BOARD MEETING DATE: May 1, 2015 AGENDA NO. 21

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee met on Friday, April 10, 2015. The next Legislative Committee meeting is scheduled for Friday, May 8, 2015 at the Island Hotel in Newport Beach.

The Committee deliberated on agenda items for Board consideration and recommended the following actions:

Agenda Item	Recommendation
H.R. 1308 (Lowenthal) Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act	Support
SB 513 (Beall) Carl Moyer Memorial Air Quality Standards Attainment Program	Support
SB 350 (De León and Leno) Clean Energy and Pollution Reduction Act of 2015	Actively Monitor
AB 335 (Patterson) Air Quality: Minor Violations	Oppose*

*At their April 3, 2015 meeting, the Board was unable to act on the Legislative Committee's recommendation to oppose AB 335 due to a lack of at least 7 votes in support or in opposition to the recommendation. By operation of the Board's procedures, this bill was continued and re-agendized for the May Board meeting.

RECOMMENDED ACTIONS:
1. Adopt the Legislative Committee recommended position on legislation or take other appropriate action.
2. Receive and file this report.

Judith Mitchell
Chair
Legislative Committee

LBS:GSA:PFC:jf

Attendance *[Attachment 1]*
The Legislative Committee met on April 10, 2015. Committee Chair Judith Mitchell and Committee Member Janice Rutherford were present at SCAQMD's Diamond Bar headquarters. Committee Members Michael Antonovich, Dr. William A. Burke, Joe Buscaino, and Dr. Clark Parker attended via videoconference.

Update on Federal Legislative Issues
SCAQMD federal legislative consultant, Mia O'Connell of the Carmen Group, reported on key Washington, D.C. issues.

Ms. O'Connell reported that Congress will most likely act before May 31 to approve a short-term extension of the MAP-21 transportation reauthorization bill. The exact length of the extension is still undecided. New program and policy language will be deferred until there is a new bill with a consensus on how to secure needed funding.

Ms. O'Connell also reported that the U.S. Environmental Protection Agency (U.S. EPA) recently announced its awards for the 2014 Diesel Emission Reduction Act (DERA) program and SCAQMD received a $753,476 award for a project to replace: 11 on-road drayage trucks (model year 1991-1995); nine school buses with compressed natural gas (CNG); and one school bus with a battery-electric vehicle. Congressman Ken Calvert provided support for the District's funding application through a letter to the U.S. EPA and follow-up calls.

SCAQMD federal legislative consultant, Mark Kadesh of Kadesh & Associates, also reported on various key Washington, D.C. issues.

Mr. Kadesh reported that in the last week of March the U.S. Senate passed its budget resolution which sets the overall spending caps for appropriations bills, although it does not create new spending authority. Most importantly it allows for reconciliation instructions which only require 51 votes in the Senate. A budget resolution binds Congress only and is not a law.

Mr. Kadesh also reported that the budget resolution debate included scores of non-binding amendments including several dealing with climate change. For example, the Senate passed an amendment "promoting national security, economic growth, and public health by addressing human-induced climate change through increased use of clean energy, energy efficiency, and reductions in carbon pollution." However, the Senate also passed an amendment that prevents the U.S. EPA from withholding highway funds from states that refuse to submit implementation plans for the U.S. EPA's upcoming power plant rules. The House and Senate bills are now being conferenced.

Mr. Kadesh stated that in late March the Senate passed a slimmed down version of the Energy Efficiency Improvement Act, S.535 (Portman-Shaheen), now limited to addressing buildings and grid-enabled water heaters. A related bill, S.720, also includes industrial efficiency measures. At the end of April the Senate Energy Committee is scheduled to hold a hearing on S.720 as well as S.703 (covering housing energy efficiency and weatherization) and S.858 (covering energy efficiency in federal buildings).

Update on State Legislative Issues
SCAQMD state legislative consultant, Paul Gonsalves of Joe A. Gonsalves & Son, briefed the Committee on key Sacramento issues.

Mr. Gonsalves reported that the state legislature recently returned from their legislative spring break and that committee hearings are in full swing considering the over 2,500 bills introduced this year. Various upcoming deadlines include: May 1 is the last day for policy committees to hear bills also assigned to an appropriations committee; May 15 is the last day for policy committees to hear non-fiscal bills; May 22 is the last day for policy committees to meet until June 8; May 29 is the last day for appropriations committees to meet until June 8; and June 5 is the last day to get bills out of their house of origin, or they become two-year bills.

Mr. Gonsalves also reported that there are four main issues that the state legislature is currently focused on: the drought, climate change, renewable energy, and the state budget. Governor Jerry Brown recently signed two bills that fast-tracked about $1 billion for local drought relief and infrastructure projects. The Governor also issued an executive order that initiated the first-ever mandatory water reduction effort throughout the state. This order focused on saving water, increasing enforcement, streamlining governmental response, and investing in new technologies.

Mr. Gonsalves informed the Committee that the state's revenues are up and will continue to grow over the next few months. Normally, this means more resources for the state budget; however, for this year, this is causing significant problems to the budget due to the Proposition 98 minimum funding guarantee. New revenues have

boosted the guarantee to an almost dollar for dollar level this year. When you combine the Prop. 98 requirements, with the rainy day fund requirements of Prop. 2 that were recently passed, along with local government mandates that are required to be paid back under last year's budget, there are not enough revenues to cover all the costs.

Thus, the legislature will likely have to cut non-Prop. 98 programs to balance this year's budget. Other possible options could be adjusting the Prop. 98 requirements, borrowing from the rainy day fund, or raising taxes. The Governor's May Revise Budget will be coming out and will need to address this issue. Further, the Prop. 30 tax increases expire in 2017-18 and are expected to leave a large hole in the state's budget that will have to be dealt with as well.

SCAQMD state legislative consultant, Will Gonzalez of Gonzalez, Quintana & Hunter, also briefed the Committee on key Sacramento issues.

Mr. Gonzalez agreed that energy and climate change are big topics this year in Sacramento. He reported on SB 350, authored by Senate pro Tempore Kevin De León, which would increase the state's Renewable Portfolio Standard to 50%, reduce petroleum use by 50%, and double energy efficiency in existing buildings. The bill was heard in the Senate Energy Committee recently and passed by an 8-3 vote without any amendments. It is largely supported by environmentalists and energy companies, but also has support from other stakeholders including those from the labor and health sectors, as well as Warren Buffet's Berkshire Hathaway Inc. Opposition includes the oil companies, chambers of commerce, and manufacturers. The big five electric utilities expressed concerns about the bill, but stayed neutral. This bill now moves on to the Senate Environmental Quality Committee.

Mr. Gonzalez explained that the Governor's budget estimated that about $1 billion in revenue would be generated from the greenhouse gas cap-and-trade auctions that would need to be spent on programs that reduce carbon. However, there is an expectation that there may actually be about $2 billion in revenue being generated. It will be important to see if the Governor revises his estimates in his May Revise Budget. Consequently, legislators are jockeying to possibly influence how these potentially increased revenues are spent.

It is important to note that the Governor's budget proposed to spend $200 million for zero and near-zero emission vehicles. The legislature is looking to significantly increase this funding to $350 million, given the potential doubling of cap-and-trade revenue. It will be important to see if the Governor proposes to spend more than the originally proposed $250 million on high-speed rail.

Finally, Mr. Gonzalez reported on SB 286 (Hertzberg). This bill would eliminate restrictions on the ability of companies to contract out for power from an energy service

provider other than their utility, through a long-standing program called "direct access," which was severely limited in the past. The bill has potentially huge implications for air quality. As well it could release a large pent-up demand for power on the open market. The current system would allow for power being gained from any source, whether it's generated by dirty sources or by renewable sources. Some are proposing to limit this bill to only allow such power to be received from cleaner sources.

Recommend Position on Bills ***[Attachment 2]***
Marc Carrel, Program Supervisor presented on:

H.R. 1308 (Lowenthal) Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act
This bill would dedicate roughly $8 billion a year to freight-related infrastructure projects throughout the nation, with a focus on intermodal projects and projects that would help relieve bottlenecks in the freight transportation system.

Recommended Position: Support

The Committee discussed whether the "return to source" concept was involved with this bill (whereby monies are spent in the jurisdictions in which they were raised). Staff clarified that it does not directly apply to this bill because the bill involves 50% formula distribution of funds. However, the 50% of grant funding provided for in the bill is awarded for the types of freight-related problems that exist in the South Coast region. The Committee also expressed a desire for local control of the funds provided by this bill, and staff clarified that local and regional agencies such as the South Coast AQMD are eligible to receive such funds. Finally, the Committee discussed whether the passage of this bill might impact the fate of a freight bill introduced by Congresswoman Janice Hahn. Staff suggested that a likely goal of both authors is to have the bills' content placed into the MAP-21 transportation reauthorization bill.

The Legislative Committee approved staff's recommendation to SUPPORT H.R. 1308 (Lowenthal).

> ***AYES: Antonovich, Burke, Buscaino, Mitchell, Parker, and Rutherford***
> ***NOES: None***

Guillermo Sanchez, Senior Public Affairs Manager presented on:

SB 513 (Beall) Carl Moyer Memorial Air Quality Standards Attainment Program
This bill would update and refine the Carl Moyer program to improve program efficiencies and outcomes pursuant to "The Five Pillars" approved by the California Air Resources Board and subsequently adopted by the South Coast AQMD Board in February 2015.

Recommended Position: Support

The Legislative Committee approved staff's recommendation to SUPPORT SB 513 (Beall).

> ***AYES: Antonovich, Burke, Buscaino, Mitchell, Parker, and Rutherford***
> ***NOES: None***

The Committee discussed the following bill as a follow-up to taking action on it at the March 2015 Legislative Committee meeting:

SB 350 (DeLeón and Leno) Clean Energy and Pollution Reduction Act of 2015
This bill would implement new "50-50-50" benchmark standards by raising California's Renewable Portfolio Standard (RPS) from 33% to 50%, striving for a 50% reduction in petroleum use, and doubling energy efficiency in buildings by the year 2030. SCAQMD Executive Officer Dr. Barry Wallerstein added to Mr. Gonzalez's report on the bill's recent hearing by recounting events of the April Board meeting regarding Board Member Dr. Joe Lyou's request to allow the bill to be considered at the May Governing Board meeting for a possible Board position.

Public Comment: Mr. Ronald Stein, who is a small business owner of a staffing agency, gave public comment on SB 350. He expressed his support of SCAQMD's efforts to monitor the potential impact of the bill. He further expressed opposition to the bill's proposal to cut petroleum usage by half by 2030, as economically unwise.

Councilmember Buscaino made a motion to reconsider the Legislative Committee's previous position of SB 350 from "**Actively Monitor"** to "Support." Dr. Parker seconded the motion.

> ***Ayes: Buscaino, Mitchell, and Parker***
> ***Noes: Antonovich, Burke, and Rutherford***

The motion failed.

Legislative Committee Action on March 13, 2015 established a position to: Actively Monitor SB 350 (De Leon). This item will be forwarded to the full Board for their consideration.

Report from SCAQMD Home Rule Advisory Group *[Attachment 3]*
Please refer to Attachment 3 for written report.

Other Business:
None

Public Comment Period:
See public comment under SB 350.

Attachments
1. Attendance Record
2. Bill and Bill Analyses
3. SCAQMD Home Rule Advisory Group Report

ATTACHMENT 1

ATTENDANCE RECORD –April 10, 2015

DISTRICT BOARD MEMBERS:
Dr. William A. Burke (Videoconference)
Councilmember Judy Mitchell, Chair
Supervisor Michael Antonovich (Videoconference)
Councilmember Joe Buscaino (Videoconference)
Dr. Clark E. Parker, Sr. (Videoconference)
Supervisor Janice Rutherford

STAFF TO COMMITTEE:
Lisha B. Smith, Deputy Executive Officer
Derrick Alatorre, Assistant Deputy Executive Officer/Public Advisor
Guillermo Sanchez, Senior Public Affairs Manager
Julie Franco, Senior Administrative Secretary

DISTRICT STAFF:
Barry R. Wallerstein, Executive Officer
Barbara Baird, Chief Deputy Counsel
Elaine Chang, Deputy Executive Officer
Phil Fine, Assistant Deputy Executive Officer
Chris Marlia, Assistant Deputy Executive Officer
Fred Minassian, Assistant Deputy Executive Officer
Matt Miyasato, Deputy Executive Officer
Mohsen Nazemi, Deputy Executive Officer
William Wong, Principal Deputy District Counsel
Leeor Alpern, Senior Public Information Specialist (Videoconference)
Marc Carrel, Program Supervisor
Philip Crabbe, Community Relations Manager
Tina Cox, Senior Public Information Specialist
Nancy Feldman, Principal Deputy District Counsel
Barbara Radlein, AQ Specialist
Greg Rowley, Telecommunications Technician II
Kim White, Public Affairs Specialist
Patti Whiting, Staff Specialist
Rainbow Yeung, Senior Public Information Specialist (Videoconference)

OTHERS PRESENT:
Kris Flaig, City of Los Angeles Sanitation Department
Jason Gonsalves, Joe A. Gonsalves & Son (Teleconference)
Paul A. Gonsalves, Joe A. Gonsalves & Son (Teleconference)
Will Gonzalez, Gonzalez, Quintana & Hunter, LLC (Teleconference)
Stewart Harris, Carmen Group (Teleconference)
Gary Hoitsma, Carmen Gruop (Teleconference)
Mark Kadesh, Kadesh & Associates (Teleconference)
Chris Kierig, Kadesh & Associates (Teleconfernce)
Chung Liu, Governing Board Member Consultant (Mitchell)
Rita Loof, RadTech
Margot Malarkey, AAR
Mia O'Connell, Carmen Group (Teleconference)
Andy Silva, Governing Board Consultant (Rutherford)
Ron Stein, PTS Staffing
Lee Wallace, So Cal Gas
Warren Weinstein, Kadesh & Associates (Teleconference)
Peter Whittingham, CP & A

ATTACHMENT 2A

H.R. 1308 (Lowenthal)
H.R.1308 -- Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act

Summary:
This bill would dedicate roughly $8 billion a year to freight-related infrastructure projects throughout the nation, with a focus on intermodal projects and projects that help relieve the bottlenecks in the freight transportation system.

Background:
Freight transportation is an essential part of the global economy. The U.S. freight sector is expected to grow dramatically in the coming years. By 2020, 90.1 million tons per day of freight are expected to move throughout the United States, a 70% increase over 2002.

This freight movement is critical to a robust economy but comes at a high price for the environment and local communities that suffer from its impacts. The freight sector alone represents nearly a quarter of the transportation sector's greenhouse gas emissions, or approximately 8% of total U.S. carbon dioxide emissions. The fine particle pollution from U.S. diesel engines, the most common engines used in freight, is estimated to shorten the lives of nearly 21,000 people each year nationwide.[1] The projected trade increases could place even greater strains on public health and the environment, and add more congestion to the already overburdened and deteriorating highway, rail, and waterway system.

Southern California's South Coast Air Basin, home to five percent of the U.S. population and over forty percent of the State of California's population is a global gateway for trade. Approximately 40% of all the nation's containerized goods enter through the Ports of Los Angeles and Long Beach then are transported by highways and railways to the rest of the nation. These goods are placed on store shelves nationwide, thus having an economic impact on every U.S. Congressional district. The burden of this national economic benefit, disproportionately impacts the health of Southern California communities along our freight transportation system corridors.

While the freight system is important to the health of Southern California's economy, it takes a significant toll on the health and quality of life of local communities. Increasing volumes of freight movement require simultaneous and continuous improvement in pollution control strategies to reduce health impacts.

Southern California residents who live near transportation corridors and facilities served by ships, trains, and heavy-duty trucks have higher risks of asthma and other health related impacts, and

[1] Schneider, C., L. B. Hill, "Diesel and Health in America: The Lingering Threat." Clean Air Task Force, Feb. 2005, http://catf.us/publications/reports/Diesel_Health_in_America.pdf.

cancer risks are elevated in communities miles from the ports. Diesel emissions from freight activities in the region are also major contributors to regional air pollution that the California Air Resources Board estimates annually cause approximately 5,000 premature deaths, 2,400 hospitalizations, and 980,000 lost work days, and 140,000 cases of asthma and lower respiratory symptoms

Zero and near-zero-emission advanced technologies, along with land use approaches, and policy and regulatory initiatives are important tools for reducing these impacts and improving community health, and will be needed for the region to attain national air quality standards as required by federal law.

MAP-21, the surface transportation authorization law, was enacted in 2012. That law contains several provisions related to freight, but did not establish a funding source for most freight programs. In addition, the Highway Trust Fund (HTF), the major federal funding source for highway and transit projects is nearing insolvency. Funded from federal fuel taxes on gasoline and diesel fuel, the fund is used for highway construction and maintenance, highway safety, and transit projects. Due to the imminent threat of running out of money in August 2014, Congress passed a stopgap plan on July 31, 2014 to prevent a funding lapse. But this stopgap measure does not provide funding beyond May 2015.

There is no clear solution for increasing the funds in the HTF, which have diminished since cars are more fuel efficient (and thus using less gasoline), cars have been driven less during the recent recession, and drivers with alternative-fueled vehicles do not pay into the HTF if their cars do not use gasoline or diesel. Because of the lack of HTF funding, there is little support for expanding the HTF to fund freight projects, particularly those not directly related to highway transportation.

Thus, there has been an effort, strongly supported by Southern California transportation stakeholders, to establish a sustainable, dedicated source of funding for freight projects. This bill would provide a dedicated funding source for freight that is stable and sustainable.

Status:
On March 5, 2015, the bill was introduced and referred to the House Committee on Transportation and Infrastructure and the House Committee on Ways and Means. No hearings are set on this bill.

Specific Provisions:
H.R. 1308, "Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act," would impose a 1% excise tax upon taxable ground transportation of property (i.e., transportation by freight rail or heavy-duty truck), with the revenues placed into a Freight Trust Fund used to finance two new freight funding programs.

The excise tax would be a national one percent waybill fee on the cost of transporting goods freight programs. In other words, the manufacturers would pay a tax to the rail and trucking companies moving their goods to market. The amount would be one percent of the cost of moving the goods.

The Federal share of the cost of a project assisted with a grant under the program shall be no more than 80 percent of the total project cost.

Up to $4 billion collected would be allocated through the newly-created Multimodal Freight Funding Formula Program, a program to distribute among the states based solely on the amount of existing freight infrastructure within each state. To be eligible, states must develop comprehensive State Freight Plans. They must also have, or form, state freight advisory committees, as encouraged under MAP-21. California would be eligible as it established the California Freight Advisory Committee (CFAC) and that committee helped develop a state freight plan completed in December 2014.

Eligible uses for these funds would be projects that decrease "greenhouse gas emissions; local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead."

Other monies collected would fund a competitive grant program that would be open to all local, regional, and state governments. Projects would be eligible for a grant if they are a capital investment project for a transportation infrastructure facility significantly used for the movement of freight, they improve the efficiency, reliability and safety of freight transportation , and they reduce the costs of transporting freight, congestion in the freight transportation system, and the reduce the adverse community impacts of freight transportation. Projects must also have non-Federal sources of funding committed and must be included in their state's freight plan.

