South Coast
Air Quality Management District
South Coast AQMD 21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

LEGISLATIVE COMMITTEE MEETING

Committee Members
Mayor Pro Tem Michael A. Cacciotti, Chair
Council Member Joe Buscaino, Vice Chair
Dr. William A. Burke
Senator Vanessa Delgado (Ret.)
Supervisor V. Manuel Perez
Supervisor Janice Rutherford

April 9, 2021 ♦ 9:00 a.m.

Pursuant to Governor Newsom's Executive Orders N-25-20 (March 12, 2020) and N-29-20 (March 17, 2020), the South Coast AQMD Legislative Committee meeting will only be conducted via video conferencing and by telephone. Please follow the instructions below to join the meeting remotely.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION AT BOTTOM OF AGENDA

Join Zoom Webinar Meeting - from PC or Laptop
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Zoom Webinar ID: 995 7405 0701 (applies to all)

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Audience will be able to provide public comment through telephone or Zoom connection during public comment periods.

PUBLIC COMMENT WILL STILL BE TAKEN

AGENDA

Members of the public may address this body concerning any agenda item before or during consideration of that item (Gov't. Code Section 54954.3(a)). If you wish to speak, raise your hand on Zoom or press Star 9 if participating by telephone. All agendas for regular meetings are posted at South Coast AQMD Headquarters, 21865 Copley Drive, Diamond Bar, California, at least 72 hours in advance of the regular meeting. Speakers may be limited to three (3) minutes each.

CALL TO ORDER

- **Roll Call**

ACTION ITEM (Item 1):

1. Recommend Position on State Bills
   (Motion Requested)
   This item is to seek approval from the committee on staff's recommendation for position on the following bills:
   [Attachment 1a-1l]

Bill#	Author	Bill Title	
AB 365	O'Donnell	Sales and use taxes: exclusion: zero-emission and near-zero-emission drayage trucks	*Philip Crabbe III Public Affairs Manager, Legislative, Public Affairs & Media*
AB 762	Lee	Hazardous emissions and substances: school sites: private and charter schools	*Philip Crabbe III*
AB 1001	C. Garcia	Environmental permitting and air pollution	*Philip Crabbe III*
SB 596	Becker	Greenhouse gases: cement and concrete production	*Philip Crabbe III*
HR 848	Thompson	Growing Renewable Energy and Efficiency Now (GREEN) Act of 2021	*Lisa Tanaka O'Malley Senior Public Affairs Manager, Legislative, Public Affairs & Media*
HR 1512	Pallone, Tonko, Rush	Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act	*Lisa Tanaka O'Malley*

DISCUSSION OR ACTION ITEMS (Items 2 through 4):

2. Update on South Coast AQMD Board membership legislation — *Philip Crabbe III*
   (No Motion Required)
   Staff will provide an update on AB 1296 (Kamlager) South Coast Air Quality Management District: District Board: Membership and SB 342 (Gonzalez) South Coast Air Quality Management District: Board Membership.
   [No Written Report]

3. Update and Discussion on Federal Legislative Issues
(No Motion Required)
Consultants will provide a brief oral report of Federal legislative activities in Washington DC.
[Attachment 2a-2c - Written Reports]

Jed Dearborn
Cassidy & Associates

Mark Kadesh
Kadesh & Associates, LLC

Gary Hoitsma
Carmen Group

4. Update and Discussion on State Legislative Issues
(No Motion Required)
Consultants will provide a brief oral report on State legislative activities in Sacramento.
[Attachment 3a-3c - Written Reports]

Ross Buckley
California Advisors, LLC

Paul Gonsalves
Joe A. Gonsalves & Son

David Quintana
Resolute

OTHER MATTERS:

5. Other Business
Any member of this body, or its staff, on his or her own initiative or in response to questions posed by the public, may ask a question for clarification, may make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter, or may take action to direct staff to place a matter of business on a future agenda. (Govt. Code Section 54954.2)

6. Public Comment Period
At the end of the regular meeting agenda, an opportunity is provided for the public to speak on any subject within the Legislative Committee's authority that is not on the agenda. Speakers may be limited to three (3) minutes each.

7. **Next Meeting Date –** Friday, May 14, 2021 at 9:00 am.

ADJOURNMENT

Document Availability
All documents (i) constituting non-exempt public records, (ii) relating to an item on an agenda for a regular meeting, and (iii) having been distributed to at least a majority of the Committee after the agenda is posted, are available by contacting Aisha Reyes at (909) 396-3074, or send the request to areyes2@aqmd.gov.

Americans with Disabilities Act and Language Accessibility
Disability and language-related accommodations can be requested to allow participation in the Legislative Committee meeting. The agenda will be made available, upon request, in appropriate alternative formats to assist persons with a disability (Gov't Code Section 54954.2(a)). In addition, other documents may be requested in alternative formats and languages. Any disability or language-related accommodation must be requested as soon as

practicable. Requests will be accommodated unless providing the accommodation would result in a fundamental alteration or undue burden to South Coast AQMD. Please contact Aisha Reyes at (909) 396-3074 from 7:00 a.m. to 5:30 p.m., Tuesday through Friday, or send the request to areyes2@aqmd.gov.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Instructions for Participating in a Virtual Meeting as an Attendee

As an attendee, you will have the opportunity to virtually raise your hand and provide public comment.

Before joining the call, please silence your other communication devices such as your cell or desk phone. This will prevent any feedback or interruptions during the meeting.

Please note: During the meeting, all participants will be placed on mute by the host. You will not be able to mute or unmute your lines manually.

After each agenda item, the Chairman will announce public comment.

A countdown timer will be displayed on the screen for each public comment.

If interpretation is needed, more time will be allotted.

Once you raise your hand to provide public comment, your name will be added to the speaker list. Your name will be called when it is your turn to comment. The host will then unmute your line.

Directions for Video ZOOM on a DESKTOP/LAPTOP:

- If you would like to make a public comment, please click on the **"Raise Hand"** button on the bottom of the screen.
- This will signal to the host that you would like to provide a public comment and you will be added to the list.

Directions for Video Zoom on a SMARTPHONE:

- If you would like to make a public comment, please click on the **"Raise Hand"** button on the bottom of your screen.
- This will signal to the host that you would like to provide a public comment and you will be added to the list.

Directions for TELEPHONE line only:

- If you would like to make public comment, please **dial *9** on your keypad to signal that you would like to comment.

ATTACHMENT 1A

South Coast Air Quality Management District
Legislative Analysis Summary – AB 365 (O'Donnell)
Version: Introduced – 2/1/2021
Analyst: SD

AB 365 (O'Donnell)

Sales and use taxes: exclusion: zero-emission and near-zero-emission drayage trucks.

Summary: This bill would exclude from the terms "gross receipts" and "sales price" for purposes of the Sales and Use Tax Law the amount charged for the purpose of a new or used zero or near-zero emission drayage truck that qualifies, on or after January 1, 2021, for certain emission reduction programs. This exclusion does not apply to local sales and use taxes or transaction and use taxes.

Background: Drayage trucks are heavy-duty trucks that transport containers and other material to and from ports and rail facilities. According to the author's office, an estimated 30,000 drayage trucks serve California's ports, most of them used.

California's diesel-fueled heavy-duty truck fleet is a significant contributor to statewide greenhouse gas (GHG) emissions and air pollution containing particulate matter, carbon monoxide, sulfur dioxide, and toxic air contaminants. These chemicals can lead to serious health consequences, including eye, throat, and lung irritation; exacerbation of asthma, allergies, and cardiovascular disease; neurological and reproductive disorders; cancer; and premature death. This pollution disproportionately affects disadvantaged communities, which are frequently located along major transportation corridors. To mitigate the effects of these vehicles and other sources of GHGs, California has set itself apart as a worldwide leader in climate policy, committing to ambitious emissions reduction goals that the state must meet over the next few decades. In addition, the federal government has designated the South Coast Air Basin as a "nonattainment area" that must meet specific air quality deadlines beginning in 2023.

The author argues that the transition to clean drayage trucks will be an uphill battle due to the price differential between diesel and newer, cleaner technologies. Used drayage trucks cost around $50,000 while new zero-emission drayage trucks cost around $350,000. A $350,000 truck will be subject to approximately $80,000 in federal, state, and local taxes and fees, about $21,000 of which will constitute state sales and use tax. Unless the state offsets the cost of new and used zero- and near-zero-emission drayage trucks, it will be difficult for individuals and small fleets to transition to cleaner technology. Even if the state provides funding to support these purchases, the taxes on the full price of the truck may be cost prohibitive for smaller operators.

Status: 2/12/21 Referred to Asm. Comm. on REV. & TAX.

Specific Provisions: This bill would exclude sales and use tax from being charged for the purchase of a new or used zero- and near-zero-emission drayage truck that qualifies, on or before January 1, 2021, for any of the following:

a) The California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project funded by the Air Quality Improvement Program;
b) The Carl Moyer Memorial Air Quality Standards Attainment Program; and
c) The Volkswagen Environmental Mitigation Trust.

The exclusion does not apply with respect to any tax levied by a county, city, or district.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: AB 365 will ease the transition to clean drayage trucks by exempting the purchase of new and used zero- and near-zero-emission drayage trucks from the state sales and use tax. This tax incentive will help in the efforts to transition the fleet of high emitting diesel trucks to cleaner technology, to reduce goods movement related emissions that are harmful to the port communities and the region. This incentive will help protect public health and facilitate attainment of federal air quality standards.

South Coast AQMD staff proposes a friendly amendment to the bill that would provide that the sales tax exemption provided for in the bill apply to new and used zero- and near-zero-emission drayage trucks that qualify for any applicable incentive program, not just the three identified by the current bill language.

Recommended Position: SUPPORT

Support:
Port of Los Angeles (Sponsor)
Port of Long Beach (Sponsor)
California Association of Port Authorities (Sponsor)
Harbor Trucking Association (Sponsor)

Opposition:
N/A

ATTACHMENT 1B

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 365

Introduced by Assembly Member O'Donnell

February 1, 2021

An act to amend Sections 6011 and 6012 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 365, as introduced, O'Donnell. Sales and use taxes: exclusion: zero-emission and near-zero-emission drayage trucks.

Existing sales and use tax laws impose taxes on retailers measured by gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. The Sales and Use Tax Law defines the terms "gross receipts" and "sales price."

This bill would exclude from the terms "gross receipts" and "sales price" for purposes of the Sales and Use Tax Law the amount charged for the purchase of a new or used drayage truck that qualifies, on or after January 1, 2021, for certain emission reduction programs.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

This bill would specify that this exclusion does not apply to local sales and use taxes or transactions and use taxes.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

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

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

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

(a) In 2020, the State Air Resources Board adopted regulations to reduce greenhouse gas emissions from heavy-duty trucks and drayage trucks. These regulations include a first-in-the-world rule requiring truck manufacturers to transition from diesel trucks and vans to electric zero-emission trucks beginning in 2024 and requiring every new truck sold in California to be zero-emission by 2045. The State Air Resources Board approved the "Heavy-Duty Low NOx Omnibus Regulation," which requires manufacturers of heavy-duty diesel trucks to comply with tougher emission standards, overhaul engine testing procedures, and further extend engine warranties to ensure that emissions of oxides of nitrogen are reduced to help California meet federal air quality standards and critical public health goals.

(b) Also in 2020, Governor Gavin Newsom issued Executive Order No. N-79-20, which, among other things, requires all drayage trucks in the state to be zero-emission by 2035 and sets a number of vehicle emissions goals for the state, including having 100 percent of heavy-duty vehicles in the state be zero-emission by 2045.

(c) There are an estimated 300,000 drayage trucks that service California's ports each year. Most of these are used trucks. Used drayage trucks cost around $50,000. New zero-emission trucks cost $350,000. Unless funding is provided to offset the cost of new and used zero-emission trucks, it will be nearly impossible for individuals and small businesses to comply with the new requirement. If funding is provided to offset the cost of new and used zero-emission trucks, the sales and use tax will be too high for people to afford since it will be based on the full price of the truck.

(d) Legislation is necessary to exclude zero-emission and near-zero-emission drayage trucks from the state portion of the sales and use tax so individuals will be able to afford these new and used trucks to be in compliance with state mandates to meet the state's greenhouse gas emissions and public health goals.

(e) The state currently exempts the following items from certain state sales and use taxes:

(1) Zero-emission technology transit buses.

(2) Certain government purchases of public passenger transportation vehicles.

(3) Certain new or remanufactured trucks, truck tractors, semitrailers, or trailers that have an unladen weight of 6,000 pounds or more, or new or remanufactured trailer coaches or new or remanufactured auxiliary dollies, purchased from a dealer located outside this state for use without this state.

(4) Diesel fuel consumed during the activities of a farming business or food processing, as specified.

(5) Farm equipment, machinery, and their parts sold to or purchased by specified persons engaged in the business of producing and harvesting agricultural products.

(6) Certain equipment used in manufacturing, research and development in biotechnology, and research and development in the physical, engineering, and life sciences.

(7) Electric power generation and distribution equipment when sold to or purchased by certain qualifying electric power generators or distributors for use primarily in electric power generation or production, or storage and distribution activities.

SEC. 2. Section 6011 of the Revenue and Taxation Code is amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that ~~he or she~~ *the purchaser* is entitled to either a direct refund or credit against ~~his or her~~ *the purchaser's* income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, ~~use~~ *use*, or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, "technology transfer agreement" means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

(12) (A) The amount of tax imposed by any Indian tribe within the State of California with respect to a retail sale of tangible personal property measured by a stated percentage of the sales or purchase price, whether the tax is imposed upon the retailer or the consumer.

(B) The exclusion authorized by subparagraph (A) shall only apply to those retailers who are in substantial compliance with this part.

(13) (A) The amount charged for the purchase of a new or used drayage truck that qualifies, on or after January 1, 2021, for any of the following:

(i) The California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project funded by the Air Quality Improvement Program established pursuant to Section 44274 of the Health and Safety Code.

(ii) 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).

(iii) The Volkswagen Environmental Mitigation Trust for California pursuant to Section 39614 of the Health and Safety Code.

(B) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6

(commencing with Section 7251)), the exclusion established by this paragraph does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

SEC. 3. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with any rules and regulations as the ~~board~~ *department* may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed ~~his or her~~ *its* vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If that deduction is taken by the retailer, no refund or credit will be allowed to ~~his or her~~ *its* vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, ~~credits~~ *credits*, and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain

the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that ~~he or she~~ *the purchaser* is entitled to either a direct refund or credit against ~~his or her~~ *the purchaser's* income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, ~~use~~ *use*, or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the

retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, “technology transfer agreement” means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

(12) (A) The amount of tax imposed by any Indian tribe within the State of California with respect to a retail sale of tangible personal property measured by a stated percentage of the sales or purchase price, whether the tax is imposed upon the retailer or the consumer.

(B) The exclusion authorized by subparagraph (A) shall only apply to those retailers who are in substantial compliance with this part.

For purposes of the sales tax, if the retailers establish to the satisfaction of the ~~board~~ *department* that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

(13) (A) The amount charged for the purchase of a new or used drayage truck that qualifies, on or after January 1, 2021, for any of the following:

(i) The California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project funded by the Air Quality Improvement Program established pursuant to Section 44274 of the Health and Safety Code.

(ii) 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).

(iii) The Volkswagen Environmental Mitigation Trust for California pursuant to Section 39614 of the Health and Safety Code.

(B) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exclusion established by this paragraph does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

SEC. 4. (a) It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code to this act.

(b) With respect to paragraph (13) of subdivision (c) of Sections 6011 and 6012 of the Revenue and Taxation Code, as amended by this act, the Legislature finds and declares as follows:

(1) The goal of paragraph (13) of subdivision (c) of Sections 6011 and 6012 of the Revenue and Taxation Code, as amended by this act, is to help achieve California's greenhouse gas reduction goals and the goal of having 100 percent of drayage trucks in California be zero-emission by 2035, and also incentivize the purchase of new and used zero-emission and near-zero-emission drayage trucks.

(2) The performance indicators related to this act are as follows:

(A) The annual number of zero-emission and near-zero-emission drayage trucks purchased.

(B) The annual number of purchased drayage trucks that are not zero-emission or near-zero-emission drayage trucks.

(c) To measure the goals set forth in paragraph (1) of subdivision (b), the California Department of Tax and Fee Administration shall measure how many Californians used the sales and use tax exclusion set forth in paragraph (13) of subdivision (c) of Sections 6011 and 6012 of the Revenue and Taxation Code, as amended by this act, and report to the Legislature biannually on its findings beginning on and after January 1, 2022. The reports shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

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South Coast Air Quality Management District
Legislative Analysis Summary – AB 762 (Lee)
Version: As Amended – 3/30/2021
Analyst: PC

AB 762 (Lee)

Hazardous emissions and substances: schoolsites: private and charter schools.

Summary: This bill would require charter schools and private schools to follow the same siting requirements as public schools for evaluating a schoolsite for potential hazardous substances, hazardous emissions, or hazardous waste.

The bill would also require the evaluation of a potential charter school site to follow the same process as public school site evaluations under the California Environmental Quality Act (CEQA).

Background: Siting schools is not an easy process. Existing law and state regulations prohibit school districts seeking state bond funds from being located on land that was previously a hazardous waste disposal site, that contains pipelines that carry hazardous substances, or that is near a freeway and other busy traffic corridors and railyards that have the potential to expose students and school staff to hazardous air emissions. Existing law also requires school districts to comply with CEQA requirements, review by DTSC, and approval by the California Department of Education (CDE) to ensure the design plans meet the academic need of the school. Charter schools are not required to comply with school siting requirements unless they receive state school bond funds. Private schools are not subject to the requirements in the Education Code unless specified, typically related to health and safety issues.

Existing law requires public schools to follow CEQA requirements before approving and building a new school. These requirements include that the governing board of the school district determine that the property is not a current or former hazardous waste or solid waste disposal site, unless the governing board of the school concludes that the waste sites have been removed; a hazardous substance release site identified by the Department of Toxic Substances Control (DTSC); or a site that contains one or more pipelines that carries hazardous substances.

CEQA requires a lead agency to prepare and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law also requires that the school district consult with the administering agency and any local air district necessary to identify facilities within the air district's authority and within the vicinity of the school property that might emit hazardous emissions, substances, or waste.

Status: 3/30/2021 - From committee chair, with author's amendments: Amend, and re-refer to Asm. Comm. on E.S. & T.M. Read second time and amended.

Specific Provisions: Specifically, this bill would:

1) Require charter schools and private schools to follow the same siting requirements as public schools for evaluating a schoolsite for potential hazardous substances, hazardous emissions, or hazardous waste; and

2) Require the evaluation of a potential charter school site to follow the same process as public school site evaluations under CEQA.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: South Coast AQMD took a SUPPORT position on a very similar bill last year that died in the Legislature. This bill was recently amended to delete a new item added to the bill this year that was meant to provide extra protections for school sites by adding in a 500-foot buffer in between schools and toxic hazards.

Private schools and some charter schools are not required to meet the same siting requirements as public schools before building a new school. As a result, there are cases in California where schools have been built in a potentially unsafe location near sources of hazardous emissions, substances, or waste. Consequently, the public health and safety of all students and school employees at these schools could be at risk.

It is reasonable to provide the students of charter schools and private schools with the same protections from potential hazardous chemicals at a potential schoolsite as is afforded to students who attend public schools. In addition, this bill requires the lead agency, under CEQA, over a charter school, to complete the same evaluations as is required for a lead agency of a public school. There are thousands of known contaminated sites in California, however, there are estimates of tens of thousands of unknown contaminated sites in the state. A site may have been an industrial site in the early 1900's and been vacant for decades, and its potential of containing hazardous substances is unknown until there is an environmental assessment of the property. It is important that potential schoolsites, regardless of whether the school is a public school, private school, or charter school, be properly evaluated in order to protect the health and well-being of the future students who will attend that school.

This bill is consistent with South Coast AQMD's policy priorities to protect public health, especially within disadvantaged communities, and to promote environmental justice within the South Coast region. By adding extra protections within the school setting, this bill seeks to protect children, who are at even higher risk as sensitive receptors to pollution.

Recommended Position: SUPPORT

Support:
Bay Area Air Quality Management District (Sponsor)

Opposition:
N/A

ATTACHMENT 1D

AMENDED IN ASSEMBLY MARCH 30, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL **No. 762**

Introduced by Assembly Members Lee and Cristina Garcia (Coauthor: Assembly Member Kalra)

February 16, 2021

An act to amend ~~Section 17213~~ *Sections 17213, 17213.1 and 17268* of, and to add Article 3 (commencing with Section 17235) to Chapter 1 of Part 10.5 of Division 1 of Title 1 of, the Education Code, ~~and~~ to amend Section 21151.8 of the Public Resources Code, *and to amend Section 1612 of the Public Utilities Code,* relating to schoolsites.

LEGISLATIVE COUNSEL'S DIGEST

AB 762, as amended, Lee. Hazardous emissions and substances: schoolsites: private and charter schools.

(1) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA prohibits an environmental impact report or negative declaration from being approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless specified conditions are met, relating to, among other things, whether the property is located on a current or former hazardous waste disposal site or solid waste disposal site, a hazardous substance release site, or a site that contains a pipeline that carries specified substances, and the property's proximity to facilities that might

reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste, as provided.

This bill would ~~add to those specified conditions whether the property is located on a site within 500 feet of a current or former hazardous waste disposal site or solid waste disposal site, a hazardous substance release site, or a site that contains a pipeline that carries specified substances. The bill would additionally~~ prohibit an environmental impact report or negative declaration from being approved for a project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a charter school, unless those specified conditions are met. By imposing new requirements on school districts, charter schools, lead agencies, cities, and counties, the bill would impose a state-mandated local program.

(2) Existing law prohibits the governing board of a school district from approving a project for the acquisition of a schoolsite unless specified conditions are met, including, among others, that the school district, as the lead agency, determines that the property to be purchased or built upon is not the site of a current or former hazardous waste disposal site or solid waste disposal site, a hazardous substance release site, or a site that contains a pipeline that carries specified substances, and that the school district, as the lead agency, has not identified specified facilities within ¼ of one mile of the proposed schoolsite that might reasonably be anticipated to emit hazardous air emissions or handle hazardous or extremely hazardous materials, substances, or waste, as provided.

This bill would ~~add to those specified conditions that the property is determined to not be located on a site within 500 feet of a freeway or other busy traffic corridor, a current or former hazardous waste disposal site or solid waste disposal site, a hazardous substance release site, or a site that contains a pipeline that carries specified substances. The bill would additionally~~ impose that prohibition on the governing body of a charter school and would require the determination and identification described above to be made by the lead agency. The bill would impose that prohibition, and related requirements, additionally on a private school. By imposing new requirements on school districts, charter schools, lead agencies, cities, and counties, the bill would impose a state-mandated local program.

(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. Section 17213 of the Education Code is amended to read:

17213. (a) The governing board of a school district or the governing body of a charter school shall not approve a project involving the acquisition of a schoolsite by a school district or charter school, unless all of the following occur:

(1) The lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless, if the site was a former solid waste disposal site, the governing board of the school district or the governing body of a charter school concludes that the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.

