

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1247

Introduced by Senator Soto

February 12, 2004

An act to add and repeal Part 4.5 (commencing with Section 42950) of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Soto. Air pollution: ~~reduction of impacts from mobile sources~~ *Incentive-Based Emission Reduction Program for Internal Combustion Engines.*

~~Existing~~

(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 air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the ~~State Air Resources Board~~ *state board*, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from heavy-duty onroad vehicles, offroad nonrecreation equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and other high-emitting diesel engines in the state. Existing regulations adopted by the state board establish the Lower-Emission

Schoolbus Program to reduce school children's exposure to air pollution emitted by older schoolbuses through a schoolbus replacement and infrastructure component and a particulate matter retrofit component for diesel schoolbuses, and establish various light-duty vehicle retirement programs to encourage voluntary retirement of older, high-emitting vehicles.

~~This bill would make legislative findings and declarations regarding the effects of emissions from gasoline and diesel-powered motor vehicles and nonroad engines on public health and the environment in the state. The bill would declare the intent of the Legislature to consider specified principles and criteria when establishing programs to reduce and mitigate the impacts of emissions from gasoline and diesel-powered motor vehicles and nonroad engines.~~ *establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines to reduce unhealthy air emissions from internal combustion engines through the application of financial incentives-based programs. The program would be administered by the state board and the districts. The bill would establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines Trust Fund in the State Treasury, and would make moneys in the trust fund available, upon appropriation by the Legislature, to carry out the purposes of the bill. The bill would authorize moneys from the fund to be expended on incentive programs including, but not limited to, the Carl Moyer Program, the Lower-Emission School Bus Program, light duty vehicle programs, lawnmower electrification programs, and projects to retrofit or replace agricultural engines and pumps, to the extent that the state board or the district determines that the program mitigates harm caused by the fuel upon which the fee is paid.*

The bill would require each district that elects to participate in the program to establish funding priorities for pollution source reduction projects after considering specified principles and criteria, coordinate with any local, state, or federal agency, or with any private organization, concerned with reducing emissions from internal combustion engines that it determines appropriate, and identify potential sources of shared funding responsibilities. The bill would require that 50% of the moneys allocated to each district 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.



This bill would impose a state-mandated local program by imposing additional requirements on any district that elects to participate in the program.

The bill would require the state board and the participating districts, commencing March 1, 2007, and until March 1, 2023, inclusive, to provide an annual report to the Legislature on the program.

The bill would repeal these provisions on December 31, 2002.

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 ~~SECTION 1.~~ ~~The Legislature finds and declares all of the~~
2 SECTION 1. (a) *The Legislature finds and declares all of the*
3 *following:*
4 (1) *Internal combustion engines are the single largest source of*
5 *air pollution threatening the public health and environment of all*
6 *Californians.*
7 (2) *Air pollution control districts and air quality management*
8 *districts are primarily responsible for reducing the local health*
9 *effects associated with air pollution in their respective air basins.*
10 (3) *A number of regulatory and financial incentive programs*
11 *have been established to reduce emissions from internal*
12 *combustion engines on a cost-effective basis. Emission reduction*
13 *benefits of regulatory programs to reduce emissions from internal*
14 *combustion engines affect future engines and are slow in being*
15 *realized because of the rate at which older, dirtier engines are*
16 *retired or replaced. Emission reduction benefits can be*
17 *accelerated through financial incentive programs that target the*



1 retrofit or replacement of older engines. There is, however, no
2 comprehensive program of financial incentives for reducing
3 emissions from internal combustion engines.

4 (4) It is, therefore, necessary that legislation be enacted to
5 establish a comprehensive financial incentives program to reduce
6 emissions from internal combustion engines based on a fair and
7 balanced mix of funding sources demonstrating a nexus with the
8 sources of emissions.