Projects selected for grants will be prioritized based on a number of factors including its cost-benefit; its use of innovative technology, strategies, and practices; and the extent to which it will reduce greenhouse gas emissions, criteria pollutants, and water impacts. Grant recipients will be required to collect data and annually report to U.S. DOT and U.S. EPA, the progress made toward greenhouse gas emission reductions and local air pollution reductions in fulfillment of the State freight plan.

The bill also provides that a minimum of five percent of funds awarded under the grant program each year shall be provided for zero-emission freight demonstration projects, as defined by the Secretary of Transportation, in consultation with the Administrator of U.S. EPA.

The bill also adds much more detail to what would be required by U.S. DOT and the states on what they must include in the national freight plan required by MAP-21 and the state freight plans recommended by MAP-21.

H.R. 1308 (2015**),** "Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act," is a reintroduction of last year's H.R. 5624 (2014) by the same author. However, there are some differences between the two bills.

- **Adds Clean Construction Equipment Incentive:** Both bills state that the federal match for

projects using the formula funds and the grant funds shall not be greater than 80%. But this bill adds a provision which allows projects to get an additional 5% federal match if that 5% is used to mitigate diesel emissions from construction activities associated with the project. This provision mirrors a SCAQMD proposal submitted in 2011 for the original MAP-21 law, designed to encourage greater use of clean construction equipment for infrastructure projects receiving federal funds.

- **Makes Demonstration Projects Fuel Neutral** - The 2014 bill required a minimum of 5% of funds be used for "freight electrification demonstration projects." The one amendment requested by the Governing Board in its letter of support for the 2014 bill, was to make this provision fuel neutral. The current bill includes this suggested change and requires a minimum of 5% of funds be used for "zero-emission freight demonstration projects."

- **Modifies Language on Adverse Impacts**: In the 2014 bill, one of the goals of the competitive grant program was to "prioritize projects that…reduce the adverse environmental and community impacts of freight transportation." The current bill restates that goal to "prioritize projects that contribute to the environmental goals described in the State freight plan; and reduce the adverse impacts of freight transportation on communities traversed by freight." While this provision expands the types of adverse impacts addressed (such as traffic congestion), it also benefits states defining environmental goals in their State freight plan.

  This should not be problematic for California since the 2014 California Freight Mobility Plan includes two significant environmental goals: "Environmental Stewardship - Avoid and reduce adverse environmental and community impacts of the freight transportation system," and "Innovative Technology & Practices - Use innovative technology and practices to operate, maintain, and optimize the efficiency of the freight transportation system while reducing its environmental and community impacts." And both of these goals include very specific objectives and strategies, many of which mirror or complement SCAQMD efforts, such as promoting the use of zero- and near-zero-emission technologies in the freight sector, and reducing air pollution, greenhouse gas (GHG) emissions, and other negative impacts associated with freight transportation.

- **Environmental Requirement for National Freight Plan** – The MAP-21 law requires U.S. DOT to create a national freight plan that addresses several requirements. In addition to what is in current law, the current bill adds a new requirement which states that the national plan must include "best practices to reduce greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss."

- **Impacts of Freight Railroads** - The 2014 bill included a provision that allowed these funds to be used for projects that "mitigate the adverse impact of freight movement on communities traversed by freight railroads, such as through grade separations." This bill

however, moves this language to the section regarding state freight plans. So now, states, when preparing their freight plans, must include "strategies and goals to decrease the adverse impact of freight transportation on communities traversed by freight railroads."

- **Redistribution of Unspent Funds** – This bill now allows funds that were not obligated by the grant recipients within three fiscal years to be redistributed for new grants.

- **Measuring GHG and Local Air Pollution Reductions** – This bill adds a new provision to require data collection to measure progress on the formula funding allocations toward GHG and local air pollution reductions in accordance with the state freight plan. This mirrors a provision that was included in the 2014 bill regarding the competitive grants which is also included in this bill.

Impacts on SCAQMD's Mission, Operations or Initiatives:
At its May 2014 meeting, the SCAQMD Governing Board approved a set of eight federal legislative proposals related to the federal transportation law and the upcoming reauthorization of the MAP-21 law and the federal passenger rail law. The set contains five proposals that seek to create a more sustainable goods movement supply chain and the infrastructure that supports it, namely infrastructure improvement projects to complement local, state and private investment for ports, key freight corridors and assets, as well as efforts to reduce environmental impacts imposed upon local communities. Two other proposals relate to providing funding to replace existing commuter rail with the cleanest (Tier 4) locomotives. The last proposals would amend the Clean Air Act by requiring U.S. EPA to address emissions from federal sources that could not be addressed by the SIP.

SCAQMD's proposals use incentives and grant programs to increase the number of zero- and near-zero emission trucks, freight locomotives and cargo handling equipment, seek to expand the number of refueling and recharging facilities for those vehicles, and promote highway infrastructure that promotes the use of cleaner freight vehicles (such as dedicated zero-emission truck lanes).

The commitment made to the region's transportation agencies is that SCAQMD would not support using existing HTF funds for these proposals, but would look for other sustainable funding sources, and would try to identify funding from other sources. H.R. 1308 would establish such a sustainable funding source for freight programs, and promotes clean freight in the process. It does this by prioritizing grants based on several factors including the extent to which a project will reduce greenhouse gas emissions, criteria pollutants, and water impacts.

This bill is very similar to the previous version introduced by Mr. Lowenthal last year, and while it makes several changes, most are complementary to SCAQMD's goals of reducing the adverse impacts of freight and promoting advanced technologies.

In addition, since funding recipients will be required to collect data and annually report the progress made toward greenhouse gas emission reductions and local air pollution reductions, this will help

the region achieve greater emission reductions, provide data useful to evaluating projects, and increase the ability of similar future projects to replicate or improve on those emission reductions.

The five percent set-aside awarded as grants each year for zero-emission freight demonstration projects will also help establish federal support for a market for clean freight vehicles, and help to move the technology forward.

Recommended Position: SUPPORT

ATTACHMENT 2B

I

114TH CONGRESS
1ST SESSION

H. R. 1308

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2015

Mr. LOWENTHAL (for himself, Mr. ROHRABACHER, Mrs. KIRKPATRICK, and Mrs. LAWRENCE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act''.

SEC. 2. FREIGHT FUNDING PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''§ 5506. Multimodal Freight Funding Formula Program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a Multimodal Freight Funding Formula Program under which the Secretary shall distribute funds to States to improve the efficiency and reliability of freight movement in the United States.

''(b) FORMULA APPORTIONMENT.—Of funds made available to the Secretary for a fiscal year to carry out the Multimodal Freight Funding Formula Program under this section, the Secretary shall calculate the amount available to be apportioned to a State based on the following:

''(1) 6.25 percent in the ratio that—

''(A) the number of ports in each State; bears to

''(B) the number of ports in all States.

''(2) 6.25 percent in the ratio that—

''(A) the number of rail track-miles used for the movement of freight in each State; bears to

''(B) the number of such rail track-miles in all States.

''(3) 6.25 percent in the ratio that—

''(A) the number of cargo-handling airports in each State; bears to

''(B) the number of such airports in all States.

''(4) 6.25 percent in the ratio that—

''(A) the number of Interstate system miles in each State; bears to

''(B) the number of Interstate system miles in all States.

''(5) 37.5 percent in the ratio that—

''(A) the tonnage of rail, waterborne, highway, and airport freight moved in each State; bears to

''(B) the tonnage of such freight moved in all States.

''(6) 37.5 percent in the ratio that—

''(A) the value of rail, waterborne, highway and airport freight moved in each State; bears to

''(B) the value of such freight moved in all States.

''(c) TIER I ELIGIBILITY.—The Secretary shall provide to a State in a fiscal year 40 percent of the amount of the funds available to the State under subsection (b) for that fiscal year if the State—

''(1) has an established freight advisory committee in accordance with section 1117 of MAP–21 (Public Law 112–141);

''(2) developed any analyses or plans required for the completion of a State freight plan in accordance with section 1118 of MAP–21 (Public Law 112–141);

''(3) has an approved State freight plan;

''(4) has conducted a statewide analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs;

''(5) demonstrates use of the statewide analysis of freight needs in prioritizing projects in the State freight plan;

''(6) demonstrates that the State will use the funding that it is provided under this paragraph for the highest priority projects identified in the freight investment plan described under section 1118 of MAP–21 (Public Law 112–141); and

''(7) demonstrates that the program of projects will use the strategies and contribute to the goals described in the State freight plan to decrease—

''(A) greenhouse gas emissions;

''(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

''(C) water runoff and other adverse water impacts; and

''(D) wildlife habitat loss.

''(d) TIER II ELIGIBILITY.—The Secretary shall provide to a State in a fiscal year 60 percent of the amount of the funds available to the State under subsection (b) for that fiscal year if the State—

''(1) has met the eligibility criteria of subsection (c);

''(2) has conducted, in cooperation with at least 1 other State, a multistate analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs along a multistate freight corridor; and

''(3) has developed, in cooperation with at least one other State or a relevant entity in Canada or Mexico, a regional freight investment plan that fo-

cuses on the end-to-end investment needs of critical multistate freight corridors based on the multistate analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs.

''(e) REDISTRIBUTION OF FUNDS.—The Secretary shall make available under the National Freight Infrastructure Competitive Grant Program under section 5507 any funds that—

''(1) the Secretary calculated under subsection (b) as available to a State for a fiscal year but did not provide to that State for that fiscal year under subsection (c) or subsection (d); or

''(2) the Secretary provided to a State under subsection (c) or subsection (d) but remain unobligated in that State at the end of the third fiscal year following the fiscal year in which they were provided to the State.

''(f) ELIGIBLE USES.—A State may use funds provided under this section only for—

''(1) the development of corridor freight plans or regional freight plans; or

''(2) one or more phases of capital projects, equipment, or operational improvements on roads, rails, landside infrastructure on ports and airports,

and intermodal connectors included in a State freight plan for projects that—

"(A) maintain or improve the efficiency and reliability of freight supply chains;

"(B) demonstrate public freight benefits;

"(C) improve modal components of a multimodal corridor that is critical to a State or region;

"(D) address freight needs to facilitate a regionally or nationally significant economic development issue;

"(E) in accordance with the State freight plan, decrease—

"(i) greenhouse gas emissions;

"(ii) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(iii) water runoff and other adverse water impacts; and

"(iv) wildlife habitat loss;

"(F) are multimodal, multi-jurisdictional, or corridor-based and address freight needs;

"(G) relieve freight or non-freight access, congestion, or safety issues; or

''(H) address first and last mile connectors.

''(g) EPA REPORT.—A State that receives funds under this section shall collect data and, beginning 1 year from the date of the completion of each project or project phase that receives such funds, and annually thereafter for 15 years, report to the Secretary and the Administrator of Environmental Protection Agency on progress made toward greenhouse gas emission reductions and local air pollution reductions in accordance with the State freight plan. All relevant data and reporting shall be collected and reported in accordance with guidance developed by the Administrator in consultation with the Secretary.

''(h) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost of a project carried out by a State using funds provided under this section may not be more than 80 percent.

''(2) ADDITIONAL FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using funds provided under this section may be increased by 5 percent if the such 5 percent is used for the mitigation of diesel emissions from construction activities associated with the project. The Administrator of Environmental Protection Agency,

in consultation with the Secretary, shall develop guidance for eligible equipment and activities consistent with existing State, local, and nonprofit clean construction guidelines.

''(i) RESERVATION OF FUNDS FOR TERRITORIES.—Before making a calculation under subsection (b), the Secretary shall withhold funds for distribution to each territory in an amount based on the freight infrastructure need of the territories, as determined by the Secretary. Such funds shall not otherwise be made available for distribution under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Freight Trust Fund to carry out this section an amount equal to 50 percent of the receipts of the Freight Trust Fund for each fiscal year beginning in fiscal year 2016.

''(k) ADMINISTRATION AND OVERSIGHT COSTS.—The Secretary may retain up to one-half of 1 percent of the amounts available to carry out this section for each fiscal year for the cost of administration and oversight of projects funded under this section.

''(l) AVAILABILITY OF FUNDS.—Amounts authorized under subsection (j) shall be—

''(1) available for obligation on October 1 of the fiscal year for which they are authorized; and

''(2) available until expended.

''(m) APPLICATION OF RATE REQUIREMENTS.—The Secretary shall take such action as may be necessary to apply the requirements described under section 113 of title 23, as applicable, to any project receiving funds under this section.

''(n) DEFINITIONS.—In this section:

''(1) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and Puerto Rico.

''(2) STATE FREIGHT PLAN.—The term 'State freight plan' means the State freight plan described under section 1118 of MAP–21 (Public Law 112–141).

''(3) TERRITORY.—The term 'territory' has the meaning given such term in section 165(c)(1) of title 23.

"§ 5507. National Freight Infrastructure Competitive Grant Program

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a National Freight Infrastructure Competitive Grant Program under which the Secretary shall make grants, on a competitive basis, to designated entities for eligible projects to improve the efficiency and reliability of freight movement in the United States.

''(b) PROJECT GOALS.—In carrying out the Program, the Secretary shall prioritize projects that—

''(1) improve the efficiency and reliability of freight transportation;

''(2) reduce the cost of freight transportation;

''(3) improve the safety of freight transportation;

''(4) relieve bottlenecks in the freight transportation system;

''(5) improve the state of good repair of the freight transportation system;

''(6) contribute to the environmental goals described in the State freight plan; and

''(7) reduce the adverse impacts of freight transportation on communities traversed by freight.

''(c) GRANT APPLICATIONS.—To be eligible to receive a grant under the Program a designated entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

''(d) ELIGIBLE PROJECT.—A project is eligible for a grant under the Program only if the Secretary determines that the project—

''(1) that is—

''(A) a capital investment project for a transportation infrastructure facility significantly used for the movement of freight; or

''(B) infrastructure necessary to mitigate the adverse impact of freight transportation on communities traversed by freight, including—

''(i) a road, rail, or landside air or water facility;

''(ii) an intermodal facility such as a seaport or port on the inland waterway system, an airport, or a highway and rail intermodal facility;

''(iii) a facility related to an international border crossing;

''(iv) is for an operational improvement or equipment of a facility described in this paragraph; or

''(v) railway-roadway grade separations and related improvements;

''(2) will help to achieve the goals set out in subsection (b);

''(3) has non-Federal source or sources of committed financing, along with any Federal funds, sufficient to complete the project;

''(4) has independent utility;

''(5) is included in the State freight plan; and

''(6) includes the development of project plans and analysis.

''(e) GRANT CRITERIA.—The Secretary shall select eligible projects for funding based on the following criteria:

''(1) The extent to which the project is likely to advance the goals described in subsection (b).

''(2) The likely benefits of the project relative to its costs.

''(3) The extent to which the project demonstrates the use of innovative technology, strategies, and practices.

''(4) The extent to which the project uses onroad construction vehicles and nonroad construction equipment that meet the emission standards of the Environmental Protection Agency.

''(5) The extent to which the project demonstrates effective reductions (in accordance with the State freight plan) in—

''(A) greenhouse gas emissions;

''(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

''(C) water runoff and other adverse water impacts; and

''(D) wildlife habitat loss.

''(6) The likely effect of the project on increasing United States exports.

''(7) The consistency of the project with the national freight strategic plan described under section 5508.

''(8) The extent to which the project leverages Federal funds by matching State, territorial, local, tribal, or private funds to the Federal funding requested under the Program.

''(9) The extent to which funds for the project are not available from other Federal sources.

''(f) SPECIAL RULE.—A minimum of 5 percent of funds made available under the Program for a fiscal year shall be provided to zero-emission freight demonstration projects, as defined by the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency.

''(g) RETROSPECTIVE ANALYSIS.—A grant agreement made under the Program shall require that the recipient collect data and report to the Secretary, at an appropriate time as determined by the Secretary, on—

''(1) the actual cost of constructing the project;

''(2) the time required to complete the project and put it into service;

''(3) the level of usage of the facility built or improved by the project;

''(4) the benefits of the project, measured in a way that is consistent with the benefits that were estimated in the application for funding that was submitted to the Secretary; and

''(5) any costs resulting from the project in addition to the costs of constructing the project.

''(h) EPA REPORT.—A grant agreement made under the Program shall require that the recipient collect data and, beginning 1 year from the date of the completion of the project and annually thereafter for 15 years, report to the Secretary and the Administrator of Environmental Protection Agency on progress made toward greenhouse gas emission reductions and local air pollution reductions in accordance with the State freight plan. All relevant data and reporting shall be collected and reported in accordance with guidance developed by the Administrator in consultation with the Secretary.

''(i) PERIOD OF AVAILABILITY.—In entering into agreements under this section, the Secretary shall ensure that any funds made available for a project that are not obligated or expended before the last day of the third fiscal

year following the fiscal year in which the funds are made available are transferred back to the Secretary for making grants under the Program.

''(j) REDISTRIBUTION OF FUNDS.—If a designated entity that received a grant under this section has made no obligation of funding with respect to such grant by the end of the third fiscal year following the fiscal year in which the Secretary awarded the grant, the Secretary shall—

''(1) withdraw the grant from the designated entity; and

''(2) apply the funding to another grant under this section.

''(k) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the cost of a project for which a grant is made under the Program, as estimated by the Secretary, shall be not more than 80 percent.

''(2) ADDITIONAL FEDERAL SHARE.—The Federal share of the cost of a project carried out by a State using funds provided under this section may be increased by 5 percent if the such 5 percent is used for the mitigation of diesel emissions from construction activities associated with the project. The Administrator of Environmental Protection Agency,

in consultation with the Secretary, shall develop guidance for eligible equipment and activities consistent with existing State, local, and nonprofit clean construction guidelines.

''(l) ADMINISTRATION AND OVERSIGHT COSTS.—The Secretary may retain up to one-half of 1 percent of the amounts made available to carry out this section for each fiscal year for the cost of administration and oversight of projects funded under the Program.

''(m) AUTHORIZATION AND AVAILABILITY OF FUNDS.—

''(1) AUTHORIZATION.—There is authorized to be appropriated from the Freight Trust Fund to carry out this section an amount equal to 50 percent of the receipts of the Freight Trust Fund for each fiscal year beginning in fiscal year 2016.

''(2) AVAILABILITY.—Amounts authorized under paragraph (1) shall be—

''(A) available for obligation on October 1 of the fiscal year for which they are authorized; and

''(B) available for obligation until expended.

''(n) APPLICATION OF RATE REQUIREMENTS.—The Secretary shall take such action as may be necessary to

apply the requirements described under section 113 of title 23, as applicable, to any project receiving funds under this section.

''(o) DEFINITIONS.—In this section:

''(1) DESIGNATED ENTITY.—The term 'designated entity' means—

''(A) a State;

''(B) a unit of local government;

''(C) a metropolitan planning organization;

''(D) a public transportation authority (including a port authority);

''(E) a tribal government; or

''(F) or a consortium of the entities described in this paragraph.