~~(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.~~

~~(E) A site that is within 500 feet of a site specified in subparagraph (A), (B), or (C).~~

(2) The lead agency, as defined in Section 21067 of the Public Resources Code, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of one mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or extremely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(3) The governing board of the school district or the governing body of a charter school makes one of the following written findings:

(A) Consultation identified none of the facilities or significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(ii) The governing board of a school district or the governing body of a charter school finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board of a school district or the governing body of a charter school makes this finding, the governing board of a school district or governing body of a charter school shall also make a subsequent finding, before occupancy of the school, that the emissions have been mitigated to these levels.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district or the governing body of a charter school determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(iv) The governing board of a school district or the governing body of a charter school finds that the conditions set forth in clause (ii) or (iii) cannot be met, and the school district or charter school is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a). If the governing board of a school district or the governing body of a charter school makes this finding, the governing board of a school district or the governing body of a charter school shall adopt a statement of overriding considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(b) For purposes of this section, the following definitions apply:

(1) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety Code.

(2) "Extremely hazardous substance" means a material defined pursuant to paragraph (2) of subdivision (j) of Section 25532 of the Health and Safety Code.

(3) "Facilities" means a source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the State Air Resources Board.

(4) "Freeway or other busy traffic corridor" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(5) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(6) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(7) "Hazardous substance" means a substance defined in Section 25316 of the Health and Safety Code.

(8) "Hazardous waste" means a waste defined in Section 25117 of the Health and Safety Code.

(9) "Hazardous waste disposal site" means a site defined in Section 25114 of the Health and Safety Code.

SEC. 2. Section 17213.1 of the Education Code is amended to read:

17213.1. As a condition of receiving state funding pursuant to Chapter 12.5 (commencing with Section 17070.10), the governing board of a school district shall comply with subdivision (a), and is not required to comply with *paragraph (1) of* subdivision (a) of Section 17213, prior to the acquisition of a schoolsite, or if the school district owns or leases a schoolsite, prior to the construction of a project.

(a) Prior to acquiring a schoolsite, the governing board shall contract with an environmental assessor to supervise the preparation of, and sign, a Phase I environmental assessment of the proposed schoolsite unless the governing board decides to proceed directly to a preliminary endangerment assessment, in which case it shall comply with paragraph (4).

(1) The Phase I environmental assessment shall contain one of the following recommendations:

(A) A further investigation of the site is not required.

(B) A preliminary endangerment assessment is needed, including sampling or testing, to determine the following:

(i) If a release of hazardous material has occurred and, if so, the extent of the release.

(ii) If there is the threat of a release of hazardous materials.

(iii) If a naturally occurring hazardous material is present.

(2) If the Phase I environmental assessment concludes that further investigation of the site is not required, the signed

assessment, proof that the environmental assessor meets the qualifications specified in subdivision (b) of Section 17210, and the renewal fee shall be submitted to the Department of Toxic Substances Control. The Department of Toxic Substances Control shall conduct its review and approval, within 30 calendar days of its receipt of that assessment, proof of qualifications, and the renewal fee. In those instances in which the Department of Toxic Substances Control requests additional information after receipt of the Phase I environmental assessment pursuant to paragraph (3), the Department of Toxic Substances Control shall conduct its review and approval within 30 calendar days of its receipt of the requested additional information. If the Department of Toxic Substances Control concurs with the conclusion of the Phase I environmental assessment that a further investigation of the site is not required, the Department of Toxic Substances Control shall approve the Phase I environmental assessment and shall notify, in writing, the State Department of Education and the governing board of the school district of the approval.

(3) If the Department of Toxic Substances Control determines that the Phase I environmental assessment is not complete or disapproves the Phase I environmental assessment, the department shall inform the school district of the decision, the basis for the decision, and actions necessary to secure department approval of the Phase I environmental assessment. The school district shall take actions necessary to secure the approval of the Phase I environmental assessment, elect to conduct a preliminary endangerment assessment, or elect not to pursue the acquisition or the construction project. To facilitate completion of the Phase I environmental assessment, the information required by this paragraph may be provided by telephonic or electronic means.

(4) (A) If the Department of Toxic Substances Control concludes after its review of a Phase I environmental assessment pursuant to this section that a preliminary endangerment assessment is needed, the Department of Toxic Substances Control shall notify, in writing, the State Department of Education and the governing board of the school district of that decision and the basis for that decision. The school district shall submit to the State Department of Education the Phase I environmental assessment and requested additional information, if any, that was reviewed by the Department of Toxic Substances Control pursuant to that subparagraph.

Submittal of the Phase I assessment and additional information, if any, to the State Department of Education shall be prior to the State Department of Education issuance of final site or plan approvals affect by that Phase I assessment.

(B) If the Phase I environmental assessment concludes that a preliminary endangerment assessment is needed, or if the Department of Toxic Substances Control concludes after it reviews a Phase I environmental assessment pursuant to this section that a preliminary endangerment assessment is needed, the school district shall either contract with an environmental assessor to supervise the preparation of, and sign, a preliminary endangerment assessment of the proposed schoolsite and enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project. The agreement entered into with the Department of Toxic Substances Control may be entitled an "Environmental Oversight Agreement" and shall reference this paragraph. A school district may, with the concurrence of the Department of Toxic Substances Control, enter into an agreement with the Department of Toxic Substances Control to oversee the preparation of a preliminary endangerment assessment without first having prepared a Phase I environmental assessment. Upon request from the school district, the Director of the Department of Toxic Substances Control shall exercise its authority to designate a person to enter the site and inspect and obtain samples pursuant to Section 25358.1 of the Health and Safety Code, if the director determines that the exercise of that authority will assist in expeditiously completing the preliminary endangerment assessment. The preliminary endangerment assessment shall contain one of the following conclusions:

(i) A further investigation of the site is not required.

(ii) A release of hazardous materials has occurred, and if so, the extent of the release, that there is the threat of a release of hazardous materials, or that a naturally occurring hazardous material is present, or any combination thereof.

(5) The school district shall submit the preliminary endangerment assessment to the Department of Toxic Substances Control for its review and approval and to the State Department of Education for its files. The school district may entitle a document that is meant to fulfill the requirements of a preliminary

endangerment assessment a "preliminary environmental assessment" and that document shall be deemed to be a preliminary endangerment assessment if it specifically refers to the statutory provisions whose requirements it intends to meet and the document meets the requirements of a preliminary endangerment assessment.

(6) At the same time a school district submits a preliminary endangerment assessment to the Department of Toxic Substances Control pursuant to paragraph (5), the school district shall publish a notice that the assessment has been submitted to the department in a local newspaper of general circulation, and shall post the notice in a prominent manner at the proposed schoolsite that is the subject of that notice. The notice shall state the school district's determination to make the preliminary endangerment assessment available for public review and comment pursuant to subparagraph (A) or (B):

(A) If the school district chooses to make the assessment available for public review and comment pursuant to this subparagraph, it shall offer to receive written comments for a period of at least 30 calendar days after the assessment is submitted to the Department of Toxic Substances Control, commencing on the date the notice is originally published, and shall hold a public hearing to receive further comments. The school district shall make all of the following documents available to the public upon request through the time of the public hearing:

(i) The preliminary endangerment assessment.

(ii) The changes requested by the Department of Toxic Substances Control for the preliminary endangerment assessment, if any.

(iii) Any correspondence between the school district and the Department of Toxic Substances Control that relates to the preliminary endangerment assessment.

For the purposes of this subparagraph, the notice of the public hearing shall include the date and location of the public hearing, and the location where the public may review the documents described in clauses (i) to (iii), inclusive. If the preliminary endangerment assessment is revised or altered following the public hearing, the school district shall make those revisions or alterations available to the public. The school district shall transmit a copy of all public comments received by the school district on the preliminary endangerment assessment to the Department of Toxic

Substances Control. The Department of Toxic Substances Control shall complete its review of the preliminary endangerment assessment and public comments received thereon and shall either approve or disapprove the assessment within 30 calendar days of the close of the public review period. If the Department of Toxic Substances Control determines that it is likely to disapprove the assessment prior to its receipt of the public comments, it shall inform the school district of that determination and of any action that the school district is required to take for the Department of Toxic Substances Control to approve the assessment.

(B) If the school district chooses to make the preliminary endangerment assessment available for public review and comment pursuant to this subparagraph, the Department of Toxic Substances Control shall complete its review of the assessment within 60 calendar days of receipt of the assessment and shall either return the assessment to the school district with comments and requested modifications or requested further assessment or concur with the adequacy of the assessment pending review of public comment. If the Department of Toxic Substances Control concurs with the adequacy of the assessment, and the school district proposes to proceed with site acquisition or a construction project, the school district shall make the assessment available to the public on the same basis and at the same time it makes available the draft environmental impact report or negative declaration pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for the site, unless the document developed pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) will not be made available until more than 90 days after the assessment is approved, in which case the school district shall, within 60 days of the approval of the assessment, separately publish a notice of the availability of the assessment for public review in a local newspaper of general circulation. The school district shall hold a public hearing on the preliminary endangerment assessment and the draft environmental impact report or negative declaration at the same time, pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). All public comments pertaining to the preliminary endangerment assessment shall be forwarded to the

Department of Toxic Substances Control immediately. The Department of Toxic Substances Control shall review the public comments forwarded by the school district and shall approve or disapprove the preliminary endangerment assessment within 30 days of the district's approval action of the environmental impact report or the negative declaration.

(7) The school district shall comply with the public participation requirements of Sections 25358.7 and 25358.7.1 of the Health and Safety Code and other applicable provisions of the state act with respect to those response actions only if further response actions beyond a preliminary endangerment assessment are required and the district determines that it will proceed with the acquisition or construction project.

(8) If the Department of Toxic Substances Control disapproves the preliminary endangerment assessment, it shall inform the district of the decision, the basis for the decision, and actions necessary to secure the Department of Toxic Substances Control approval of the assessment. The school district shall take actions necessary to secure the approval of the Department of Toxic Substances Control of the preliminary endangerment assessment or elect not to pursue the acquisition or construction project.

(9) If the preliminary endangerment assessment determines that a further investigation of the site is not required and the Department of Toxic Substances Control approves this determination, it shall notify the State Department of Education and the school district of its approval. The school district may then proceed with the acquisition or construction project.

(10) If the preliminary endangerment assessment determines that a release of hazardous material has occurred, that there is the threat of a release of hazardous materials, that a naturally occurring hazardous material is present, or any combination thereof, that requires further investigation, and the Department of Toxic Substances Control approves this determination, the school district may elect not to pursue the acquisition or construction project. If the school district elects to pursue the acquisition or construction project, it shall do all of the following:

(A) Prepare a financial analysis that estimates the cost of response action that will be required at the proposed schoolsite.

(B) Assess the benefits that accrue from using the proposed schoolsite when compared to the use of alternative schoolsites, if any.

(C) Obtain the approval of the State Department of Education that the proposed schoolsite meets the schoolsite selection standards adopted by the State Department of Education pursuant to subdivision (b) of Section 17251.

(D) Evaluate the suitability of the proposed schoolsite in light of the recommended alternative schoolsite locations in order of merit if the school district has requested the assistance of the State Department of Education, based upon the standards of the State Department of Education, pursuant to subdivision (a) of Section 17251.

(11) The school district shall reimburse the Department of Toxic Substances Control for all of the department's response costs.

(b) The costs incurred by the school districts when complying with this section are allowable costs for purposes of an applicant under Chapter 12.5 (commencing with Section 17070.10) of Part 10 and may be reimbursed in accordance with Section 17072.13.

(c) A school district that releases a Phase I environmental assessment, a preliminary endangerment assessment, or information concerning either of these assessments, any of which is required by this section, may not be held liable in any action filed against the school district for making either of these assessments available for public review.

(d) The changes made to this section by the act amending this section during the 2001 portion of the 2001–02 Regular Session do not apply to a schoolsite acquisition project or a school construction project, if either of the following occurred on or before the effective date of the act amending this section during the 2001 portion of the 2001–02 Regular Session:

(1) The final preliminary endangerment assessment for the project was approved by the Department of Toxic Substances Control pursuant to this section as this section read on the date of the approval.

(2) The school district seeking state funding for the project completed a public hearing for the project pursuant to this section, as this section read on the date of the hearing.

~~SEC. 2.~~

SEC. 3. Article 3 (commencing with Section 17235) is added to Chapter 1 of Part 10.5 of Division 1 of Title 1 of the Education Code, to read:

Article 3. Private School Schoolsites

17235. (a) For purposes of this section, the following definitions apply:

(1) "Administering agency" means an agency authorized pursuant to Section 25502 of the Health and Safety Code to implement and enforce Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(2) "Extremely hazardous substance" has the same meaning as defined in paragraph (2) of subdivision (j) of Section 25532 of the Health and Safety Code.

(3) "Facilities" means a source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the State Air Resources Board.

(4) "Freeway or other busy traffic corridor" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(5) "Handle" has the same meaning as defined in Section 25501 of the Health and Safety Code.

(6) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(7) "Hazardous substance" has the same meaning as defined in Section 25316 of the Health and Safety Code.

(8) "Hazardous waste" has the same meaning as defined in Section 25117 of the Health and Safety Code.

(9) "Hazardous waste disposal site" has the same meaning as "disposal site," as defined in Section 25114 of the Health and Safety Code.

(b) The governing board of a private school shall not approve the acquisition or purchase of a schoolsite, or the construction of a new elementary or secondary school, by, or for use by, a private school unless all of the following occur:

(1) The city or county determines that the property proposed to be acquired or purchased, or to be constructed upon, is not any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless, if the site was a former solid waste disposal site, the city or county concludes that the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carry hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.

~~(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.~~

~~(E) A site that is within 500 feet of a site specified in subparagraph (A), (B), or (C).~~

(2) (A) The governing board has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways or other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of one mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste. The

notification by the governing board shall include a list of the locations for which information is sought.

(B) Each administering agency, air pollution control district, or air quality management district receiving written notification from a governing board to identify facilities pursuant to subparagraph (A) shall provide the requested information and provide a written response to the governing board within 30 days of receiving the notification.

(3) The city or county makes one of the following written findings:

(A) Consultation identified no facilities of the type specified in paragraph (2) or other significant pollution sources.

(B) One or more facilities specified in paragraph (2) or other pollution sources exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the city or county makes a finding pursuant to this clause, it shall also make a subsequent finding, before occupancy of the school, that the emissions have been so mitigated.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the city or county determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) One or more facilities specified in paragraph (2) or other pollution sources exist, but conditions in clause (i), (ii), or (iii) of subparagraph (B) cannot be met, and the private school is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in this section.

SEC. 4. Section 17268 of the Education Code is amended to read:

17268. (a) The governing board of a school district that elects not to receive state funds pursuant to Chapter 12.5 (commencing with Section 17070.10) may not approve a project for the construction of a new school building, as defined in Section 17283, unless the project and its lead agency comply with the same requirements specified in *paragraph (1) of* subdivision (a) of Section 17213 for schoolsite acquisition.

(b) As a condition to receiving state funds pursuant to Chapter 12.5 (commencing with Section ~~17070.10,~~ *17070.10),* the governing board of a school district may not approve a project for the construction of a new school building or schoolsite on leased or acquired land unless the project and the school district comply with the requirements specified in Sections 17213.1 and 17213.2.

(c) The project shall not be subject to subdivision (b) for a minor addition to a school if the project is eligible for a categorical or statutory exemption under guidelines issued pursuant to Section 21083 of the Public Resources Code, as set forth in the California Environmental Quality Act.

(d) "School building," as used in this section, means any building designed and constructed to be used for elementary or secondary school purposes by a school district.

(e) The requirements of Sections 17213, 17213.1 and 17213.2 shall not apply to a schoolsite if the acquisition occurred prior to January 1, 2000, to the extent a school district is subject to the requirements set forth in those sections pursuant to a judicial order or an order issued by, or an agreement with the Department of Toxic Substances Control regarding that site, and the school district is in full compliance with that order or agreement.

(f) For purposes of this section, the acceptance of construction bids shall constitute approval of the project.

~~SEC. 3.~~

SEC. 5. Section 21151.8 of the Public Resources Code is amended to read:

21151.8. (a) An environmental impact report shall not be certified or a negative declaration shall not be approved for a project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district or a charter school unless all of the following occur:

(1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.

(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

~~(E) A site that is within 500 feet of a site specified in subparagraph (A), (B), or (C).~~

(2) (A) The lead agency in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways or other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of one mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste. The notification by the lead agency shall include a list of the locations for which information is sought.

(B) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to subparagraph (A) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the

notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with subparagraph (A) as to the area of responsibility of an agency that does not respond within 30 days.

(C) If the lead agency has carried out the consultation required by subparagraph (A), the environmental impact report or the negative declaration shall be conclusively presumed to comply with subparagraph (A), notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in subparagraph (A).

(3) The governing board of the school district or the governing body of a charter school makes one of the following written findings:

(A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board of a school district or the governing body of a charter school makes a finding pursuant to this clause, it shall also make a subsequent finding, before occupancy of the school, that the emissions have been so mitigated.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district or the governing body of a charter school determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii), or (iii) of subparagraph (B) cannot be met, and the school district or charter school is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in *paragraph (1) of* subdivision (a) of Section 17213 of the Education Code. If the governing board of a school district or the governing body of a charter school makes this finding, the governing board of a school district or the governing body of a charter school shall adopt a statement of overriding considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(b) For purposes of this section, the following definitions apply:

(1) "Administering agency" means an agency authorized pursuant to Section 25502 of the Health and Safety Code to implement and enforce Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(2) "Extremely hazardous substances" means an extremely hazardous substance, as defined pursuant to paragraph (2) of subdivision (j) of Section 25532 of the Health and Safety Code.

(3) "Facilities" means a source with a potential to use, generate, emit, or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the State Air Resources Board.

(4) "Freeway or other busy traffic corridor" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(5) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(6) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air

from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(7) "Hazardous substance" means a substance defined in Section 25316 of the Health and Safety Code.

(8) "Hazardous waste" means a waste defined in Section 25117 of the Health and Safety Code.

(9) "Hazardous waste disposal site" means a site defined in Section 25114 of the Health and Safety Code.

SEC. 6. Section 1612 of the Public Utilities Code is amended to read:

1612. Not less than 25 percent of projects funded by the SRVEVR Program or SNPFA Program shall be in underserved communities. The SRVEVR Program and SNPFA Program shall prioritize underserved communities by ensuring that all schools that are in an underserved community are offered the opportunity to apply for and receive grants before those schools that are not in an underserved community. Additionally, the SRVEVR Program shall prioritize schools with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor or within 1,000 feet of a facility holding a permit pursuant to Title V of the Clean Air Act (42 U.S.C. Section 7661 et seq.). For the purposes of this section, "freeway or other busy traffic corridors" has the same meaning as defined in paragraph ~~(9)~~ *(4)* of subdivision ~~(d)~~ *(b)* of Section 17213 of the Education Code.

~~SEC. 4.~~

SEC. 7. 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, within the meaning of Section 17556 of the Government Code.

However, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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ATTACHMENT 1E

South Coast Air Quality Management District
Legislative Analysis Summary – AB 1001 (C. Garcia)
Version: Amended – 3/15/2021
Analyst: DPG/PC

AB 1001 (C. Garcia)
Environmental permitting and air pollution.

Summary: This bill would require permitting agencies, including air districts, to deny new permits and permit renewals for stationary sources in disadvantaged communities, or apply conditions on construction and operation of that source, if they find that approval of the permit would cause adverse cumulative environmental or public health stressors in the overburdened community higher than those borne by other communities.

Additionally, this bill would expand the applicability of Best Available Retrofit Control Technology/Best Available Control Technology (BARCT/BACT) requirements to all emitters, rather than just those subject to CARB's Cap and Trade requirements, and require air districts that are nonattainment areas for one or more air pollutants to expedite adoption of BARCT/BACT requirements.

Background: Existing law regulates facilities with operations that would or may cause the release of pollution to the environment. Existing law requires operators of those facilities to obtain a permit or other authorization from various public agencies for the operation of those facilities.

Existing law requires each air district that has a nonattainment area for one or more air pollutants to adopt an expedited schedule for the implementation of BARCT by the earliest feasible date, but not later than December 31, 2023. Existing law provides that the adopted expedited schedule applies only to each industrial source that, as of January 1, 2017, was subject to a market-based compliance mechanism for the emissions of greenhouse gases adopted by the California Air Resources Board (CARB). Existing law requires the state board to establish and maintain a statewide clearinghouse that identifies BACT and BARCT.

The author indicates that AB 1001 is modeled after legislation that recently passed in New Jersey (NJ) which worked to prevent new stationary sources from coming into already overburdened communities.

Status: 3/16/21 Re-referred to Asm. Committee on Natural Resources.

Specific Provisions: Specifically, this bill would:

a) Require an air district that is a nonattainment area for one or more air pollutants to, by the earliest feasible date, adopt an expedited schedule for the implementation of BACT or BARCT;

b) Require an air district to adopt each rule implementing BARCT by January 1, 2025, for installation and operation of BACT or BARCT at each emissions unit by the earliest feasible date, but not later than December 31, 2026;

c) Require air districts to identify all emissions units at an industrial source that emit a pollutant for which the region is in nonattainment and to determine whether those emissions units are individually permitted at BACT or BARCT stringency levels that are applicable as of the time of the review.

d) For all reviews of what constitutes BACT or BARCT, the air district shall base its consideration of cost effectiveness of the control option for the emissions unit and air quality benefits for the surrounding community, and shall make determinations consistent with information in the statewide clearinghouse.

e) CARB may create determinations for technologies that have been achieved in practice, and may provide technical assessments of control options, including the availability of alternative technologies for sources or source categories

f) CalEPA shall publish and maintain and update annually on its internet website a list of overburdened communities; and notify a local municipal or county government if any part of the municipality or county has been designated as an overburdened community.

g) For applications for an environmental permit in an overburdened facility, a permitting agency shall, on and after July 1, 2022, do the following:

1. Publish a draft environmental permit for public notice, review, and comment for at least 60 calendar days before issuance;
2. Respond in writing to all significant comments raised before finalization of the environmental permit; and,
3. Electronically publish the public comments and responses for the draft permit before the finalization of the permit.

h) Applications for an environmental permit for a new or existing facility located in an overburdened community shall not be considered complete, on and after July 1, 2022, unless the permit applicant does the following:

1. Prepares an environmental justice impact statement that assesses the potential environmental and public health stressors associated with the proposed new or existing facility, including any adverse environmental or public health stressors that cannot be avoided if the permit is granted, and the environmental or public health

stressors already borne by the overburdened community as a result of existing conditions located in or affecting the overburdened community;
2. Transmits the environmental justice impact statement at least 60 days in advance of the public hearing to the permitting agency and to the governing body and the clerk of the municipality in which the overburdened community is located. Upon receipt, the permitting agency shall publish the environmental justice impact statement on its internet website.
3. Organizes and conducts a public hearing in the overburdened community.

i) Following the public hearing, the permitting agency shall consider the testimony presented and any written comments received, and shall evaluate the issuance of, or conditions to, the environmental permit to avoid or reduce the adverse environmental or public health stressors affecting the overburdened community.

j) The permitting agency shall not issue a decision on an application for an environmental permit if the facility is located, or proposed to be located, in whole or in part in an overburdened community until at least 45 days after the public hearing held.

k) The permitting agency shall deny an environmental permit upon a finding that the approval of the environmental permit, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors that are higher than those borne by other communities within the state, county, or other geographic unit of analysis.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: For fiscal year 2019/2020, there are 25,984 active facilities and 67,971 active permits within South Coast AQMD's jurisdiction. A significant portion of those facilities and permits are located within disadvantaged communities impacted by the bill. This bill would have a significant negative impact on South Coast AQMD's permitting processes and expands AB 617 BARCT requirements and also BACT requirements on an expedited schedule. The bill would potentially substantially increase the number of permits applications and permit renewal applications denied throughout the South Coast region. The standard for cumulative impacts as 'compared to other communities' needs to be further refined since an increase in emissions at a facility in an overburdened community may need to meet what might be unattainable background concentrations. This may prove difficult as applicants would be expected to prepare EJ Impact statements.