9 (5) The state's air quality program has achieved significant
10 reductions in pollutant emissions from stationary sources, to the
11 point that mobile source emissions are the overwhelming cause of
12 air quality problems in many areas of the state. Despite very
13 significant improvements in both fuel performance and emission
14 standards of new gasoline and diesel powered vehicles, mobile
15 sources have become the dominant source of ozone producing air
16 emissions, accounting for nearly 70 percent of the state inventory.
17 Most of these emissions are from older or poorly-maintained
18 vehicles, particularly gross polluters, and exhaust from other
19 internal combustion engines.

20 (b) It is the intent of the Legislature in enacting the act adding
21 this section that the state board and districts in the state place
22 greater focus on obtaining emissions reductions from mobile
23 sources, especially from gross polluting mobile sources, and that
24 additional emission reduction burdens not be placed on stationary
25 sources due to inadequate control of mobile source emissions.

26 SEC. 2. Part 4.5 (commencing with Section 42950) is added
27 to Division 26 of the Health and Safety Code, to read:

28

29 Part 4.5. Incentive-Based Emission Reduction Program for
30 Internal Combustion Engines

31

32 42950. (a) This part shall be known, and may be cited, as the
33 Incentive-Based Emission Reduction Program for Internal
34 Combustion Engines.

35 (b) The purpose of the program established by this part is to
36 reduce unhealthful air emissions from internal combustion
37 engines through the application of financial incentives-based
38 programs, relying to the greatest extent possible on existing
39 programs with proven cost-effective results. The program shall be
40 administered by the state board and the districts in accordance



1 with this chapter. The administration of the program shall be
2 delegated to the districts where the state board determines
3 feasible. The state board and the districts may request the
4 assistance of other state agencies with relevant expertise and
5 authority to achieve the goals and purposes of this article.

6 42951. For the purposes of this article, the following terms
7 have the following meanings:

8 (a) “Carl Moyer Program” means the Carl Moyer Memorial
9 Air Quality Standards Attainment Program established pursuant
10 to Chapter 9 (commencing with Section 44275) of Part 5.

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

16 (c) “Fuel emulsification” means a fuel mixture approved by the
17 state board that includes, but is not limited to, water and certain
18 additives, with or without surfactants, to reduce emissions from
19 compression-ignition engines.

20 (d) “Fund” means the Incentive-Based Emission Reduction
21 Program for Internal Combustion Engines Trust Fund established
22 pursuant to Section 42953.

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

26 (f) “Lawnmower electrification program” means a program
27 established by a district designed to replace high-emitting lawn
28 and garden equipment with zero-emission models.

29 (g) “Lower-Emission School Bus Program” means the
30 program by that name adopted by regulation by the state board on
31 December 7, 2000, and issued in April 2001, as that program may
32 be amended from time to time.

33 (h) “Light-duty vehicle retirement program” means a program
34 to identify and encourage voluntary retirement of older,
35 high-emitting vehicles and to assist in the repair and replacement
36 of defective emission control system parts that is established by the
37 state board pursuant to Article 10 (commencing with Section
38 44100) of Chapter 5 of Part 5.

39 42952. The state board and the districts shall consider, where
40 applicable, all of following principles and criteria in



1 *administering and implementing programs authorized under this*
2 *part to reduce and mitigate the impacts of emissions from internal*
3 *combustion engines:*

4 (a) *Any new mobile source program or any existing mobile*
5 *source program that considered for funding should demonstrate*
6 *cost effectiveness expressed in dollars expended per ton of*
7 *emissions removed through use of a consistent transparent*
8 *methodology with statewide applicability for on and off-road*
9 *diesel engines, light and medium-duty vehicles, or other internal*
10 *combustion engines. All projects shall meet a applicable specific*
11 *cost-effectiveness criteria and 80 percent of all expenditures shall*
12 *be prioritized based on cost-effectiveness within the*
13 *cost-effectiveness criteria.*