''(2) STATE.—The term 'State' means any of the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands.

''(3) STATE FREIGHT PLAN.—The term 'State freight plan' means the State freight plan described under section 1118 of MAP–21 (Public Law 112–141).

"§ 5508. National freight policy, network, plan, and data

''(a) IN GENERAL.—It is the policy of the United States to improve the condition and performance of the national freight system to ensure that the national freight system provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

''(b) GOALS.—The goals of the national freight policy are—

''(1) to increase the productivity and efficiency of the national freight system so as to enhance the economic competitiveness of the United States;

''(2) to improve the safety, security, and resilience of freight transportation; and

''(3) to improve quality of life by reducing, eliminating or reversing adverse environmental and community impacts of freight projects and goods movement in the United States.

''(c) NATIONAL FREIGHT SYSTEM DEFINED.—In this section, the term 'national freight system' means the publicly and privately-owned transportation facilities that are used in transporting freight within the United States, including roads, railroads, ports, waterways, locks and dams, airports, airways, warehouses, distribution centers, and intermodal facilities.

"(d) MULTIMODAL NATIONAL FREIGHT NETWORK.—

"(1) ESTABLISHMENT.—The Secretary shall establish a multimodal national freight network in accordance with this section to inform public and private planning, to prioritize for Federal investment, to aid the public and private sector in strategically directing resources, and to support Federal decision making to achieve the national freight policy goals set forth in subsection (b).

"(2) NETWORK COMPONENTS.—The national freight network shall consist of such connectors, corridors, and facilities in all freight transportation modes as most critical to the current and future movement of freight within the national freight system.

"(3) INITIAL DESIGNATION OF THE NATIONAL FREIGHT NETWORK.—

"(A) DESIGNATION.—The Secretary shall designate a national freight network—

"(i) using measurable data to assess the significance of goods movement, including consideration of points of origin, destination, and linking components of the

United States global and domestic supply chains;

"(ii) fostering network connectivity; and

"(iii) reflecting input collected from stakeholders through a public process, including input from metropolitan planning organizations, and States to identify critical freight facilities that are vital links in national or regionally significant goods movement and supply chains.

"(B) FACTORS FOR DESIGNATION.—In designating the national freight network, the Secretary may consider—

"(i) volume, tonnage, and value of freight;

"(ii) origins and destinations of freight movement in, to, and from the United States;

"(iii) land and maritime ports of entry;

"(iv) population centers;

"(v) economic factors or other inputs determined to be relevant by the Secretary;

''(vi) bottlenecks and other impediments contributing to significant measurable congestion and delay in freight movement;

''(vii) facilities of future freight importance based on input from stakeholders and analysis of projections for future growth and changes to the freight system; and

''(viii) elements of the freight system identified and documented by a metropolitan planning organization or State using national or local data as having critical freight importance to the region.

''(4) REDESIGNATION OF THE NATIONAL FREIGHT NETWORK.—Not later than 5 years after the designation of the national freight network under paragraph (2) and every 5 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the national freight network.

''(e) NATIONAL FREIGHT STRATEGIC PLAN.—

''(1) ESTABLISHMENT OF PLAN.—Not later than October 1, 2015, the Secretary shall, in consultation with the Secretary of Homeland Security,

Secretary of Commerce, Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, State departments of transportation, and other appropriate public and private transportation stakeholders, develop, maintain, and post on the Department of Transportation public website a national freight strategic plan that includes—

"(A) an assessment of the condition and performance of the national freight system;

"(B) an identification of bottlenecks on the national freight system that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include—

"(i) information from the Freight Analysis Framework of the Federal Highway Administration; and

"(ii) to the maximum extent practicable, an estimate of the cost of addressing each bottleneck and any operational improvements that could be implemented;

"(C) forecasts of freight volumes for 10-year and 20-year periods beginning in the year during which the plan is issued;

''(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

''(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

''(F) an identification of routes providing access to energy exploration, development, installation, or production areas;

''(G) best practices for improving the performance of the national freight system;

''(H) best practices for addressing the impacts of freight movement on communities;

''(I) a process for addressing multistate projects and encouraging jurisdictions to collaborate;

''(J) strategies to improve freight connectivity between modes of transportation; and

''(K) best practices to reduce greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss.

''(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

''(f) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than October 1, 2015, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight system in the United States.

''(g) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

''(1) IN GENERAL.—The Secretary shall develop new tools and improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

''(A) methodologies for systematic analysis of benefits and costs;

"(B) freight forecasting models;

"(C) tools for ensuring that the evaluation of freight-related and other transportation projects can consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

"(D) other elements to assist in effective transportation planning.

"(2) FREIGHT DATA.—In support of these tools, and to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions, the Secretary shall—

"(A) direct the collection of appropriate transportation-related data, including data to measure the condition and performance of the national freight system; and

"(B) consider any improvements to existing freight data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

"(3) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to

develop, improve, and implement the tools and collect the data identified pursuant to this subsection.

''(4) MULTIMODAL FREIGHT MEASURE.—The Secretary shall evaluate the analyses and plans required under section 5506(c)(2) and consider development of a national performance measure to assess the efficiency of the multimodal freight network in accordance with the national freight strategic plan.

''(h) STATE DEFINED.—In this section, the term 'State' means any of the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 55 of title 49, United States Code, is amended by adding after the item related to section 5505 the following:

''5506. Multimodal Freight Funding Formula Program.
''5507. National Freight Infrastructure Competitive Grant Program.
''5508. National freight policy, network, plan, and data.''.

(2) REPEAL.—Section 167 of title 23, United States Code, is repealed.

(3) CROSS-REFERENCE.—Section 505(a)(3) of title 23, United States Code, is amended by striking ''149, and 167'' and inserting ''and 149, and section 5405 of title 49''.

SEC. 3. STATE FREIGHT ADVISORY COMMITTEE.

Section 1117 of MAP–21 (Public Law 112–141) is amended to read as follows:

"SEC. 1117. STATE FREIGHT ADVISORY COMMITTEES.

"(a) IN GENERAL.—The Secretary shall encourage each State to establish and maintain a freight advisory committee consisting of a representative cross-section of public and private sector freight entities, including—

"(1) any modes of freight transportation active in the State, including airports, highways, ports, and rail;

"(2) shippers;

"(3) carriers;

"(4) freight-related associations:

"(5) the freight industry workforce;

"(6) the transportation department of the State;

"(7) metropolitan planning organizations;

"(8) local governments;

"(9) the environmental protection department of the State, if applicable; and

"(10) the air resources board of the State, if applicable.

"(b) QUALIFICATIONS.—Members of a committee established under subsection (a) shall be widely recognized

to have qualifications sufficient to represent the interests of their specific stakeholder group, including—

''(1) a general business and financial experience;

''(2) experience or qualifications in the areas of freight transportation and logistics;

''(3) experience in transportation planning;

''(4) experience representing employees of the freight industry; or

''(5) experience representing a State, local government, or metropolitan planning organization.

''(c) ROLES OF COMMITTEE.—The freight advisory committee shall—

''(1) advise the State on freight-related priorities, issues, projects, and funding needs;

''(2) serve as a forum for discussion for State transportation decisions affecting freight mobility;

''(3) communicate and coordinate regional priorities with other organizations;

''(4) promote the sharing of information between the private and public sectors on freight issues;

''(5) participate in the development of the State freight plan under section 1118, including advising

on the development of the freight investment plan; and

''(6) approve the State freight plan under section 1118, including the freight investment plan.

''(d) STATE DEFINED.—In this section, the term 'State' means any of the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands.''.

SEC. 4. STATE FREIGHT PLANS.

Section 1118 of MAP–21 (Public Law 112–141) is amended to read as follows:

''SEC. 1118. STATE FREIGHT PLANS.

''(a) IN GENERAL.—The Secretary shall encourage each State to develop a freight plan that provides a multimodal, comprehensive plan for the immediate and long-range planning activities and investments of the State with respect to freight. The freight plan shall include a strategic, long-term component and a tactical, short-term component.

''(b) PLAN CONTENTS.—The freight plan described in subsection (a) shall consider all modes of freight transportation in the State and include, at a minimum—

''(1) an identification of significant freight system trends, needs, and issues with respect to a State;

''(2) a description of the freight policies, strategies, and performance measures that will guide the freight-related transportation investment decisions of the State;

''(3) a description of how the plan will improve the ability of the State to meet the national freight goals established under section 5508 of title 49, United States Code;

''(4) evidence of consideration of innovative technologies and operational strategies, including intelligent transportation systems, that improve the safety and efficiency of freight movement;

''(5) in the case of routes on which travel of heavy vehicles (including mining, agricultural, energy cargo or equipment, and timber vehicles) is projected to substantially deteriorate the condition of the roadways, a description of improvements that may be required to reduce or impede the deterioration;

''(6) an inventory of facilities with freight mobility issues, such as truck bottlenecks, within the

State, and a description of the strategies the State is employing to address those freight mobility issues;

"(7) strategies and goals to decrease—

"(A) greenhouse gas emissions;

"(B) local air pollution, including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead;

"(C) water runoff and other adverse water impacts; and

"(D) wildlife habitat loss;

"(8) strategies and goals to decrease the adverse impact of freight transportation on communities traversed by freight railroads; and

"(9) a freight investment plan that includes a list of projects in order of priority and describes how multimodal freight investment funds under the Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act would be invested and matched.

"(c) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The freight investment plan required under subsection (b)(8) may only include a project, or an identified phase of a project, if funding for completion of the project can reasonably be anticipated to be available for the

project within the time period identified in the freight investment plan.

''(d) RELATIONSHIP TO LONG-RANGE PLAN.—The freight plan described in subsection (a) may be developed separate from, or incorporated into, the long-range statewide transportation plan required under section 135(f) of title 23, United States Code.

''(e) CERTIFICATION.—The Secretary shall approve a freight plan if such plan meets the requirements of this section and is consistent with the National freight strategic plan described in section 5508 of title 49, United States Code. The Secretary, in consultation with the Administrator of the Environmental Protection Agency shall certify any environmental goal or strategy provisions of the plan.

''(f) FORECAST PERIOD.—The freight plan described in subsection (a) shall address a 10-year and 20-year forecast period.

''(g) UPDATES.—A State shall update the freight plan at least every 5 years.

''(h) STATE DEFINED.—In this section, the term 'State' means any of the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands.''.

SEC. 5. FREIGHT TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. FREIGHT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Freight Trust Fund' (hereinafter in this section referred to as the 'Fund') consisting of such amounts as may be appropriated or credited to such Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO THE FUND.—There are hereby appropriated to the Fund amounts equivalent to taxes received in the Treasury under section 4286.

"(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be made available, as provided by appropriation Acts, for making expenditures to meet obligations authorized to be paid out of the Fund under sections 2 and 3 of the Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 9512. Freight Trust Fund.".

SEC. 6. FREIGHT MOBILITY INFRASTRUCTURE TAX.

(a) IMPOSITION OF TAX.—Chapter 33 of the Internal Revenue Code of 1986 is amended by inserting after subchapter C the following new subchapter:

"Subchapter D—Ground Transportation Freight Tax

"Sec. 4286. Imposition of tax.

"SEC. 4286. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed upon taxable ground transportation of property within the United States a tax equal to 1 percent of the amount paid for such transportation.

"(b) BY WHOM PAID.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid—

"(A) by the person making the payment subject to tax, or

"(B) in the case of transportation by a related person, by the person for whom such transportation is made.

"(2) DETERMINATIONS OF AMOUNTS PAID IN CERTAIN CASES.—For purposes of this section, rules similar to the rules of section 4271(c) shall apply.

"(c) TRANSPORTATION BY RELATED PERSONS.—In the case of transportation of property by the shipper or a person related to the shipper, the fair market value of

such transportation shall be the amount which would be paid for transporting such property if such property were transported by an unrelated person, determined on an arms' length basis.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) TAXABLE GROUND TRANSPORTATION.—The term 'taxable ground transportation' means transportation of property by—

"(A) freight rail, or

"(B) truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or more.

For purposes of subparagraph (B), the terms 'truck trailer' and 'semitrailer' have the same meanings as such terms have in section 4051.

"(2) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or

"(B) the related person and such person are engaged in trades or businesses under com-

mon control (within the meaning of subsections (a) and (b) of section 52).

For purposes of the preceding sentence, in applying sections 267(b) and 707(b)(1), '10 percent' shall be substituted for '50 percent' each place it appears.

''(e) EXEMPTION FOR UNITED STATES AND POSSESSIONS AND STATE AND LOCAL GOVERNMENTS.—The tax imposed by subsection (a) shall not apply to amounts paid for transportation of property purchased for the exclusive use of the United States, or any State or political subdivision thereof.''.

(b) CREDITS OR REFUNDS TO PERSONS WHO COLLECTED CERTAIN TAXES.—Section 6415 of such Code is amended by striking ''or 4271'' each place it appears and inserting ''4271, or 4286''.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 33 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subchapter C the following new item:

''SUBCHAPTER D. GROUND TRANSPORTATION FREIGHT TAX''.

(d) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations to carry out the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning on or

after the last day of the 180-day period beginning on the date of the issuance of regulations under subsection (c).

○

ATTACHMENT 2C

SB 513 (Beal) Carl Moyer Memorial Air Quality Standards Attainment Program

Summary: SB 513 updates and refines the Carl Moyer program to improve program efficiencies and outcomes pursuant to "The Five Pillars" approved by the Air Resources Board (ARB) and subsequently adopted by the South Coast AQMD Governing Board in February 2015.

Background:
California suffers from some of the worst air quality in the nation. On a statewide basis, approximately two-thirds of our air pollution is from cars, trucks, trains and other mobile sources. In the South Coast Basin, more than 80% of air pollution comes from such mobile sources. To meet upcoming State and Federal standards and protect public health, a 90 percent reduction in pollution is needed.

The Carl Moyer program (1998) addresses this need by providing funds to local air districts which, in turn, provide grants to equipment owners to deploy cleaner on-road, off-road, marine, locomotive, lawn and garden, and agricultural equipment, as well as to retire high-emitting passenger cars. The Carl Moyer program achieves early, cost-effective emission reductions that help meet State and Federal health-based air quality standards for ozone and particulate matter and complement regulations to achieve cleaner air.

In 2004, AB 923 allowed local air districts to collect vehicle registration fees to fund emission reduction projects. The AB 923 incentive program, which is under the Carl Moyer program umbrella, provides funds for Carl Moyer projects, lower-emission school buses, agricultural equipment, and high polluting vehicle scrap programs.

To date, the Carl Moyer program, along with the AB 923 program, have collectively replaced more than 46,000 engines and has removed more than 174,600 tons of smog and 6,400 tons of toxic diesel particulates.

In 2013, AB 8 extended revenues for both of the above programs until 2024 and required the Air Resources Board (ARB) and air districts to evaluate the Carl Moyer program. Last year, with public input, ARB and the air districts identified several current and likely future limitations of the program. These include the inability to: provide meaningful grant amounts to the cleanest, most advanced technologies; recognize greenhouse gas reductions and other project benefits; and combine the Carl Moyer program with other funding sources.

Status: April 6 – Amended and re-referred to Rules Committee. Amendments drafted jointly by Legislative Counsel, ARB and the California Air Pollution Control Officers

Association with input from the business community, the agricultural sector, environmentalists and other stakeholders.

Specific Provisions: Specifically, this bill would:

- Expand project categories for the Carl Moyer and AB 923 programs and allow the Carl Moyer program to adapt quickly and support future clean technologies.
- Establish a process to adjust the cost-effectiveness limit in order to recognize increasing costs of technology and projects that provide co-benefits, such as greenhouse gas reductions, technology advancement, and air quality improvements in the most polluted communities.
- Provide air districts the flexibility to recognize co-benefits when funding projects.
- Encourage leveraging with other funding sources to accomplish multiple goals.
- Streamline and update program administration requirements.

Impacts on SCAQMD's mission, operations or initiatives:
The Carl Moyer program has been extraordinarily successful. In total 44% of the program funds have been allocated to the SCAQMD, and during the first 16 years of the program in the South Coast Basin, it has cleaned up over 10,000 high-polluting engines and vehicles, including the replacement or repower of heavy-duty trucks, transit buses, construction equipment, cargo handling equipment, marine vessels, and locomotives. These new engine sales represent economic activity in a down economy, and they have provided many small business owners with more fuel-efficient, better performing engines. In addition, these incentive funds have secured real and durable improvements in air quality, and reduced public exposure to harmful diesel particulates. The program has a high degree of transparency and accountability, and it leverages other funds.

Additionally, AB 923 (Firebaugh, 2004) has had an enormous and positive impact on air quality in the South Coast Region. This incentive program, under the Carl Moyer Program umbrella, has allowed the SCAQMD to replace approximately 900 school buses with new natural gas buses and retrofit about 600 diesel school buses with particulate traps for the amount of $110 million. In addition 20 passenger locomotives operating in the South Coast Basin are in process of being repowered with low-emitting Tier 4 engines for the amount of $52 million. AB 923 funds are also used to implement Carl Moyer type projects as SCAQMD's required match to the state Carl Moyer Program funds.

This bill will allow locally directed funding to provide increased opportunities for projects such as school buses, trucks certified to lower emission standards, and fueling/charging infrastructure, as well as encourage renewable fueled, hybrid, battery electric, fuel cell and fuel efficiency improvement projects.

Recommended Position: SUPPORT

ATTACHMENT 2D

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 513

Introduced by Senator Beall

February 26, 2015

~~An act relating to vehicular air pollution.~~ *An act to amend Sections 41081, 44223, 44225, 44229, 44233, 44275, 44281, 44282, 44283, 44286, 44287, 44287.1, 44287.2, 44288, 44291, and 44299.2 of, and to amend and repeal Section 44299.1 of, the Health and Safety Code, relating to vehicular air pollution.*

LEGISLATIVE COUNSEL'S DIGEST

SB 513, as amended, Beall. ~~Carl Moyer Memorial Air Quality Standards Attainment Program.~~ *Carl Moyer Memorial Air Quality Standards Attainment Program: fees.*

(1) Existing law authorizes the Sacramento Metropolitan Air Quality Management District to adopt a $6 surcharge on motor vehicle registration fees applicable to motor vehicles registered within the district. Existing law requires the collected fees to be used for specified purposes, including, among others, awarding grants eligible for funding under the Carl Moyer Memorial Air Quality Standards Attainment Program.

This bill would additionally authorize those fees to be used for projects that involve alternative fuel and electric infrastructure, as specified.

(2) Existing law authorizes an air pollution control or air quality management district, except the Sacramento district, that has been designated by the State Air Resources Board as a state nonattainment area for any pollutant emitted by motor vehicles to levy a fee of up to $6 on motor vehicles registered within the air district, subject to specified conditions.