The bill language would increase the number of required public hearings related to permitting to a large scale and does not align with the existing noticing process that is required of projects. The proposed public hearings/noticing requirements seem to occur on an independent path. It may result in a facility having to notice the same project twice. It

would be preferable to align the noticing requirements with Rule 212 and Title V requirements and air district existing processes, which would provide for meaningful public participation.

Finally, the bill does not provide for reimbursement of funds to air districts despite increased permitting and program workload requirements. South Coast AQMD staff proposes **working with the author** and seeking bill amendments that include, but are not limited to, the following:

1) Remove references to BACT since proposed language is not consistent with BACT requirements or eliminate requirement for a schedule for BACT (as BACT is required when permit is issued, not on any schedule);
2) Limit BARCT requirements to industrial sources under CARB greenhouse gas cap and trade program and RECLAIM sources;
3) Change latest implementation date for BARCT to 2030;
4) Limit all permitting requirements to major sources and major modifications at such sources;
5) Align public hearing and noticing processes with those of existing permitting processes and requirements for major sources and major modifications; and allow for public hearings to be consolidated into hearings for several different facilities at one time so that no more than one hearing per month is required;
6) Eliminate requirement for environmental justice impact statement and ability to deny renewal of a permit where there is no expansion of use based on a finding that the renewal would cause or contribute to adverse cumulative environmental or public health impacts (NJ statute only allows applying conditions);
7) Establish more stringent criteria emission or ambient air thresholds and health risks for cumulative environmental and public health stressors in overburdened communities rather than compare impacts to other communities; and
8) If the permit is being issued by a single-purpose agency (air, water, etc), provide for denial or addition of conditions only to address increased impacts of the type the agency has jurisdiction over.

Recommended Position: WORK WITH AUTHOR

ATTACHMENT 1F

AMENDED IN ASSEMBLY MARCH 15, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 1001

Introduced by Assembly Member Cristina Garcia

February 18, 2021

~~An act to amend Section 71021 of the Public Resources Code, relating to the environment.~~ *An act to amend Sections 40920.6 and 40920.8 of the Health and Safety Code, and to add Section 71119 to the Public Resources Code, relating to the environment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Cristina Garcia. Environmental ~~permitting.~~ *permitting and air pollution.*

Existing law regulates facilities with operations that would or may cause the release of pollution to the environment. Existing law requires operators of those facilities to obtain a permit or other authorization from various public agencies for the operation of those facilities.

This bill would require the California Environmental Protection Agency, on or before May 1, 2022, to publish, maintain, and update a list of overburdened communities, as defined. The bill would, on or after July 1, 2022, require a permitting agency to take certain actions for an application for a new environmental permit, as defined, or the renewal of an environmental permit for a facility located in an overburdened community. The bill would require a permit applicant to prepare an environmental justice impact statement, to conduct a public hearing in the overburdened community, and to transmit the environmental justice impact statement to the permitting agency. The bill would require the permitting agency to deny the application or to apply conditions concerning the construction and operation of the

facility to protect public health if it finds that the approval of the application would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities. The bill would require permitting agencies to electronically publish certain information on their internet websites. Because the bill would impose additional duties on local agencies that are permitting agencies, this bill would impose a state-mandated local program.

Existing law requires each air pollution control district and each air quality management district (air district) that has a nonattainment area for one or more air pollutants to adopt an expedited schedule for the implementation of best available retrofit control technology (BARCT) by the earliest feasible date, but not later than December 31, 2023. Existing law provides that the adopted expedited schedule applies only to each industrial source that, as of January 1, 2017, was subject to a market-based compliance mechanism for the emissions of greenhouse gases adopted by the State Air Resources Board, as provided.

This bill would additionally require those air districts to adopt an expedited schedule for the implementation of best available control technology (BACT). The bill would delete the provision applying the expedited schedule only to industrial sources that are subject to the market-based compliance mechanism. The bill would require the air districts to identify all emission units at an industrial source and to take certain actions regarding those emission units, as specified. The bill would require, by January 1, 2025, the air districts to adopt rules for the installation and operation of either BACT or BARCT at emission units by the earliest feasible date, but not later than December 31, 2026. Because this bill would impose additional duties on air districts, this bill would impose a state-mandated local program.

Existing law requires the state board to establish and maintain a statewide clearinghouse that identifies BACT and BARCT.

This bill would authorize the state board to create determinations for technologies that have been achieved in practice for sources or source categories.

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

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

~~Existing law requires the Secretary for Environmental Protection to establish an administrative process that may be used, at the request of a permit applicant for a project that requires multiple environmental permits, for the designation of a consolidated permit agency to issue a consolidate permit for the project. Existing law requires the secretary, within 30 days of the date that the request is received, to either designate a consolidated permit agency for the project or refer the designation to the California Environmental Policy Council.~~

~~This bill would shorten the time period in which the secretary is to respond to 20 days.~~

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

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

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

(a) All California residents, regardless of income, race, ethnicity, color, or national origin, have a right to live, work, and recreate in a clean and healthy environment.

(b) Historically, California's low-income communities and communities of color have been subject to a disproportionately high number of environmental and public health stressors, including pollution from numerous industrial, commercial, and governmental facilities located in those communities.

(c) As a result, residents in the state's overburdened communities have suffered from increased adverse health effects including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental disorders.

(d) Children are especially vulnerable to the adverse health effects caused by exposure to pollution, and those health effects may severely limit a child's potential for future success.

(e) The adverse effects caused by pollution impede the growth, stability, and long-term well-being of individuals and families living in overburdened communities.

(f) The legacy of siting sources of pollution in overburdened communities continues to pose a threat to the health, well-being, and economic success of the state's most vulnerable residents.

(g) It is past time for the state to correct this historical injustice.

(h) No community should bear a disproportionate share of the adverse environmental and public health consequences that accompany the state's economic growth.

(i) The state's overburdened communities must have a meaningful opportunity to participate in any decision to allow in those communities certain types of facilities which, by the nature of their activity, have the potential to increase environmental and public health stressors.

(j) It is in the public interest for the state, where appropriate, to limit the future placement and expansion of those facilities in overburdened communities.

SEC. 2. Section 40920.6 of the Health and Safety Code is amended to read:

40920.6. (a) ~~Prior to~~ *Before* adopting rules or regulations to meet the requirement for best available retrofit control technology pursuant to Sections 40918, 40919, 40920, and 40920.5, or for a feasible measure pursuant to Section 40914, districts shall, in addition to other requirements of this division, do all of the following:

(1) Identify one or more potential control options which achieves the emission reduction objectives for the regulation.

(2) Review the information developed to assess the cost-effectiveness of the potential control option. For purposes of this paragraph, "cost-effectiveness" means the cost, in dollars, of the potential control option divided by emission reduction potential, in tons, of the potential control option.

(3) Calculate the incremental cost-effectiveness for the potential control options identified in paragraph (1). To determine the incremental cost-effectiveness under this paragraph, the district shall calculate the difference in the dollar costs divided by the difference in the emission reduction potentials between each progressively more stringent potential control option as compared to the next less expensive control option.

(4) Consider, and review in a public meeting, all of the following:

(A) The effectiveness of the proposed control option in meeting the requirements of this chapter and the requirements adopted by the state board pursuant to subdivision (b) of Section 39610.

(B) The cost-effectiveness of each potential control option as assessed pursuant to paragraph (2).

(C) The incremental cost-effectiveness between the potential control options as calculated pursuant to paragraph (3).

(5) Make findings at the public hearing at which the regulation is adopted stating the reasons for the district's adoption of the proposed control option or options.

(b) A district may establish its own best available retrofit control technology requirement based upon consideration of the factors specified in subdivision (a) and Section 40406 if the requirement complies with subdivision (d) of Section 40001 and is consistent with this chapter, other state law, and federal law, including, but not limited to, the applicable state implementation plan.

(c) (1) ~~On or before January 1, 2019, each~~ *Each* district that is a nonattainment area for one or more air pollutants shall adopt an expedited schedule for the implementation of *best available control technology (BACT) or* best available retrofit control technology (BARCT), by the earliest feasible ~~date, but in any event not later than December 31, 2023.~~ *date and in compliance with paragraph (3) of subdivision (g).*

~~(2) The schedule shall apply to each industrial source that, as of January 1, 2017, was subject to a market-based compliance mechanism adopted by the state board pursuant to subdivision (c) of Section 38562.~~

~~(3)~~

(2) The schedule shall give highest priority to those permitted units that have not modified emissions-related permit conditions for the greatest period of time. The schedule shall not apply to an emissions unit that has implemented *BACT or* BARCT due to a permit revision or a new permit issuance since 2007.

(d) ~~Prior to~~ *Before* adopting the schedule pursuant to paragraph (1) of subdivision (c), a district shall hold a public meeting and take into account:

(1) The local public health and clean air benefits to the surrounding community.

(2) The cost-effectiveness of each control option.

(3) The air quality and attainment benefits of each control option.

(e) A district shall allow the retirement of marketable emission reduction credits under a program which complies with all of the

requirements of Section 39616, or emission reduction credits which meet all of the requirements of state and federal law, including, but not limited to, the requirements that those emission reduction credits be permanent, enforceable, quantifiable, and surplus, in lieu of any requirement for best available retrofit control technology, if the credit also complies with all district rules and regulations affecting those credits.

(f) After a district has established the cost-effectiveness, in a dollar amount, for any rule or regulation adopted pursuant to this section or Section 40406, 40703, 40914, 40918, 40919, 40920, 40920.6, or 40922, the district, consistent with subdivision (d) of Section 40001, shall allow alternative means of producing equivalent emission reductions at an equal or lesser dollar amount per ton reduced, including the use of emission reduction credits, for any stationary source that has a demonstrated compliance cost exceeding that established dollar amount.

(g) To further implement the schedule adopted pursuant to subdivision (c), each district subject to subdivision (c) shall take the following actions:

(1) Identify all emissions units at an industrial source subject to paragraph (1) of subdivision (c) that emit a pollutant for which the region is in nonattainment to determine whether those emissions units are individually permitted at BACT or BARCT stringency levels that are applicable as of the time of the review and do the following:

(A) Continue the implementation of the schedule adopted pursuant to subdivision (c) if the district determines that the emissions unit is subject to a rule that the district included on the schedule for updating pursuant to subdivision (c).

(B) Add the rule to the schedule for updating to ensure that the applicable BACT or BARCT rule applies to the emission unit if the district determines that the emissions unit is subject to a rule implementing BACT or BARCT that is not on the district's adopted schedule pursuant to subdivision (c) and the rule has not been updated or revised since 2007.

(C) Add the emissions unit to the schedule adopted pursuant to subdivision (c) and adopt a rule to control the nonattainment pollutant by implementing BACT or BARCT if the district determines that the emission unit is not subject to a rule implementing BACT or BARCT.

(2) For all reviews of what constitutes BACT or BARCT for an emissions unit under this subdivision and subdivision (c), the district shall base its consideration of cost effectiveness of the control option for the emissions unit and air quality benefits for the surrounding community, and shall make determinations consistent with information in the clearinghouse established pursuant to Section 40920.8 and any technical assessments issued by the state board.

(3) The district shall adopt each rule implementing BARCT pursuant to subdivision (c) and this subdivision by January 1, 2025, for installation and operation of BACT or BARCT at each emissions unit by the earliest feasible date, but not later than December 31, 2026.

SEC. 3. Section 40920.8 of the Health and Safety Code is amended to read:

40920.8. (a) *(1)* The state board shall establish and maintain a statewide clearinghouse that identifies the best available control technology and best available retrofit control technology for criteria air pollutants, and related technologies for the control of toxic air contaminants.

(2) (A) The state board may create determinations for technologies that have been achieved in practice, and may provide technical assessments of control options, including the availability of alternative technologies, for sources or source categories.

(B) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to the development of technical assessments pursuant to subparagraph (A).

(b) When updating best available control technology determinations, *best available retrofit control technology rules, and related determinations for the control of toxic air contaminants in permits, schedules, and rules,* a district shall use the information in the statewide clearinghouse established and maintained by the state~~ board.~~ *board and any technical assessments that are developed pursuant to paragraph (2) of subdivision (a).*

SEC. 4. Section 71119 is added to the Public Resources Code, to read:

71119. (a) For purposes of this section, the following definitions apply:

(1) "Environmental or public health stressors" means sources of environmental pollution, including, but not limited to, concentrated areas of air pollution, mobile sources of air pollution, contaminated sites, transfer stations or other solid waste facilities, recycling facilities, scrap yards, and point sources of water pollution, including, but not limited to, water pollution from facilities or combined sewer overflows, or conditions that may cause potential public health impacts, including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental problems in an overburdened community.

(2) (A) "Environmental permit" means an authorization or approval, or the renewal of an authorization or approval, that is any of the following:

(i) A hazardous waste facility permit issued pursuant to Chapter 6.5 (commencing with Section 25001) of Division 20 of the Health and Safety Code.

(ii) An air permit issued pursuant to Chapter 4 (commencing with Section 42300) of Part 4 of Division 26 of the Health and Safety Code.

(iii) A medical waste treatment facility permit issued pursuant to Chapter 7 (commencing with Section 118130) of Part 14 of Division 104 of the Health and Safety Code.

(iv) A well permit issued pursuant to Division 3 (commencing with Section 3000).

(v) A solid waste facility permit issued pursuant to Part 4 (commencing with Section 43000) of Division 30.

(vi) A waste discharge requirement issued pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(B) "Environmental permit" does not include any of the following:

(i) An authorization or approval necessary to perform a remediation.

(ii) An authorization or approval required for a minor modification of a facility's authorization or approval described in subparagraph (A) for activities or improvements that do not increase the release of a pollutant or contaminant.

(iii) An authorization or approval that is a renewal of a facility's authorization or approval described in subparagraph (A) that does not increase the release of a pollutant or contaminant.

(3) (A) "Facility" means a facility this is required to obtain an environmental permit.

(B) "Facility" does not include a facility that accepts regulated medical waste for disposal, including a medical waste incinerator, that is attendant to a hospital or university and is intended to process self-generated regulated medical waste.

(4) "Low-income household" has the same meaning as set forth in Section 39713 of the Health and Safety Code.

(5) "Overburdened community" means a community identified as a disadvantaged community pursuant to Section 39711 of the Health and Safety Code.

(6) "Permitting agency" means any of the following:

(A) The Department of Toxic Substances Control.

(B) An air quality management or air pollution control district.

(C) The State Department of Public Health.

(D) The Geologic Energy Management Division in the Department of Conservation.

(E) The Department of Resources Recovery and Recycling.

(F) A regional water quality control board.

(b) On or before May 1, 2022, the California Environmental Protection Agency shall publish and maintain on its internet website a list of overburdened communities in the state. The California Environmental Protection Agency shall update annually the list of overburdened communities. The California Environmental Protection Agency shall notify a local municipal or county government if any part of the municipality or county has been designated as an overburdened community pursuant to this subdivision.

(c) On and after July 1, 2022, for an application for an environmental permit for a facility located in an overburdened community, a permitting agency shall publish a draft environmental permit for public notice, review, and comment for at least 60 calendar days before issuance. A permitting agency shall respond, in writing, to all significant comments raised during the public participation process, including written comments submitted during the public comment period and any comments raised during any public hearing on the environmental permit before finalization of

the environmental permit. A permitting agency shall electronically publish the public comments for the draft permit and the permitting agency's responses to significant public comments before the finalization of the permit. This requirement applies in addition to any public notices required by law.

(d) (1) On and after July 1, 2022, a permitting agency shall not consider complete for review an application for an environmental permit for a new facility or for an existing facility, if the facility is located, or proposed to be located, in whole or in part, in an overburdened community, unless the permit applicant does all of the following:

(A) Prepares an environmental justice impact statement that assesses the potential environmental and public health stressors associated with the proposed new or existing facility, as applicable, including any adverse environmental or public health stressors that cannot be avoided if the environmental permit is granted, and the environmental or public health stressors already borne by the overburdened community as a result of existing conditions located in or affecting the overburdened community.

(B) Transmits the environmental justice impact statement at least 60 days in advance of the public hearing required pursuant to subparagraph (C) to the permitting agency and to the governing body and the clerk of the municipality in which the overburdened community is located. Upon receipt, the permitting agency shall publish the environmental justice impact statement on its internet website.

(C) (i) Organizes and conducts a public hearing in the overburdened community. The permit applicant shall publish a notice of the public hearing in at least two newspapers circulating within the overburdened community, including in local non-English language newspapers for populations comprising at least 15 percent of the overburdened community, if applicable, not less than 60 days before the public hearing. The permit applicant shall provide a copy of the notice to the permitting agency, and the permitting agency shall publish the notice on its internet website. The notice of the public hearing shall provide the date, time, and location of the public hearing, a description of the proposed new or expanded facility or existing facility, as applicable, a map indicating the location of the facility, a brief summary of the environmental justice impact statement, information on how an

interested person may review a copy of the complete environmental justice impact statement, an address for the submission of written comments to the permit applicant, and any other information deemed appropriate by the permitting agency. At least 60 days before the public hearing, the permit applicant shall send a copy of the notice to the permitting agency and to the governing body and the clerk of the municipality in which the overburdened community is located. The permit applicant shall invite the municipality to participate in the public hearing. At the public hearing, the permit applicant shall provide clear, accurate, and complete information about the proposed new or existing facility, as applicable, and the potential environmental and public health stressors associated with the facility. The permit applicant shall accept written and oral comments from any interested party, and shall provide an opportunity for meaningful public participation at the public hearing. The permit applicant shall transcribe the public hearing and, no later than 10 days after the public hearing, submit the transcript along with any written comments received to the permitting agency. Following the public hearing, the permitting agency shall consider the testimony presented and any written comments received, and shall evaluate the issuance of, or conditions to, the environmental permit, as necessary, to avoid or reduce the adverse environmental or public health stressors affecting the overburdened community.

(ii) Clause (i) is satisfied if a public hearing required by other law regarding the permit application is conducted, and the notice of the public hearing is given, in a manner that meets the requirements of clause (i).

(2) If a permit applicant is applying for more than one environmental permit for a proposed new or existing facility, the permit applicant shall only be required to comply with this subdivision once, unless a permitting agency, in its discretion, determines that more than one public hearing is necessary due to the complexity of the permit applications necessary for the proposed new or existing facility. Nothing in this section shall be construed to limit the authority of the permitting agency to hold or require additional public hearings, as may be required by any other law.

(e) Notwithstanding any other law, the permitting agency shall not issue a decision on an application for an environmental permit

for a new facility or for the expansion of an existing facility, or on an application for the renewal of a facility's environmental permit, if the facility is located, or proposed to be located, in whole or in part in an overburdened community until at least 45 days after the public hearing held pursuant to subparagraph (C) of paragraph (1) of subdivision (d).

(f) Notwithstanding any other law, after review of the environmental justice impact statement prepared pursuant to paragraph (1) of subdivision (d) and any other relevant information, including testimony and written comments received at the public hearing, the permitting agency shall deny an environmental permit for a new facility or for the expansion of, or renewal of an environmental permit for, an existing facility, or shall apply conditions concerning the construction and operation of the facility to protect public health, upon a finding that approval of the environmental permit or renewal, as proposed, would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities within the state, county, or other geographic unit of analysis as determined by the permitting agency pursuant to rule, regulation, or guidance adopted pursuant to this section.

(g) Nothing in this section shall be construed to limit the right of a permit applicant to continue facility operations during the process of permit renewal to the extent that right is provided by applicable law.

(h) In addition to any other fee authorized by law, rule, or regulation, the permitting agency shall assess each permit applicant a reasonable fee to cover the permitting agency's costs associated with the implementation of this section, including costs to provide technical assistance to permit applicants and overburdened communities as needed to comply with this section.

(i) (1) A permitting agency shall adopt rules and regulations to implement the provisions of this section.

(2) The permitting agency may issue and publish, on its internet website, technical guidance for compliance with this section.

(j) On or before January 1, 2024, a permitting agency shall electronically publish, on its internet website, all authorizations or approvals described in subparagraph (A) of paragraph (2) of

subdivision (a), immediately upon issuance, in a searchable database accessible to the public. The authorizations or approvals issued before January 1, 2022, shall be added to the database by December 31, 2024.

(k) A permitting agency shall promptly make information related to environmental permits and permitting decisions available to the California Environmental Protection Agency upon request.

(l) A permitting agency shall electronically publish all final enforcement settlement agreements on its internet website immediately upon finalization of the settlements agreements.

SEC. 5. 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, within the meaning of Section 17556 of the Government Code.

~~SECTION 1. Section 71021 of the Public Resources Code is amended to read:~~

~~71021. (a) A permit applicant for a project may request the secretary to designate a consolidated permit agency to administer the processing and issuance of a consolidated permit for the project pursuant to this division. The secretary, in accordance with the guidelines and procedures adopted pursuant to Section 71020, shall, within 20 days of the date that the request is received, either designate a consolidated permit agency for the project or refer the designation to the council.~~

~~(b) A permit applicant who requests the designation of a consolidated permit agency shall provide the secretary with a description of the project, a preliminary list of the environmental permits that the project may require, the identity of any public agency that has been designated the lead agency for the project pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code or Division 13 (commencing with Section 21000), and the identity of the participating permit agencies. The secretary may request any information from the permit applicant that is necessary to make the designation under subdivision (a), and may convene a scoping meeting of the likely consolidated permit agency and participating permit agencies in order to make that designation.~~

~~(c) The consolidated permit agency shall serve as the main point of contact for the permit applicant with regard to the processing of the consolidated permit for the project and shall manage the procedural aspects of that processing consistent with laws governing the consolidated permit agency and participating permit agencies, and with the procedures agreed to by those agencies in accordance with Section 71022. In carrying out these responsibilities, the consolidated permit agency shall ensure that the permit applicant has all the information needed to apply for all the component environmental permits that are incorporated in the consolidated permit for the project, coordinate the review of those environmental permits by the respective participating permit agencies, ensure that timely environmental permit decisions are made by the participating permit agencies, and assist in resolving any conflict or inconsistency among the environmental permit requirements and conditions that are to be imposed by the participating permit agencies with regard to the project.~~

~~(d) This division shall not be construed to limit or abridge the powers and duties granted to a participating permit agency pursuant to the law that authorizes or requires the agency to issue an environmental permit for a project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component environmental permit that is within its scope of its responsibility, including, but not limited to, the determination of environmental permit application completeness, environmental permit approval or approval with conditions, or environmental permit denial. The consolidated permit agency shall not substitute its judgment for that of a participating permit agency on any of those nonprocedural matters.~~

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ATTACHMENT 1G

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South Coast Air Quality Management District
Legislative Analysis Summary – SB 596 (Becker)
Version: Amended – 3/4/2021
Analyst: PC

SB 596 (Becker)
Greenhouse gases: cement and concrete production.

