 associated with air pollution, and have demonstrated proficiency
23 in developing, negotiating, implementing, and monitoring public
24 health solutions that take into consideration the localized sources
25 of air pollution, the interests and unique vulnerability of sensitive
26 populations, the availability of emission-reduction technologies,
27 and the specialized resources of health professionals, health care
28 facilities, and health risk-reduction programs.

29 (g) In order to ensure the necessary level of funding and
30 continued operation of these programs, it is necessary to create a
31 sustainable, consistent funding mechanism. A fee per barrel of
32 petroleum refined within the state, imposed at the refinery gate,
33 provides that mechanism.

34 (h) The fee per barrel imposed by the act adding this section is
35 proportionate to the harm resulting from petroleum pollution
36 within the state, and is a fair and reasonable means to mitigate the
37 past, present, and future harm to public health and safety resulting
38 from petroleum pollution in the state.

39 (i) It is the intent of the Legislature that the fee imposed by the
40 act adding this section not be passed through to consumers.

SEC. 2. Division 29 (commencing with Section 38000) is added to the Public Resources Code, to read:

DIVISION 29. CHILDREN’S HEALTH AND PETROLEUM POLLUTION REMEDIATION ACT OF 2003

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

38000. This division shall be known, and may be cited, as the Children’s Health and Petroleum Pollution Remediation Act of 2003.

38001. For purposes of this division, the following terms have the following meanings:

(a) “Barrel of crude oil” has the same meaning as that term is defined in Section 2241 of Title 18 of the California Code of Regulations.

(b) “Crude oil” means petroleum in an unrefined or natural state, including condensate and natural gasoline.

(c) “Crude oil producer” means any person or entity producing crude oil within the state that does not refine crude oil into a product.

(d) “Diesel fuel” means a liquid that is commonly or commercially known or sold as fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle.

(e) “District” means any air quality management district or air pollution control district in the state.

(f) “Fund” means the Children’s Health and Petroleum Pollution Remediation Trust Fund established pursuant to Section 38050.

(g) “Gasoline” means a volatile mixture of hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

(h) “Mobile asthma clinic” means a mobile asthma clinic that is used to augment health services for children and seniors with asthma in areas in the state where underserved populations do not have access to adequate transportation, schools, Head-Start

Centers, senior centers, and health clinics to provide asthma screening and treatment to low-income and uninsured residents.

(i) “Petroleum” means any petroleum product, including, but not limited to, petroleum additives.

(j) “Petroleum additive” includes, but is not limited to, benzene, toluene, ethylbenzene, and xylene.

(k) “Petroleum contamination” means pollution of the air from any petroleum product, including petroleum additives, or by any action related to the extraction, refinement, transport, storage, sale, combustion, or usage of petroleum.

(l) “Refinery” means a facility or location that refines crude oil, including, but not limited to, condensate and natural gasoline, into petroleum products, lubricating oils, coke, or asphalt.

38005. If any provision of this division or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity not affect other provisions or applications of the division that can be given effect without the invalid provision or application, and to this end the provisions of this division are severable.

CHAPTER 2. CHILDREN’S HEALTH AND PETROLEUM POLLUTION REMEDATION TRUST FUND

38050. (a) The Children’s Health and Petroleum Pollution Remediation Trust Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money deposited in the fund is continuously appropriated to the Controller, without regard to fiscal years, for allocation to districts pursuant to subdivision (b) of Section 38051 for the purposes described in Section 38100.

(b) Every operator of a refinery shall pay a fee in an amount equivalent to thirty cents (\$0.30) for each barrel of crude oil received at a refinery within the state that is used for the production of gasoline and diesel fuel *and is consumed in the state*.

(c) The State Board of Equalization shall administer the fee imposed pursuant to subdivision (b) in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(d) (1) The fee imposed pursuant to subdivision (b) is due and payable to the State Board of Equalization monthly on or before

1 the 25th day of the calendar month following the monthly period
2 for which the fee is imposed. Each fee payer, on or before the 25th
3 day of the month following each monthly period, shall make out
4 a return for the preceding monthly period, in the form prescribed
5 by the State Board of Equalization.

6 (2) Each fee payer shall include with the payment required by
7 this subdivision, information detailing actual fuel production used
8 in the calculation of the fee payment, including, but not limited to,
9 a breakdown of amounts of diesel and gasoline fuels produced. A
10 fee payer may designate any portion of the fuel production
11 information as trade secret information and that portion may not
12 be released except to the state employees specifically designated
13 by the State Board of Equalization, unless the State Board of
14 Equalization, after an investigation, determines that the portion is
15 not in fact a trade secret. Any state employee having access to the
16 trade secret shall maintain its confidentiality. For the purposes of
17 this paragraph, the term “trade secret” has the same meaning as
18 described in Section 6254.7 of the Government Code.