This bill instead would authorize any air district, except the Sacramento district, regardless of its state attainment designation to levy a fee of up to $6 on motor vehicles registered within the air district. The bill also would authorize those fees to be used for the attainment or maintenance of state or federal ambient air quality standards or the reduction of toxic air contaminant emissions from motor vehicles and for alternative fuel and electric infrastructure projects, as specified.

(3) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the state board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from vehicular sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts.

This bill would revise and recast provisions of the program, including, among others, changing the definition of covered source to include any marine vessel and any other category necessary for the state and air districts to meet air quality goals; authorizing the state board to adjust, rather than just reduce, the values of the maximum grant award criteria to improve the ability of the program to achieve its goals; authorizing the state board to reserve up to 10% of the program moneys available each year to directly fund any project the state board determines contributes toward the achievement of state air quality goals; removing the prohibition on using specified motor vehicle registration fees as matching funds; requiring the state board, instead of the State Energy Resources Conservation and Development Commission, to publish procedures to monitor and audit infrastructure projects; increasing the authorization for support and outreach costs from not more than 2% to not more than 2.5% of the moneys in the Air Pollution Control Fund; removing the repeal date of January 1, 2024, from the provisions on how moneys in the Air Pollution Control Fund are allocated and segregated; removing the repeal date of January 1, 2024, from the provisions regarding the terms and conditions for an allocation of moneys to an air district; and requiring an air district to liquidate the moneys by a specified date 4 years following the year of allocation and to return those moneys that have not been liquidated to the state board within 90 days.

(4) The California Global Warming Solutions Act of 2006 establishes the state board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms.

Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.

This bill would authorize the state board to allocate moneys from the Greenhouse Gas Reduction Fund and other specified sources for the Carl Moyer Memorial Air Quality Standards Attainment Program without those other moneys being required to be factored into the criteria emission reduction cost-effectiveness calculations.

~~Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from vehicular sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts.~~

~~This bill would state the intent of the Legislature to enact legislation to amend the program to achieve even greater air quality benefits.~~

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

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

SECTION 1. Section 41081 of the Health and Safety Code, as amended by Section 1 of Chapter 401 of the Statutes of 2013, is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Prior to the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption

of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

(b) The surcharge shall not exceed six dollars ($6).

(c) After consulting with the Department of Motor Vehicles on the feasibility thereof, the Sacramento district board may provide, in the surcharge adopted pursuant to subdivision (a), to exempt from all or part of the surcharge any category of low-emission motor vehicle.

(d) Funds received by the Sacramento district pursuant to this section shall be used by that district as follows:

(1) The revenues resulting from the first four dollars ($4) of each surcharge shall be used to implement reductions in emissions from vehicular sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures.

(2) The revenues resulting from the next two dollars ($2) of each surcharge shall be used to implement the following programs that achieve emission reductions from vehicular sources and off-road engines, to the extent that the district determines the program remediates air pollution harms created by motor vehicles on which the surcharge is imposed:

(A) Projects eligible for grants under the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5).

(B) The new purchase, retrofit, repower, or add-on of equipment for previously unregulated agricultural sources of air pollution, as defined in Section 39011.5, within the Sacramento district, for a minimum of three years from the date of adoption of an applicable rule or standard, or until the compliance date of that rule or standard, whichever is later, if the state board has determined that the rule or standard complies with Sections 40913, 40914, and 41503.1, after which period of time, a new purchase, retrofit, repower, or add-on of equipment shall not be funded pursuant to this chapter. The district shall follow any guidelines developed under subdivision (a) of Section 44287 for awarding grants under this program.

(C) The purchase of ~~new,~~ *new schoolbuses, or the purchase for the repower* or retrofit of emissions control equipment ~~for existing,~~ *for existing* schoolbuses pursuant to the Lower-Emission School Bus Program adopted by the state board.

(D) An accelerated vehicle retirement or repair program that is adopted by the state board pursuant to authority granted hereafter by the Legislature by statute.

(E) The replacement of onboard natural gas fuel tanks on schoolbuses ~~owned by a school district~~ that are 14 years or ~~older, not to exceed twenty thousand dollars ($20,000) per bus,~~ *older or the enhancement of deteriorating natural gas fueling dispensers of fueling infrastructure,* pursuant to the Lower-Emission School Bus Program adopted by the state board.

~~(F) The enhancement of deteriorating natural gas fueling dispensers of fueling infrastructure operated by a school district with a one-time funding amount not to exceed five hundred dollars ($500) per dispenser, pursuant to the Lower-Emission School Bus Program adopted by the state board.~~

(F) The funding of alternative fuel and electric infrastructure projects solicited and selected through a competitive bid process.

(e) Not more than ~~5~~ *6.25* percent of the funds collected pursuant to this section shall be used by the district for administrative expenses.

(f) A project funded by the program shall not be used for credit under any state or federal emissions averaging, banking, or trading program. An emission reduction generated by the program shall not be used as marketable emission reduction credits or to offset any emission reduction obligation of any person or entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(g) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 2. Section 44223 of the Health and Safety Code is amended to read:

44223. (a) In addition to any other fees specified in this code, the Vehicle Code, and the Revenue and Taxation Code, a district,

except the Sacramento district, ~~which has been designated by the state board as a state nonattainment area for any pollutant emitted by motor vehicles~~ may levy a fee of up to two dollars ($2) on motor vehicles registered within the district. A district may impose the fee only if the district board adopts a resolution providing for both the fee and a corresponding program for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988), *or for the attainment or maintenance of state or federal ambient air quality standards or the reduction of toxic air contaminant emissions from motor vehicles*.

(b) In districts with nonelected officials on their boards, a resolution adopted pursuant to subdivision (a) shall be approved by both a majority of the board and a majority of the board members who are elected officials.

(c) A fee imposed pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

SEC. 3. Section 44225 of the Health and Safety Code, as amended by Section 6 of Chapter 401 of the Statutes of 2013, is amended to read:

44225. A district may increase the fee established under Section 44223 to up to six dollars ($6). A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988, *or for the attainment or maintenance of state or federal ambient air quality standards or the reduction of toxic air contaminant emissions from motor vehicles,* is adopted and approved by the governing board of the district.

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 4. Section 44229 of the Health and Safety Code, as amended by Section 8 of Chapter 401 of the Statutes of 2013, is amended to read:

44229. (a) After deducting all administrative costs it incurs through collection of fees pursuant to Section 44227, the Department of Motor Vehicles shall distribute the revenues to districts, which shall use the revenues resulting from the first four dollars ($4) of each fee imposed to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies necessary for implementation of the California Clean Air Act of 1988. Fees collected by the Department of Motor Vehicles pursuant to this chapter shall be distributed to districts based upon the amount of fees collected from motor vehicles registered within each district.

(b) Notwithstanding Sections 44241 and 44243, a district shall use the revenues resulting from the next two dollars ($2) of each fee imposed pursuant to Section 44227 to implement the following programs that the district determines remediate air pollution harms created by motor vehicles on which the surcharge is imposed:

(1) Projects eligible for grants under the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5).

(2) The new purchase, retrofit, repower, or add-on equipment for previously unregulated agricultural sources of air pollution, as defined in Section 39011.5, for a minimum of three years from the date of adoption of an applicable rule or standard, or until the compliance date of that rule or standard, whichever is later, if the state board has determined that the rule or standard complies with Sections 40913, 40914, and 41503.1, after which period of time, a new purchase, retrofit, repower, or add-on of equipment shall not be funded pursuant to this chapter. The districts shall follow any guidelines developed under subdivision (a) of Section 44287 for awarding grants under this program.

(3) The purchase of ~~new,~~ *new schoolbuses,* or *the purchase for the repower or* retrofit of emissions control equipment for ~~existing,~~ *existing* schoolbuses pursuant to the Lower-Emission School Bus Program adopted by the state board.

(4) An accelerated vehicle retirement or repair program that is adopted by the state board pursuant to authority granted hereafter by the Legislature by statute.

(5) The replacement of onboard natural gas fuel tanks on schoolbuses ~~owned by a school district~~ that are 14 years or ~~older, not to exceed twenty thousand dollars ($20,000) per bus,~~ *older or the enhancement of deteriorating natural gas fueling dispensers,* pursuant to the Lower-Emission School Bus Program adopted by the state board.

~~(6) The enhancement of deteriorating natural gas fueling dispensers of fueling infrastructure operated by a school district with a one-time funding amount not to exceed five hundred dollars ($500) per dispenser, pursuant to the Lower-Emission School Bus Program adopted by the state board.~~

(6) The funding of alternative fuel and electric infrastructure projects solicited and selected through a competitive bid process.

(c) The Department of Motor Vehicles may annually expend not more than 1 percent of the fees collected pursuant to Section 44227 on administrative costs.

(d) A project funded by the program shall not be used for credit under any state or federal emissions averaging, banking, or trading program. An emission reduction generated by the program shall not be used as marketable emission reduction credits or to offset any emission reduction obligation of any person or entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 5. Section 44233 of the Health and Safety Code is amended to read:

44233. Not more than ~~5~~ *6.25* percent of the fees distributed to any district pursuant to Section 44229, or distributed by a district to any other public agency pursuant to this chapter, shall be used by the district or other public agency for administrative costs.

SEC. 6. Section 44275 of the Health and Safety Code, as amended by Section 15 of Chapter 401 of the Statutes of 2013, is amended to read:

44275. (a) As used in this chapter, the following terms have the following meanings:

~~(1) "Advisory board" means the Carl Moyer Program Advisory Board created by Section 44297.~~

(1) (A) "Ancillary benefits" includes additional project benefits beyond the reductions in covered emissions, including reductions in greenhouse gases, short-lived climate pollutants, and other benefits, such as benefits to communities described in subdivision (a) of Section 43023.5, fuel-efficiency improvements, or the deployment of advanced technology.

(B) The state board shall define ancillary benefits pursuant to the process described in Section 44287.

(2) "Btu" means British thermal unit.

(3) "Commission" means the State Energy Resources Conservation and Development Commission.

(4) "Cost-effectiveness" means dollars provided to a project pursuant to subdivision (d) of Section 44283 for each ton of covered emission reduction attributed to a project or to the program as a whole. In calculating cost-effectiveness, one-time grants of funds made at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by the state board, taking into account the interest rate on bonds, interest earned by state funds, and other factors as determined appropriate by the state board. Cost-effectiveness shall be calculated by dividing annualized costs by average annual emissions reduction. The state board, in consultation with the districts and concerned members of the public, shall establish appropriate cost-effective limits for oxides of nitrogen, particulate matter, and reactive organic gases and a reasonable system for comparing the cost-effectiveness of proposed projects as described in subdivision (a) of Section 44283.

(5) "Covered emissions" include emissions of oxides of nitrogen, particulate matter, and reactive organic gases from any covered source.

(6) "Covered engine" includes any internal combustion engine or electric motor and drive powering a covered source.

(7) "Covered source" includes onroad vehicles, off-road nonrecreational equipment and vehicles, locomotives, ~~diesel~~ marine vessels, agricultural sources of air pollution, as defined in Section 39011.5, and, as determined by the state board, other ~~high-emitting engine~~ categories *necessary for the state and districts to meet air quality goals*.

(8) "Covered vehicle" includes any vehicle or piece of equipment powered by a covered engine.

(9) "District" means a county air pollution control district or an air quality management district.

(10) "Fund" means the Air Pollution Control Fund established pursuant to Section 43015.

(11) "Mobile Source Air Pollution Reduction Review Committee" means the Mobile Source Air Pollution Reduction Review Committee created by Section 44244.

(12) "Incremental cost" means the cost of the project ~~less a baseline cost~~ that would *not* otherwise be incurred by the applicant in the normal course of business. Incremental costs may include added ~~lease~~ *lease, energy,* or fuel costs pursuant to Section 44283 as well as incremental capital costs.

(13) "New very low emission vehicle" means a heavy-duty vehicle that qualifies as a very low emission vehicle when it is a new vehicle, where new vehicle has the same meaning as defined in Section 430 of the Vehicle Code, or that is modified with the approval and warranty of the original equipment manufacturer to qualify as a very low emission vehicle within 12 months of delivery to an owner for private or commercial use.

(14) "NO_x" means oxides of nitrogen.

(15) "Program" means the Carl Moyer Memorial Air Quality Standards Attainment Program created by subdivision (a) of Section 44280.

(16) "Repower" means replacing an engine with a different engine. The term repower, as used in this chapter, generally refers to replacing an older, uncontrolled engine with a new, emissions-certified engine, although replacing an older

emissions-certified engine with a newer engine certified to lower emissions standards may be eligible for funding under this program.

(17) "Retrofit" means making modifications to the engine and fuel system ~~such~~ *so* that the retrofitted engine does not have the same specifications as the original engine.

(18) "Very low emission vehicle" means a heavy-duty vehicle with emissions significantly lower than otherwise applicable baseline emission standards or uncontrolled emission levels pursuant to Section 44282.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 7. Section 44281 of the Health and Safety Code, as amended by Section 19 of Chapter 401 of the Statutes of 2013, is amended to read:

44281. (a) Eligible projects include, but are not limited to, any of the following:

(1) Purchase of new very low or zero-emission covered vehicles or covered heavy-duty engines.

(2) Emission-reducing retrofit of covered engines, or replacement of old engines powering covered sources with newer engines certified to more stringent emissions standards than the engine being replaced, or with electric motors or drives.

(3) Purchase and use of emission-reducing add-on equipment that has been verified by the state board for covered vehicles.

(4) Development and demonstration of practical, low-emission retrofit technologies, repower options, and advanced technologies for covered engines and vehicles with very low emissions of NO_x.

(5) Light- and medium-duty vehicle projects in compliance with guidelines adopted by the state board pursuant to Title 13 of the California Code of Regulations.

(b) No project shall be funded under this chapter after the compliance date required by any local, state, or federal statute, rule, regulation, memoranda of agreement or understanding, or other legally binding document, except that an otherwise qualified project may be funded even if the state implementation plan assumes that the change in equipment, vehicles, or operations will occur, if the change is not required by the compliance date of a statute, regulation, or other legally binding document in effect as of the date the grant is awarded. No project funded by the program

shall be used for credit under any state or federal emissions averaging, banking, or trading program. No *covered* emission reduction generated by the program shall be used as marketable emission reduction credits or to offset any emission reduction obligation of any person or entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to qualify for funding under the program. A purchase of a low-emission vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(c) The program may also provide funding toward *the* installation of fueling or ~~electrification infrastructure as provided in Section 44284.~~ *energy infrastructure to fuel or power covered sources.*

(d) Eligible applicants may be any individual, company, or public agency that owns one or more covered vehicles that operate primarily within California or otherwise contribute substantially to the NO_x, particulate matter (PM), or reactive organic gas (ROG) emissions inventory in California.

(e) It is the intent of the Legislature that all emission reductions generated by this chapter shall contribute to public health by reducing, for the life of the vehicle being funded, the total amount of emissions in California.

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 8. Section 44282 of the Health and Safety Code, as amended by Section 21 of Chapter 401 of the Statutes of 2013, is amended to read:

44282. The following criteria apply to all projects to be funded through the program except for projects funded through the infrastructure demonstration program *and infrastructure projects, pursuant to subdivision (c) of Section 44281 and Section 44284*:

(a) The state board may establish project criteria, including minimum project life for source categories, in the guidelines described in Section 44287. For previously unregulated source

categories, project criteria shall consider the timing of newly established regulatory requirements.

(b) To be eligible, projects shall meet the cost-effectiveness per ton of covered emissions reduced requirements of Section 44283.

(c) To be eligible, retrofits, repowers, and installation of add-on equipment for covered vehicles shall be performed, or new covered vehicles delivered to the end user, or covered vehicles scrapped on or after the date the program is implemented.

(d) Retrofit technologies, new engines, and new vehicles shall be certified for sale or under experimental permit for operation in California.

(e) Repower projects that replace older, uncontrolled engines with new, emissions-certified engines or that replace emissions-certified engines with new engines certified to a more stringent NO_x emissions standard are approvable subject to the other applicable selection criteria. The state board shall determine appropriate baseline emission levels for the uncontrolled engines being replaced.

(f) For heavy-duty-vehicle projects, retrofit and add-on equipment projects shall document a NO_x or PM emission reduction of at least 25 percent and no increase in other covered emissions compared to the applicable baseline emissions accepted by the state board for that engine year and application. The state board shall determine appropriate baseline emission levels. Acceptable documentation shall be defined by the state board. After study of available emission reduction technologies and after public notice and comment, the state board may revise the minimum percentage emission reduction criterion for retrofits and add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g) (1) For heavy-duty-vehicle projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional low NO_x emissions standard established by the state board, except as provided for in paragraph (2).

(2) For heavy-duty-vehicle projects involving the purchase of new very low or zero-emission covered vehicles for which no optional low NO_x emission standards are available, documentation shall be provided showing that the low or zero-emission engine emits not more than 70 percent of the NO_x or NO_x plus hydrocarbon emissions of a new engine certified to the applicable

baseline NO_x or NO_x plus hydrocarbon emission standard for that engine and meets applicable particulate standards. The state board shall specify the documentation required. If no baseline emission standard exists for new vehicles in a particular category, the state board shall determine an appropriate baseline emission level for comparison.

(h) For projects other than heavy-duty-vehicle projects, the state board shall determine appropriate criteria under the provisions of Section 44287.

(i) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 9. Section 44283 of the Health and Safety Code, as amended by Section 23 of Chapter 401 of the Statutes of 2013, is amended to read:

~~44283. (a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than thirteen thousand six hundred dollars ($13,600) per ton of NO_x reduced in California or a higher value that reflects state consumer price index adjustments on or after January 1, 2006, as determined by the state board. For projects obtaining reactive organic gas and particulate matter reductions, the state board shall determine appropriate adjustment factors to calculate a weighted cost-effectiveness.~~

44283. (a) (1) For all projects funded pursuant to this chapter, except for an infrastructure project described in subdivision (c) of Section 44281, the following cost-effectiveness criteria shall apply:

(A) (i) Project grants shall not be made that exceed a cost-effectiveness, calculated in accordance with this section.

(ii) The state board, in collaboration with the districts, shall establish cost-effectiveness values in the guidelines issued pursuant to Section 44287, taking into consideration factors, including, but not limited to, the following:

(I) The ability of the project to provide ancillary benefits, as defined in paragraph (1) of subdivision (a) of Section 44275, such as reductions in greenhouse gases and short-lived climate pollutants, benefits to communities described in subdivision (a) of Section 43023.5, fuel-efficiency improvements, or the deployment of advanced technology.

(II) The cost of emission control technologies identified in Section 44281.

(III) The cost-effectiveness values for NOx, particulate matter, or reactive organic gases for any adopted rule or control measure in any district's approved state implementation plan, or rule adopted by the state board.

(B) For projects obtaining reactive organic gas and particulate matter reductions, the state board shall determine appropriate adjustment factors to calculate a weighted cost-effectiveness.

(2) When a district board approves funding for a project or project category, the district board:

(A) May recognize the ancillary benefit, as defined in paragraph (1) of subdivision (a) of Section 44275, when determining the grant amount for a project or project category.