Summary: This bill would require CARB, by December 31, 2022, to develop a comprehensive strategy for California's cement and concrete sector to reduce the carbon intensity of concrete used in the state by at least 40% from 2019 levels by 2030 and to achieve carbon neutrality as soon as possible, but no later than 2045.

The bill would also require CARB, in developing the strategy, to do various things, including selecting one or more communities located adjacent to a cement plant for a community emissions reductions program pursuant to the AB 617 program.

Background: The California Global Warming Solutions Act of 2006 requires CARB to ensure that statewide greenhouse gas (GHG) emissions are reduced to at least 40% below the 1990 level by 2030. Cement and concrete are vital to building roads, bridges, buildings, and the infrastructure used to decarbonize the electrical grid or support low carbon public transportation options, but they are also a major source of GHG emissions. Cement production and concrete use is expected to grow by as much as 40% by 2040 in California so unless emissions from this industry are addressed, they will become a growing share of California's total GHG emissions. Cost-effective technologies and processes exist for achieving large reductions in emissions from concrete and cement, but they have usually not been deployed at scale because there has been insufficient demand from customers or regulatory requirements to deploy these solutions. In a highly competitive industry with very tight margins, there are strong reasons not to adopt low carbon approaches if they will put a company at a competitive disadvantage.

Status: 3/18/2021 - Re-referred to Com. on E.Q. Set for hearing April 12.

Specific Provisions: Specifically, this bill would:

1) Require CARB, by December 31, 2022, to develop a comprehensive strategy for California's cement and concrete sector to reduce the carbon intensity of concrete used in the state by at least 40% from 2019 levels by 2030 and to achieve carbon neutrality as soon as possible, but no later than 2045; and
2) Require CARB, in developing the strategy, to do various things, including:
   a. Identify modifications to existing measures and evaluate new measures, including a low-carbon product standard for concrete or cement; and
   b. Select one or more communities located adjacent to a cement plant for a community emissions reductions program pursuant to the AB 617 program.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: This bill impacts air districts' local authority and autonomy to select and recommend future communities of

need for the AB 617 program. The restriction established by the bill on which future AB 617 communities can be selected could put a strain on already limited program funding resources and cause disadvantaged communities with more compelling needs to either suffer a delay or not be selected to be part of the AB 617 program.

South Coast AQMD Proposed Amendment: Work to have the requirement in the bill that one or more communities located adjacent to a cement plant be selected for an AB 617 community be deleted from the bill.

Recommended Position: OPPOSE UNLESS AMENDED

Support:
NRDC

Oppose:
N/A

ATTACHMENT 1H

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AMENDED IN SENATE MARCH 4, 2021

SENATE BILL **No. 596**

Introduced by Senator Becker

February 18, 2021

An act *to add Section 38561.5 to the Health and Safety Code,* relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 596, as amended, Becker. Greenhouse gases: cement and concrete production.

The California Global Warming Solutions Act of ~~2006,~~ *2006* requires the State Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by 2030.

~~This bill would state the intent of the Legislature to enact subsequent legislation to reduce emissions of greenhouse gases and adverse air quality impacts from cement and concrete production, as provided.~~

This bill would require the state board, by December 31, 2022, to develop a comprehensive strategy for California's cement and concrete sector to reduce the carbon intensity of concrete used in the state by at least 40% from 2019 levels by 2030 and to achieve carbon neutrality as soon as possible, but no later than 2045. The bill would require the state board, in developing the strategy, among other things, to identify modifications to existing measures and evaluate new measure, including a low-carbon product standard for concrete or cement, to achieve those objectives.

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. (a) The Legislature finds and declares all of the following:

(1) Climate change is an urgent threat to the health and well-being of California's residents and economy.

(2) California is a global leader on climate action and has committed to achieve carbon neutrality as soon as possible, and no later than 2045, in line with the latest climate science.

(3) Achieving this objective will require advance planning, coordination, outreach, and development of a robust set of policies tailored to the needs and opportunities of every major emitting sector, including cement and concrete, which is responsible for over 7 percent of global greenhouse gas emissions.

(4) California's cement and concrete industry is well positioned to lead and accelerate the commitments to achieve carbon neutrality made by leading trade associations representing cement producers globally and in the United States.

(5) A wide range of commercially available technologies and practices exist to reduce and remove emissions of greenhouse gases throughout the life cycle of cement and concrete production, use, and disposal.

(6) Implementing these strategies will also reduce air pollution and improve public health in California communities.

(7) Positioning California's cement and concrete sector to thrive in a low-carbon economy will enhance its long-term competitiveness and support high-quality jobs.

(b) It is the intent of the Legislature that attaining net-zero or net-negative emissions of greenhouse gases from the cement and concrete sector in a manner that enhances California's competitiveness, supports high-paying jobs, improves public health, and aligns with local community priorities becomes a pillar of the state's strategy for achieving carbon neutrality.

SEC. 2. Section 38561.5 is added to the Health and Safety Code, to read:

38561.5. (a) For purposes of this section, "low carbon product standard" means a technology-neutral and performance-based standard similar to the Low Carbon Fuel Standard (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations) to reduce the greenhouse gas emissions

intensity of products sold in California over time on a life-cycle basis.

(b) By December 31, 2022, as part of, or in coordination with, the scoping plan prepared pursuant to Section 38561, the state board shall develop a comprehensive strategy for California's cement and concrete sector to reduce the carbon intensity of concrete used within the state by at least 40 percent from 2019 levels by 2030 and to achieve carbon neutrality as soon as possible, but no later than 2045. In developing the strategy, the state board shall do all of the following:

(1) Develop life-cycle greenhouse gas emissions reporting and tracking mechanisms for cement and concrete used in California, including both of the following:

(A) Life-cycle greenhouse gas intensity metrics for cement and concrete that are comparable across different formulations and strength classes.

(B) Standardized calculations and tools to enable the greenhouse gas intensity of cement and concrete from each supplier and for each product variation of a supplier to be determined and reported in a consistent manner.

(2) Evaluate the average volume-weighted greenhouse gas intensity of concrete used within the state during 2019 to establish a baseline from which to measure reductions.

(3) Identify modifications to existing measures and evaluate new measures to achieve the objectives described in this subdivision, including, but not limited to, a low-carbon product standard for concrete or cement.

(4) Prioritize actions that reduce adverse air quality impacts and support economic and workforce development in communities neighboring cement plants.

(5) Include provisions to minimize and mitigate potential leakage.

(6) Coordinate and consult with other state agencies, districts, and experts in academia, industry, and public health, and with local communities.

(7) Prioritize actions that leverage federal incentives where applicable to reduce costs and increase economic value for the state.

(8) Evaluate measures to support the use of building materials with low embodied greenhouse gas emissions, including

low-carbon concrete utilizing cement with net-zero or net-negative greenhouse gas emissions.

(9) Select one or more communities located adjacent to a cement plant for a community emissions reductions program pursuant to subdivision (c) of Section 44391.2.

~~SECTION 1. It is the intent of the Legislature to enact subsequent legislation to reduce emissions of greenhouse gases and adverse air quality impacts from cement and concrete production by strengthening and standardizing emissions disclosure requirements, setting emissions reduction targets for the sector commensurate with California's statewide greenhouse gas emissions limits, and creating incentives to support the adoption of technologies and best practices to reduce emissions throughout the supply chain.~~

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ATTACHMENT 1I

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South Coast Air Quality Management District
Legislative Analysis Summary – H.R. 848
Version: As introduced, February 4, 2021
Analyst: LTO

H.R. 848 (Thompson)

Growing Renewable Energy and Efficiency Now (GREEN) Act of 2021

Summary: This bill would amend the Internal Revenue Code of 1986 to provide incentives for renewable energy and efficiency and for other purposes.

Background: On October 1, 2015, the U.S. Environmental Protection Agency (EPA) strengthened the National Ambient Air Quality Standards (NAAQS) for ground-level ozone, lowering the primary and secondary ozone standard levels to 70 parts per billion. The South Coast Air Basin is classified as an "extreme" non-attainment area and the Coachella Valley is classified as a "severe-15" non-attainment area for the 2015 Ozone NAAQS. The 2022 AQMP will be developed to address the requirements for meeting the 2015 ozone standard.

Development of control measures for the 2022 AQMP are underway through a public process, including Working Groups on Residential and Commercial Buildings and Mobile Sources. Mobile Sources encompasses heavy-duty trucks, construction and industrial equipment, ocean-going vessels, and aircraft.

Although the GREEN Act is focused on greenhouse gas emissions (GHG), incentives to increase the production and availability of renewable energy, use of renewable energy, and more efficient technologies could yield co-benefits for the reduction of nitrogen oxide and particulate matter. Incentive programs also can motivate businesses and individuals to make choices which can lead to lasting clean air behavioral changes.

Status: 2/4/2021, Introduced in House and referred to Committee on Ways and Means

Specific Provisions: The GREEN Act seeks to reduce GHGs through tax incentives. The bill is comprised of seven Titles,

- Title I – Renewable Electricity and Reducing Carbon Emissions
- Title II – Renewable Fuels
- Title III – Green Energy and Efficiency Incentives for Individuals
- Title IV – Greening the Fleet and Alternative Vehicles
- Title V – Investment in the Green Workforce
- Title VI – Environmental Justice
- VII – Treasury Report on Data from the Greenhouse Gas Reporting Program

The following analysis includes Titles and Sections which could potentially reduce criteria air pollutants.

Title I – Renewable Electricity and Reducing Carbon Emissions

Section 101. (26 USC 45). **Extension of credit for electricity produced from certain renewable resources.** The Renewable Energy Production Tax Credit (PTC) is extended through

2026 for facilities including municipal solid waste, hydropower, marine and hydrokinetic energy, geothermal, wind, and solar. The PTC is extended for facilities where construction began before 2026.

The PTC for geothermal is extended through the end of 2021. Beginning in 2021, geothermal is eligible for the Investment Tax Credit (ITC). Wind energy would remain at the current phase out level of 60-percent through 2026.

Section 102. (26 USC 48). **Extension and modification of energy credit.** The ITC is extended and allows taxpayers to claim a tax credit up to 30-percent of the qualified energy property. The full ITC is available for full value where construction begins before the end of 2026 and then scales down over the next two-years.

- *Solar* -- Extended at 30-percent through the end of 2025, phases down to 26-percent in 2026, 22-percent in 2027, and 10-percent thereafter.
- *Geothermal* – After the PTC expires for geothermal in 2021, it is synced to the ITC timeline for solar which would be 30-percent through the end of 2025. Phase down to 26-percent in 2026, 22-percent in 2027, and 10-percent thereafter.
- *Fiber-optic solar equipment, fuel cell, microturbine, combined heat and power, small wind energy, biogas, waste energy recovery, and offshore wind* – extended at 30-percent through the end of 2026. Phases down to 26-percent in 2027 and 22-percent in 2028.
- *Energy storage technology and linear generators* – newly added to the ITC and eligible for 30-percent through the end of 2026. Phases down to 26-percent in 2027 and 22-percent in 2028.

Sec. 104. **Elective payment for energy property and electricity produced from certain renewable sources.** Allows for direct payment of 85-percent of the credit to taxpayers for the PTC, ITC, or Section 45Q (Carbon Sequestration). Tribal governments receive 100-percent of the relevant credits.

Title II – Renewable Fuels
The Alternative Fuel Tax Credit would be extended through 2022 with a phase down through 2025. The tax credit would be include electric, liquified hydrogen, natural gas, propane, E85, and 20% biodiesel. (26 USC 40A).

The income and excise tax credits would be:

- Biodiesel and biodiesel mixtures -- $1.00 per gallon through 2022, then phase credit down to $0.75 in 2023, $0.50 in 2024, and $0.33 in 2025. The credit would expire in 2025.
- Agri-biodiesel -- $0.10 per gallon small agri-biodiesel producer tax credit through 2025.
- Alternative fuels and alternative fuel mixtures -- $0.50 per gallon through 2022, $0.38 in 2023, $0.25 in 2024, and $0.17 in 2025. The credit expires at the end of 2025.
- Biofuel – second generation biofuels income tax credit extended through 2026.

Title III – Green Energy and Efficiency Incentives for Individuals

Section 301. (26 USC 25C). **Extension, increase, and modifications of nonbusiness energy property credit.** The nonbusiness energy property credit (nonrefundable personal tax credit for federal income tax purposes) applies to property in service by the end of 2025. Credits would be modified and expanded for expenditures and properties placed in service in 2022 as follows:

- Increase the percentage of credit for installing the qualified energy efficiency improvement from 10-percent of the cost to 15-percent.
- Increase lifetime cap on credits under this provision from $500 to $1,200 and restarts the lifetime limit beginning 2022.
- Updates various standards and associated limits such as,
    - $600 for a hot water boiler.
    - $300 for a furnace plus an additional $300 if the taxpayer is converting from a non-condensing furnace to a condensing furnace.
    - Roofs and advanced main air circulating fans are removed from eligibility.
    - Credit for cost of home energy audits is increased to 30-percent up to a maximum credit of $150.

Sec. 302. **Residential energy efficient property**. This provision would extend the credit (26 USC 25C) for the cost of qualified residential energy efficient property expenditures, including solar electric, solar water heating, fuel cell, small wind energy, and geothermal heat pumps. Extends the full 30-percent of credit for eligible expenditures through the end of 2026. Phases down to 26-percent in 2027, 22-percent in 2028, and expires at the end of 2028. The definition of eligible property would be expanded to include battery storage technology and energy efficient biomass fuel property. It also would remove biomass stoves as they would be covered under the "energy efficient biomass fuel property."

Sec. 303. **Energy efficient commercial building deduction**. This provision would expand the energy efficient commercial buildings deduction (26 USC 179D). The maximum deduction of $1.80 per square foot would be increased to $3.00 per square foot beginning in 2022. The maximum lifetime cap would be changed to a three-year cap. Also, the bill would lower the eligibility threshold from a 50-percent reduction in energy costs to 30-percent of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards as of two-years prior to date of construction.

Sec. 304. (26 USC 45L). **Extension, increase, and modifications of new energy efficient home credit**. This provision would extend the Section 45L new energy efficient home credit for eligible contractors through 2026. The provision expands the maximum credit for eligible new energy efficient homes from $2,000 to $2,500. It also would lower the eligibility threshold of energy expenditures to at least 15% below the expenditures of a comparable unit based on the 2018 International Energy Conservation Code standards. It also would replace the eligibility

requirements for units eligible for the $1,000 credit to correspond with the Energy Star Labeled Homes program.

Sec. 305. (26 USC 136). **Modifications to income exclusion for conservation subsidies**. This provision excludes conservation subsidies from gross income received from public utilities, State or local government, or storm water management providers Exclusions include water conservation, storm water management, and wastewater management.

Title IV – Greening the Fleet and Alternative Vehicles

Sec. 401. (26 USC 30D). **Modification of limitations on new qualified plug-in electric drive motor vehicle credit.** This provision would expand and extend the existing tax credit for electric vehicles. Under this proposal, after a manufacturer reaches 200,000 electric vehicles sold, the tax credit would be reduced by $500 until 600,000 vehicles sold. If a manufacturer has currently exceeded the 200,000 vehicles sold, those vehicles will not count toward the 600,000. The provision would extend the 2- and 3-wheeled plug-in electric vehicle credit through 2026.

Sec. 402. **Credit for previously owned qualified plug-in electric drive motor vehicles**. This provision would create a new refundable credit for buyers of used plug-in electric cars from date of enactment through 2026. The tax credit would be $1,250 for the purchase of a qualified used EV with additional incentives for battery capacity. The total tax credit would be capped at the lesser of $2,500 or 30-percent of the sale price. Criteria for eligible used EVs would include:

- Must meet the eligibility requirements in the existing Section 30D credit for new EVs.
- Sale price must not exceed $25,000.
- Model year that is at least two years earlier than the date of sale.

The program also would allow buyers with up to $30,000 in adjusted gross income or $60,000 for married couples filing jointly in adjusted gross income to claim the full amount of the credit. A reduced tax credit would be available for buyers with below $40,000 in adjusted gross income or $70,000 for married couples filing a joint return in adjusted gross income. The vehicles are required to be purchased from a dealership for personal use and the credit cannot be claimed more than once every three years. The credit would only apply to the first resale of a used EV and includes restrictions on sales between related parties.

Sec. 403. **Credit for zero-emission heavy vehicles and zero-emission buses**. This provision would create a manufacturer credit for the sale of zero-emission vehicles weighing 14,000 pounds or more after the date of enactment through the end of 2026. Eligible manufacturers would be able to claim a tax credit of 10-percent of the eligible vehicle sales price up to a total credit of $100,000. Qualifications for eligible vehicles would be:

- Domestic use-only.
- Weigh 14,000 pounds or more.

- Cannot include an internal combustion engine.
- Propelled solely by an electric motor which draws electricity from a battery or fuel cell.

Sec. 404. (26 USC 30B) **Qualified fuel cell motor vehicles**. This provision would extend the credit for the purchase of a qualified fuel cell motor vehicle through 2026. The tax credit is based on gross vehicle weight rating ranging from 8,500 pounds to more than 26,000 pounds.

Sec. 405. (26 USC 30C). **Alternative fuel refueling property credit**. This provision would extend the alternative fuel vehicle refueling property credit through 2026. Beginning in 2022, the provision would expand the credit for zero-emissions charging infrastructure by allowing a 20-percent credit for expenses in excess of $100,000, if the following are met:

- Intended for general public use and either accept credit cards as a form of payment or not charge a fee; or,
- Intended for exclusive use by government or commercial vehicle fleets.

Sec. 406. (26 USC 132). **Modification of employer-provided fringe benefits for bicycle commuting.** This provision would restore the exclusion of employer benefits related bicycle commuting through the end of 2025. Employer fringe benefits included in the bill:

- Bikeshare (a bicycle rental operation providing for pick up and drop off);
- Low-speed electric bicycle within the definition of bicycle for purposes of the exclusion; and,
- Modifies the limitation on the exclusion to provide for a specified monthly limitation amount versus an annual limitation.

Title V – Investment in the Green Workforce

Sec. 501. (26 USC 48C) **Extension of the advanced energy project credit.** This provision would allocate an additional $2.5 billion in credits for each year from 2022 through and including 2026 for qualified advanced energy projects. Qualified advanced energy project,

- Re-equips, expands, or establishes a manufacturing facility for the production of:
    - Property designed to be used to produce energy from the sun, wind, geo-thermal deposits or other renewable resources;
    - Fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles;
    - Electric grids to support the transmission of intermittent sources of renewable energy, including storage of energy;
    - Property designed to capture and sequester carbon dioxide emissions;
    - Property designed to refine or blend renewable fuels or to produce energy conservation technologies, including energy-conserving lighting technologies, smart grid technologies, or electrochromatic glass;

  - New qualified plug-in electric drive motor vehicles or components which are designed specifically for use with such vehicles, including electric motors, generators and power control units; or,
  - Other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary and any portion of the qualified investment of which is certified by the Secretary as eligible for a credit under this section.

Qualified projects would be selected based on:

- Applicants written assurances to the Secretary that all laborers and mechanics employed by contractors and subcontractors in the performance of construction, alteration or repair work on a qualifying advanced energy project shall be paid wages at rates not less than prevailing wage on projects of a similar character in the locality
- Priority for projects which,
  - Manufacture (other than primary assembly of components) property under "qualified advanced energy projects."
  - Have the greatest potential for commercial deployment of new applications.

Sec. 502. (26 USC 45U). **Labor costs of installing mechanical insulation property**. The provision provides a credit for up to 10% of the labor costs incurred by a taxpayer in installing insulation into a mechanical system within one-year. The credit is available for costs paid starting in 2022 through the end of 2026.

Sec. 503. **Labor standards for certain energy jobs**. This provision would create a certification by the Secretary of Labor for certain labor requirements for green energy and energy-related construction projects. The requirements include Davis-Bacon prevailing wages, project labor agreements, participation in registered apprenticeship programs, limits on hiring from temporary staffing agencies, limits on consideration of criminal history, a neutrality policy on collective bargaining, and disclosure of administrative merits determinations and similar judgments.

If labor requirements are met,

- Qualified projects would be eligible for a new 10-percent credit for placing in service property otherwise eligible for the Section 48 Investment Tax Credit or as part of facilities eligible for the Section 45 Production Tax Credit.
- Section 30C credit for alternative fuel vehicle recharging property is increased by to 40-percent of the first $100,000 of expenses per location.
- Maximum deduction for energy efficient commercial property under Section 179D would be increased by $0.20 per square foot.

Title VI – Environmental Justice

Sec. 601. **Qualified environmental justice program credit**. This provision creates a new program to provide eligible higher education institutions a capped refundable tax credit for a qualified environmental justice program. Higher education institutions may receive a credit of

20-percent of costs and programs with material participation from Historically Black Colleges and Universities (HBCU) and Minority Serving Institutions (MSI) may receive a higher credit of 30-percent. All credits must be expended within 5-years of their receipt. The total allocation for tax credits authorized under this program would be $1 billion for 2022 through 2026. Qualifying EJ programs shall be designed to address or improve data about environmental stressors to improve or facilitate health and economic outcomes of individuals residing in low-income areas or communities of color. Environmental stressors include contamination of air, water, soil or food or a change relative to historical norms of the areas weather conditions. The higher education institutions would be selected by the Secretaries of Energy, Education, and Health and Human Services and the U.S. EPA Administrator based on:

- Extent of participation by faculty and students from HBCU or MSI.
- Expected effect on the health or economic outcomes of individuals residing in the areas within the U.S. that are low-income or communities of color.
- Creation or significant expansion of qualified environmental justice program.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: The GREEN Act focuses on the reduction of greenhouse gases; however, there are co-benefits for criteria pollutants when employing cleaner, more efficient fuels and technologies.

The GREEN Act could provide voluntary incentives which complement South Coast AQMD's 2022 AQMP efforts related to Residential and Commercial Buildings and Mobile Sources to reduce NOx and particulate matter. Areas of interest are:

- The renewable fuel tax credit is supported by the Natural Gas Vehicle Association and other alternative fuel interests. Lower costs for alternative fuels could assist in lowering the operating costs for cleaner vehicles which could contribute clean air benefits.
- Energy efficiency tax credits for commercial and residential buildings.
- The manufacturer vehicle tax incentives for zero-emission of trucks could help lower vehicle costs for purchasers.
- Extension of the existing hydrogen fuel vehicle tax credits as follows, based on vehicle gross weight:
    - 8,500 pounds or less = $4,000
    - 8,500 to 14,000 pounds = $10,000
    - 14,000 to 26,000 pounds = $20,000
    - More than 26,000 pounds = $40,000
- Funds institutions of higher education work to assist low-income and communities of color impacted by environmental issues, including air quality.