19 (e) All fees imposed pursuant to subdivision (b) shall be paid
20 in the form of remittances payable to the State Board of
21 Equalization. The State Board of Equalization shall transmit the
22 payment to the fund and shall annually notify the Controller of the
23 ratio of gasoline to diesel fuels, on an aggregate basis, of the fuels
24 produced from crude oil that were subject to the fee imposed by
25 this section.

26 (f) The money deposited to the credit of the fund may be
27 expended for the following purposes:

28 (1) To pay for refunds pursuant to Part 30 (commencing with
29 Section 55001) of Division 2 of the Revenue and Taxation Code.

30 (2) To pay for the administrative costs of the State Board of
31 Equalization of collection, auditing, and making refunds
32 associated with the fund.

33 (3) The balance shall be allocated and expended as provided in
34 Section 38051.

35 38051. (a) On January 1 of each year, the State Air Resources
36 Board shall provide a breakdown of each district’s relative
37 contribution to the state emissions inventory based on the emission
38 data compiled pursuant to Section 44345 of the Health and Safety
39 Code.

(b) (1) As soon as practicable, but not later than March 1 of each year, the Controller shall allocate moneys from the fund to each district in proportion to each district's share of the state emission inventory provided to the Controller pursuant to subdivision (a).

(2) The Controller may not transfer less than two hundred fifty thousand dollars (\$250,000) to each district pursuant to this subdivision.

(3) The Controller shall provide each district, with the allocation of moneys pursuant to paragraph (1), the aggregate ratio of gasoline to diesel fuel used in the calculation of total moneys collected annually pursuant to Section 38050.

(c) The moneys allocated to each district from the fund pursuant to subdivision (b) shall be expended by the district to fund petroleum pollution source reduction programs pursuant to Section 38100 and public health remediation programs pursuant to Section 38105, to the extent the district determines those revenues relate to the relative harm caused, or are intended to mitigate or prevent the relative harm created, by diesel and gasoline fuel in that district.

(d) Not more than 3 percent of the allocation described in subdivision (c) may be used for program administration and overhead costs.

(e) All interest earned on moneys deposited in the fund shall be deposited in the fund.

CHAPTER 3. PETROLEUM POLLUTION MITIGATION PROGRAM AND EXPENDITURE PLAN ~~PROGRAM~~

38100. (a) Each district that receives moneys pursuant to Section 38051 shall develop and adopt at a regularly noticed public hearing, a districtwide petroleum pollution mitigation program that it determines will mitigate or prevent the relative harm caused by diesel and gasoline fuel in that district. The program shall incorporate pollution source reduction programs, including, but not limited to, programs authorized pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, and public health programs pursuant to Section 38105, that the district determines have a clear nexus with the relative public health harm caused by the refining and

1 combustion of gasoline and diesel fuels within the jurisdiction of
2 the district.

3 (b) Each district shall establish funding priorities for pollution
4 source reduction projects by considering all of the following
5 factors:

6 (1) The cost-effectiveness of the project.

7 (2) The use of new pollution control technologies in
8 conjunction with traditional fuels as a means of reducing
9 emissions of air contaminants.

10 (3) Potential effects of public health, ambient air quality.

11 (4) Any other factors determined to be relevant by the district.

12 (c) Each district shall establish funding priorities for public
13 health programs pursuant to Section 38105.

14 (d) Each district shall coordinate with any local, state, and
15 federal agency, and any private organization concerned with
16 mitigating the public health harm caused by the refining and
17 combustion of gasoline and diesel fuels that it determines
18 appropriate.

19 (e) *Each district may authorize the California Air Pollution*
20 *Control Officers Association to provide coordination with local,*
21 *state, and federal agencies, or any private organization to obtain*
22 *information on relevant petroleum pollution mitigation programs*
23 *within the district's jurisdiction.*

24 38101. In addition to the requirements imposed on districts by
25 Section 38100, the Bay Area Air Quality Management District, the
26 Sacramento Metropolitan Air Quality Management District, the
27 San Diego Air Pollution Control District, the San Joaquin Valley
28 Unified Air Pollution Control District, and the South Coast Air
29 Quality Management District shall also do all of the following:

30 (a) Prior to adopting a petroleum pollution mitigation program
31 or expending any moneys for the program, do both of the
32 following:

33 (1) Adopt an expenditure plan describing any proposed
34 program or project expenditure, including the expected costs, and
35 the qualitative and quantitative benefit of each project to be
36 funded.