14 (b) *Any new program shall demonstrate real emission*
15 *reductions, including, but not limited to, being both measurable*
16 *and surplus, through application of realistic program assumptions*
17 *that reflect current and expected near-term future conditions.*

18 (c) *Any new statewide program shall be overseen by the state*
19 *board, and be administered and implemented by local air districts*
20 *as the state board determines appropriate. The geographic*
21 *allocation of moneys among air districts should be made in an*
22 *equitable manner, taking into consideration the location and type*
23 *of fuel that generated the moneys. District programs shall include*
24 *retrofits, early retirements, replacements, or identification and*
25 *repair of gross polluting gasoline or diesel vehicles and engines.*

26 (d) *Any new program shall be measured by its impact on ozone*
27 *and PM compliance with state and federal standards, rather than*
28 *by the type of fuel used by the motor or engine.*

29 (e) *The implementation of any program shall provide*
30 *environmental justice in accordance with subdivision (a) of*
31 *Section 43023.5 to directly reduce ozone and PM concentrations*
32 *in communities with the most significant exposure to ozone and*
33 *PM concentrations, including, but not limited to, communities of*
34 *minority or low income population.*

35 (f) *Any program affecting the general public shall have*
36 *convenience for the general public as an underlying principle.*

37 (g) *Any new program shall have explicit quantifiable*
38 *objectives, and shall be accompanied by independent and external*
39 *periodic reviews of program performance and achievement of*
40 *targeted emissions reductions at expected costs.*



1 (h) Any new program shall consider issues of startup and
2 scalability, and the potential for the program to cause unintended
3 negative consequences.

4 (i) Any new program that addresses emissions in a manner
5 similar to those reductions addressed in existing programs in the
6 same jurisdiction shall incorporate program reforms considered
7 necessary to improve the operational equity of the current program
8 and to meet the other principles described in this section.

9 (j) Emission reductions from any funded and fully implemented
10 projects or programs pursuant to this article shall be included in
11 the state implementation plan, or any revision to that plan, that is
12 submitted to United States Environmental Protection Agency
13 pursuant to the federal Clean Air Act (42 U.S.C. 7401 et seq.).

14 42953. (a) The Incentive-Based Emission Reduction
15 Program for Internal Combustion Engines Trust Fund is hereby
16 created in the State Treasury. Moneys in the trust fund shall be
17 available, upon appropriation by the Legislature, to carry out the
18 purposes of this article. In addition to monies appropriated by the
19 Legislature, the fund may accept monies from other sources,
20 including, but not limited to, federal and private sector sources.

21 (b) Notwithstanding Sections 16475, 16475.1, and 16480.6 of
22 the Government Code, all of the interest earned on money in the
23 trust fund shall be deposited in the trust fund.

24 (c) Not more than 2.5 percent of the funds deposited in the fund
25 may be used by districts for the cost of administering this program.

26 (d) Moneys in the fund shall be encumbered prior to December
27 31, 2022. Grants may not be made by the state board or a district
28 from the fund after that date.

29 42954. Incentive programs eligible for funding from the fund
30 include, but are not limited to, the following, to the extent that the
31 state board or the district determines that the program mitigates
32 harm caused by the fuel upon which the fee is paid:

33 (a) The Carl Moyer Program, including, but not limited to, fuel
34 emulsification projects to the extent permissible under the
35 program.

36 (b) The Lower-Emission School Bus Program.

37 (c) Light-duty vehicle retirement programs.

38 (d) Lawnmower electrification programs.

39 (e) Projects to retrofit or replace agricultural engines and
40 pumps.