(B) Shall, for the meeting approving funding for the project or project category, include in its agenda or supporting materials a brief statement of the rationale for funding that source category, including the basis for selection and the importance of that project type.

(b) Only covered emission reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus covered emission reductions in California from representative project types over the life of the project.

(d) The cost of the covered emission reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, ~~plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project,~~ *or funding provided pursuant to paragraph (2) of subdivision (d) of Section 41081 or subdivision (b) of Section 44229,* not including funds described in ~~paragraphs (1) and (2) of~~ subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275, and with

accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of *energy or* liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a covered emission reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale ~~by the state board.~~ *in the state.* The incremental *energy or* fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental *energy or* fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness. The state board shall develop an appropriate methodology for converting incremental *energy or* fuel costs over the vehicle lifetime into an initial cost for the purposes of determining project cost-effectiveness. Incremental *energy or* fuel costs shall not be included in project costs for fuels dispensed from any facility that was funded, in whole or in part, from the fund.

(g) For *the* purposes of determining any grant amount pursuant to this chapter, ~~the incremental cost of any new purchase, retrofit, repower, or add-on equipment shall be reduced by the value of any current financial incentive that directly reduces the project price, including any tax credits or deductions, grants, or other public financial assistance, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. Project~~ *project* proponents applying for funding shall be required to state in their application any other public financial assistance to the project.

(h) For projects that would repower off-road equipment by replacing uncontrolled diesel engines with new, certified diesel engines, the state board may establish maximum grant award amounts per repower. A repower project shall also be subject to the incremental cost maximum pursuant to subdivision (e).

(i) After study of available emission reduction technologies and costs and after public notice and comment, the state board may

~~reduce~~ *adjust* the values of the maximum grant award criteria stated in this section to improve the ability of the program to achieve its goals. Every year the state board shall adjust the maximum cost-effectiveness amount established in subdivision (a) and any per-project maximum set by the state board pursuant to subdivision (h) to account for inflation *and other economic factors, as determined by the state board*.

(j) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 10. Section 44286 of the Health and Safety Code is amended to read:

44286. (a) The responsibilities of the state board include management of program funds and program oversight. The state board is responsible for producing guidelines, protocols, and criteria for covered vehicle projects and developing methodologies for evaluating project cost-effectiveness in accordance with this chapter. The state board shall have primary responsibility for the reporting aspects of the program.

(b) The responsibilities of a district include local administration of project funds, monitoring funded projects, and reporting results to the state board, in accordance with this chapter. Any project funds awarded to a successful applicant shall be disbursed by the district.

(c) Relative to the allocation of funds in the south coast district, for purposes of this program, Mobile Source Air Pollution Reduction Review Committee funds shall only be used as matching funds upon approval, by minute action, of the Mobile Source Air Pollution Reduction Review Committee.

(d) The state board may reserve up to 10 percent of the program funds available each year to directly fund any project *described in Section 44281* that is multidistrict in nature *or the state board determines contributes toward the achievement of state air quality goals*. A project that is multidistrict in nature shall be funded by the state board in coordination with the appropriate districts. The state board shall coordinate outreach efforts with a participating district to ensure that any parallel availability of a district grant and a grant from the state board is clear to an eligible applicant. Reserved funds not committed to a project funded directly by the

state board by the end of the fiscal year shall be made available to the districts in the following year.

(e) The commission, in consultation with the state board, shall manage the Advanced Technology Account and the Infrastructure Demonstration Program in accordance with this chapter.

(f) The state board shall work closely with the commission and the districts for the duration of this program to maximize the ability of the program to achieve its goals.

(g) The state board and the districts shall take all appropriate and necessary actions to ensure that emissions reductions achieved through the program are credited by the United States Environmental Protection Agency to the appropriate emission reduction objectives in the State Implementation Plan.

SEC. 11. Section 44287 of the Health and Safety Code, as amended by Section 25 of Chapter 401 of the Statutes of 2013, is amended to read:

44287. (a) The state board shall establish or update grant criteria and guidelines consistent with this chapter for covered vehicle *and infrastructure* projects as soon as practicable, but not later than ~~January 1, 2006.~~ *July 1, 2017*. The adoption of guidelines is exempt from the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The state board shall solicit input and comment from the districts during the development of the criteria and guidelines and shall make every effort to develop criteria and guidelines that are compatible with existing district programs that are also consistent with this chapter. Guidelines shall include protocols to calculate project cost-effectiveness. The grant criteria and guidelines shall include safeguards to ensure that the project generates surplus emissions reductions. Guidelines shall enable and encourage districts to cofund projects that provide emissions reductions in more than one district. The state board shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption. The state board may develop separate guidelines and criteria for the different types of eligible projects described in subdivision (a) of Section 44281.

(b) The state board, in consultation with the participating districts, may propose revisions to the criteria and guidelines

established pursuant to subdivision (a) as necessary to improve the ability of the program to achieve its goals. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the state board shall hold at least one public meeting to consider public comments before final adoption of the revision.

(c) The state board shall reserve funds for, and disburse funds to, districts from the fund for administration pursuant to this section and Section 44299.1.

(d) The state board shall develop guidelines for a district to follow in applying for the reservation of funds, in accordance with this chapter. It is the intent of the Legislature that district administration of any reserved funds be in accordance with the project selection criteria specified in Sections 44281, 44282, and 44283 and all other provisions of this chapter. The guidelines shall be established and published by the state board as soon as practicable, but not later than January 1, 2006.

(e) Funds shall be reserved by the state board for administration by a district that adopts an eligible program pursuant to this chapter and offers matching funds at a ratio of one dollar ($1) of matching funds committed by the district or the Mobile Source Air Pollution Reduction Review Committee for every two dollars ($2) committed from the fund. Funds available to the Mobile Source Air Pollution Reduction Review Committee may be counted as matching funds for projects in the South Coast Air Basin only if the committee approves the use of these funds for matching purposes. Matching funds may be any funds under the district's budget authority that are committed to be expended in accordance with the program. Funds committed by a port authority or a local government, in cooperation with a district, to be expended in accordance with the program may also be counted as district matching funds. Matching funds provided by a port authority or a local government ~~may~~ *shall* not exceed 30 percent of the total required matching funds in any district that applies for more than three hundred thousand dollars ($300,000) of the state board funds. Only a district, or a port authority or a local government teamed with a district, may provide matching funds.

(f) The state board may adjust the ratio of matching funds described in subdivision (e), if it determines that an adjustment is necessary in order to maximize the use of, or the air quality benefits

provided by, the program, based on a consideration of the financial resources of the district.

(g) Notwithstanding subdivision (e), a district need not provide matching funds for state board funds allocated to the district for program outreach activities pursuant to paragraph (4) of subdivision (a) of Section 44299.1.

(h) A district may include within its matching funds a reasonable estimate of direct or in-kind costs for assistance in providing program outreach and application evaluation. In-kind and direct matching funds shall not exceed 15 percent of the total matching funds offered by a district. A district may also include within its matching funds any money spent on or after February 25, 1999, that would have qualified as matching funds but were not previously claimed as matching funds.

(i) A district desiring a reservation of funds shall apply to the state board following the application guidelines established pursuant to this section. The state board shall approve or disapprove a district application not later than 60 days after receipt. Upon approval of any district application, the state board shall simultaneously approve a reservation of funding for that district to administer. Reserved funds shall be disbursed to the district so that funding of a district-approved project is not impeded.

~~(j) Notwithstanding any other provision of this chapter, districts and the Mobile Source Air Pollution Reduction Review Committee shall not use funds collected pursuant to Section 41081 or Chapter 7 (commencing with Section 44220), or pursuant to Section 9250.11 of the Vehicle Code, as matching funds to fund a project with stationary or portable engines, locomotives, or marine vessels.~~

~~(k)~~

(j) Any funds reserved for a district *by the state board* pursuant to this section are available *for disbursement* to the district for a period of not more than two years from the time of reservation. Funds not ~~expended~~ *liquidated by a district* by June 30 of the ~~second~~ *fourth* calendar year following the date of the reservation shall ~~revert back to the state board as of that June 30, and shall be deposited in the fund for use by the program. The funds may then be redirected based on applications to the fund. Regardless of any reversion of funds back to the state board, the district may continue to request other reservations of funds for local administration.~~ *be returned to the state board within 90 days for future allocation*

pursuant to this chapter. Each reservation of funds shall be accounted for separately, and unused funds from each application shall revert back to the state board *for use pursuant to this chapter* as specified in this subdivision.

~~(l)~~

(k) The state board shall specify a date each year when district applications are due. If the eligible applications received in any year oversubscribe the available funds, the state board shall reserve funds on an allocation basis, pursuant to Section 44299.2. The state board may accept a district application after the due date for a period of months specified by the state board. Funds may be reserved in response to those applications, in accordance with this chapter, out of funds remaining after the original reservation of funds for the year.

~~(m)~~

(l) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of this chapter, but shall otherwise minimize the information required of a district.

~~(n)~~

(m) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

~~(o)~~

(n) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

~~(p)~~

(o) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (o) as necessary to improve the ability of the program to achieve its goals. A revision may be

proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

~~(q)~~

(p) Unclaimed funds will be allocated by the state board in accordance with Section 44299.2.

~~(r)~~

(q) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 12. Section 44287.1 of the Health and Safety Code is amended to read:

44287.1. (a) The state board shall, at its first opportunity, revise the grant criteria and guidelines adopted pursuant to Section 44287 to incorporate projects in which an applicant turns in nonroad internal combustion technology and equipment that the applicant owns and that still has some useful life, coupled with the purchase of new nonroad zero-emission technology and equipment that is in a similar category or that can perform the same work.

(b) When it evaluates the benefits of a project described in subdivision (a), the state board shall count both of the following emission reduction streams, provided that they are real, enforceable, quantifiable, and surplus emission reductions:

(1) The displacement of the emissions from the older nonroad internal combustion technology and equipment for its remaining life with the new nonroad zero-emission technology and equipment.

(2) After the time period specified in paragraph (1), the displacement of emissions from new nonroad internal combustion technology and equipment meeting the emission standards in place at time of purchase, with the new nonroad zero-emission technology and equipment over its remaining life.

(c) A project described in subdivision (a) shall meet the cost-effectiveness criteria in Section 44283 and all other criteria of the program, including the requirement that the emission reductions be real, enforceable, quantifiable, and surplus.

(d) The incremental cost of a project described in subdivision (a) may include, at the discretion of the applicant, some or all of

the reasonable salvage value of the nonroad internal combustion technology and equipment turned in, as determined by the state ~~board, and some or all of any additional costs incurred for necessary recharging equipment or infrastructure as determined by the state~~ board. However, an applicant that elects to include these costs shall be required to meet the cost-effectiveness criteria in Section 44283.

SEC. 13. Section 44287.2 of the Health and Safety Code is amended to read:

44287.2. (a) By July 1, ~~2011,~~ *2017,* the state board shall revise project grant criteria and guidelines pursuant to Section 44287~~, for a project that reduces greenhouse gas emissions,~~ to allow funds from ~~all of the following programs or~~ *federal, state, and local programs or other public* funding sources to be used for a project also funded under this chapter without those additional public funds being factored into the criteria emission reduction cost-effectiveness ~~calculations:~~ *calculations, if the projects are eligible under those programs and meet all criteria associated with those funding sources. Those other projects include, but are not limited to, any of the following:*

(1) Federal funding from programs designed to reduce greenhouse gas emissions.

~~(2) Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9).~~

(2) State and local funding from programs designed to reduce greenhouse gas emissions, including the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code, and the Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9).

(3) Funding from programs designed to support energy diversity.

(4) Funding from programs that are intended to provide covered emissions reductions but do not require those reductions to be able to be credited to the state implementation plan.

(b) Nothing in this section authorizes the expenditure of funds for a project that does not meet all of the requirements of this chapter, including requirements that require cost sharing or *the* matching of funds. ~~Subdivision (a) does not apply if the additional expenditure would not provide an incremental greenhouse gas~~

~~emission reduction benefit greater than what would otherwise be achieved by the program. The state board shall not exclude funds from the cost-effectiveness calculation pursuant to subdivision (a), if excluding those funds would reduce the emission reduction benefits expected to be achieved from this chapter, federal greenhouse gas emission reduction programs, or the Alternative and Renewable Fuel and Vehicle Technology Program.~~ *The sum of the total grants shall not exceed the project cost. The covered emissions reductions paid for pursuant to this chapter shall not be claimed by the other funding sources.*

(c) Subdivision (a) shall not apply to funds used pursuant to paragraph (2) of subdivision (d) of Section 41081 or subdivision (b) of Section 44229.

SEC. 14. Section 44288 of the Health and Safety Code is amended to read:

44288. (a) An application for a project grant shall be reviewed by the administering district immediately upon receipt. If the administering district determines that an application is incomplete, the applicant shall be notified within ~~five~~ *30* working days with an explanation of what is missing from the application. The date and time of receipt of each application determined to be complete shall be recorded and the completed application shall be evaluated with respect to the appropriate project selection criteria. A district shall make every effort to process an application and grant an award rapidly and to coordinate project approval with any purchase or installation timing constraint on an applicant. Notwithstanding any other provision of this chapter, the administering district may determine that an application is not in good faith, not credible, or not in compliance with this chapter and its objectives.

(b) A participating district may request assistance from the state board on an ~~as needed~~ *as-needed* basis to clarify project evaluation protocols or to obtain information necessary to properly evaluate an application.

(c) An application for a grant for an infrastructure project shall be reviewed by the commission immediately upon receipt. If the commission determines that an application is incomplete, the applicant shall be notified within five working days with an explanation of what is missing from the application. The date and time of receipt of each application determined to be complete shall be recorded and the completed application shall be evaluated with

respect to the appropriate project selection criteria. A complete grant application fulfilling the project selection criteria shall be approved as soon as practicable, but not later than 60 working days after receipt. Notwithstanding any other provision of this chapter, the commission may determine that an application is not in good faith, not credible, or not in compliance with this chapter and its objectives. The commission shall expedite the processing of an application and shall grant an award as rapidly as possible.

(d) Funds shall be awarded in conjunction with the execution of a contract that obligates the state board or a participating district to make the grant and obligates the grantee to take the actions described in the grant application. A contract shall incorporate the recapturing provisions contained in subdivision (c) of Section 44291.

SEC. 15. Section 44291 of the Health and Safety Code is amended to read:

44291. (a) The state board shall assist districts with developing procedures to monitor whether the emission reductions projected in successful grant applications are actually achieved. Monitoring procedures may include project audits, and may also include requirements, as part of the contract between the state board or districts and the grant recipients, that each grant recipient provide information about the project on an annual basis. Information required from grant recipients should be minimized and the format for reporting the information should be made simple and convenient.

(b) As soon as practicable, the ~~commission,~~ *state board*, in consultation with the districts, shall publish procedures to monitor and audit infrastructure projects. These procedures shall ensure that the amount of qualifying fuel dispensed annually is greater than or equal to the amount upon which the grant award is based and that any project qualifying for funding on the basis of public accessibility or limited public accessibility is, in fact, providing that accessibility.

(c) The monitoring and auditing procedures shall be sufficient to allow emission reductions generated to be fully credited to air quality plans. The monitoring procedures shall contain provisions for recapturing grant awards in proportion to any loss of emission reductions or underachievement in dispensing qualifying fuel compared with the reductions and fuel dispensing projected in the

grant application. ~~Funds recaptured shall be deposited in the accounts from which the funds were originally expended. From time to time, monitoring~~ *Monitoring* and auditing procedures shall be revised as appropriate to enhance program effectiveness.

(d) The state board shall monitor district programs to ensure that participating districts conduct their programs consistent with the criteria and guidelines established by the state board and the commission pursuant to this chapter. The monitoring procedures shall contain provisions for ~~recapture~~ *return* of funds not yet awarded to approved projects if a district fails to show that they are implementing a program consistent with the approved program. If the state board determines, pursuant to this subdivision, that moneys from the fund allocated to a district should be ~~recaptured,~~ *returned,* the state board shall hold at least one public meeting to consider public comments prior to ~~recapturing~~ *requiring the return of* the allocated funds. The state board shall make every effort to assist districts to implement programs in an approved manner and shall only ~~recapture~~ *require the return of* allocated funds if these efforts fail to address problems adequately. ~~Recaptured~~ *Returned* funds shall be deposited in the ~~Covered Vehicle Account.~~ *fund.* The state board shall not ~~recapture~~ *require the return of* funds already awarded to approved projects.

(e) Program funds recaptured as a result of a settlement agreement executed by the state board shall be returned to the district that provided the funds to the grant recipient. A penalty resulting from a settlement agreement executed by the state board with a grant recipient or from a civil action brought by the Attorney General shall be deposited in the fund.

SEC. 16. Section 44299.1 of the Health and Safety Code, as amended by Section 28 of Chapter 401 of the Statutes of 2013, is amended to read:

44299.1. (a) To ensure that emission reductions are obtained as needed from pollution sources, any moneys deposited in the fund for use by the program or appropriated to the program shall be segregated and administered as follows:

(1) Not more than ~~2~~ *2.5* percent of the moneys in the fund for use by the program shall be allocated to program support and outreach costs incurred by the state board and the commission directly associated with implementing the program pursuant to this chapter. These funds shall be allocated to the state board and

the commission in proportion to total program funds administered by the state board and the commission.

(2) Not more than ~~2~~ *2.5* percent of the moneys in the fund for use by the program shall be allocated to direct program outreach activities. The state board may use these funds for program outreach contracts or may allocate outreach funds to participating districts in proportion to each district's allocation from the program moneys in the fund. The state board shall report on the use of outreach funds in their reports to the Legislature pursuant to Section 44295.

(3) The balance shall be deposited in the fund to be expended to offset added costs of new very low or zero-emission vehicle technologies, and emission reducing repowers, retrofits, and add-on equipment for covered vehicles and engines, and other projects specified in Section 44281.

(b) Moneys in the fund shall be allocated to a district that submits an eligible application to the state board pursuant to Section 44287. The state board shall determine the maximum amount of annual funding from the fund for use by the program that each district may receive. This determination shall be based on the population in each district as well as the relative importance of obtaining covered emission reductions in each district, specifically through the program.

(c) Not more than ~~5~~ *6.25* percent of the moneys allocated pursuant to this chapter to a district with a population of one million or more may be used by the district for indirect costs of implementation of the program, including outreach costs that are subject to the limitation in paragraph (2) of subdivision (a).

(d) Not more than ~~10~~ *12.5* percent of the moneys allocated pursuant to this chapter to a district with a population of less than one million may be used by the district for indirect costs of implementation of the program, including outreach costs that are subject to the limitation in paragraph (2) of subdivision (a).

~~(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.~~

SEC. 17. Section 44299.1 of the Health and Safety Code, as amended by Section 29 of Chapter 401 of the Statutes of 2013, is repealed.