Staff recommends a position of WORK WITH AUTHOR to discuss the co-benefits of reducing greenhouse gases and criteria pollutants, need for the reduction of criteria pollutants, and importance of incentives to transition to cleaner, more efficient technologies.

Recommended Position: WORK WITH AUTHOR

ATTACHMENT 1J

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Due to the length of H.R. 848, a link is provided below to the text of the bill:

H.R. 848, “THE GREEN ACT OF 2021”

https://www.congress.gov/bill/117th-congress/house-bill/848/text?r=7&s=1

ATTACHMENT 1K

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South Coast Air Quality Management District
Legislative Analysis Summary – H.R. 1512
Version: As introduced, March 2, 2021
Analyst: LTO

H.R. 1512 (Pallone, Tonko, Rush)

Climate Leadership and Environmental Action for Our Nation's (CLEAN) Future Act

Summary: This bill seeks to address the climate crisis, protecting the health and welfare of all Americans, and putting the Nation on the path to a net-zero greenhouse gas economy by 2050, and for other purposes.

Background: H.R. 1512 includes four bills with South Coast AQMD Governing Board positions related to electrification of Ports, clean microgrids, clean school buses, and air monitoring. This bill focuses on climate and energy issues and will likely be combined with Surface Transportation and Ways and Means bills to form the Transportation and Infrastructure package.

Status: 3/22021, Introduced and referred to:

- Committee on Energy and Commerce, Subcommittee on Environment and Climate Change
- Committee on Transportation and Infrastructure, Subcommittees on Water Resources and the Environment; Railroads, Pipelines and Hazardous Materials; Highways and Transit; Economic Development, Public Buildings, and Emergency Management; and, Aviation
- Committee on Oversight and Reform
- Committee on Education and Labor
- Committee on Ways and Means
- Committee on Natural Resources
- Committee on Armed Services
- Committee on Foreign Affairs
- Committee on Science, Space, and Technology
- Committee on Intelligence (Permanent Select)
- Committee on Financial Services

Specific Provisions: The "CLEAN Future Act" is comprised of ten (10) Titles with wide ranging topics from national climate goals to issues related to environmental justice and super pollutants. Titles and Sections related to air quality either directly or indirectly are summarized below:

Title I – National Climate Target, Subtitles A and B

Sections 101 – 111. The bill would establish an interim national climate target of a 50-percent reduction in emissions of greenhouse gases from 2005 levels by 2030 and a 100% clean economy by 2050. A study by the National Academy of Sciences would be commissioned on issues related to the national goal of achieving net-zero greenhouse gas emissions by 2050. Each federal agency would be required to develop an action plan consistent with their mission and in cooperation with the other agencies to make progress toward meeting the interim and national climate goals. Federal agency actions could include:

- Providing incentives;
- Carrying out research and development programs;

- Reducing greenhouse gas emissions of such agency itself;
- Increasing agency resilience of federal facilities and operations to climate change impacts and risks; and,
- Other appropriate measures as deemed by the head of the Federal agency deemed to reach interim and national climate goals.

Goals for the federal climate action plans would be:

- Improve public health, especially for disadvantaged and rural communities that are disproportionately vulnerable to the impacts of climate change or other pollution;
- Benefit consumers, small businesses, farmers and ranchers, and rural communities;
- Prioritize infrastructure investment that reduces emissions of greenhouse gases and other pollutants, create jobs and make communities more resilient to the effects of climate change;
- Enhance job creation and labor standards (remove policy barriers to labor organizing, protect labor agreements, apply prevailing wage, safety and health protections, and domestic content;
- Lead in clean and emerging technology to ensure U.S. companies are competitive;
- Ensure fairness and equity for workers and communities affected by the transition to a 100-percent clean economy; and,
- Prepare communities for climate change impacts and risks.

The proposed climate action plans by each agency would be available for public comment within 6 months of enactment of the bill. Interagency review, revisions every 24-months, and an annual report also would be required.

A "Clean Economy Federal Advisory Committee" (Advisory Committee) would be created with appointees that reflect diversity in gender, age, geography. The Advisory Committee would include:

- Two State officials, including one state that has adopted greenhouse gas targets;
- Two local government officials – one representing a city or county that has adopted greenhouse gas targets and one that is impacted by the transition away from fossil energy;
- One environmental non-profit member;
- Two environmental justice (EJ) members;
- Two members of climate justice organizations;
- Two representatives from Tribal communities -- one representing a city or county that has adopted greenhouse gas targets and one that is impacted by the transition away from fossil energy;
- Two members of the National Academy of Sciences;
- Four organized labor representatives – one each representing utility sector, transportation, manufacturing, and building trades;
- Two members employed by power sector – one representing the clean energy industry;

- Two members of agriculture industry – one farmer or rancher and one representing a family farm organization;
- Two transportation representatives – one must represent public transit;
- Two manufacturing members – one must represent a business committed to net-zero;
- Two commercial and residential building sector members – one must represent a business committed to improving energy efficiency;
- 1 public health expert; and,
- 1 young person involved with a climate and environmental organization.

The Advisory Committee would form Subcommittees and meet at least three times in the first year and thereafter on at least an annual basis. The Advisory Committee would sunset on December 31, 2050.

Title II – Power, Subtitle A (Clean Energy Standard)
Sections 201 - 210. H.R. 1512 would require retail electricity suppliers to provide an increasing percentage of clean energy each year from 2023 to reach 80-percent in 2030 and 100-percent in 2035. It also creates an alternative compliance payment (ACP) mechanism for suppliers to meet compliance requirements. The price of ACP increases each year and may be utilized by retail electricity suppliers in lieu of zero-emission electricity credits. In 2031, a retail electricity supplier that submits ACP for more than 10-perent of its compliance obligation may defer for up to five-years total. 25-percent of the ACP funds from a retail electricity supplier who defers must be utilized to assist their customers with their utility bills. Zero-emission electricity credits may be bought, sold and/or traded to meet compliance obligations.

Funds generated by the ACP program and any penalties from non-compliance would be utilized to create a Carbon Mitigation Fund for the following activities in States:

- Energy efficiency improvements;
- Electrification;
- Replace State and local government fossil-fueled vehicles with electric or low carbon fuel vehicles;
- Replace fossil-fueled ground airport and seaport vehicles with electric or low carbon fuel vehicles;
- Install fast charging electric vehicle infrastructure along highways and roads; or,
- Promote direct capture, permanent sequestration or utilization of carbon dioxide.

Definitions of energy generation in the bill include combined heat and power systems, renewable biomass and waste to energy. Generation of electricity through renewable biomass may not create criteria air pollutants nor hazardous air pollutants as defined by Sections 108 and 112(b) of the Clean Air Act. Waste to energy generation must comply with Section 112 and 129 of the Clean Air Act. Zero-emission electricity is defined as the fraction of electricity generated by a given generating unit whose generation is not associated with the release of greenhouse gases.

The bill states that nothing prevents States from adopting or enforcing their own clean or renewable energy standards or regulations. States with more stringent programs are deemed in compliance with the federal standard.

A report by the U.S. EPA Administrator would be required no later than January 1, 2034, which evaluates and forecasts the remaining barriers to achieving 100-percent generation of electricity with no emissions of carbon dioxide by 2035.

Title II – Power, Subtitle C – Public Utility Regulatory Policies Act (PURPA) Reform
Sections 221 – 226. H.R. 1512 would establish a standard under PURPA to require States to consider energy storage systems in context with,

- Total cost and normalized life-cycle costs;
- Cost effectiveness;
- Security; and,
- System performance and efficiency.

Additionally, the bill would create a PURPA standard that requires electric utilities to offer a community solar program to all ratepayers, including low-income customers. Community solar would be defined as, "a service provided to any electric consumer that the electric utility services through which the value of electricity generated by a community solar facility may be used to offset charges billed to the electric consumer by the electric utility."

Title II – Power, Subtitle D – Electricity Infrastructure Modernization and Resilience
Sections 230 – 236. H.R. 1512 would create the 21st Century Power Grid grant program to fund projects that improve resiliency, performance, or efficiency of the electricity grid. Eligible partners for the grants would include a State or local government, National Laboratory, institution of higher education, a Tribal government, a federal power marketing administration, or entity that develops grid technology. The program would authorize $700 million per year from Fiscal Year (FY) 2022 through FY 2031.

The Secretary of Energy would be required to establish a program and create a national reserve to ensure that large power transformers and other critical electric grid equipment can be replaced in emergency situations. The program would also facilitate technological and design improvements to equipment to reduce vulnerabilities to attack or damage.

The bill also authorizes $10 million per year from FY 2022 through FY 2031 to remediate sites of former fossil fuel-powered electricity generating unit in a community.

A Clean Energy Microgrids grant program would be established to provide $50 million for technical assistance and outreach and $1.5 billion for projects from FY 2022 through FY 2031. Priority for grants would be given for EJ communities, regions with one or more designation as severe and/or extreme under the Clean Air Act, and other criteria.

Title II – Power, Subtitle E – Clean Electricity Generation
Sections 241 – 248. H.R. 1512 would establish a program to provide loans to eligible entities to support the deployment of distributed energy systems. Loans could be used to improve grid security and resiliency, increase local renewable sources, enhance peak load management and lower energy costs for rural communities. Renewable energy resources would include biomass, geothermal energy, hydropower, landfill gas, municipal solid waste, ocean, organic waste, photosynthetic processes, photovoltaic, solar, and wind. A total of $250 million would be authorized for the loan program over the period from FY 2022 through FY 2031.

It also would create a loan and grant program to eligible entities for the construction or installation of solar facilities for multi-family affordable housing. The program would be authorized for $250 million per year from FY 2022 through FY 2031 to be used for solar generating equipment, job training, deployment support and/ or administrative expenses.

H.R. 1512 would establish a non-profit corporation, the "Distributed Energy Opportunity Board" to provide assistance for distributed energy installation and streamlined permitting activities. The Secretary of Energy would designate "Distributed Energy Opportunity Communities" to be eligible to receive grants on a competitive basis. Distributed Energy Opportunity Communities would be required to adopt and implement the model expedited permit-to-build protocols developed by the Secretary in consultation with trade associations and State, local and Tribal governments engaged in permitting activities. The bill would authorize $20 million per year from FY 2022 through FY 2031.

The Secretary of Energy would be required to study equitable distribution of benefits of clean energy for frontline communities.

Title III – Efficiency, Subtitle A – Energy Saving Building Codes
Sections 301 – 312. (42 USC 6836). This title of the bill would establish national energy saving targets for model building energy codes. The targets for aggregate national energy savings of buildings would be created based on baselines established by the 2018 IECC for residential buildings and ASHRAE Standard 90.1—2016 for commercial buildings, as follows:

Model codes issued by:	**Percentage**
2023	20
2026	35
2029	50

The Secretary of Energy would be directed to support the adoption of, and compliance with, building energy codes by States, Tribes and local government. States and Tribes would be required to certify to the Secretary of Energy that they have adopted a revised building energy code which in turn is validated. The Secretary of Energy would be required to analyze and validate compliance of building energy code beginning in 2024 and every three years thereafter.

Federal financial support related to energy or buildings could be withheld from States or Indian Tribes without validated certification of model building codes or compliance. States could reference more stringent appliance standards in their building codes if it is included in a national model building code issued by model codes, standards organization, or the Department of Energy.

The bill would authorize $200 million to remain available until expended.

Title III – Efficiency, Subtitle B – Existing Building Retrofits
Section 311 – 312. (42 USC 15822). H.R. 1512 would amend an existing grant program for State agencies responsible for developing energy conservation plans. The bill would add a reference to ASHRAE Standard 90.1 as baseline for new public building construction in addition to the International Energy Conservation Code. These model codes are adopted by many states and municipal governments for the establishment of minimum design and construction requirements for energy efficiency. The bill also would add benchmarking programs to enable monitoring and use of energy performance data in buildings as a eligible use of grant funds.

The bill would add a new subsection to require any local government receiving a grant to obtain third-party verification of energy efficiency improvements for buildings. The bill would authorize $100 million per year for FY 2022 through FY 2031.

This Title also would establish a new Department of Energy (DOE) grant program to make energy improvements in public school facilities. Improvements that would qualify include:

- Measures that reduce school energy costs.
- Improved air quality, daylighting, ventilation, electrical lighting, and acoustics to improve student and teacher health.
- Installation of renewable energy technologies.

Eligible grant entities would be defined as a consortium of:

- One local educational agency; and,
- One or more,
    - Schools;
    - Nonprofit organizations;
    - For-profit organizations; or,
    - Community partners that have the knowledge and capacity to partner and assist with energy improvements.

Energy improvements would be defined as:

- Any improvement, repair, or renovation, to a school that will result in a direct reduction in school energy costs including but not limited to improvements to building envelope, air conditioning, ventilation, heating system, domestic hot water

heating, compressed air systems, distribution systems, lighting, power systems and controls;
- Any improvement, repair, renovation or installation that leads to an improvement in teacher and student health including but not limited to indoor air quality, daylighting, ventilation, electrical lighting, and acoustics; and,
- The installation of renewable energy technologies (such as wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, anaerobic digesters, and hydropower) involved in the improvement, repair, or renovation to a school.

The DOE would be required to prioritize grants for high-need local educational agencies or rural educational agencies. Additional competitive grant criteria would include:

- Fiscal capacity of the eligible entity to meet the needs for improvements of school facilities without assistance under this section, including the ability of the eligible entity to raise funds through the use of local bonding capacity and otherwise.
- The likelihood that the local educational agency or eligible entity will maintain, in good condition, any facility whose improvement is assisted.
- The potential energy efficiency and safety benefits from the proposed energy improvements.

The bill would authorize $100 million per year from FY 2022 through FY 2031.

Title III – Efficiency, Subtitle C – Promoting Energy Efficiency
(Sections 321 – 325). (42 USC 6297). This provision would amend existing law to suspend the federal preemption for appliance and efficiency standards when DOE misses an update deadline. The original and potentially amended version of this law does not apply to State regulation of any product not subject to an energy conservation standard.

(42 U.S.C. 13 17152(b)(1) The bill would clarify that funds provided under the Energy Efficiency and Conservation Block Grant Program's (EECBG) could be used to deploy infrastructure for delivering alternative fuels, and projects to expand use of alternative fuels are eligible for grants awarded through the program. Authorization for the program would be $3.5 billion per year for FY 2022 through 2031 plus an additional $35 million per year for administrative expenses.

The bill also would require DOE to establish a pilot grant program to award up to $200,000 to nonprofit organizations to purchase energy efficiency materials for installation in their buildings. An eligible non-profit would mean a 501(c)(3) and exempt from tax under section 501(a) of the Internal Revenue code. Energy efficiency materials would include:

- A roof or lighting system or component of the system;
- A window;
- A door, including a security door;

- A heating, ventilation, or air conditioning system or component of the system (including insulation and wiring and plumbing improvements needed to serve a more efficient system); and,
- A renewable energy generation or heating system, including a solar, photovoltaic, wind, geothermal, or biomass (including wood pellet system) or component of the system.

Eligible non-profit buildings would include:

- Hospital;
- Youth center;
- School;
- Social-welfare program;
- Facility of a faith-based organization; or,
- Any other nonresidential and noncommercial structure.

Criteria for grants would be performance-based:

- The energy savings expected to be achieved;
- The cost effectiveness of the use of the energy efficiency materials that are proposed to be purchased;
- An effective plan for evaluation, measurement, and verification of energy savings; and,
- The financial need of the applicant.

The program would be authorized $10 million per year from FY 2022 through 2031, to remain available until expended.

The bill also would create a "Home Wildfire Risk Reduction Rebate Program" to provide rebates to homeowners to defray the costs of retrofitting an existing home to be wildfire resistant. Rebates would be:

- $10,000 for the retrofitting of roof features including the roof covering, vents, soffit and fascia, and gutters;
- $20,000 for the retrofitting of exterior wall features, including sheathing and siding, doors, and windows;
- $5,000 for the retrofitting of a deck, including the decking, framing, and fascia; and,
- $1,500 for the retrofitting of near-home landscaping, including mulch and landscape fabric in a 5-foot zone immediately around the home and under all attached decks.

The rebate could be used for purchase of materials and installation. The total rebate could not exceed 50-percent of the cost of the retrofit. For moderate income households, the total rebate

could be up to 80-percent of the cost of the retrofit. The program would be authorized at $500 million per year from FY 2022 through FY 2031.

Additionally, the bill would amend the existing State Energy Efficiency Appliance Rebate program to allow for the replacement of used appliances for similar purposes that is powered by electricity. It also would reauthorize the program at $300 million for each year beginning FY 2022 through 2031.

Title III – Efficiency, Subtitle D – HOPE for HOMES
Section 331 - 346. The bill would establish the definitions for the HOPE for HOMES program which would create a workforce training program and provide grants for Home Energy Savings Retrofit Rebates.

Under the bill, Partial System Rebates would be available to homeowners or multifamily building owner for:

- $800 for the purchase and installation of insulation and air sealing;
- $1,500 for the purchase and installation of insulation and air sealing and replacement of an HVAC system, the heating component of an HVAC system, or the cooling component of an HVAC system.

The amount of a Partial System Rebate shall not exceed 30-perent of the cost of the project. Labor may be included in the cost, but may not exceed:

- 50-percent of the cost of insulation and air sealing; or,
- 25-percent of the cost of insulation, air sealing, HVAC system, or the heating or cooling component of HVAC system.

The installation of HVAC systems or the heating or cooling components of HVAC systems would need to be completed in accordance with standards specified by the Secretary of Energy that are at least as stringent as the applicable guidelines of the Air Conditioning Contractors of America. Duct sealing would be required when installing HVAC systems, heating components of HVAC systems or cooling components of HVAC systems.

The Home Energy Savings Retrofit Rebate Program would provide contractors with $250 per home or multifamily building for which:

- A partial system rebate is provided for the installation of insulation and air sealing, or installation of insulation and air sealing, or installation of insulation, air sealing and replacement of HVAC system or HVAC heating or cooling component;
- The applicable homeowner has signed and submitted a release form authorizing the contractor access to information in the utility bills of the homeowner or the applicable multifamily building owner has signed and submitted an agreement ith the contractor to provide whole-building aggregate information about the building's energy use; and,

- The contractor would be required to provide information for the DOE Energy Building Performance Database:
    - The energy usage for the home of a homeowner or for the household living in a multifamily building for the 12-months preceding, and 24-months following, the installation of the insulation, air sealing, or installation of insulation and air sealing and replacement of an HVAC system, the heating component of an HVAC system, or the cooling component of an HVAC system;
    - Description of installation or installation and replacement; and,
    - Total cost to the homeowner or multifamily building owner for installation or installation and replacement.

The Secretary of Energy would work with the Department of Treasury to create a federal rebate processing system including a database and information technology system that would allow homeowner and multifamily building owners to submit required forms online; and establish a website.

The Secretary of Energy would be allowed to expend not more than 50-percent of the annual appropriation on the partial system rebate program.

Additionally, the bill would create a State administered Home Energy Savings Retrofit Rebate Program. The States would be required to meet minimum criteria:

- State program would be carried out by the applicable State energy office or its designee;
- A rebate be provided under a State program only for a home efficiency retrofit, that:
    - Is completed by a contractor who meets minimum training requirements and certification requirements set forth by the Secretary of Energy;
    - Includes installation of one or more home energy efficiency retrofit measures for a home that together are modeled to achieve, or are shown to achieve, a reduction in home energy use of 20-perent or more from the baseline energy use of the home;
    - Does not include installation of any measure that the Secretary determines does not improve the thermal energy performance of the home, such as a pool pump, pool heater, spa, or EV charger; and,
    - Includes, after installation of the applicable home energy efficiency retrofit measures, a test-out procedure conducted in accordance with guidelines issued by the Secretary of such measures to ensure:
        - The safe operation of all systems after retrofit; and,
        - That all improvements are included in, and have been installed according to:
            - Manufacturers installation specifications; and,
            - All applicable State and local codes or equivalent standards approved by the Secretary.
- The Secretary of Energy would be required to approve either the software used for "modeled performance rebates" or the methods and procedures used for "measured performance rebates."

- The State also,
    - May include an entity to serve as a rebate aggregator to facilitate the delivery of rebates to homeowners or contractors;
    - Shall include procedures for a homeowner to transfer the right to claim a rebate to the contractor performing the work or to a rebate aggregator; and,
    - Must provide a homeowner, contractor or rebate aggregator the ability to claim more than one rebate including after receiving a "partial system rebate" under the national program as long as the no two (2) rebates utilize the same baseline energy use for the home.
- A "modeled performance rebate" must reduce home energy use by at least 20-percent and shall be equal to 50-percent of the cost of the applicable energy audit of a home and home energy efficiency retrofit, including the cost of diagnostic procedures, labor, reporting, and modeling. Maximum rebates as follows for home energy reductions:
    - 20- to 40-percent = $2,400; and,
    - Above 40-percent = $4,000.
- A "measured performance rebate" shall be equal to 50-percent of the cost, including the cost of diagnostic procedures, labor, reporting, and energy measurement. Maximum rebates as follows for home energy reductions:
    - 20-percent, but less than 40-percent = $2,000; and,
    - At least 40-percent = $4,000.
- States would be encouraged to work with State agencies, energy utilities, nonprofits, and other entities on marketing, financing, implementation and installation and quality assurance programs.
- The Secretary of Energy would be responsible for review and audit of the program. States failing to comply with program rules may be subject to withholding of grants funds.

The program also would have special provisions for moderate income households. The Secretary of Energy would be required to establish procedures for certifying that household or, in the case of a multifamily building, the majority of households in the building is moderate income. Rebates for moderate income households follow the same requirements in the below amounts:

- "Partial system rebate" would be 60-percent of the applicable purchase and installation costs:
    - Maximum of $1,600 for installation of insulation and sealing.
    - Maximum of $3,000 for HVAC system or heating or cooling component of HVAC.
- "Modeled performance rebate" would be 80-percent of the applicable costs:
    - 20- to 40-percent = $4,000.
    - Above 40-percent = $8,000.
- "Measured performance rebate' would be 80-percent of the applicable costs:
    - 20-percent, but less than 40-percent = $4,000.
    - At least 40-percent = $8,000.
- The Secretary would be required to conduct outreach.

Section 341. Evaluation reports to Congress.

For purposes of the Internal Revenue Code of 1986, gross income shall not include any rebate received under the Home Energy Savings Retrofit program.

The program would be authorized at $1.6 billion for Fiscal Year 2022 through 2031, to remain available until expended. Tribal governments would receive two-percent of the authorization for a similar program. HOPE for HOMES would require that any federal funds provided should be used to supplement, not supplant state and/or local funds.