1 42955. *Each district that participates in a program described*
2 *in Section 42954 shall do all of the following:*

3 (a) *Establish funding priorities for pollution source reduction*
4 *projects after considering all of the principles and criteria*
5 *described in Section 42952.*

6 (b) *Coordinate with any local, state, or federal agency, or with*
7 *any private organization, concerned with reducing emissions from*
8 *internal combustion engines that it determines to be appropriate.*

9 (c) *Identify potential sources of shared funding responsibilities,*
10 *including, but not limited to, any of the following sources:*

11 (1) *State.*

12 (2) *Federal.*

13 (3) *Private.*

14 42956. *Each district shall expend fifty percent (50%) of the*
15 *moneys it receives from the fund in a manner that directly*
16 *addresses air pollution or health impacts resulting from the*
17 *refining and combustion of gasoline and diesel fuel in communities*
18 *with the most significant exposure to air pollution, consistent with*
19 *subdivisions (a) and (b) of Section 43023.5.*

20 42957. (a) *The responsibilities of the state board or the*
21 *participating district, as applicable, with respect to programs*
22 *implemented pursuant to this article shall include management of*
23 *program funds and program oversight.*

24 (b) *The state board shall have primary responsibility for any*
25 *federal reporting aspects of each program.*

26 (c) *The responsibilities of a district shall include, but are not*
27 *limited to, local administration of project funds, monitoring*
28 *funded projects, and reporting results to the state board. Any*
29 *project funds awarded to a successful applicant shall be disbursed*
30 *by the district.*

31 (d) *The state board and the districts shall ensure that emissions*
32 *reductions achieved through the program are, to the extent*
33 *permissible under state and federal law, credited by the United*
34 *States Environmental Protection Agency to the appropriate*
35 *emission reduction objectives in the State Implementation Plan.*

36 42958. (a) *The state board shall assist the districts with*
37 *developing procedures to monitor whether the emission reductions*
38 *projected in successful grant applications are achieved.*
39 *Monitoring procedures may include, but are not limited to, project*
40 *audits, and the requirement that each grant recipient provide*



1 information about the project on an annual basis as part of the
2 grant agreement between the state board or districts and the grant
3 recipient. The state board and the district shall minimize, to the
4 extent feasible, the information that is required from grant
5 recipients, and shall develop a simple and convenient format for
6 reporting the required information.

7 (b) The monitoring procedures developed pursuant to
8 subdivision (a) shall allow emission reductions generated to be
9 fully credited to air quality plans.

10 (c) The state board shall monitor district programs to ensure
11 that participating districts conduct their programs consistent with
12 the principles and criteria described in Section 42952.

13 42959. Not later than March 1, 2007, and each March 1
14 thereafter until March 1, 2023, inclusive, the state board, in
15 cooperation with participating districts, shall provide the
16 Legislature with a program report. The report shall include, but
17 shall not be limited to, all of the following:

18 (a) A detailed review of the moneys received, moneys granted,
19 moneys reserved for grants based on project approvals, and shared
20 funding responsibilities, and the sources of those moneys.

21 (b) An estimate of future demand for grant moneys.

22 (c) A description of the overall effectiveness of the program in
23 delivering the emission reductions required by air quality plans,
24 including, but not limited to, the rate of progress plans and
25 milestone and conformity tests, as well as attainment and
26 maintenance plans.

27 42960. If any provision of this part or the application thereof
28 to any person or circumstance is held invalid, it is the intent of the
29 Legislature that the invalidity not affect other provisions or
30 applications of the part that can be given effect without the invalid
31 provision or application, and to this end the provisions of this part
32 are severable.

33 42961. This part shall remain in effect only until December
34 31, 2022, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before December 31, 2002, deletes or
36 extends that date.

