

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

SENATE BILL

No. 450

Introduced by Senator Lowenthal

February 26, 2009

~~An act to add Chapter 6.8 (commencing with Section 50676) to Part 2 of Division 31 of the Health and Safety Code, relating to housing. An act to add and repeal Section 40440.13 of the Health and Safety Code, relating to the South Coast Air Quality Management District, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 450, as amended, Lowenthal. ~~Federal Housing Trust Fund. South Coast Air Quality Management District: CEQA: permits.~~

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts certain specified projects from its requirements.

Under existing law, every air pollution control district or air quality management district in a federal nonattainment area for any national ambient air quality standard is required to establish by regulation, a system by which all reductions in emissions of air contaminants that

are to be used to offset certain future increases in the emission of air contaminants are banked prior to use. The South Coast Air Quality Management District (district) promulgated various rules establishing offset exemptions, providing Priority Reserve offset credits, and creating or tracking credits used for offset exemption or Priority Reserve projects. In *Natural Resources Defense Council v. South Coast Air Quality Management District* (Super. Ct. Los Angeles County, 2007, No. BS 110792), the superior court found the promulgation of certain of these district rules to be in violation of CEQA.

This bill would authorize the district to issue permits under specified circumstances, notwithstanding this court decision. The provisions of the bill would be repealed on May 1, 2012.

(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes the multifamily housing program under the administration of the Department of Housing and Community Development to provide a standardized set of program rules and features applicable to all housing types based on the department's California Housing Rehabilitation Program. Existing law also establishes the CalHOME Program under the administration of the department to provide grants and loans to enable low- and very low income households to become or remain homeowners.~~

~~Existing federal law requires the Secretary of the Department of Housing and Urban Development to establish a Housing Trust Fund to provide grants to states to increase the supply of rental housing for extremely low- and very low income families, including homeless families, and homeownership for extremely low- and very low income families.~~

~~This bill would designate the department as the state agency responsible for administering the federal Housing Trust Fund. The bill would require the department to administer the federal funds pursuant to the multifamily housing program, except that up to 10% of the funds may be appropriated by the Legislature to the CalHOME Program.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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) As a result of the superior court decision in Natural*
4 *Resources Defense Council v. South Coast Air Quality*
5 *Management District (Super. Ct. Los Angeles County, 2007, No.*
6 *BS 110792) holding that the South Coast Air Quality Management*
7 *District (district) violated the requirements of the California*
8 *Environmental Quality Act (CEQA) (Division 13 (commencing*
9 *with Section 21000) of the Public Resources Code) in the*
10 *promulgation of certain district rules, the district is unable to issue*
11 *over a thousand pending permits that rely on the district's internal*
12 *offset bank to offset emissions.*

13 *(b) The district may also have to set aside several thousand*
14 *permits that were previously issued in reliance on the district's*
15 *internal offset bank.*

16 *(c) Prompt legislative action is necessary as an interim measure;*
17 *otherwise projects will be stopped from going forward or frozen*
18 *in place, representing significant losses to the economy and the*
19 *loss of numerous well-paying jobs.*

20 *(d) Nothing in the case described in subdivision (a) requires*
21 *the setting aside of any permit issued by the South Coast Air*
22 *Quality Management District to any essential public service, that*
23 *relied on Rule 1309.1, nor any permit that relied on Rule 1304,*
24 *between September 8, 2006, and November 3, 2008.*

25 *SEC. 2. Section 40440.13 is added to the Health and Safety*
26 *Code, to read:*

27 *40440.13. (a) Notwithstanding the decision of the court in*
28 *Natural Resources Defense Council v. South Coast Air Quality*
29 *Management District (Super. Ct. Los Angeles County, 2007, No.*
30 *BS 110792), the south coast district may issue permits in reliance*
31 *on, and in compliance with, south coast district Rule 1304, as*
32 *amended on June 14, 1996, and Rule 1309.1, as amended May 3,*
33 *2002, for essential public services, as defined in subdivision (m)*
34 *of Rule 1302, as amended December 6, 2002.*

35 *(b) Nothing in this section affects the decision in the case*
36 *described in subdivision (a) concerning the adoption, readoption,*
37 *or amendment, or environmental review, of south coast district*
38 *Rule 1315.*

1 (c) In implementing subdivision (a), the south coast district shall
2 rely on the emission reduction credit tracking system used prior
3 to the adoption of Rule 1315, until a new tracking system is
4 approved by the United States Environmental Protection Agency
5 and is in effect, at which point that new system shall be used by
6 the south coast district in implementing subdivision (a). The south
7 coast district shall make information concerning the credits, and
8 the tracking of these credits, available to the public.

9 (d) This section shall remain in effect only until May 1, 2012,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before May 1, 2012, deletes or extends that date.

12 SEC. 3. The Legislature finds and declares that a special law
13 is necessary and that a general law cannot be made applicable
14 within the meaning of Section 16 of Article IV of the California
15 Constitution because of unique circumstances concerning the South
16 Coast Air Quality Management District.

17 SEC. 4. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 Due to the court decision in *Natural Resources Defense Council*
22 *v. South Coast Air Quality Management District* (Super. Ct. Los
23 Angeles County, 2007, No. BS 110792), the South Coast Air Quality
24 Management District is unable to issue over a thousand pending
25 permits that are either exempt from offset requirements or qualified
26 to use offset credits from the district's Priority Reserve and is
27 required to set aside thousands of permits already issued.
28 Therefore, in order to allow the district to issue permits in an
29 expeditious manner as an urgent interim measure, it is necessary
30 that this act take effect immediately.

31 ~~SECTION 1. Chapter 6.8 (commencing with Section 50676)~~
32 ~~is added to Part 2 of Division 31 of the Health and Safety Code;~~
33 ~~to read:~~

34
35 ~~CHAPTER 6.8. FEDERAL HOUSING TRUST FUND~~
36

37 ~~50676. (a) The department is hereby designated as the state~~
38 ~~agency responsible for administering funds received by the state~~
39 ~~from the federal Housing Trust Fund pursuant to the Housing and~~

1 ~~Economic Recovery Act of 2008, Public Law 110-289, and~~
2 ~~implementing federal regulations.~~
3 ~~(b) The department shall administer the funds specified in~~
4 ~~subdivision (a) pursuant to the state multifamily housing program~~
5 ~~established in Chapter 6.7 (commencing with Section 50675),~~
6 ~~except that up to 10 percent of the funds may be appropriated by~~
7 ~~the Legislature to the CalHOME Program established in Chapter~~
8 ~~6 (commencing with Section 50650).~~
9 ~~(c) The department shall amend its regulations, as needed, to~~
10 ~~comply with federal law.~~

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