Subtitle E – Investing in State Energy

Section 351 - 352. (42 U.S.C. 6867(d)) This Subtitle of the bill would require the Secretary of Energy to provide weatherization and State Energy program funds to be provided within 60-days of Department receiving funds. It also would authorize States' use of federal assistance through the State Energy Program to implement, revise and review a State Energy Security Plan. Additionally, it would require a Governor to submit a plan, revision of a plan, or certification of no revisions be necessary to a plan to the Secretary of Energy annually.

Subtitle F – Federal Energy Management Program (FEMP)

Section 361. (42 USC 91). Energy and water performance requirement for federal facilities. This Subtitle of the bill would require each federal agency to reduce each year average building energy intensity by 2.5-percent relative to their respective energy intensities in 2018.

Subtitle G – Open Back Better

Section 371. H.R. 1512 would require the Secretary of Energy to allocate funds to States to make grants to:

- A public school
- A facility used to operate an early childhood education program
- A local educational agency
- A medical facility
- A local or State government building
- A community facility
- A public safety facility
- A day care center
- An institution of higher education
- A public library
- A wastewater treatment facility

Covered projects would include,

- Resiliency, including:
  - Public health and safety
  - Power outages
  - Natural disasters
  - Indoor air quality
  - Any modifications necessitated by the COVID-19 pandemic
- Energy efficiency
- Renewable energy
- Grid integration

Projects could have combined heat and power and energy storage as project components.

States could not use more than 10-percent of grant funds to provide technical assistance for the development, facilitation, management, oversight, and measurement of results of covered projects. There are no matching requirements for grants to States. However, States would be encouraged to leverage private financing for cost-effective energy efficiency, renewable energy, resiliency, and other smart-building improvements, such as by entering into an energy service performance contract. The Secretary of Energy would be required to provide grants under the AFFECT program to implement the covered projects within 60-days of enactment.

The bill would require 40-percent of grant funds to implement covered projects in environmental justice communities or low-income communities.

The bill would authorize $3.6 billion per year for the State Energy Program from FY 2022 through FY 2031. These funds would supplement existing Department of Energy weatherization assistance program funds. It would also direct the Secretary to distribute $500 million in Assisting Federal Facilities with Energy Conservation Technologies. $1.5 billion would be authorized for Tribal organizations. The bill also would require that American iron, steel and manufactured goods are used in projects. There would be a waiver process for the Buy American provisions if the materials/goods are not available in sufficient and reasonably available quantities, satisfactory quality, and it would not increase the overall project cost by 25-percent or more.

Subtitle H – Benchmarking

Section 381 - 385. The bill would create the Commercial and Multifamily Building Benchmarking and Transparency Initiative. This Subtitle would direct the U.S. EPA Administrator to develop and carry out a benchmarking and transparency initiative for commercial and multifamily (5 or more units in building) properties to advance knowledge about building energy and water performance and inform efforts to reduce greenhouse gas emissions.

The bill would require the U.S. EPA Administrator to collect data from owners of covered properties regarding building energy and water consumption. An exemption would be provided

for covered properties that meet an approved State or local benchmarking requirement. A subset of the data would be published by the U.S. EPA Administrator.

Further, the U.S. EPA Administrator would be required to improve the Energy Star Portfolio Manager and enhance implementation. The bill would authorize $5 million for these purposes until expended.

The bill also would require the U.S. EPA Administrator to provide technical and financial assistance to States and local government for benchmarking implementation. The program would be authorized at $50 million per year from FY 2022 through FY 2031.

Title IV – Transportation, Subtitle A – Greenhouse gas pollution emission standards.

Section 401. The bill would require U.S. EPA to promulgate greenhouse gas emissions standards for every class or category of new nonroad engines and new nonroad vehicles, taking into the account costs, noise, safety, and energy factors.

- The regulations would apply to the useful life of the vehicles.
- U.S. EPA would be required to promulgate regulations containing standards applicable to greenhouse gas emissions from new locomotives and new engines used in locomotives. The regulations should consider:
    - Greatest degree of emission reduction achievable through the application of technology
    - Cost of applying such technology
    - Noise
    - Energy
    - Safety factors
- The regulations would ensure that successive standards for greenhouse gas emission are always in effect and provide increased reductions for each regulated class or category of new nonroad engines, new nonroad vehicles, new locomotives, and new engines used in locomotives.
- The successive emissions standards would be based on the amount of greenhouse gas emissions reductions needed to achieve the national interim goal of 50% reduction in emissions of greenhouse gases from 2005 levels by 2030; and 100% clean economy by not later than 2050.
- The EPA would be required to promulgate the regulations within 24 months of enactment of the bill.

Title IV – Transportation, Subtitle B – Cleaner Fuels

Section 411 - 413. (42 U.S.C. 7545(o)). The bill would seek to accelerate the U.S. EPA Administrators approval of clean fuels. This bill would require the U.S. EPA Administrator to take final action on approval or disapproval of a renewable fuel if 90-days have passed since submission of the petition; and, the combination of the fuel type, production process and

feedstock have been approved in at least one State under a program designed to reduce the carbon intensity of transportation fuel. Transportation fuel for ocean-going vessels would be excluded from existing law under this program to approve clean fuels.

(42 U.S.C. 7545(o)(9)) Exemptions / 42 U.S.C. 11 7545(o)(2)) Requirements. The bill would establish exemptions and annual deadlines for petitions by small refineries for renewable fuel requirements. The bill would establish June 1 of the preceding year as the deadline for small refineries to submit petitions to be exempted from renewable fuel requirements. If a small refinery fails to submit a petition by June 1, they would be ineligible for consideration or approval.

Existing law defines small refineries as "the average daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

Section 413. 42 U.S.C. 7545(o)(9)(B)). The bill would make public the information in the renewable fuel requirement petition filed by a small refinery including:

- Name of small refinery
- Number of gallons of renewable fuel that will not be contained in fuel
- Compliance year for which the extension is requested

Title IV – Transportation, Subtitle C – ZEV Vehicle Development

The bill would reauthorization the Diesel Emissions Reduction Act Program (DERA) at $500 million per year for FY 2022 through FY 2031.

The bill also would establish a pilot program for the electrification of certain refrigerated vehicles, including trucks and shore power. The program would provide a one-time authorization of $10 million to funds grants for:

- Replacement or retrofit of existing diesel-powered transport refrigeration unit with an electric transport refrigeration unit and retiring the old unit for scrappage; and,
- A project to purchase and install shore power infrastructure or other equipment that enables transport refrigeration units to connect to electric power and operate without using diesel fuel.

Maximum grant awards would be 75-percent of truck refrigeration project costs; and 55-percent of shore power project costs. Priority for grants would be given to projects that:

- Maximize public health benefits;
- Most cost-effective; and,
- Serve communities that are most polluted by diesel motor emissions, including nonattainment or maintenance areas, particularly for ozone and particulate matter.

Eligible grant applicants would include:

- A regional, State, local or Tribal agency, or port authority, with jurisdiction over transportation or air quality;
- A non profit organization or institution, that:
    - Represents or provides pollution reduction or educational services to persons or organizations that own or operate heavy-duty vehicles or fleets of heavy-duty vehicles; or,
    - Has as its principal purpose, the promotion of air quality;
- An individual or entity that is the owner of record of a heavy-duty vehicle or a fleet of heavy-duty vehicles that operates for the transportation and delivery of perishable goods or other goods requiring climate-controlled conditions;
- An individual or entity that is the owner of a facility that operates as a warehouse or storage facility for perishable goods or other goods requiring climate-controlled conditions; or,
- A hospital or public health institution that utilizes refrigeration for storage of perishable goods or other goods requiring climate-controlled conditions.

The U.S. EPA Administrator would be required to submit a report to Congress not later than one-year after the program is established with details on grant awarded with a final report due not later than five-years after the pilot program is established.

The bill would reauthorize and amend the Clean School Bus Act. (42 U.S.C. 16091). It would reauthorize the expired program and amend it to only fund zero-emission school buses. Applications for awards would be prioritized based on:

- Replacement of school buses that serve the highest number of students who are eligible for free or reduced-price lunch;
- Ability to complement the assistance received through the award by securing additional sources of funding through public-private partnerships with electric companies, grants from other entities, or issuance of school bonds.

The bill also specifies that awards should be made nationwide with broad geographical distribution including rural areas. Eligible applicants would include local or State government, Tribal schools, nonprofit school transportation associations, or one or more contracting entities that provide school bus service.

Grant awards could cover up to 100-percent of the replacement for clean school buses, as long as the replacement does not exceed 110-percent of the amount equal to the difference between the cost of a clean school bus and the cost of a diesel school bus. Old buses that were replaced must be scrapped.

Grant awards could also be used for:

- Acquisition and labor costs for charging or other infrastructure needed to charge or maintain clean school buses;

- Workforce development and training to support the maintenance, charging, and operations of electric school buses; and,
- Planning and technical activities to support the adoption and deployment of clean school buses.

There are also significant labor and Buy American requirements.

The total authorization would be $2.5 billion for FY 2022 through FY 2031. Not less than $1 billion of the authorization would be available for electric school buses to serve a community of color, indigenous community, low-income community, or any community in a non-attainment region.

This Title of the bill would authorize funding for the Clean Cities Coalition Program as follows:

- $50 million for FY 2022;
- $60 million for FY 2023;
- $75 million for FY 2024;
- $90 million for FY 2025; and,
- $100 million for each year FY 2026 through FY 2031.

Title IV – Transportation, Subtitle D – Zero Emissions Vehicle Infrastructure Buildout, Part 1 – Electric Vehicle Infrastructure

Section 431 - 432. . The Secretary of Energy would be required to establish the Electric Vehicles Supply Equipment rebate program by January 1, 2022. The purpose of the rebates would be to cover expenses associated with publicly accessible electric vehicle supply equipment. Electric vehicle supply equipment includes any conductors, including ungrounded, grounded and equipment grounding conductors, electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy to an electric vehicle. The Secretary would be required to publish and maintain a list of eligible electric vehicle supply equipment.

Eligible applicants would include:

- An individual;
- A State, local, Tribal or Territorial government;
- A private entity;
- A not-for-profit or non-profit entity; or,
- A metropolitan planning organization.

Equipment would need to be installed in the United States on:

- Property owned by the eligible entity or on which the eligible entity has the authority to install equipment; and,

- Location that is either a multi-unit housing structure, workplace, commercial location or open to the public for a minimum of 12-hours per day.

The rebate amount for first-time equipment would be the lesser of:

- 75-percent of the applicable covered expenses;
- $2,000 for covered expenses associated with the purchase and installation of non-networked level 2 charging equipment;
- $4,000 for covered expenses associated with the purchase and installation of networked level 2 charging equipment; or
- $100,000 for covered expenses associated with the purchase and installation of networked direct current fast charging equipment.

The rebate amount for replacement of pre-existing equipment at a single location would be the lesser of:

- 75-percent of the applicable covered expenses;
- $1,000 for covered expenses associated with the purchase and installation of non-networked level 2 charging equipment;
- $2,000 for covered expenses associated with the purchase and installation of networked level 2 charging equipment; or,
- $25,000 for covered expenses associated with the purchase and installation of networked direct current fast charging equipment.

Exceptions to the rebate would be:

- Rebates not provided for projects that do not meet the global positioning system location and technical specifications as required under paragraph (2).
- Multi-port chargers funded at 50-percent after the first for each subsequent publicly available port.
- Networked direct current fast charging would be funded at not more than 40-percent.
- Hydrogen fuel cell infrastructure would be funded as though it were networked direct current fast charging equipment or 40-percent.

The Secretary of Energy would be required to review proposed or final model building codes for electric vehicle supply equipment as follows:

- Integrating electric vehicle supply equipment into residential and commercial buildings that include space for individual vehicle or fleet vehicle parking; and,
- Integrating onsite renewable power equipment and electric storage equipment (including electric vehicle batteries to be used for electric storage) into residential and commercial buildings.

The bill would require the Assistant Secretary of Electricity Delivery and Energy Reliability (including the Smart Grid Task Force) to convene a group to assess progress in the development of standards as follows:

- Support the expanded deployment of electric vehicle supply equipment;
- Develop an electric vehicle charging network to provide reliable charging for electric vehicles nationwide, taking into consideration range and location of infrastructure to ensure an electric vehicle can travel throughout the nation; and,
- Ensure the development of an electric vehicle infrastructure network will not compromise the stability and reliability of the electric grid.

A report would be due to Congress not later than one-year after enactment of this bill.

This provision would amend Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 2621(d)) to require States to:

- Consider measures encouraging deployment of electric vehicle charging stations;
- Allow utilities to recover investments to deploy electric charging vehicle charging networks from ratepayers; and,
- Exclude electric utilities entities selling electricity to the public solely through electric vehicle chargers from regulation related to the sale of electricity.

/ The Energy Policy and Conservation Act (42 U.S.C. 6322(d)) requires the Secretary of Energy to invite Governors to submit a State Energy Conservation Plan every three-years. There is specific guidance on what should be included in the plan and the Secretary of Energy may provide funding to the States. This provision would amend existing law to authorize:

- $100 million for FY 2022 through 2031 for State Energy Conservation Plans; and,
- $25 million for FY 2022 through 2031 for State Energy Transportation Plans.

This provision would enable the Secretary of Energy to provide funding for a State to develop an Energy Transportation Plan as part of the overall State energy conservation plan. The purpose of State Energy Transportation Plans would be to promote the electrification of the transportation system, reduce consumption of fossil fuels, and improve air quality. These plans should include plans to:

- Deploy a network of electric vehicle charging infrastructure for passenger and commercial vehicles to ensure operability throughout the nation. (Electric vehicle supply equipment includes conductors, including ungrounded, grounded, and equipment grounding conductors, electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy to an electric vehicle);
- Promote modernization of the electric grid, including use of renewable energy to power grid, accommodate demand for power to support electric vehicle charging infrastructure, and utilize energy storage capacity provided by electric passenger and commercial vehicles.

When developing these plans, States would be required to coordinate with:

- State regulatory authorities;
- Electric utilities;
- Regional transmission organizations or independent system operators;
- Private entities that provide electric vehicle charging services;
- State transportation agencies, metropolitan planning organizations, and local governments;
- Electric vehicle manufacturers; and,
- Public and private entities that manage ports, airports, or other transportation hubs.

The bill would amend the Energy Independence and Security Act of 2007 (42 U.S.C. 17011) to update the Energy Transportation Electronification program to include:

- Ground support equipment at Ports;
- Electric airport ground support vehicles (note: equipment is already in law);
- Installation of electric vehicle supply equipment for electric vehicles, including equipment that is accessible in rural and urban areas and in underserved or disadvantaged communities and equipment for medium- and heavy-duty vehicles, including at depots and in-route locations;
- Multi-use charging hubs used for multiple forms of transportation;
- Medium- and heavy-duty vehicle smart charging management and refueling;
- Battery recycling and secondary use, including for medium- and heavy-duty vehicles; and,
- Sharing of best practices, and technical assistance provided by the Department to public utilities commissions and utilities, for medium- and heavy-duty vehicle electrification.

The bill would authorize $2 billion for each year FY 2022 through FY 2031 for transportation electrification. The "Near-Term" Transportation Electrification program would be renamed as "Large-Scale Transportation Electrification" program and would be authorized at $2.5 billion for FY 2022 through FY 2031.

The bill would add priority consideration for projects that provide written assurances that all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant are paid prevailing wages.

The bill would amend existing law (42 U.S.C. 13212) to require the federal government purchase federal fleets in the following manner:

- Light-duty vehicles – beginning in 2025, all light duty-vehicles for federal fleets must be alternative fueled.
    - 50-percent shall be zero-emission or plug-in hybrids in each year 2025 – 2034;
    - 75-percent shall be zero-emission vehicles or plug-in hybrids in each year 2035 – 2049; and,

    - 100-percent shall be zero-emission in 2050 and thereafter.
- Medium- and heavy-duty vehicles are required to be alternative fueled as follows:
    - 20-percent in each year 2025 – 2029;
    - 30-percent in each year 2030 – 2039;
    - 40-percent in each year 2040 – 2049; and,
    - 50-percent in each yar 2050 and thereafter.

Title IV – Transportation, Subtitle D – Zero Emissions Vehicle Infrastructure Buildout, Part 2 – Expanding Electric Vehicles in Underserved and Disadvantaged Communities

Section 440A – 440C. The bill includes provisions to expand access to electric vehicles in underserved and disadvantaged communities. It would require the Secretary of Energy to conduct an assessment on the availability, opportunities, and best practices to encourage deployment of electric vehicle charging infrastructure in urban, underserved communities. The Secretary of Energy would be required to assess the availability of electric vehicle charging stations to public sector and commercial fleets. A report would be due within one-year of enactment.

The bill would establish a program to increase the deployment and accessibility of electric charging infrastructure in underserved or disadvantaged communities. Eligible entities to apply for grants or technical assistance would include:

- Individual or household;
- A State, local, Tribal or Territorial government;
- An electric utility;
- A nonprofit organization or institution;
- A public housing authority;
- An institution of higher education;
- A local small or disadvantaged business; or,
- A partnership of any of the aforementioned.

The program would be authorized at $96 million for FY 2022 through FY 2031.

The bill would require the Secretary of Energy to ensure, to extent practicable, that the programs in this Title promote electric charging infrastructure, support clean and multi-modal transportation, provide improved air quality and emissions reductions and prioritizes the needs of underserved or disadvantaged communities.

Title IV – Transportation, Subtitle D – Zero-Emissions Vehicle Infrastructure Buildout, Part 3 – Electric Vehicle Mapping.

Section 440E – 440G. The bill would create a Zero-Emissions Vehicle Infrastructure Buildout program. For the purposes of the Zero-Emissions Vehicle Infrastructure Buildout program, eligible entities would be defined as:

- A college or university;
- Non-profit entity
- Electric cooperative
- Political subdivision of a State, including a municipally owned electric utility and an agency, authority, corporation, or instrumentality of a State;
- Tribally-owned electric utility, an agency, authority, corporation, or instrumentality of an Indian Tribe;
- An investor owned electric utility; or,
- Private entity.

The bill would require the Secretary of Energy to create the Electric Vehicle Charging Station Mapping grant program or enter into cooperative agreements with eligible entities to determine where electric vehicle charging stations will be needed to meet the current and future needs of electric vehicle drivers to guide future investments for electric charging stations.

The program would be authorized at $2 million for FY 2022 through FY 2027.

Title IV – Transportation, Subtitle E – Promoting Domestic Advanced Vehicle Manufacturing

The bill would add plug-in electric vehicles to the Domestic Manufacturing Conversion Grant program (42 U.S.C. 16061). It would provide grants to manufacturing facilities to build the domestic production of batteries, power electronics, and other technologies for use in plug-in vehicles. The bill also would set priorities to award grants to facilities that have recently closed or are set to close in the near future. Additionally, the bill would require prevailing wage and other labor protections. The facilities would be required to continue operations for at least 10-years after receiving an award. The program would be authorized at $2.5 billion for FY 2022 through FY 2031.

H.R. 1512 would update the existing Advanced Technology Vehicles Manufacturing Incentive Program loan program (42 U.S.C. 17013) for automobile manufacturers, efficient vehicle manufacturers, and component suppliers. In order to qualify for loans,

- Ultra-efficient vehicles, light-duty and medium-duty passenger vehicles must meet 2027 or later regulatory standards or emit zero emissions; and,
- Heavy-duty vehicles must demonstrate emissions below model year 2027 standards, comply with model year 2030 or later standards, or emit zero emissions.

The program is reauthorized for FY 2022 through FY 2031.

Title IV – Transportation, Subtitle F – Port Electrification and Decarbonization

Section 451 – 455. This title of the bill is largely the same as the "Climate Smart Ports Act of 2021" authored by Representative Nanette Barragán. The South Coast AQMD Governing Board

adopted a SUPPORT position for the "Climate Smart Ports Act." This version preserves South Coast AQMD's eligibility to apply for grants and maintains grant prioritization criteria. The most notable change is removal of a provision that would have created a new subcategory for the DERA program. However, another section of this bill would boost the DERA program authorization from $100 to $500 million per year, so the change to this provision is not significant.

Title V – Industry, Subtitle A – Industrial Technology Development, Demonstration and Deployment.

Section 501 – 504. This Title of the bill would authorize the Secretary of Energy to make grants to support manufacturing of clean energy technologies and components as well as specified industrial products such as steel and cement. The Clean Energy Manufacturing Grant program would include the following technologies:

- Renewable energy;
- Energy Storage;
- Advanced nuclear energy;
- Carbon capture;
- Electric grid;
- End-use such as Energy Star products and energy-conserving lighting;
- Electrolyers;
- Hydrogen fuel cells and other technologies related to the transportation, storage, delivery, and use of hydrogen in residential, commercial, industrial and transportation applications;
- Zero-emission light-, medium-, and heavy-duty vehicles, components of such vehicles, and refueling equipment for such vehicles;
- Industrial energy efficiency technologies, including combined heat and power systems and waste heat to power systems;
- Pollution control equipment; and,
- Other technologies as determined by the Secretary of Energy.

Grants also could be awarded for the installation, retrofit, or conversion of equipment for a facility or to establish, retrofit, or convert a facility to enable it to produce zero- or low-emission energy-intensive industrial products.

Title V – Industry, Subtitle B – Industrial Efficiency

Section 511. The bill would create the Smart Manufacturing Leadership grant program to assist small and medium manufacturers by providing technical assistance and for other purposes.

Title V – Industry, Subtitle C – Federal Buy Clean Program.

Section 521 – 533. The bill would establish a Federal Buy Clean program targeted at reducing GHGs, as well as a voluntary labeling program to identify and promote products with

significantly lower emissions than comparable products. It also would create a Sustainable Industry Rebate program to assist non-power industrial facilities to improve energy and water efficiency and reduce GHGs.

Title VI – Environmental Justice, Subtitle A – Empowering Community Voices

Section 601- 618. The bill would amend existing law (42 U.S.C. 7601) to create a new EJ Community Technical Assistance Grant program. The program intent would be to enable a community to participate in decisions impacting the health and safety of their communities in connection with an actual or potential release of a hazardous air pollutant. Eligible grantees would be:

- A population of color, a community of color, an indigenous community, or a low-income community; and
- A community in close proximity to the site of an actual or potential release of a covered hazardous air pollutant.

Hazardous air pollutants would be defined by Section 112 of the Clean Air Act.

The grants could be used to interpret information regarding the nature of the hazard, cumulative impact studies, health impact studies, remedial investigation and feasibility studies, agency decisions, remedial design, and operation and maintenance of necessary monitors; and, performing additional air pollution monitoring.

Grants could not exceed $50,000 for any grant recipient. The EPA Administrator could waive the grant limitation based on the need of the community for technical assistance. Grants could be renewed for each step in the regulatory, removal, or remediation process.

The bill would create an Interagency Federal Working Group on EJ. Requires federal agencies to coordinate to alleviate the disproportionate impacts of pollution. It also would require federal agencies to integrate environmental justice into their respective missions, including strategies to mitigate the impacts of commercial transportation.

Additionally, the bill would establish the National EJ Advisory Council which includes representatives from community-based organizations; State, Tribal and local governments; nongovernmental and EJ organizations; and, private sector organizations. Private sector organizations include representatives from industry and businesses, and experts in socioeconomic analysis, health and environmental effects, exposure evaluation, environmental law and civil rights; and environmental health science research.