37 SEC. 3. Notwithstanding Section 17610 of the Government
38 Code, if the Commission on State Mandates determines that this
39 act contains costs mandated by the state, reimbursement to local
40 agencies and school districts for those costs shall be made



1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code. If the statewide cost of the
3 claim for reimbursement does not exceed one million dollars
4 (\$1,000,000), reimbursement shall be made from the State
5 Mandates Claims Fund. following:

6 ~~(a) Emissions from gasoline and diesel-powered motor~~
7 ~~vehicles and nonroad engines continue to represent the largest~~
8 ~~sources of air pollution threatening the public health and~~
9 ~~environment of all Californians, despite an aggressive array of~~
10 ~~regulatory and financial incentive programs.~~

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

18 ~~(c) Toxic air contaminants emitted by gasoline and~~
19 ~~diesel-powered motor vehicles and nonroad engines are also~~
20 ~~known to cause cancer in humans. Studies have linked diesel~~
21 ~~particulate pollution to lung cancer and at least one investigation~~
22 ~~found a possible link between brain cancer and air pollution.~~

23 ~~(d) To reduce emissions from gasoline and diesel-powered~~
24 ~~motor vehicles and nonroad engines, and to protect public health,~~
25 ~~it is necessary to establish a stable funding source dedicated~~
26 ~~specifically to the purposes of air pollution cleanup and~~
27 ~~prevention, and the treatment and education of sensitive~~
28 ~~populations suffering from exposure to emissions from those~~
29 ~~sources.~~

30 ~~(e) Air pollution control districts and air quality management~~
31 ~~districts are primarily responsible for reducing the local health~~
32 ~~effects associated with air pollution in their respective air basins.~~
33 ~~Districts have experience in identifying and prioritizing~~
34 ~~cost-effective programs aimed at reducing public health risks~~
35 ~~associated with air pollution, and have demonstrated proficiency~~
36 ~~in developing, negotiating, implementing, and monitoring public~~
37 ~~health solutions that take into consideration the localized sources~~
38 ~~of air pollution, the interests and unique vulnerability of sensitive~~
39 ~~populations, the availability of emission-reduction technologies,~~



1 and the specialized resources of health professionals, health care
2 facilities, and health risk reduction programs.

3 (f) ~~A number of regulatory and financial incentive programs~~
4 ~~have been established to combat the threats to public health and the~~
5 ~~environment posed by emissions from gasoline and~~
6 ~~diesel-powered motor vehicles and non-road engines. While~~
7 ~~regulatory authority is sustainable, state and local regulatory~~
8 ~~authority over some types of sources is restricted by federal law,~~
9 ~~and existing financial incentive programs are limited by lack of a~~
10 ~~dedicated funding mechanism.~~

11 (h) ~~It is necessary that legislation establish a program to reduce~~
12 ~~and mitigate the impacts of emissions from gasoline and~~
13 ~~diesel-powered motor vehicles and nonroad engines.~~

14 ~~SEC. 2.— It is the intent of the Legislature to consider all of the~~
15 ~~following principles and criteria when establishing programs to~~
16 ~~reduce and mitigate the impacts of emissions from gasoline and~~
17 ~~diesel-powered motor vehicles and nonroad engines:~~

18 (a) ~~Stable funding sources and financial incentives dedicated to~~
19 ~~the purposes of reducing and mitigating the impacts of emissions~~
20 ~~from gasoline and diesel-powered motor vehicles and nonroad~~
21 ~~engines.~~

22 (b) ~~Maximum feasible emission reductions at the earliest~~
23 ~~possible date, through application of existing control technologies~~
24 ~~and by providing incentives for advancement of control~~
25 ~~technologies.~~

26 (c) ~~Cost-effective emission reductions that leverage third-party~~
27 ~~financial assistance to the maximum extent feasible.~~

28 (d) ~~Preventing any single source category from bearing an~~
29 ~~unfair burden in working to achieve clean air in the state.~~

30 (e) ~~Air pollution control districts and air quality management~~
31 ~~districts, which are primarily responsible for reducing local health~~
32 ~~effects associated with air pollution in their respective air basins,~~
33 ~~should play a key role in determining priorities for reducing and~~
34 ~~mitigating impacts of emissions from gasoline and diesel-powered~~
35 ~~motor vehicles and nonroad engines, with input from all affected~~
36 ~~parties.~~