37 (2) Make a determination that each program or project to be
38 funded will not duplicate any other past or present program or
39 project funded by the State Air Resources Board, the State
40 Department of Health Services, or the State Energy Resources

1 Conservation and Development Commission. This paragraph is
2 not intended, and may not be interpreted, to prevent funding for
3 program or projects that are jointly funded with another public or
4 private agency where the district determines there is no
5 duplication.

6 (b) Hold at least one public workshop to solicit public comment
7 on, and annually review and adopt, the district petroleum pollution
8 mitigation program, and provide the public and any interested
9 party at last 30 days notice prior to the annual public hearing.

10 (c) Identify potential sources of matching funds, including, but
11 not limited to, any of the following:

12 (1) State moneys.

13 (2) Federal moneys.

14 (3) Private moneys.

15 (4) Revenues from district permit, variance, and emission fees.

16 (5) Proceeds from settlements and judgments derived from
17 penalties imposed by the district.

18 (6) Moneys from other sources within the jurisdiction of the
19 district.

20 (d) Establish an advisory group to advise the district board on
21 the programs and projects to be funded.

22 (e) On or before March 31 of each year that a district petroleum
23 pollution mitigation program is adopted in the district, prepare and
24 make available to the public a report that includes all of the
25 following information:

26 (1) A description of the programs and project funded in the
27 petroleum pollution mitigation program, including, but not
28 limited to, a list of recipients, funding contributors, matching
29 funds, and the expected or actual results from each program or
30 project.

31 (2) An analysis of the overall impact of the district's petroleum
32 pollution mitigation program on public health within its
33 jurisdiction.

34 (3) A summary of the actual progress made toward the goals of
35 the petroleum pollution mitigation program.

36 (4) Identification of funding priorities for the following fiscal
37 year.

38 38105. (a) The purpose of this section is to establish a
39 competitive grant program for the intervention, treatment,

1 prevention, and education of sensitive populations suffering from
2 exposure to petroleum-related air pollution.

3 (b) Each district may establish and administer an air quality
4 grant program to provide grants to organizations that it determines
5 provide respiratory and health services to children and other
6 sensitive populations for unhealthful conditions caused by
7 exposure to air pollution from the refining and combustion of
8 gasoline and diesel fuel. Each district shall consult with the State
9 Department of Health Services and the State Air Resources Board
10 regarding the development and administration of the grant
11 program.

12 (c) Each participating district shall determine the parties,
13 projects, and costs eligible for grants moneys through a
14 competitive grant solicitation process. A district may provide a
15 grant to any eligible organization for any project or program that
16 the district determines has a clear nexus with the relative public
17 health harm caused by the refining and combustion of gasoline and
18 diesel fuels within the jurisdiction of the district.

19 (d) Organizations eligible to receive a grant pursuant to this
20 section include, but are not limited to, all of the following, to the
21 extent that the district determines that each organization provides
22 health services to children and other sensitive populations for
23 unhealthful conditions created by exposure to air pollution caused
24 by the relative refining and combustion of gasoline and diesel fuel:

25 (1) Organizations dedicated to the prevention of the health
26 consequences.

27 (2) Organizations dedicated to the treatment, prevention, or
28 education of the impacts of air pollution on the health and welfare
29 of affected communities.

30 (3) Mobile asthma clinics.

31 (4) Organizations dedicated to the treatment or prevention of
32 asthma in children and other sensitive populations.

33 (5) Organizations dedicated to asthma research.

34 (6) Organizations engaged in researching the link between air
35 pollution and cancer-related health impacts.

36 (7) Any organization that researches the health effects of air
37 pollution from crude oil refining and vehicular emissions.

38 (e) *Each district, prior to approving a grant pursuant to this*
39 *section, shall submit a copy of any health research project proposal*
40 *to the Office of Environmental Health Hazard Assessment. That*

1 *office, in consultation with the California Air Pollution Control*
2 *Officers Association, shall provide any guidance needed by the*
3 *district to coordinate and consolidate health research projects.*

4 Each participating district that administers a grant program
5 pursuant to this section shall establish an advisory committee
6 made up of stakeholders to review and comment on
7 implementation of the program. The advisory committee may also
8 recommend criteria for the awarding of grants, including
9 qualifications of grant applicants, eligibility of programs and
10 projects submitted for funding, overall goals of the program, and
11 funding priorities.

12 38110. The moneys allocated to each district pursuant to
13 Section 38051 shall be expended in a manner that directly
14 addresses air pollution or health impacts resulting from the
15 refining and combustion of gasoline and diesel fuel in
16 communities with the most significant exposure to air pollution,
17 consistent with subdivisions (a) and (b) of Section 43023.5 of the
18 Health and Safety Code.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of
24 Section 17556 of the Government Code.