The bill would amend existing law (42 U.S.C. 7661) to prohibit new or renewed permits from being granted to a major source in an "overburdened census tract." The definition of "overburdened census tract" would be:

- Has been identified within the National Air Toxics Assessment published by the EPA Administrator as having a greater than 100 in 1,000,000 total cancer risk; or
- Has been determined to have an annual mean concentration of PM2.5 of greater than 8 micrograms per cubic meter, as determined over the most recent 3-year period for which data is available.

The EPA Administrator would be required to promulgate regulations to carry out this provision. Further, the EPA Administrator would be required to publish a list of "overburdened census tracts" in the Federal Register not later than 30-days after enactment and update the list on an annual basis.

Additionally, the bill would require that State Plans for Hazardous Waste Disposal (42 U.S.C. 6926) do not create nor exacerbate disproportionate impacts on EJ communities from exposures to toxins in hazardous waste.

It also would amend the "Emergency Planning and Right-To-Know-Act" (42 U.S.C. 11004(b)) to require specified facilities to hold annual public meetings and within three-days after a release requiring notification.

The EJ Small Grants program and Environmental Justice Collaborative Problem-Solving Cooperative Agreement program would be reauthorized. Each program would be authorized for $50 million for FY 2022 through FY 2031.

The bill would provide Environmental Justice Community Solid Waste Disposal Technical Assistance grants (42 U.S.C. 6941) to eligible entities to participate in decisions impacting the health and safety of their communities relating to the permitting or permit renewal of a solid waste disposal facility or hazardous waste facility.

EJ training would be required for federal employees at U.S. EPA and the Departments of Energy and Interior and the National Oceanic and Atmospheric Administration. The bill also would establish an EJ Basic Training program for communities to build capacity and to provide education on environmental issues. A public environmental justice clearinghouse for the U.S. EPA would be established to provide stakeholders access to information.

U.S. EPA would be required to hold biennial public meetings on EJ issues in each region. The meeting notices would be provided to:

- Local religious organizations;
- Civic associations and organizations;
- Business associations of people of color;
- Environmental and environmental justice organizations;
- Homeowners or tenants and neighborhood watch groups;
- Local and Tribal Governments;
- Rural cooperatives;

- Business and trade organizations;
- Community and social service organizations;
- Universities, colleges, and vocational schools;
- Labor organizations;
- Civil rights organizations;
- Senior citizens' groups; and,
- Public health agencies and clinics.

The U.S. EPA Administrator would be required to create a new grant program to build community capacity to address issues relating to EJ and to carry out any activity related to:

- Public health issues at the local level;
- Improving the ability of the environmental justice community to address issues;
- Facilitating collaboration and cooperation among various stakeholders; and,
- Supporting the ability of the environmental justice community to proactively plan and implement just sustainable community development and revitalization initiatives, including countering displacement and gentrification.

Grants could be used to:

- Create or develop collaborative partnerships;
- Educate and provide outreach services to the environmental justice community;
- Identify and implement projects to address environmental or public health concerns; or,
- Develop a comprehensive understanding of environmental or public health issues.

The program would be authorized $25 million for FY 2022 through 2031. It also would authorize a State grant program for complimentary purposes at $15 million for FY 2022 through FY 2031. Grants for Tribal governments would be authorized at $25 million for FY 2022 through FY 2031. Further, a program for Community-based Participatory Research would be established to provide not more than 25 multiyear grants. Research grants could be used to:

- Address issues relating to environmental justice;
- Improve the environment of residents and workers in environmental communities; and,
- Improve the health outcomes of residents and workers in environmental justice communities.

These Community-based Participatory Research grants would be available to an accredited institution of higher education or a community-based organization. This program would be authorized $10 million for FY 2022 through FY 2031.

The bill would require the EPA to consult with the EJ Advisory Committee to publish a proposal for a protocol for assessing and addressing the cumulative public health risks associated with multiple environmental stressors. Environmental stressors to be assessed would include:

- Impacts associated with global climate change, including extreme heat and/or temperature changes, drought, wildfires, sea level rise, flooding, storms, water and/or food shortage, eco-system disruption, and the spread of infectious diseases;
- Exposure to pollutants, emissions, discharges, waste, chemicals, or other materials subject to federal regulation; and,
- Other environmental factors as determined by the EPA Administrator.

The bill would create a small grant program for climate related activities. Grants would be limited to $2 million per eligible recipient. The program would be authorized at $1 billion for FY 2022 through 2031.

The bill would create an Office of Energy Equity within the DOE.

Title VI – Environmental Justice, Subtitle B – Restoring Regulatory Protections

Section 621 - 625. This title focuses on oil, coal ash and other issues. It would amend existing law (42 U.S.C. 7412(n)) to require the EPA Administrator to promulgate a final rule to add hydrogen sulfide to the list of hazardous air pollutants under Section 112 of the Clean Air Act

This provision would amend existing law ((42 U.S.C. 6921(b))and require the EPA Administrator to promulgate rules related to oil and gas exploration and production wastes.

Title VI – Environmental Justice, Subtitle D – Climate Public Health Protection

Section 641 – 645. The bill expresses the sense of Congress that climate change negatively impacts public health as well as directs the Secretary of Health and Human Services to develop in consultation with relevant federal agencies a National Strategic Action Plan to ensure public health and health care systems are prepared for the impacts of climate change.

Title VI – Environmental Justice, Subtitle E – Public Health Air Quality Infrastructure

Section 651 - 656. This title is the same as the "Public Health Air Quality Act" by Representative Lisa Blunt Rochester. The South Coast AQMD Governing Board adopted a position of WORK WITH AUTHOR on the "Public Health Air Quality Act. Per the Governing Board's direction, staff are working with the author's office as well as relevant Committee staff to improve this legislation.

Title VII -- Super Pollutants, Subtitle A – Methane

The bill would establish national goals for reducing methane emissions from oil and natural gas facilities. It also would amend existing law (42 U.S.C. 7411(b)) and (42 U.S.C. 7411(d)) to require the U.S. EPA Administrator to promulgate rules to establish standards for performance, implementation, and enforcement for new sources to prohibit flaring of natural gas. The U.S.

EPA Administrator also would be required to develop regulations for the existing sources to reduce GHGs from routine flaring such that:

- Nationwide flaring is reduced by at least 80-percent below 2017 levels no later than 2025; and,
- Reduce GHGs from routine flaring such that nationwide flaring is reduced 100-percent below 2017 levels no later than 2028.

Flaring for public safety purposes would be exempted from the rules.

The bill would require the Secretary of Energy to create a new Emerging Oil and Natural Gas Greenhouse Gas Emission Reduction Technologies commercialization program to reduce GHGs from the oil and natural gas sector, and to improve existing technologies and practices to reduce emissions. This program would be authorized at $10 million to remain until expended.

It also would create a grant program to provide States assistance to offset the incremental rate increases paid by lower-income households resulting from the implementation of infrastructure replacement, repair, and maintenance programs that are approved by the rate-setting entity and designed to accelerate the necessary replacement, repair or maintenance of natural gas distribution systems. The program would be authorized at $250 million for FY 2022 through FY 2031.

The bill would amend existing law (42 U.S.C. 6971) to require the U.S. EPA Administrator to establish a Composting and Anaerobic Digestion Food Waste-to-Energy Projects grant program for States to construct large-scale composting or anaerobic digestion food waste-to-energy projects. For States to eligible to receive grants, they would be required to:

- Have in effect a plan to limit the quantity of food waste that may be disposed of in landfills in the State;
- A written commitment that the Sate will comply with the Food Recovery Hierarchy of the EPA; and,
- A written end-product recycling plan that provides for the beneficial use of the material resulting from any anaerobic digestion food waste-to-energy operation.

Title VII – Super Pollutants, Subtitle B – Black Carbon

Section 711 - 712. This provision would require the U.S. EPA in consultation with other federal agencies to submit a report to Congress based on a 2012 report entitled, "Report to Congress on Black Carbon" and current information including:

- An inventory of the major sources of black carbon emissions in the nation
    - An estimate of the quantity of current and projected future black carbon emissions; and,

    - The net climate forcing of such emissions from sources, including consideration of co-emissions of other pollutants.
- Effective and cost-effective control technologies, operations, and strategies for additional domestic black carbon emissions reductions, such as diesel retrofit technologies on existing on-road, off-road, and stationary engines, programs to address residential cookstoves and heating stoves, programs to address forest and agriculture-based burning, and programs to address ports, international shipping, and aviation;
- Potential metrics and approaches for quantifying the climatic effects of black carbon emissions, including the radiative forcing and warming effects of such emissions, that may be used to compare the climate benefits of different mitigation strategies, including an assessment of the uncertainty in such metrics and approaches; and,
- The public health and environmental benefits associated with additional controls for black carbon emissions.
- Recommendations on:
    - The development of additional emissions monitoring techniques, modeling and other areas of study;
    - Areas of focus for additional study of technologies, operations, and strategies with the greatest potential to reduce emissions of black carbon and associated public health, economic, and environmental impacts; and,
    - Actions, that the federal government may take to encourage or require reductions in black carbon emissions.

Not later than one-year after enactment, the U.S. EPA Administrator would be required to either make a finding that regulations have been promulgated adequately to reduce black carbon emissions by 70-percent relative to 2013 levels by 2025; or, develop regulations under the Clean Air Act to meet that goal.

Title VIII – Economy-Wide Policies, Subtitle A – State Climate Plans

The bill would add a new State Climate Plan section to the Clean Air Act(42 U.S.C. 7401) to require States to prepare and submit inventories of carbon dioxide and methane emissions, negative emissions, and sinks to the U.S. EPA. The bill would create deadlines for meeting standards for carbon dioxide and methane corresponding to the 2030s, and 2040s:

- By January 1, 2031 and then by January 1, 2041– reduction levels of carbon dioxide to be set by the EPA Administrator; and,
- By January 1, 2041 – reduction of emissions from methane of at least 95-percent below such State's calendar year 2012.

The model control strategies would include:

- A climate pollution phaseout control program;
- Performance-based fuels standard;
- Carbon removal control strategies;
- Energy efficiency control programs; and,

- Provisions to adopt and enforces, pursuant to Clean Air Act Section 177, California's low-emission vehicle and zero-emission vehicle regulations.
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The bill also would create a "Race to Net-Zero-Grant Program" to be funded by a backstop carbon fee that would be applied to specified sources of emissions in States that do not submit a Climate Plan or Plan revision as required.

Title VIII – Economy-Wide Policies, Subtitle B – Clean Energy and Sustainability Accelerator (Climate Bank)

Section 811. Clean Energy and Sustainability Accelerator. This bill would amend existing law (Energy Policy Act of 2005) to create a non-profit Clean Energy and Sustainability Accelerator (Accelerator). The Accelerator would provide financing to assist with the deployment of technologies to reduce GHG emissions. The Accelerator would directly finance projects or provide capital to State, Territorial, and local green banks. Qualified projects mean:

- Renewable energy generation including, solar, wind, geothermal, hydropower, ocean and hydrokinetic, and fuel cell;
- Building energy efficiency, fuel switching, and electrification;
- Industrial decarbonization;
- Grid technology such as transmission, distribution, and storage to support clean energy distribution, including smart-grid applications;
- Agriculture and forestry projects that reduce net GHGs;
- Clean transportation including:
    - Battery electric vehicles.
    - Plug-in hybrid vehicles.
    - Hydrogen vehicles.
    - Other zero-emissions fueled vehicles.
    - Related vehicle charging and fueling infrastructure.
- Climate resilient infrastructure;
- Any other key areas identified by the Accelerator Board as consistent with the mandate.

The bill also would authorize the Accelerator to explore establishing a loan program to support schools, metropolitan planning organizations, or nonprofit organizations seeking financing for zero-emissions vehicle fleets and related infrastructure, as well as a program to expedite the transition to zero-emissions electricity generation in the power sector.

The bill would prioritize communities disproportionately affected by the impacts of climate change and 40-percent of the Accelerator investment activity would service disproportionately affected communities.

The Board of Directors for the Accelerator would be composed of seven members including:

- Three members appointed by the President requiring Senate confirmation with no more than two belonging to the same political party; and,
- Four members elected unanimously by the three appointed members and confirmed by the Senate.

The members of the Board would be required to have collective experience in fields of:

- Clean energy, electric utilities, industrial decarbonization, clean transportation, resiliency, and agriculture and forestry practices;
- Climate change science;
- Finance and investments; and
- EJ and matters related to the energy and environmental needs of climate-impacted communities.

No officer or employee of the Federal or any level of government could be appointed or elected as a member of the Board. In addition to the Board, the Accelerator would have a 13-member Advisory Committee.

The Accelerator would be funded initially with $50 billion and $10 billion for each of the five succeeding years.

Title VIII – Economy-Wide Policies, Subtitle E – Ensuring Just and Equitable Climate Change

The bill would require that 40-percent of the funds made available through the CLEAN Future Act would be used to support activities that directly benefit EJ communities.

Title IX – Waste Reduction, Subtitle A – Clean Air

Section 901 - 903. The bill would require the U.S. EPA Administrator to temporarily pause the issuance of permits for certain facilities related to:

- Production of plastics or the raw materials used to produce plastics such as ethylene and propylene; or,
- Facilities that repolymerize plastics into chemical feedstocks.

The pause of permits would begin with the enactment of this legislation and end on the date that is the first date on which all regulations required are in effect.

Title IX – Waste Reduction, Subtitle C – Zero-Waste Grants

Section 921 - 927. The bill would provide grants for zero-waste projects including the purchase of zero-emission vehicles for recycling and composting collection. Entities eligible to apply for grants would include:

- A single unit of State, local, or Tribal government;
- One of more units of State, local, or Tribal government in coordination with for profit or nonprofit organizations; or,
- One or more nonprofit organizations.

Title IX – Waste Reduction, Subtitle E – Critical Minerals

Section 941- 948. The bill would establish a DOE competitive grant program for State and local governments to assist in the establishment or enhancement of programs that address the collection, recycling, reprocessing, and proper disposal of batteries. Grants may not be more than 50-percent of the total project cost. U.S. EPA would be required to work with stakeholders to develop best practices for the collection of batteries at the end of useful life. Additionally, DOE and U.S. EPA would be required to develop a voluntary labeling program to improve consumer awareness regarding proper disposal.

Competitive grants for retailers that sell batteries could be utilized to establish, implement, or improve systems for the collection, recycling, and proper disposal of batteries and to service as battery collection points. The collection of batteries would be at no cost to the public who use the system. A Task Force would be set up to develop recommendations on the design of an extended producer responsibility for producers of batteries.

The bill also would establish a Task Force on Wind and Solar Recycling to improve the recovery, recycling, and reuse of key components of wind and solar energy technologies.

DOE would be required to conduct studies on ways to reduce the environmental impacts of critical minerals lifecycle management.

A total of $35 million would be authorized for each FY 2022 through FY 2031.

Impacts on South Coast AQMD's Mission, Operations or Initiatives: H.R. 1512, the "CLEAN Future Act of 2021" is a comprehensive bill with programs and policies that could help address federal sources of air pollution; provide funding opportunities for South Coast AQMD either directly or indirectly through the creation of programs to assist residents, especially within EJ communities and businesses; and seek to address workforce transition and labor issues in relation to environmental policy and technological advancements. These types of activities could assist the South Coast AQMD reduce air pollution in the region to meet future NAAQS and reach attainment for ozone and particulate matter.

In particular, H.R. 1512 includes provisions which could complete the 2022 AQMP which includes residential and commercial building efficiencies as well as seeks to reduce emissions from mobile sources to reach attainment.

Staff recommends a WORK WITH AUTHOR position to engage in the legislative process to:

- Add criteria air pollutants in the Titles of the bill that only address GHGs;

- Ensure federal policies and regulations do not over-reach local and State authority;
- Ensure federal government takes responsibility for their assigned sources of air pollution and does not penalize local regions for attainment issues not within their control; and,
- Request adequate levels of funding for any policies and/or grant programs.

The Governing Board previously approved amendments for the "Public Health Air Quality Act" (Blunt Rochester). Staff will continue pursue these amendments in H.R. 1512 with the bill author, our Congressional Delegation, and the Committee process.

Additionally, staff will seek to remove the provision in the EJ Title of the bill that would prohibit new or renewed permits from being granted to a major source in an "overburdened census tract" based on cancer risk or PM2.5 concentrations. While the intent of this provision is inherently positive to reduce the impacts of air pollution on environmental justice communities, it does not consider all sources of emissions, especially mobile sources, nor other potential impacts.

It is essential for South Coast AQMD to actively participate in the development of this bill as it is likely to be combined with the Surface Transportation and Ways and Means bills to form the next Transportation and Infrastructure package.

Recommended Position: WORK WITH AUTHORS

ATTACHMENT 1L

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Due to the length of H.R. 1512, a link is provided below to the text of the bill:

H.R. 1512, "THE CLEAN FUTURE ACT"

https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/CFA%20Bill%20Text%202021.pdf

ATTACHMENT 2A

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CASSIDY | ASSOCIATES

To: South Coast Air Quality Management District
From: Cassidy & Associates
Date: March 23, 2021
Re: March Report

HOUSE/SENATE

The American Rescue Plan has been passed by both the Senate and the House and signed into law by President Biden. Eligible individuals will receive a $1,400 economic impact payment, and eligible married couples will receive $2,800 plus $1,400 for each dependent. Economic impact payments have already started being disbursed.

The American Rescue Plan provides $350 billion dollars in emergency funding for state, local, territorial, and Tribal governments. This includes:

- $195 billion for states (a minimum of $500 million for each State);
- $130 billion for local governments (a minimum of $1.25 billion per state is provided by the statute inclusive of the amounts allocated to local governments within the state);
- $20 billion for tribal governments; and
- $4.5 billion for territories.

The American Rescue Plan also provides $10 billion for states, territories, and Tribes to cover the costs of capital infrastructure projects, like broadband infrastructure. The Capital Projects Fund addresses infrastructure shortcomings and challenges that have been laid bare by the pandemic. Also included in the American Rescue Plan is $10 billion for the Homeowner Assistance Fund, $21.6 billion for Emergency Rental Assistant, $10 billion for the State Small Business Credit Initiative, extends the Employee Retention Credit and Paid Leave Credit Programs, and unemployment benefits.

The House is not in session this week, they will focus on committee work. The Senate is in session this week but will be out for recess for two weeks March 29.

Last week, the House GOP adopted a resolution lifting their conference-wide ban on earmarks. GOP members must publicly disclose their earmark requests when submitted and affirm that neither the lawmaker nor immediate family members have a financial interest in such projects. They must also provide a written explanation of their request.

New Reforms:
In addition to adhering to the House Rules (House Rules XXI and XXIII), the House Appropriations Committee is enforcing a series of important reforms to guarantee that Community Project Funding is dedicated to genuine need and not subject to abuse. These include:

Public Transparency and Accountability

- **All Requests Online**: Members are required to post every Community Project Funding request online simultaneously with their submission to the Committee. The website must be searchable. The House Appropriations Committee will establish an online "one-stop" link to all House Members' project requests.
- **Early Public Disclosure:** To facilitate public scrutiny of Community Project Funding, the Committee will release a list of projects funded the same day as the Subcommittee markup, or 24 hours before full committee consideration if there was no Subcommittee markup.
- **No Financial Interest:** Members must certify to the Committee that they, their spouse, and their immediate family have no financial interest in the projects they request. This is an expansion beyond the underlying requirements in House Rules in order to cover immediate families of Members.

Limited Approach

- **Ban on For-Profit Recipients:** There is a ban on directing Community Project Funding to for-profit grantees. Members may request funding for State or local governmental grantees and for eligible non-profits.
- **Cap on Overall Funding:** The Committee will limit Community Project Funding to no more than 1 percent of discretionary spending, a recommendation of the bipartisan House Select Committee on the Modernization of Congress.
- **Member Requests Capped:** The Committee will accept a maximum of 10 community project requests from each member, though only a handful may actually be funded.

Rigorous Vetting

- **Mandatory Audit:** The Committee will require the Government Accountability Office to audit a sample of enacted community project funding and report its findings to Congress.

Community Support

- **Demonstrations of Community Engagement:** Members must provide evidence of community support that were compelling factors in their decision to select the

requested projects. This policy was recommended by the bipartisan House Select Committee on the Modernization of Congress.

Existing Standards

These reforms build on the requirements for accountability and transparency that are part of Rule XXI, clause 9 and Rule XXIII, clauses 16 and 17 of the Rules of the House. Those existing rules require the following:

- **No Member Financial Interest:** The rules forbid any Member from pursuing Community Project Funding to further his or her financial interest, or that of his or her spouse. Each Member requesting Community Project Funding must certify in writing that there is no such interest and make that certification available to the public. As noted above, the new Committee reforms will expand this requirement beyond existing House rules.
- **Request in Writing:** Any Member requesting Community Project Funding must do so in writing, including the Member's name, the name and location of the intended recipient, and the purpose of the spending item.
- **Committee Consideration:** When reporting legislation containing Community Project Funding, the Committee is required to identify each item (including the name of each Member requesting the item) in the corresponding committee report or joint explanatory statement and make it publicly available online in a searchable format.
- **Disclosure Before Floor Consideration:** The rules prohibit a vote on a bill or a vote on adoption of a conference report unless the chair of the committee certifies that a complete list of Community Project Funding has been publicly available for at least 48 hours.
- **Point of Order Against New Projects in Conference Reports:** A point of order may be raised against a provision of the conference report if it includes Community Project Funding that was not included in either the House or Senate bills.

Nominations: Michael S. Regan was sworn in as the 16th EPA Administrator on March 11. On his first day, Administrator Regan committed to working closely with and supporting EPA's careers staff. In one of his first public appearances, Administrator Regan reaffirmed the Agency's commitment to working collaboratively with the states and extended the formal Memorandum of Agreement reaffirming the partnership between EPA, the Environmental Council of the States, and the Association of State and Territorial Health Officials to advance cooperative initiatives in pursuit of environmental health.

Cabinet nominees include:

- Vice President: Kamala Harris
- Secretary of State: Antony Blinken (Confirmed)
- Treasury: Janet Yellen (Confirmed)
- Defense: Lloyd Austin (Confirmed)
- Attorney General: Merrick Garland (Confirmed)
- Homeland Security: Alejandro Mayorkas (Confirmed)
- Veterans Affairs: Denis McDonough (Confirmed)

- Health and Human Services: Xavier Becerra (Confirmed)
- Energy: Jennifer Granholm (Confirmed)
- Interior: Deb Haaland (Confirmed)
- Transportation: Pete Buttigieg (Confirmed)
- Commerce: Gina Raimondo (Confirmed)
- Labor: Marty Walsh (Confirmed)
- Agriculture: Tom Vilsack (Confirmed)
- Housing & Urban Dev: Marcia Fudge (Confirmed)
- Education: Miguel Cardona (Confirmed)

Cabinet-level officials

- White House Chief of Staff: Ron Klain
- White House OMB Director: not named
- Office of Science & Tech Policy Director: Eric Lander
- EPA Administrator: Michael Regan (Confirmed)
- Director of National Intelligence: Avril Haines (Confirmed)
- USTR: Katherine Tai (Confirmed)
- SBA Administrator: Isabel Guzman (Confirmed)
- Ambassador to the UN: Linda Thomas-Greenfield (Confirmed)
- Special Presidential Envoy for Climate: John Kerry

Cassidy and Associates support in March:

- Cassidy and Associates has supported SCAQMD staff in tracking legislation related to SCAQMD legislative priorities. Specifically, we are monitoring and reporting on hearings related to infrastructure. Currently all House Committees are holding hearings on legislation to address infrastructure needs. As reported to the Legislative Committee in the March meeting, the House Clean Futures Act includes four provisions that are SCAQMD priorities.
- We also are continuing to monitor incentives for clean and zero emission vehicles. As transportation infrastructure bills move through the House and Senate we will make every effort to remind staff and Members that standards for heavy-duty vehicles should be performance-based and fuel neutral.
- Cassidy also continues to monitor Presidential nominations and appointments. We are eager to create opportunities for SCAQMD leadership to meet with EPA leadership.