~~44299.1. (a) To ensure that emission reductions are obtained as needed from pollution sources, any moneys deposited in the fund for use by the program or appropriated to the program shall be segregated and administered as follows:~~

~~(1) Ten percent, not to exceed two million dollars ($2,000,000), shall be allocated to the infrastructure demonstration project to be used pursuant to Section 44284.~~

~~(2) Ten percent shall be deposited in the fund for use by the program to be used to support research, development, demonstration, and commercialization of advanced low-emission technologies for covered sources that show promise of contributing to the goals of the program.~~

~~(3) Not more than 2 percent of the moneys in the fund for use by the program shall be allocated to program support and outreach costs incurred by the state board and the commission directly associated with implementing the program pursuant to this chapter. These funds shall be allocated to the state board and the commission in proportion to total program funds administered by the state board and the commission.~~

~~(4) Not more than 2 percent of the moneys in the fund for use by the program shall be allocated to direct program outreach activities. The state board may use these funds for program outreach contracts or may allocate outreach funds to participating districts in proportion to each district's allocation from the fund for use by the program. The state board shall report on the use of outreach funds in their reports to the Legislature pursuant to Section 44295.~~

~~(5) The balance shall be deposited in the fund for use by the program to be expended to offset added costs of new very low or zero-emission vehicle technologies, and emission reducing repowers, retrofits, and add-on equipment for covered vehicles and engines.~~

~~(b) Moneys in the fund for use by the program shall be allocated to a district that submits an eligible application to the state board pursuant to Section 44287. The state board shall determine the maximum amount of annual funding from the fund for use by the program that each district may receive. This determination shall be based on the population in each district as well as the relative importance of obtaining NO_x reductions in each district, specifically through the program.~~

~~(c) This section shall become operative on January 1, 2024.~~

SEC. 18. Section 44299.2 of the Health and Safety Code is amended to read:

44299.2. Funds shall be allocated to districts, and shall be subject to administrative terms and conditions as follows:

(a) Available funds shall be distributed to districts taking into consideration the population of the area, the severity of the air quality problems experienced by the population, and the historical allocation of the program funds, except that the south coast district shall be allocated a percentage of the total funds available to districts that is proportional to the percentage of the total state population residing within the jurisdictional boundaries of that district. For the purposes of this subdivision, population shall be determined by the state board based on the most recent data provided by the Department of Finance. The allocation to the south coast district shall be subtracted from the total funds available to districts. Each district, except the south coast district, shall be awarded a minimum allocation of two hundred thousand dollars ($200,000), and the remainder, which shall be known as the "allocation amount," shall be allocated to all districts as follows:

(1) The state board shall distribute 35 percent of the allocation amount to the districts in proportion to the percentage of the total residual state population that resides within each district's boundaries. For purposes of this paragraph, "total residual state population" means the total state population, less the total population that resides within the south coast district.

(2) The state board shall distribute 35 percent of the allocation amount to the districts in proportion to the severity of the air quality problems to which each district's population is exposed. The severity of the exposure shall be calculated as follows:

(A) Each district shall be awarded severity points based on the district's attainment designation and classification, as most recently promulgated by the federal Environmental Protection Agency for the National Ambient Air Quality Standard for ozone averaged over eight hours, as follows:

(i) A district that is designated attainment for the federal eight-hour ozone standard shall be awarded one point.

(ii) A district that is designated nonattainment for the federal eight-hour ozone standard shall be awarded severity points based on classification. Two points shall be awarded for transitional,

basic, or marginal classifications, three points for moderate classification, four points for serious classification, five points for severe classification, six points for severe-17 classification, and seven points for extreme classification.

(B) Each district shall be awarded severity points based on the annual diesel particulate emissions in the air basin, as determined by the state board. One point shall be awarded to the district, in increments, for each 1,000 tons of diesel particulate emissions. In making this determination, 0 to 999 tons shall be awarded no points, 1,000 to 1,999 tons shall be awarded one point, 2,000 to 2,999 tons shall be awarded two points, and so forth. If a district encompasses more than one air basin, the air basin with the greatest diesel particulate emissions shall be used to determine the points awarded to the district. The San Diego County Air Pollution Control District and the Imperial County Air Pollution Control District shall be awarded one additional point each to account for annual diesel particulate emissions transported from Mexico.

(C) The points awarded under subparagraphs (A) and (B), shall be added together for each district, and the total shall be multiplied by the population residing within the district boundaries, to yield the local air quality exposure index.

(D) The local air quality exposure index for each district shall be summed together to yield a total state exposure index. Funds shall be allocated under this paragraph to each district in proportion to its local air quality exposure index divided by the total state exposure index.

(3) The state board shall distribute 30 percent of the allocation amount to the districts in proportion to the allocation of funds from the program moneys in the fund, as follows:

(A) Because each district is awarded a minimum allocation pursuant to subdivision (a), there shall be no additional minimum allocation from the program historical allocation funds. The total amount allocated in this way shall be subtracted from total funding previously awarded to the district under the program, and the remainder, which shall be known as directed funds, shall be allocated pursuant to subparagraph (B).

(B) Each district with a population that is greater than or equal to 1 percent of the state's population shall receive an additional allocation based on the population of the district and the district's relative share of emission reduction commitments in the state

implementation plan to attain the National Ambient Air Quality Standard for ozone averaged over one hour. This additional allocation shall be calculated as a percentage share of the directed funds for each district, derived using a ratio of each district's share amount to the base amount, which shall be calculated as follows:

(i) The base amount shall be the total program funds allocated by the state board to the districts in the 2002–03 fiscal year, less the total of the funds allocated through the minimum allocation to each district in the 2002–03 fiscal year.

(ii) The share amount shall be the allocation that each district received in the 2002–03 fiscal year, not including the minimum allocation. There shall be one share amount for each district.

(iii) The percentage share shall be calculated for each district by dividing the district's share amount by the base amount, and multiplying the result by the total directed funds available under this subparagraph.

(b) Funds shall be distributed as expeditiously as reasonably practicable, and a report of the distribution shall be made available to the public.

~~(c) All funds allocated pursuant to this section shall be expended as provided in the guidelines adopted pursuant to Section 44287 within two years from the date of allocation. Funds not expended within the two years shall be returned to the program moneys in the fund within 60 days and shall be subject to further allocation as follows:~~

~~(1) Within 30 days of the deadline to return funds, the state board shall notify the districts of the total amount of returned funds available for reallocation, and shall list those districts that request supplemental funds from the reallocation and that are able to expend those funds within one year.~~

~~(2) Within 90 days of the deadline to return funds, the state board shall allocate the returned funds to the districts listed pursuant to paragraph (1).~~

~~(3) All supplemental funds distributed under this subdivision shall be expended consistent with the program within one year of the date of supplemental allocation. Funds not expended within one year shall be returned to the program moneys in the fund and shall be distributed at the discretion of the state board to districts, taking into consideration each district's ability to expeditiously utilize the remaining funds consistent with the program.~~

~~(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.~~

(c) All funds allocated pursuant to this section shall be liquidated as provided for in the guidelines adopted pursuant to Section 44287 by June 30 four years following the year of allocation. Funds not liquidated within the four years shall be returned to the state board within 90 days for future allocation pursuant to this chapter.

~~SECTION 1. It is the intent of the Legislature to enact legislation to amend the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code) to achieve even greater air quality benefits.~~

O

ATTACHMENT 2E

SB 350 (De León and Leno)

Clean Energy and Pollution Reduction Act of 2015

Summary: This bill would implement new "50-50-50" benchmark standards by raising California's Renewable Portfolio Standard (RPS) from 33% to 50%, striving for a 50% reduction in petroleum use, and doubling energy efficiency in buildings by the year 2030.

Background:

Renewable Portfolio Standard - Existing law establishes the California RPS, which calls for the amount of electricity generated per year from renewable energy resources to be increased to at least 33% of the total electricity sold to retail customers in California by December 31, 2020. The bill's authors argue that renewable energy is as cost-effective as fossil fuels and produces much less pollution. According to the International Renewable Energy Agency, renewable power generation costs in 2014 were either equal to or less than the cost of coal, oil, and gas-fired power plants.

In 2011, Governor Jerry Brown signed legislation to increase the RPS to 33% by the year 2020. The bill's authors claim that currently, most energy utilities have bought or have built enough energy resources to meet the 33% RPS before the target year. Also, according to numerous studies, California's RPS standard has created hundreds of thousands of new jobs, millions of new investment and tax dollars, and significant clean air and climate benefits.

Reduction in Petroleum Use - The authors explain that according to the California Air Resources Board (CARB), production, refining, and the use of petroleum accounts for nearly half of greenhouse gas (GHG) emissions, 80% of smog-forming pollution, and over 95% of cancer-causing diesel particulate matter. CARB also notes that oil dependence costs the state $33-55 billion annually, and that reducing petroleum use and improving vehicle efficiency will cut costs and improve California's economic productivity and competitiveness.

In the effort to improve air quality over the last two decades, California has made cars significantly more efficient and less consuming of petroleum fuels. The bill's authors argue that using less petroleum in transportation fuels saves money, creates jobs, and reduces pollution. For example, over 100,000 miles, a 40 mpg car saves $16,668 in fuel costs compared to a 15 mpg car over 100,000 miles (assuming $4/gallon fuel costs).

Energy Efficiency in Buildings - The authors point out that energy efficient buildings save money and reduce pollution from electricity. According to the California Energy Commission (Energy Commission), efficiency standards return an average of $6,200 in energy savings per household over 30 years on heating, cooling, and lighting bills. These

same standards save 200 million gallons of water per year and avoid 170,500 tons of GHG emissions per year. Since 1978, the state's standards have saved Californians $66 billion in electricity and natural gas savings.

State energy agencies allocate over $1.5 billion per year on energy efficiency programs. Roughly $1 billion is spent by the California Public Utilities Commission (PUC) and utilities via utility-sponsored programs such as rebates for high-efficiency appliances, heating and A/C systems, and insulation. In addition, Proposition 39—The California Clean Energy Jobs Act—has generated approximately $500 million annually to assist schools in switching to clean energy and reducing energy use, which creates jobs and saves money that can be reinvested into classrooms. Under current law, although California has energy efficiency standards for new buildings and appliances, implementation challenges include the lack of enforcement mechanisms and accountability.

Status Update: 4/7/15 - The Senate Energy, Utilities and Communications Committee passed the bill out of committee without amendment on an 8-3 vote.

Specific Provisions: Specifically, this bill would:

1. Express the intent of the Legislature, with respect to the RPS program, that the amount of electricity generated per year from renewable energy resources be increased to at least 50% by December 31, 2030;
2. Require standards created by CARB related to emissions from motor vehicles to be developed in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030;
3. State the policy of the state is to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030; and
4. Require the Energy Commission, by January 1, 2017, and at least once every three years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

Impacts on SCAQMD's mission, operations or initiatives: The authors state that the purpose of this legislation is to create jobs, grow the state's economy, and to improve public health by setting new standards for California's RPS, reducing petroleum use, and increasing energy efficiency in existing buildings. The authors also state that SB 350 makes these standards permanent, trackable, and enforceable by enacting them into law. The authors argue that each of these new standards would be added to existing clean air, clean energy, and climate related statutes that have been implemented for years. For example, under current law, CARB must reduce pollution to achieve state and federal ambient air standards. Current law (Health and Safety Code Section 42013) requires CARB to adopt standards for vehicles and fuels to achieve clean air. This measure ensures that those actions will achieve a 50% reduction in petroleum by 2030.

This bill is in line with SCAQMD's priorities regarding reducing GHG, criteria pollutant and toxic emissions within the South Coast region. Through this bill's multi-faceted efforts, there will be co-benefit reductions in criteria and toxic emissions that will help protect the health of South Coast residents and meet state and federal ambient air quality standards. The bill is also consistent with SCAQMD's priority to facilitate the development and deployment of clean transportation technology and to promote the usage of cleaner alternative fuels.

Previous Legislative Committee Action on March 13, 2015 established a position to: Actively Monitor SB 350 (De Leon).

ATTACHMENT 2F

SENATE BILL No. 350

Introduced by Senators De León and Leno
(Coauthors: Senators Hancock and Monning)

February 24, 2015

An act to amend Section 43013 of the Health and Safety Code, to amend Sections 25000.5 and 25943 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.15, 399.16, 399.18, 399.21, and 399.30 of, to add Section 454.51 to, and to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as introduced, De León. Clean Energy and Pollution Reduction Act of 2015.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards.

Existing law establishes the California Renewables Portfolio Standard (RPS) program, which expresses the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020. Existing law requires the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all

subsequent years. Existing law includes as an eligible renewable energy resources a specified facility engaged in the combustion of municipal solid waste.

Existing law makes the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board is responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities is given to the State Energy Resources Conservation and Development Commission (Energy Commission) and State Air Resources Board, instead of the PUC.

This bill would additionally express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030. The bill would require the governing boards of local publicly owned electric utilities to ensure that specified quantities of electricity products from eligible renewable energy resources to be procured for specified compliance periods to ensure that the procurement of electricity products from eligible renewable energy resources achieve 50% of retail sales by December 31, 2030. The bill would exclude all facilities engaged in the combustion of municipal solid waste from being eligible renewable energy resources. The bill would require community choice aggregators and electric service providers to prepare and submit renewable energy procurement plans. The bill would revise other aspects of the RPS program, including, among other things, the enforcement provisions and would require penalties collected for noncompliance to be deposited in the Electric Program Investment Charge Fund. The bill would require the PUC to direct electrical corporations to include in their proposed procurement plans a strategy for procuring a diverse portfolio of resources that provide a reliable electricity supply. The bill would require the PUC and the Energy Commission to take certain actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

(2) Under existing law, a violation of the RPS program is a crime.

Because the provisions of this bill would expand the RPS program, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) By placing additional requirements upon local publicly owned electric utilities, this bill would impose a state-mandated local program.

(4) Existing law requires the State Air Resources Board to adopt and implement various standards related to emissions from motor vehicles.

This bill would require those standards to be in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030.

(5) Existing law states the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic costs.

This bill would additionally state the policy of the state to exploit those conservation and improvements in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030.

(6) Existing law requires the Energy Commission to establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock and to periodically update criteria for the program.

This bill would require the Energy Commission, by January 1, 2017, and at least once every 3 years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

(7) 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 reasons.

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

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

SECTION 1. This act shall be known and may be cited as the Clean Energy and Pollution Reduction Act of 2015.

SEC. 2. (a) The Legislature finds and declares that the Governor has called for a new set of objectives in clean energy, clean air, and pollution reduction for 2030 and beyond. Those objectives consist of the following:

(1) To increase from 33 percent to 50 percent, the procurement of our electricity from renewable sources.

(2) To reduce today's petroleum use in cars and trucks by up to 50 percent.

(3) To double the efficiency of existing buildings.

(b) It is the intent of the Legislature in enacting this act to codify the targets described under subdivision (a) to ensure they are permanent, enforceable, and quantifiable.

SEC. 3. Section 43013 of the Health and Safety Code is amended to read:

43013. (a) The state board shall adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible, to carry out the purposes of this ~~division,~~ *division and in furtherance of achieving a reduction in petroleum use in motor vehicles by 50 percent by January 1, 2030,* unless preempted by federal law.

(b) The state board shall, consistent with subdivision (a), adopt standards and regulations for light-duty and heavy-duty motor vehicles, medium-duty motor vehicles, as determined and specified by the state board, portable fuel containers and spouts, and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

(c) Prior to adopting standards and regulations for farm equipment, the state board shall hold a public hearing and find and determine that the standards and regulations are necessary, cost effective, and technologically feasible. The state board shall also consider the technological effects of emission control standards on the cost, fuel consumption, and performance characteristics of mobile farm equipment.

(d) Notwithstanding subdivision (b), the state board shall not adopt any standard or regulation affecting locomotives until the final study required under Section 5 of Chapter 1326 of the Statutes

of 1987 has been completed and submitted to the Governor and Legislature.

(e) Prior to adopting or amending any standard or regulation relating to motor vehicle fuel specifications pursuant to this section, the state board shall, after consultation with public or private entities that would be significantly impacted as described in paragraph (2) of subdivision (f), do both of the following:

(1) Determine the cost-effectiveness of the adoption or amendment of the standard or regulation. The cost-effectiveness shall be compared on an incremental basis with other mobile source control methods and options.

(2) Based on a preponderance of scientific and engineering data in the record, determine the technological feasibility of the adoption or amendment of the standard or regulation. That determination shall include, but is not limited to, the availability, effectiveness, reliability, and safety expected of the proposed technology in an application that is representative of the proposed use.

(f) Prior to adopting or amending any motor vehicle fuel specification pursuant to this section, the state board shall do both of the following:

(1) To the extent feasible, quantitatively document the significant impacts of the proposed standard or specification on affected segments of the state's economy. The economic analysis shall include, but is not limited to, the significant impacts of any change on motor vehicle fuel efficiency, the existing motor vehicle fuel distribution system, the competitive position of the affected segment relative to border states, and the cost to consumers.

(2) Consult with public or private entities that would be significantly impacted to identify those investigative or preventive actions that may be necessary to ensure consumer acceptance, product availability, acceptable performance, and equipment reliability. The significantly impacted parties shall include, but are not limited to, fuel manufacturers, fuel distributors, independent marketers, vehicle manufacturers, and fuel users.

(g) To the extent that there is any conflict between the information required to be prepared by the state board pursuant to subdivision (f) and information required to be prepared by the state board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the requirements established under subdivision (f) shall prevail.

(h) It is the intent of the Legislature that the state board act as expeditiously as is feasible to reduce nitrogen oxide emissions from diesel vehicles, marine vessels, and other categories of vehicular and mobile sources which significantly contribute to air pollution problems.

SEC. 4. Section 25000.5 of the Public Resources Code is amended to read:

25000.5. (a) The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation ~~fuels,~~ *fuels and options*, including the costs and values of environmental impacts, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the "least environmental and economic cost" strategy, it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic ~~cost.~~ *cost, and in furtherance of reducing petroleum use in the transportation sector by 50 percent by January 1, 2030.*

(c) It is also the policy of this state to minimize the economic and environmental costs due to the use of petroleum-based and other transportation fuels by state agencies. In implementing a least-cost economic and environmental strategy for state fleets, it is the policy of the state to implement practicable and cost-effective measures, including, but not necessarily limited to, the purchase of the cleanest and most efficient automobiles and replacement tires, the use of alternative fuels in its fleets, and other conservation measures.

(d) For the purposes of this section, "petroleum based fuels" means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquefied petroleum gas, or the energy fraction of methyl tertiary-butyl ether (MTBE) or other ethers that is not attributed to natural gas.

SEC. 5. Section 25943 of the Public Resources Code is amended to read:

25943. (a) (1) By March 1, 2010, the commission shall establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. This program shall comprise a complementary portfolio of techniques, applications, and practices that will achieve greater energy efficiency in existing residential and nonresidential structures that fall significantly below the current standards in Title 24 of the California Code of Regulations, as determined by the commission.

(2) The comprehensive program may include, but need not be limited to, a broad range of energy assessments, building benchmarking, energy rating, cost-effective energy efficiency improvements, public and private sector energy efficiency financing options, public outreach and education efforts, and green workforce training.

(b) To develop and implement the program specified in subdivision (a), the commission shall do both of the following:

(1) Coordinate with the Public Utilities Commission and consult with representatives from the Bureau of Real Estate, the Department of Housing and Community Development, investor-owned and publicly owned utilities, local governments, real estate licensees, commercial and homebuilders, commercial property owners, small businesses, mortgage lenders, financial institutions, home appraisers, inspectors, energy rating organizations, consumer groups, environmental and environmental justice groups, and other entities the commission deems appropriate.

(2) Hold at least three public hearings in geographically diverse locations throughout the state.

(c) In developing the requirements for the program specified in subdivision (a), the commission shall consider all of the following:

(1) The amount of annual and peak energy savings, greenhouse gas emission reductions, and projected customer utility bill savings that will accrue from the program.

(2) The most cost-effective means and reasonable timeframes to achieve the goals of the program.

(3) The various climatic zones within the state.

(4) An appropriate method to inform and educate the public about the need for, benefits of, and environmental impacts of, the comprehensive energy efficiency program.

(5) The most effective way to report the energy assessment results and the corresponding energy efficiency improvements to the owner of the residential or nonresidential building, including, among other things, the following:

(A) Prioritizing the identified energy efficiency improvements.

(B) The payback period or cost-effectiveness of each improvement identified.

(C) The various incentives, loans, grants, and rebates offered to finance the improvements.

(D) Available financing options including all of the following:

(i) Mortgages or sales agreement components.

(ii) On-bill financing.

(iii) Contractual property tax assessments.

(iv) Home warranties.

(6) Existing statutory and regulatory requirements to achieve energy efficiency savings and greenhouse gas emission reductions.

(7) A broad range of implementation approaches, including both utility and nonutility administration of energy efficiency programs.

(8) Any other considerations deemed appropriate by the commission.

(d) The program developed pursuant to this section shall do all of the following:

(1) Minimize the overall costs of establishing and implementing the comprehensive energy efficiency program requirements.

(2) Ensure, for residential buildings, that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. A transfer of property subject to the program implemented pursuant to this section shall not be invalidated solely because of the failure of a person to comply with a provision of the program.

(3) Ensure, for nonresidential buildings, that the energy improvements do not have an undue economic impact on California businesses.

(4) Determine, for residential buildings, the appropriateness of the Home Energy Rating System (HERS) program to support the goals of this section and whether there are a sufficient number of HERS-certified raters available to meet the program requirements.

(5) Determine, for nonresidential structures, the availability of an appropriate cost-effective energy efficiency assessment system and whether there are a sufficient number of certified raters or auditors available to meet the program requirements.

(6) Coordinate with the California Workforce Investment Board, the Employment Training Panel, the California Community Colleges, and other entities to ensure a qualified, well-trained workforce is available to implement the program requirements.

(7) Coordinate with, and avoid duplication of, existing proceedings of the Public Utilities Commission and programs administered by utilities.

(e) A home energy rating or energy assessment service does not meet the requirements of this section unless the service has been certified by the commission to be in compliance with the program criteria developed pursuant to this section and is in conformity with other applicable elements of the program.

(f) *(1)* The commission shall periodically update the criteria and adopt any revision that, in its judgment, is necessary to improve or refine program requirements after receiving public input.

(2) On or before January 1, 2017, and at least once every three years thereafter, the commission shall adopt an update to the program in furtherance of achieving a doubling of the energy efficiency of buildings by January 1, 2030.

(g) Before implementing an element of the program developed pursuant to subdivision (a) that requires the expansion of statutory authority of the commission or the Public Utilities Commission, the commission and the Public Utilities Commission shall obtain legislative approval for the expansion of their authorities.

(h) The commission shall report on the status of the program in the integrated energy policy report pursuant to Section 25302.

(i) The commission shall fund activities undertaken pursuant to this section from the Federal Trust Fund consistent with the federal American Recovery and Reinvestment Act of 2009 (Public

Law 111-5) or other sources of nonstate funds available to the commission for the purposes of this section.

(j) For purposes of this section, "energy assessment" means a determination of an energy user's energy consumption level, relative efficiency compared to other users, and opportunities to achieve greater efficiency or improve energy resource utilization.

SEC. 6. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2013, ~~and~~ 33 percent by December 31, 2020, *and 50 percent by December 31, 2030,* it is the intent of the Legislature that the commission and the Energy Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Achieving the renewables portfolio standard through the procurement of various electricity products from eligible renewable energy resources is intended to provide unique benefits to California, including all of the following, each of which independently justifies the program:

(1) Displacing fossil fuel consumption within the state.

(2) Adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area.

(3) Reducing air pollution in the state.

(4) Meeting the state's climate change goals by reducing emissions of greenhouse gases associated with electrical generation.

(5) Promoting stable retail rates for electric service.

(6) Meeting the state's need for a diversified and balanced energy generation portfolio.

(7) Assistance with meeting the state's resource adequacy requirements.

(8) Contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief.

(9) Implementing the state's transmission and land use planning activities related to development of eligible renewable energy resources.

(c) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the Energy Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(d) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

(e) (1) Supplying electricity to California end-use customers that is generated by eligible renewable energy resources is necessary to improve California's air quality and public health, and the commission shall ensure rates are just and reasonable, and are not significantly affected by the procurement requirements of this article. This electricity may be generated anywhere in the interconnected grid that includes many states, and areas of both Canada and Mexico.

(2) This article requires generating resources located outside of California that are able to supply that electricity to California end-use customers to be treated identically to generating resources located within the state, without discrimination.

(3) California electrical corporations have already executed, and the commission has approved, power purchase agreements with eligible renewable energy resources located outside of California that will supply electricity to California end-use customers. These resources will fully count toward meeting the renewables portfolio standard procurement requirements. ~~In addition, there are nearly 7,000 megawatts of additional proposed renewable energy resources located outside of California that are awaiting interconnection approval from the Independent System Operator. All of these resources, if procured, will count as eligible renewable energy resources that satisfy the portfolio content requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

SEC. 7. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other

manmade conduit that is operated to distribute water for a beneficial use.

(b) "Balancing authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

(c) "Balancing authority area" means the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance.

(d) "California balancing authority" is a balancing authority with control over a balancing authority area primarily located in this state and operating for retail sellers and local publicly owned electric utilities subject to the requirements of this article and includes the Independent System Operator (ISO) and a local publicly owned electric utility operating a transmission grid that is not under the operational control of the ISO. A California balancing authority is responsible for the operation of the transmission grid within its metered boundaries which may not be limited by the political boundaries of the State of California.

(e) "Eligible renewable energy resource" means an electrical generating facility that meets the definition of a "renewable electrical generation facility" in Section 25741 of the Public Resources Code, subject to the following:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller or local publicly owned electric utility procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility that commences generation of electricity after December 31, 2005, is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(C) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a "renewable electrical generation facility" as defined in Section 25741 of the Public Resources Code.

(D) (i) A small hydroelectric generation unit with a nameplate capacity not exceeding 40 megawatts that is operated as part of a water supply or conveyance system is an eligible renewable energy resource only for the retail seller or local publicly owned electric utility that procured the electricity from the unit as of December 31, 2005. No unit shall be eligible pursuant to this subparagraph if an application for certification is submitted to the Energy Commission after January 1, 2013. Only one retail seller or local publicly owned electric utility shall be deemed to have procured electricity from a given unit as of December 31, 2005.

(ii) Notwithstanding clause (i), a local publicly owned electric utility that meets the criteria of subdivision (j) of Section 399.30 may sell to another local publicly owned electric utility electricity from small hydroelectric generation units that qualify as eligible renewable energy resources under clause (i), and that electricity may be used by the local publicly owned electric utility that purchased the electricity to meet its renewables portfolio standard procurement requirements. The total of all those sales from the utility shall be no greater than 100,000 megawatthours of electricity.

(iii) The amendments made to this subdivision by the act adding this subparagraph are intended to clarify existing law and apply from December 10, 2011.

(2) *(A)* A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy ~~resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.~~ *resource.*

(B) Subparagraph (A) does not apply to contracts entered into before January 1, 2016, for the procurement of renewable energy resources from a facility located in Stanislaus County that was operational prior to September 26, 1996.

(f) "Procure" means to acquire through ownership or contract.

(g) "Procurement entity" means any person or corporation authorized by the commission to enter into contracts to procure eligible renewable energy resources on behalf of customers of a retail seller pursuant to subdivision (f) of Section 399.13.

(h) (1) "Renewable energy credit" means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section 399.25, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) (A) Electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity used to generate electricity in the same process through which the facility converts renewable fuel to electricity, shall not result in the creation of a renewable energy credit. The Energy Commission shall set the de minimis quantity of nonrenewable fuels for each renewable energy technology at a level of no more than 2 percent of the total quantity of fuel used by the technology to generate electricity. The Energy Commission may adjust the de minimis quantity for an individual facility, up to a maximum of 5 percent, if it finds that all of the following conditions are met:

(i) The facility demonstrates that the higher quantity of nonrenewable fuel will lead to an increase in generation from the eligible renewable energy facility that is significantly greater than generation from the nonrenewable fuel alone.

(ii) The facility demonstrates that the higher quantity of nonrenewable fuels will reduce the variability of its electrical output in a manner that results in net environmental benefits to the state.

(iii) The higher quantity of nonrenewable fuel is limited to either natural gas or hydrogen derived by reformation of a fossil fuel.

(B) Electricity generated by a small hydroelectric generation facility shall not result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (A) or (D) of paragraph (1) of subdivision (e).

(C) Electricity generated by a conduit hydroelectric generation facility shall not result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (e).

(D) Electricity generated by a facility engaged in the combustion of municipal solid waste shall not result in the creation of a renewable energy ~~credit unless the facility meets the requirements of paragraph (2) of subdivision (e).~~ *credit. This subparagraph does not apply to renewable energy credits that were generated before January 1, 2016, by a facility engaged in the combustion of municipal solid waste located in Stanislaus County that was operational prior to September 26, 1996, and sold pursuant to contacts entered into before January 1, 2016.*

(i) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(j) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. ~~The commission shall institute a rulemaking to determine the manner in which a~~ *A* community choice aggregator ~~will~~ *shall* participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section ~~218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program.~~ *218.3*. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. This paragraph does not impair a contract entered into between an electric service provider and a retail customer prior to the

suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

(k) "WECC" means the Western Electricity Coordinating Council of the North American Electric Reliability Corporation, or a successor to the corporation.

SEC. 8. Section 399.13 of the Public Utilities Code is amended to read:

399.13. (a) (1) The commission shall direct each electrical corporation to annually prepare a renewable energy procurement plan that includes the matter in paragraph (5), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary. *The commission shall require all other retail sellers to prepare and submit renewable energy procurement plans that address the requirements identified in paragraph (5).*

(2) Every electrical corporation that owns electrical transmission facilities shall annually prepare, as part of the Federal Energy Regulatory Commission Order 890 process, and submit to the commission, a report identifying any electrical transmission facility, upgrade, or enhancement that is reasonably necessary to achieve the renewables portfolio standard procurement requirements of this article. Each report shall look forward at least five years and, to ensure that adequate investments are made in a timely manner, shall include a preliminary schedule when an application for a certificate of public convenience and necessity will be made, pursuant to Chapter 5 (commencing with Section 1001), for any electrical transmission facility identified as being reasonably necessary to achieve the renewable energy resources

procurement requirements of this article. Each electrical corporation that owns electrical transmission facilities shall ensure that project-specific interconnection studies are completed in a timely manner.

(3) The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

(A) The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

(C) Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

(4) The commission shall adopt, by rulemaking, all of the following:

(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall take into account all of the following:

(i) Estimates of indirect costs associated with needed transmission investments.

(ii) The cost impact of procuring the eligible renewable energy resources on the electrical corporation’s electricity portfolio.

(iii) The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be supplied as required by the contract.

(iv) Workforce recruitment, training, and retention efforts, including the employment growth associated with the construction and operation of eligible renewable energy resources and goals for recruitment and training of women, minorities, and disabled veterans.

(v) (I) Estimates of electrical corporation expenses resulting from integrating and operating eligible renewable energy resources, including, but not limited to, any additional wholesale energy and capacity costs associated with integrating each eligible renewable resource.

(II) No later than December 31, 2015, the commission shall approve a methodology for determining the integration costs described in subclause (I).

(B) Rules permitting retail sellers to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period. The rules shall apply equally to all retail sellers. In determining the quantity of excess procurement for the applicable compliance period, the commission shall deduct from actual procurement quantities the total amount of procurement associated with contracts of less than 10 years in ~~duration. In no event shall~~ *duration and* electricity products meeting the portfolio content of paragraph (3) of subdivision (b) of Section ~~399.16 be counted as excess procurement.~~ *399.16.*

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource, at a minimum, shall include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information

about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(D) An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled. This paragraph does not preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

(5) Consistent with the goal of increasing California's reliance on eligible renewable energy resources, the renewable energy procurement plan ~~submitted by an electrical corporation~~ shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Potential compliance delays related to the conditions described in paragraph (5) of subdivision (b) of Section 399.15.

(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

(D) A status update on the development schedule of all eligible renewable energy resources currently under contract.

(E) Consideration of mechanisms for price adjustments associated with the costs of key components for eligible renewable energy resource projects with online dates more than 24 months after the date of contract execution.

(F) An assessment of the risk that an eligible renewable energy resource will not be built, or that construction will be delayed, with the result that electricity will not be delivered as required by the contract.

(6) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years duration, unless the commission approves of a contract of shorter duration.

(7) In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted

with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

(b) A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration.

(c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation.

(d) Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority ~~pursuant to Section 2113~~ to require compliance. ~~The commission shall enforce comparable penalties on any retail seller that is not an electrical corporation that fails to meet the procurement targets established pursuant to Section 399.15.~~

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller's renewables portfolio standard procurement requirements. The commission shall not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of

end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 9. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article. For any retail seller procuring at least 14 percent of retail sales from eligible renewable energy resources in 2010, the deficits associated with any previous renewables portfolio standard shall not be added to any procurement requirement pursuant to this article.

(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:

(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods:

(A) January 1, 2011, to December 31, 2013, inclusive.

(B) January 1, 2014, to December 31, 2016, inclusive.

(C) January 1, 2017, to December 31, 2020, inclusive.

(D) January 1, 2021, to December 31, 2024, inclusive.

(E) January 1, 2025, to December 31, 2027, inclusive.

(D) January 1, 2028, to December 31, 2030, inclusive.

(2) (A) No later than January 1, ~~2012,~~ *2017,* the commission shall establish the quantity of electricity products from eligible renewable energy resources to be procured by the retail seller for each compliance period. These quantities shall be established in the same manner for all retail sellers and result in the same percentages used to establish compliance period quantities for all retail sellers.

(B) In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, ~~and~~ 33 percent ~~of retail sales~~ by December 31, ~~2020.~~ *2020, 40 percent by December 31, 2024, 45 percent by December 31, 2027, and 50 percent by December 31, 2030.* The commission shall *establish appropriate multiyear compliance periods for all subsequent years that* require retail sellers to procure not less than ~~33~~ *50* percent of retail sales of electricity products from eligible renewable energy ~~resources in all subsequent years.~~ *resources.*

(C) Retail sellers shall be obligated to procure no less than the quantities associated with all intervening years by the end of each compliance period. Retail sellers shall not be required to demonstrate a specific quantity of procurement for any individual intervening year.

(3) The commission may require the procurement of eligible renewable energy resources in excess of the quantities specified in paragraph (2).

(4) Only for purposes of establishing the renewables portfolio standard procurement requirements of paragraph (1) and determining the quantities pursuant to paragraph (2), the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code in the calculation of retail sales by an electrical corporation.

(5) The commission shall waive enforcement of this section if it finds that the retail seller has demonstrated any of the following

conditions are beyond the control of the retail seller and will prevent compliance:

(A) There is inadequate transmission capacity to allow for sufficient electricity to be delivered from proposed eligible renewable energy resource projects using the current operational protocols of the Independent System Operator. In making its findings relative to the existence of this condition with respect to a retail seller that owns transmission lines, the commission shall consider both of the following:

(i) Whether the retail seller has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of a retail seller's actions, the commission shall consider the retail seller's expectations for full-cost recovery for these transmission lines and upgrades.

(ii) Whether the retail seller has taken all reasonable operational measures to maximize cost-effective deliveries of electricity from eligible renewable energy resources in advance of transmission availability.

(B) Permitting, interconnection, or other circumstances that delay procured eligible renewable energy resource projects, or there is an insufficient supply of eligible renewable energy resources available to the retail seller. In making a finding that this condition prevents timely compliance, the commission shall consider whether the retail seller has done all of the following:

(i) Prudently managed portfolio risks, including relying on a sufficient number of viable projects.

(ii) Sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate eligible renewable energy resources. This clause shall not require an electrical corporation to pursue development of eligible renewable energy resources pursuant to Section 399.14.

(iii) Procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to compensate for foreseeable delays or insufficient supply.

(iv) Taken reasonable measures, under the control of the retail seller, to procure cost-effective distributed generation and allowable unbundled renewable energy credits.

(C) Unanticipated curtailment of eligible renewable energy resources necessary to address the needs of a balancing authority.

(6) If the commission waives the compliance requirements of this section, the commission shall establish additional reporting requirements on the retail seller to demonstrate that all reasonable actions under the control of the retail seller are taken in each of the intervening years sufficient to satisfy future procurement requirements.

(7) The commission shall not waive enforcement pursuant to this section, unless the retail seller demonstrates that it has taken all reasonable actions under its control, as set forth in paragraph (5), to achieve full compliance.

(8) If a retail seller fails to procure sufficient eligible renewable energy resources to comply with a procurement requirement pursuant to paragraphs (1) and (2) and fails to obtain an order from the commission waiving enforcement pursuant to paragraph (5), the commission shall ~~exercise its authority pursuant to Section 2113.~~ *assess penalties for noncompliance. A schedule of penalties shall be adopted by the commission that shall be comparable for electrical corporations and other retail sellers. For electrical corporations, the cost of any penalties shall not be collected in rates. Any penalties collected under this article shall be deposited into the Electric Program Investment Charge Fund and used for the purposes described in Chapter 8.1 (commencing with Section 25710) of Division 15 of the Public Resources Code.*

(9) Deficits associated with the compliance period shall not be added to a future compliance period.

(c) The commission shall establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. ~~In establishing this limitation, the commission shall rely on the following:~~ *This limitation shall be set at a level that prevents disproportionate rate impacts.*

~~(1) The most recent renewable energy procurement plan.~~

~~(2) Procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources.~~

~~(3) The potential that some planned resource additions may be delayed or canceled.~~

~~(d) In developing the limitation pursuant to subdivision (c), the commission shall ensure all of the following:~~

~~(1) The limitation is set at a level that prevents disproportionate rate impacts.~~

~~(2) The costs of all procurement credited toward achieving the renewables portfolio standard are counted towards the limitation.~~

~~(3) Procurement expenditures do not include any indirect expenses, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, transmission upgrades, or the costs associated with relicensing any utility-owned hydroelectric facilities.~~

~~(e) (1) No later than January 1, 2016, the commission shall prepare a report to the Legislature assessing whether each electrical corporation can achieve a 33-percent renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the adopted cost limitations. If the commission determines that it is necessary to change the limitation for procurement costs incurred by any electrical corporation after that date, it may propose a revised cap consistent with the criteria in subdivisions (c) and (d). The proposed modifications shall take effect no earlier than January 1, 2017.~~

~~(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.~~

~~(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(f)~~

(d) If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the long-term procurement plan established for the electrical corporation pursuant to Section 454.5.

~~(g)~~

(e) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

(A) Investigate and identify the reasons why the electrical corporation may exceed its annual cost limitation.

(B) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its cost limitation, and include the reasons why the electrical corporation may exceed its cost limitation.

~~(h)~~

(f) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

SEC. 10. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) Various electricity products from eligible renewable energy resources located within the WECC transmission network service area shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity products may be differentiated by their impacts on the operation of the grid in supplying electricity, as well as, meeting the requirements of this article.

(b) Consistent with the goals of procuring the least-cost and best-fit electricity products from eligible renewable energy resources that meet project viability principles adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 399.13 and that provide the benefits set forth in Section 399.11, a balanced portfolio of eligible renewable energy resources shall be procured consisting of the following portfolio content categories:

(1) Eligible renewable energy resource electricity products that meet either of the following criteria:

(A) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California

balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.

(2) Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.

(3) Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2).

(c) In order to achieve a balanced portfolio, all retail sellers shall meet the following requirements for all procurement credited toward each compliance period:

(1) Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent ~~thereafter~~ *for the compliance period ending December 31, 2020,* of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b). *Each retail seller shall continue to satisfy the product content requirements applicable to procurement quantities associated with the compliance period ending December 31, 2020, and ensure that, for compliance periods ending after December 31, 2020, not less than 75 percent of the incremental renewable procurement requirements in each compliance period shall be satisfied with eligible renewable energy resource electricity products meeting the requirements of paragraph (1) of subdivision (b).*

(2) Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent ~~thereafter~~ *for compliance period ending December 31, 2020,* of the eligible renewable energy resource electricity products associated with contracts executed

after June 1, 2010, shall meet the product content requirements of paragraph (3) of subdivision (b). *For the compliance periods ending after December 31, 2020, not more than 10 percent of the incremental renewable procurement requirements in each compliance period shall be satisfied with eligible renewable energy resource electricity products meeting the requirements of paragraph (3) of subdivision (b).*

(3) Any renewable energy resources contracts executed on or after June 1, 2010, not subject to the limitations of paragraph (1) or (2), shall meet the product content requirements of paragraph (2) of subdivision (b).

(4) For purposes of electric service providers only, the restrictions in this subdivision on crediting eligible renewable energy resource electricity products to each compliance period shall apply to contracts executed after January 13, 2011.

(d) Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full toward the procurement requirements established pursuant to this article, if all of the following conditions are met:

(1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.

(2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.

(3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

(e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance *period* obligation after December 31, 2016.

SEC. 11. Section 399.18 of the Public Utilities Code is amended to read:

399.18. (a) This section applies to an electrical corporation that as of January 1, 2010, met either of the following conditions:

(1) Served 30,000 or fewer customer accounts in California and had issued at least four solicitations for eligible renewable energy resources prior to June 1, 2010.

(2) Had 1,000 or fewer customer accounts in California and was not connected to any transmission system or to the Independent System Operator.

(b) For an electrical corporation or its successor, electricity products from eligible renewable energy resources may be used for compliance with this article, notwithstanding any procurement content limitation in Section 399.16, provided that ~~both~~ *all* of the following conditions are met:

(1) The electrical corporation or its successor participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.25.

(2) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the requirements of Section 399.15.

(3) The electrical corporation continues to satisfy either of the conditions described in subdivision (a).

SEC. 12. Section 399.21 of the Public Utilities Code is amended to read:

399.21. (a) The commission, by rule, shall authorize the use of renewable energy credits to satisfy the renewables portfolio standard procurement requirements established pursuant to this article, subject to the following conditions:

(1) ~~Prior to authorizing any renewable energy credit to be used toward satisfying the renewables portfolio standard procurement requirements, the~~ *The* commission and the Energy Commission shall ~~conclude~~ *ensure* that the tracking system established pursuant to subdivision (c) of Section 399.25, is operational, is capable of independently verifying that electricity earning the credit is generated by an eligible renewable energy resource, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the WECC.

(2) Each renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state

or any other state, or for verifying retail product claims in this state or any other state.

(3) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

(4) Renewable energy credits shall not be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Procurement under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.25 and included in the quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(5) Renewable energy credits shall not be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement under the electricity purchase contracts shall be tracked through the accounting system implemented by the Energy Commission pursuant to subdivision (b) of Section 399.25 and count toward the renewables portfolio standard procurement requirements of the purchasing retail seller.

(6) A renewable energy credit shall not be eligible for compliance with a renewables portfolio standard procurement requirement unless it is retired in the tracking system established pursuant to subdivision (c) of Section 399.25 by the retail seller or local publicly owned electric utility within 36 months from the initial date of generation of the associated electricity.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing, selling, and administering renewable energy credit contracts in rates.

SEC. 13. Section 399.30 of the Public Utilities Code is amended to read:

399.30. (a) To fulfill unmet long-term generation resource needs, each local publicly owned electric utility shall adopt and implement a renewable energy resources procurement plan that requires the utility to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of total

kilowatthours sold to the utility's retail end-use customers, each compliance period, to achieve the targets of subdivision (c).

(b) The governing board shall implement procurement targets for a local publicly owned electric utility that require the utility to procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods:

(1) January 1, 2011, to December 31, 2013, inclusive.

(2) January 1, 2014, to December 31, 2016, inclusive.

(3) January 1, 2017, to December 31, 2020, inclusive.

(D) January 1, 2021, to December 31, 2024, inclusive.

(E) January 1, 2025, to December 31, 2027, inclusive.

(D) January 1, 2028, to December 31, 2030, inclusive.

(c) The governing board of a local publicly owned electric utility shall ensure all of the following:

(1) The quantities of eligible renewable energy resources to be procured for the compliance period from January 1, 2011, to December 31, 2013, inclusive, are equal to an average of 20 percent of retail sales.

(2) The quantities of eligible renewable energy resources to be procured for all other compliance periods reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, ~~and~~ 33 percent ~~of retail sales~~ by December 31, ~~2020.~~ *2020, 40 percent by December 31, 2024, 45 percent by December 31, 2027, and 50 percent by December 31, 2030.* The ~~local governing board shall~~ *Energy Commission shall establish appropriate multiyear compliance periods for all subsequent years that* require the local publicly owned electric ~~utilities~~ *utility* to procure not less than ~~33~~ *50* percent of retail sales of electricity products from eligible renewable energy ~~resources in all subsequent years.~~ *resources.*

(3) A local publicly owned electric utility shall adopt procurement requirements consistent with Section 399.16.

(d) The governing board of a local publicly owned electric utility may adopt the following measures:

(1) Rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods in the same manner as allowed for retail sellers pursuant to Section 399.13.

(2) Conditions that allow for delaying timely compliance consistent with subdivision (b) of Section 399.15.

(3) Cost limitations for procurement expenditures consistent with subdivision (c) of Section 399.15.

(e) The governing board of the local publicly owned electric utility shall adopt a program for the enforcement of this ~~article on or before January 1, 2012.~~ *article.* The program shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' notice shall be given to the public of any meeting held for purposes of adopting the program. Not less than 10 days' notice shall be given to the public before any meeting is held to make a substantive change to the program.

(f) (1) Each local publicly owned electric utility shall annually post notice, in accordance with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, whenever its governing body will deliberate in public on its renewable energy resources procurement plan.

(2) Contemporaneous with the posting of the notice of a public meeting to consider the renewable energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting in order to enable the Energy Commission to post the information on its Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.

(3) Upon distribution to its governing body of information related to its renewable energy resources procurement status and future plans, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make that information available to the public and shall provide the Energy Commission with an electronic copy of the documents for posting on the Energy Commission's Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

(g) A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division

Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.

(h) For a local publicly owned electric utility that was in existence on or before January 1, 2009, that provides retail electric service to 15,000 or fewer customer accounts in California, and is interconnected to a balancing authority located outside this state but within the WECC, an eligible renewable energy resource includes a facility that is located outside California that is connected to the WECC transmission system, if all of the following conditions are met:

(1) The electricity generated by the facility is procured by the local publicly owned electric utility, is delivered to the balancing authority area in which the local publicly owned electric utility is located, and is not used to fulfill renewable energy procurement requirements of other states.

(2) The local publicly owned electric utility participates in, and complies with, the accounting system administered by the Energy Commission pursuant to this article.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the renewables portfolio standard procurement requirements.

(i) Notwithstanding subdivision (a), for a local publicly owned electric utility that is a joint powers authority of districts established pursuant to state law on or before January 1, 2005, that furnish electric services other than to residential customers, and is formed pursuant to the Irrigation District Law (Division 11 (commencing with Section 20500) of the Water Code), the percentage of total kilowatthours sold to the district's retail end-use customers, upon which the renewables portfolio standard procurement requirements in subdivision (b) are calculated, shall be based on the authority's average retail sales over the previous seven years. If the authority has not furnished electric service for seven years, then the calculation shall be based on average retail sales over the number of completed years during which the authority has provided electric service.

(j) A local publicly owned electric utility in a city and county that only receives greater than 67 percent of its electricity sources from hydroelectric generation located within the state that it owns and operates, and that does not meet the definition of a "renewable electrical generation facility" pursuant to Section 25741 of the

Public Resources Code, shall be required to procure eligible renewable energy resources, including renewable energy credits, to meet only the electricity demands unsatisfied by its hydroelectric generation in any given year, in order to satisfy its renewable energy procurement requirements.

(k) (1) A local publicly owned electric utility that receives greater than 50 percent of its annual retail sales from its own hydroelectric generation that is not an eligible renewable energy resource shall not be required to procure additional eligible renewable energy resources in excess of either of the following:

(A) The portion of its retail sales not supplied by its own hydroelectric generation. For these purposes, retail sales supplied by an increase in hydroelectric generation resulting from an increase in the amount of water stored by a dam because the dam is enlarged or otherwise modified after December 31, 2012, shall not count as being retail sales supplied by the utility's own hydroelectric generation.

(B) The cost limitation adopted pursuant to this section.

(2) For the purposes of this subdivision, "hydroelectric generation" means electricity generated from a hydroelectric facility that satisfies all of the following:

(A) Is owned solely and operated by the local publicly owned electric utility as of 1967.

(B) Serves a local publicly owned electric utility with a distribution system demand of less than 150 megawatts.

(C) Involves a contract in which an electrical corporation receives the benefit of the electric generation through June of 2014, at which time the benefit reverts back to the ownership and control of the local publicly owned electric utility.

(D) Has a maximum penstock flow capacity of no more than 3,200 cubic feet per second and includes a regulating reservoir with a small hydroelectric generation facility producing fewer than 20 megawatts with a maximum penstock flow capacity of no more than 3,000 cubic feet per second.

(3) This subdivision does not reduce or eliminate any renewable procurement requirement for any compliance period ending prior to January 1, 2014.

(4) This subdivision does not require a local publicly owned electric utility to purchase additional eligible renewable energy

resources in excess of the procurement requirements of subdivision (c).

(*l*) A local publicly owned electric utility shall retain discretion over both of the following:

(1) The mix of eligible renewable energy resources procured by the utility and those additional generation resources procured by the utility for purposes of ensuring resource adequacy and reliability.

(2) The reasonable costs incurred by the utility for eligible renewable energy resources owned by the utility.

(m) ~~On or before July 1, 2011, the~~ *The* Energy Commission shall adopt regulations *specifying the requirements under this article and require local governing boards to adopt timely requirements consistent with this article. The Energy Commission shall adopt regulations* specifying procedures for enforcement of ~~this article.~~ *these requirements, including the adoption of a schedule of penalties to be imposed pursuant to subdivision (n).* The regulations shall include a public process under which the Energy Commission may issue a notice of violation and correction against a local publicly owned electric utility for failure to comply with this ~~article, and for referral of violations to the State Air Resources Board for penalties pursuant to subdivision (o).~~ *article and assess penalties pursuant to subdivision (n).*

(n) ~~(1)~~ Upon a determination by the Energy Commission that a local publicly owned electric utility has failed to comply with this article, the Energy Commission shall ~~refer the failure to comply with this article to the State Air Resources Board, which may~~ impose penalties ~~to enforce this article consistent with Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code. Any penalties imposed shall be~~ comparable to those adopted by the commission for noncompliance by retail sellers. *Any penalties collected under this article shall be deposited into the Electric Program Investment Charge Fund and used for the purposes described in Chapter 8.1 (commencing with Section 25710) of Division 15 of the Public Resources Code.*

~~(2) If Division 25.5 (commencing with Section 38500) of the Health and Safety Code is suspended or repealed, the State Air Resources Board may take action to enforce this article on local publicly owned electric utilities consistent with Section 41513 of the Health and Safety Code, and impose penalties on a local~~

~~publicly owned electric utility consistent with Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26 of the Health and Safety Code.~~

~~(3) For the purpose of this subdivision, this section is an emissions reduction measure pursuant to Section 38580 of the Health and Safety Code.~~

~~(4) If the State Air Resources Board has imposed a penalty upon a local publicly owned electric utility for the utility's failure to comply with this article, the State Air Resources Board shall not impose an additional penalty for the same infraction, or the same failure to comply, with any renewables procurement requirement imposed upon the utility pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).~~

~~(5) Any penalties collected by the State Air Resources Board pursuant to this article shall be deposited in the Air Pollution Control Fund and, upon appropriation by the Legislature, shall be expended for reducing emissions of air pollution or greenhouse gases within the same geographic area as the local publicly owned electric utility.~~

~~(o) The commission has no authority or jurisdiction to enforce any of the requirements of this article on a local publicly owned electric utility.~~

SEC. 14. Article 17 (commencing with Section 400) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 17. Clean Energy and Pollution Reduction

400. The commission and the Energy Commission shall do all of the following in furtherance of meeting the state's clean energy and pollution reduction objectives:

(a) Take into account the benefits of distributed generation and promote the use of distributed generation where it provides economic and environmental benefits, particularly in disadvantaged communities as identified pursuant to Section 39711 of the Health and Safety Code.

(b) Allow for consideration of costs and benefits of grid integration in proceedings associated with meeting the objectives.

(c) Where feasible, adopt rules for integrating renewable energy that minimize system power and fossil fuel purchases and, where feasible and consistent with other state policy objectives, increase the use of energy storage, demand response, and other low-emission or zero- technologies to protect system reliability.

(d) Review technology incentive programs overseen by the commission and the Energy Commission and make recommendations for adjustments that more effectively and consistently align with state clean energy and pollution reduction objectives, and that provide benefits to disadvantaged communities as identified pursuant to Section 39711 of the Health and Safety Code.

(e) To the extent feasible, give first priority to the manufacture and deployment of clean energy and pollution reduction technologies that create employment opportunities, including high wage, highly skilled employment opportunities, and increased investment in the state.

SEC. 15. Section 454.51 is added to the Public Utilities Code, to read:

454.51. The commission shall direct each electrical corporation to include in its proposed procurement plan a strategy for procuring a diverse portfolio of resources that provide a reliable electricity supply, including renewable energy integration needs, using zero carbon-emitting resources to the maximum extent reasonable. The net capacity costs of those resources shall be allocated on a fully nonbypassable basis consistent with the treatment of costs identified in paragraph (2) of subdivision (c) of Section 365.1.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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ATTACHMENT 3

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

LEGISLATIVE REPORT
FROM HOME RULE ADVISORY GROUP
MEETING OF MARCH 11, 2015

HRAG members present:
Dr. Joseph Lyou, Chairman
Elaine Chang, SCAQMD
Mike Carroll, Latham & Watkins on behalf of the Regulatory Flexibility Group
Curt Coleman, Southern California Air Quality Alliance
Chris Gallenstein, CARB (participated by phone)
Bill LaMarr, California Small Business Alliance
Art Montez, AMA International
Diane Moss, Renewables 100 Policy Institute
Rongsheng Luo, SCAG (participated by phone)
Bill Quinn, CCEEB (participated by phone)
Terry Roberts, American Lung Association of California (participated by phone)
David Rothbart, Los Angeles County Sanitation Districts
Larry Rubio, Riverside Transit Agency (participated by phone)
Larry Smith, Riverside Cement
TyRon Turner, We Care About You
Lee Wallace, So Cal Gas and SDG&E
Mike Wang, WSPA

Others: Mark Abramowitz (Board Consultant to Dr. Lyou); Daniel McGivney (SoCalGas/SDG&E); Susan Stark (Tesoro); Shelby Livingston, Scott King, and Patrick Au (CARB) by phone.

AQMD Staff: Jill Whynot, Bill Wong, and Marilyn Traynor

LEGISLATIVE UPDATE

Dr. Lyou reviewed the following items that are scheduled to be discussed at the Legislative Committee meeting on Friday, March 13, 2015:

Bills	Description	Legislative Committee's Recommended Action
AB 335 (Patterson)	Air quality: minor violations.	Oppose
AB 678 ()'Donnell)	Greenhouse gases: Energy Efficient Ports Program.	Support with amendments
SB 350 (de León/Leno)	Clean Energy and Pollution Reduction Act of 2015	Monitor

AB 335 (Patterson)
This bill would require CARB and air pollution control and air quality management districts to adopt regulations classifying minor violations. The bill would define the term "notice to comply" and would require a representative of those agencies, who in the course of conducting an inspection detects a minor violation, to issue a notice to comply, as specified.

AB 678 ()'Donnell)
This bill would require the state board, in conjunction with the State Energy Resources Conservation and Development Commission, to develop and implement the Energy Efficient Ports Program to fund energy efficiency upgrades and investments at public ports. SCAQMD staff is recommending amendments to include greenhouse gases, criteria pollutants, and toxics. Another suggested amendment is to require installation of cold iron or shore power infrastructure compatible with AMECS technology.

SB 350 (de León/Leno)
This bill would express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030. In addition, this bill includes provisions supporting efforts to achieve a 50% reduction in petroleum use by January 1, 2030, and requires the CEC to develop and update a program that seeks to double energy efficiency in buildings by January 1, 2030.

Discussion
Mr. LaMarr asked what the ground rules are for issuing a Notice to Comply. Jill Whynot responded that generally Notices of Violation are emissions related whereas Notices to Comply are for administrative issues such as records requests. Mr. LaMarr asked if Notices to Comply are included in the FIND Program. Ms. Whynot responded that FIND includes Notices to Comply as well as Notices of Violation. Some Notices to Comply eventually result in Notices of Violation if the recipient does not comply with the request.