AGENCY RESOURCES

USA.gov is cataloging all U.S. government activities related to coronavirus. From actions on health and safety to travel, immigration, and transportation to education, find pertinent actions here. Each Federal Agency has also established a dedicated coronavirus website, where you can find important information and guidance. They include: Health and Human Services (HHS), Centers of Medicare and Medicaid (CMS), Food and Drug Administration (FDA), Department of Education (DoED), Department of Agriculture (USDA), Small Business Administration (SBA), Department of Labor (DOL), Department of Homeland Security (DHS), Department of State (DOS), Department of Veterans Affairs (VA), Environmental Protection Agency (EPA), Department of the Interior (DOI), Department of Energy (DOE), Department of Commerce (DOC), Department of Justice (DOJ), Department of Housing and Urban Development (HUD), Department of the Treasury (USDT), Office of the Director of National Intelligence (ODNI), and U.S. Election Assistance Commission (EAC).

Helpful Agency Contact Information:
U.S. Department of Health and Human Services – Darcie Johnston (Office – 202-853-0582 / Cell – 202-690-1058 / Email – darcie.johnston@hhs.gov)

U.S. Department of Homeland Security – Cherie Short (Office – 202-441-3103 / Cell – 202-893-2941 / Email – Cherie.short@hq.dhs.gov)

U.S. Department of State – Bill Killion (Office – 202-647-7595 / Cell – 202-294-2605 / Email – killionw@state.gov)

U.S. Department of Transportation – Sean Poole (Office – 202-597-5109 / Cell – 202-366-3132 / Email – sean.poole@dot.gov)

ATTACHMENT 2B

KADESH & ASSOCIATES

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South Coast AQMD Report for the April 2021
Legislative Meeting covering March 2021
Kadesh & Associates

March:

The American Rescue Plan (ARP) has been signed into law. This is the $1.9 trillion COVID response bill that includes the state and local government accounts (including a provision allowing funds to be transferred to special purpose units of government), as well as the grants for environmental justice and for activities authorized in §103 and §105 of the Clean Air Act. While implementation of this new law is underway, and vaccine rollout ramps up, infrastructure will likely be the next big push from the Biden administration. The size and scope of that effort is not set, and there remain several possible paths to enact an infrastructure bill. We would not be surprised if additional details for the Biden infrastructure plan coincide with budget information being released. We are still anticipating not receiving the full FY22 budget request until early May, but we expect to see the "skinny budget" with topline numbers next week.

The current surface transportation bill expires on September 30. Chairman DeFazio has started the bill drafting process this year and is soliciting earmark requests from his members. He has released guidance and set April 14 has the deadline for member submissions. Many members will have their own internal deadlines coming up. The House is expected to draw heavily from last year's Moving Forward Act in crafting its new bill, which we understand Chairman DeFazio intends to markup in May. On the Senate side, Chairman Carper is in the process of soliciting input from members for portions of the bill under the EPW jurisdiction (highways) and has set Memorial Day as his target for introduction of a bill. Senate Banking (transit) and Commerce (rail) have not made similar announcements.

The House has already announced its plans for appropriations earmarks, including guidance on which accounts are eligible for earmarks, and the Republican Conference has now agreed to participate. Many members have already set their internal deadlines for earmark requests and the full committee has set an April deadline for member requests under the "Community Project Funding" initiative. We understand Senate Appropriations leaders Leahy and Shelby have reached an earmark agreement, supported by leadership on both sides, but a sizeable component of Senate Republicans are opposed to the plan. Until that impasse is resolved, Senate earmarks will continue to be moving target.

The House Energy & Commerce Committee has begun to consider its sweeping climate bill, the CLEAN Future Act, which includes numerous provisions of interest, including funding to reduce air pollution at ports and in nearby communities, and vehicle emission policy and funding. Rep. Barragán participated in a recent committee hearing on the bill's impact on industrial sector pollution where she pursued questions about environmental justice and the impact of pollution in communities.

Kadesh & Associates Activity Summary-
-Continue to work with South Coast AQMD staff to prioritize and submit timely funding requests to members of Congress;
-Continue outreach to the California congressional delegation, including introductions and a presentation on our key issues to new offices;
-Building support for legislative priorities such as the Clean Corridors Act and the Climate Smart Ports Act.

Contacts:
Contacts included staff and House Members throughout the CA delegation, especially the authors of priority legislation, new members of the South Coast House delegation, and members of key committees. We have also been in touch with administration staff.

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ATTACHMENT 2C

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Carmen Group
INCORPORATED

To: South Coast AQMD Legislative Committee

From: Carmen Group

Date: March 25, 2021

Re: Federal Update -- Executive Branch

Update on Status of Cabinet Appointments

The Cabinet		Senate Vote
Vice President	**Kamala Harris**	N/A
Secretary of State	**Antony Blinken**	78-22
Secretary of the Treasury	**Janet Yellen**	84-15
Secretary of Defense	**Lloyd Austin**	93-2
Attorney General	**Merrick Garland**	70-30
Secretary of the Interior	**Deb Haaland**	51-40
Secretary of Agriculture	**Tom Vilsack**	92-7
Secretary of Commerce	**Gina Marie Raimondo**	84-15
Secretary of Labor	**Marty Walsh**	68-29
Secretary of HHS	**Xavier Becerra**	50-49
Secretary of HUD	**Marcia Fudge**	66-34
Secretary of Transportation	**Pete Buttigieg**	86-13
Secretary of Energy	**Jennifer Granholm**	64-35
Secretary of Education	**Miguel Cardona**	64-33
Secretary of VA	**Denis McDonough**	87-7
Secretary of DHS	**Alejandro Mayorkas**	56-43
Administrator of the EPA	**Michael Regan**	66-34
Director of OMB	~~**Neera Tanden**~~ *(Withdrawn)*	
Director of DNI	**Avril Haines**	84-10
US Trade Representative	**Katherine Tai**	98-0
US Ambassador to the UN	**Linda Thomas-Greenfield**	78-20
Chair of Economic Advisors	**Cecelia Rouse**	95-4
Administrator of the SBA	**Isabel Guzman**	81-17
Presidential Science Advisor	**Eric Lander**	N/A
Chief of Staff	**Ron Klain**	N/A

Other Notable Appointments

Todd Kim, *DOJ Asst. AG, Environment & Natural Resources Division*
(Former DOE, DOJ; DC Solicitor General; J.D., Harvard Law)

Jose W. Fernandez, *Undersec. of State for Eco. Growth, Energy & Environment*
(Former Asst. Sec. of State; Partner for Inner City Education in NY)

Dilawar Syed, *Deputy Administrator, Small Business Administration*
(Pres., Lumiata, Freshworks; Ch., CA Entrepreneurship Task Force)

Update on the Emerging "Infrastructure" Maze: In the two short weeks since the enactment into law of the $1.9 trillion "COVID Relief and Economic Rescue" bill – marched through Congress without a single Republican vote in either the House or the Senate – there has been a remarkably swift crystallization of the likely path forward for the Administration's coming push for a massive "Transportation/Infrastructure/Climate Economic Recovery" bill (or bills) with a price tag still undetermined but almost certain to be in the $3 trillion to $5 trillion range. In essence, it is now being lined up to follow a similar path as the COVID bill: Debated, constructed and cobbled together by Democrats alone, and then muscled through to final passage with no Republican support, either through the "reconciliation" process, a changing of the rules on "reconciliation," and/or by the watering down or outright elimination of the Senate filibuster—all of which is now not only "on the table," but also increasingly clearly the preferred path of House and Senate Democratic leaders.

This is arguably not good for the country (or for the Congress) for many reasons, but it is what is in terms of the current political and legislative reality – stemming in no small measure as it does from the unprecedently bitter partisan strife stretching from the November presidential election, to the Jan 5th Senate elections in Georgia, to the Jan 6th Capitol riot, to the inaugural aspirations of "unity," to the President's over 50 one-sided executive orders and actions, to the February impeachment trial, and to the quick dismissal of Republican overtures for compromise on the COVID bill. And, added to that -- almost strangely – is the apparent "bipartisan" return of congressionally directed earmarks!

For SCAQMD, no doubt this extraordinary state of affairs presents an enormous opportunity for the inclusion of more of our federal legislative agenda than was previously thought possible, including emissions reductions measures, zero-emission vehicle incentives, needed regulatory measures, corridor and port infrastructure projects, environmental justice projects, and more…. and the promise of significant funding to go with it. Now is the time for intense advocacy efforts on every front.

Soon by early April, the President's budget will be out, along with a firmer outline of what the infrastructure bill or bills will look like, most likely coupled with major tax increases larger that anything that has been contemplated since the early Clinton administration in 1993.

Federal Agency Roundup: Meanwhile here is a summary of activity items of interest from key federal agencies:

Environmental Protection Agency

EPA Announces Funds for Environmental Justice Grants: In March, the EPA announced the availability of grant funding under two environmental justice programs. This includes $3.2 million available under The Environmental Justice Collaborative Problem-Solving (EJCPS) Cooperative Agreement Program where EPA anticipates awarding two agreements of $160,000 each within each of the10 EPA Regions; and $2.8 million available under The Environmental Justice Small Grants (EJSG) Program, where EPA anticipates making five grant awards per EPA region of up to $50,000 per award.

The EJSG program also includes the EPA's Ports Initiative program which anticipates funding up to six additional projects that address clean air issues at coastal and inland ports or rail yards. Applications are due by May 7, 2021.

EPA Selects Organizations to Receive Brownfields Job Training Grants: In March, EPA selected 18 organization across the country to receive a total of $3.3 million in grants to train a total of 900 individuals under the agency's Environmental Workforce Development and Job Training (EWDJT) Program. These grants provide funding to organizations that are working to create a skilled workforce in communities where EPA brownfields assessments and cleanups are taking place and encourage the hiring of individuals residing in and around brownfields areas. One of the award recipients was located in California: The Kern County Builders Exchange in Bakersfield.

EPA Administrator Reaffirms State-Federal Partnership Agreement: In one of his first public appearances as EPA Administrator, Michael Regan delivered the keynote address to the Environmental Council of the States (ECOS) at its virtual Spring Meeting in March. In it, he highlighted the extension of a formal Memorandum of Agreement (MOA) between the EPA, ECOS and the Association of State and Territorial Health Officials (ASTHO) to advance cooperative initiatives in pursuit of environmental health.

EPA Seeks Nominations for Its Local Government Advisory Committee: In March, EPA announced a solicitation for this year's nominations to serve on its Local Government Advisory Committee (LGAC). The agency is also accepting nominations for LGAC's Small Communities Advisory Subcommittee (SACS). Members of these will provide advice and recommendations on a range of issues including: Ensuring access to clean air and water; reducing greenhouse gas emissions; and advancing environmental justice. Candidates must be elected or appointed officials representing local, state, tribal or territorial governments. Nominations should be submitted by April 16, 2021.

EPA Reboots Climate Change Website: The new administration reports that for the first time in four years, the EPA has a website dedicated entirely to climate change information: https://www.epa.gov/climate-change

Department of Transportation

FHWA Awards Grants to Explore New Highway Funding Methods: In March, the Federal Highway Administration (FHWA) awarded a total of $18.7 million for eight projects under the annual Surface Transportation Systems Funding Alternatives (STSFA) program created by the FAST Act in 2016. The goal of the program is to test within specific states possible user-based funding methods for highways and bridges to help find new ways to provide long-term support for the Highway Trust Fund. One of the eight projects selected will be based in California: Caltrans received $2,150,000 for the Road Charge Pilots Program which will test the viability of current global positioning system technology to determine which roads are part of a public network and may be subject to a fee.

USDOT Launches "Mask Up" Campaign: The U.S. Department of Transportation in March announced an effort aimed at educating travelers and transportation providers on their responsibility to comply with wearing a mask when traveling. The "Mask Up" campaign is a joint effort by the Federal Aviation, Motor Carrier Safety, Railroad and Transit Administrations across all forms of transportation, including on buses, trains, airplanes and ferries and while at all transportation hubs. "There is a national requirement to wear a mask while traveling…and failure to comply with the requirement can result in civil penalties."

US-Canada Transportation Departments Issue Joint Statement on Climate Change: On February 25, Transportation Secretary Buttigieg and his Canadian counterpart issued a Joint Statement on the "Nexus Between Transportation and Climate Change." Here is an excerpt from the statement that focuses on achieving emissions reductions in the transportation sector:

> *On roads, together with other federal departments and agencies, we aim toward a zero-emission vehicle future through ambitious vehicle standards to improve fuel efficiency and reduce greenhouse gases from light-duty and heavy-duty vehicles. We intend to work together to help accelerate the achievement of 100% zero-emission vehicle sales for light-duty vehicles and increase the supply of and demand for zero-emission medium- and heavy-duty vehicles. We plan to explore best practices on how to help incentivize the installation of electric charging stations, and refueling stations for clean fuels, including through the ongoing coordination of electric and alternative fuel corridors and the alignment of technical codes, standards and regulations, to enable the seamless transportation of people and goods. We also plan to work collaboratively on new innovative solutions to decrease emissions and to advance the use of cleaner fuels in rail transportation.*

Department of Energy (*Notable Appointment*)

Karen Skelton, *Senior Advisor, Office of the Secretary*
(CA Gov. Brown Climate; Clinton Admin; UCLA, UC Berkeley Law)

DOE Announces Funds Available to Small Businesses for Clean Energy R&D: The Department of Energy announced in March that it was making $115 million available for small businesses pursuing clean energy research and development projects. The projects range from grid modernization and carbon removal to renewable energy and energy storage. The funding is administered by DOE's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, which were established to encourage participation of diverse communities in technological innovation, as well as to increase technology transfer between research institutions and small businesses. Applications are due by April 20, 2021.

DOE Announces Additional Funds Available for Direct Air Capture: The Department of Energy announced in March that it was making $24 million available for research into technology that captures carbon emissions directly from the air, replicating the way plants and trees absorb cardon dioxide (CO2). These funds are made available through DOE's Office of Science, complimenting recent similar announced research efforts funded through of the Office of Energy Efficiency and Renewable Energy and the Office of Fossil Energy. Applications are due by May 18, 2021.

DOE Announces Project Awards to Develop Clean Hydrogen Technologies: The Department of Energy's Office of Fossil energy announced in March the award of $2 million to four research projects aimed at advancing clean hydrogen development through the process of co-gasification, an alternative to using natural gas as the main source of hydrogen production. The process blends waste from biomass, plastic, and coal feedstocks with oxygen and steam under high pressures and temperatures. When combined with carbon capture and storage, this process may lead to net-negative emissions. One of the four $500,000 projects selected is based in California: Electric Power Research Institute, Inc. in Palo Alto.

The White House (*Notable Appointments)*

Philip Giudice, *Sp. Asst. to the President for Climate Policy*
(MA Dept of Energy; Ch., Nat. Assoc. State Energy Officials)
Samantha Silverberg, *Sp. Asst. to the Pres. for Transportation & Infrastructure*
(MA Bay Transportation Authority; M.A., Harvard Kennedy School)
Tim Wu, *Sp. Asst. to the President for Technology and Competition Policy*
(Prof., Columbia Law; Counsel, NY AG; Former FTC, Justice Breyer)

Climate Agenda: Over the last month, White House National Climate Advisor Gina McCarthy played a lead role in convening and presiding over a series of virtual meetings with key players in and out of government focused on the Administration's broad climate agenda and how it factors into the workings of federal agencies and the drive toward potential new infrastructure and climate-related legislation. These meetings included the following:

- Second Meeting of the National Climate Task Force (March 18)
- First Meeting of the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (Feb. 26)
- Automakers and Labor Leaders (Feb. 24)
- Electric Vehicle Charging Infrastructure Leaders (March 2)
- Climate Finance Leaders (March 9)
- Oil and Gas Company Leaders (March 22)

Outreach: Contacts included representatives of key business groups, including Cummins, Inc, Achates Power, the Alliance for Vehicle Efficiency, the Highway Users Alliance and the American Association of State Highway and Transportation Officials (AASHTO) on transportation and infrastructure legislation and on incentives for cleaner trucks and electric vehicles; the offices of Sen. James Inhofe, Rep. Sam Graves, the Senate Environment & Public Works Committee and the House Transportation and Infrastructure Committee on transportation, infrastructure and climate legislation.

###

ATTACHMENT 3A

Back to Agenda

CALIFORNIA ADVISORS, LLC

South Coast AQMD Report
California Advisors, LLC
April 9, 2021 Legislative Committee Hearing

General Update

In Sacramento, the legislative agenda for this year's session is starting to become clear as hundreds of "spot bills" have been amended with substantive language. Policy committees have already begun to meet and begin deliberations on these bills. One note is that last year the Legislature only had enough time for each bill to be heard in one policy committee. However, this year we are already seeing bills be double referred to two policy committees. The Legislature will begin its week-long spring recess starting on March 25th. When they return to the Capitol, the bulk of their policy committee hearings will be done in April.

The Legislature has been steadily working through policy and budget committees.
On March 24th, Governor Gavin Newsom announced he has submitted to the State Legislature the nomination of Assemblymember Rob Bonta (D-Alameda) as the next California Attorney General. Bonta will fill the seat vacated by Xavier Becerra, who was recently sworn in as Secretary of the U.S. Department of Health and Human Services. The Assembly and the Senate now have 90 days to confirm him as Attorney General. Speaker Anthony Rendon has already stated that he will support this confirmation and Senate Pro Tem Toni Atkins has made similar supportive comments of Bonta's nomination.

Bonta will be the first Filipino American to serve as Attorney General. During his time in the Assembly, he has fought for major reforms that reversed long standing injustices. One of the issues highlighted in his announcement was the work he has done as a leader in the fight against climate change and how he has ensured every community equitably benefits from the state's green economy.

If he is confirmed by the Legislature, his 18th Assembly District seat will be vacated. This will start the clock on what could be the fourth scheduled special election since last November. The Governor just announced that the special election in the 54th Assembly District, which was most recently held by now-Senator Sydney Kamlager, will take place on May 18, 2021.

Budget

The Governor announced that California continues its strong economic recovery. General Fund revenues are running $14.3 billion above January's revenue forecast, with receipts for February exceeding the month's projection by $3.8 billion. The bulk of these revenue gains can be attributed to lower refunds caused by the later enactment of the $600 one-time Golden State

Stimulus than expected in the budget, as well as fewer-than-expected state tax refunds due to the delayed federal and state tax filing season.

While the budget continues to improve, the pressure on the budget committees will continue to increase as calls to spend these additional revenues will grow louder through the year. The next milestone in the budget process will come when the Governor provides his May Revise and adjusts his budget proposal. The way this year has started, it looks like an increase in state spending will be expected.

ATTACHMENT 3B

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Joe A. Gonsalves & Son
Anthony D. Gonsalves
Jason A. Gonsalves
Paul A. Gonsalves
PROFESSIONAL LEGISLATIVE REPRESENTATION
925 L ST. · SUITE 250 · SACRAMENTO, CA 95814-3766
916 441-0597 · FAX 916 441-5061
Email: gonsalves@gonsalvi.com

TO: South Coast Air Quality Management District

FROM: Anthony, Jason & Paul Gonsalves

SUBJECT: Legislative Update – March 2021

DATE: Thursday, March 25, 2021

The Legislature is scheduled to adjourn for Spring Recess on March 25, 2021 and will return to session on April 5, 2021. Upon return, Committee hearings will ramp up to hear the 2,369 bills (1,560 in the Assembly and 809 in the Senate) introduced this year. We will continue to work with SCAQMD staff to identify bills and amendments that are of interest to the District.

The following will provide you with updates of interest to the District:

RECALL WATCH

Wednesday, March 17, 2021 was the final day for proponents of the recall on Governor Newsom to submit signatures. Proponents turned in over 2 million signatures, well over the required 1.5 million to qualify for the ballot later this year. The validation of those signatures are coming in very strong at 84% being valid. Counties have until April 29, 2021 to finish validating the signatures.

With over 2M signatures gathered at an 84% validation rate, all signs point to the recall qualifying and forcing an election later this year. The timing of the recall is decided by Lieutenant Governor Kounalakis who has 60-80 days after the final certification of signatures to schedule it.

In the meantime, Governor Gavin Newsom has been calling on his allies to defend him. The California Democratic Party invested $250K against the recall and the Governor raised over $538K within the first 48-hours of launching his campaign. One major

advantage the Governor has over his opponents is he has no campaign contribution limits since he is the incumbent. His opponents are limited to $32,400 per donor.

The latest poll shows voters are split on the recall, with 42% who would vote to keep Newsom and 38% who would vote him out. 66% of Democrats would keep him and 86% of Republicans would vote to recall him.

ATTORNEY GENERAL

On March 24, 2021, Governor Newsom announced that he will submit to the State Legislature the nomination of Alameda Assemblymember Rob Bonta as the next California Attorney General, filling the seat vacated by Xavier Becerra who was recently sworn in as Secretary of the U.S. Department of Health and Human Services. The nomination is subject to confirmation by the California State Assembly and Senate within 90 days.

Bonta will become the first Filipino American to serve as California Attorney General. Throughout his career in public service, Assemblymember Bonta has taken on big fights to reverse historic injustice. He has been a leader in the fight to reform California's justice system and stand up to the forces of hate.

Assemblymember Rob Bonta was elected to the California State Assembly's 18th District in 2012 where he represents the cities of Oakland, Alameda and San Leandro. He became the first Filipino American state legislator in California's then 160-plus-year history.

Governor Newsom made the announcement at the historic International Hotel in San Francisco, a site where Asian and Pacific Islander Californians famously rallied in 1977 to save homes of elderly residents and preserve their community. The protests helped fuel a rise in AAPI political activism. Bonta's mother, who helped organize the protest at the International Hotel, was on hand today to witness the Governor making his selection.

CALIFORNIA'S FISCAL OUTLOOK

On March 22, 2021, Governor Gavin Newsom announced that General Fund revenues are running $14.3 billion above January's revenue forecast, with receipts for February exceeding the month's projections by $3.8 billion.

Nearly 60% of February's gain can be attributed to timing: lower refunds caused by later enactment of the $600 one-time Golden State Stimulus than expected in the budget, as well as fewer-than-expected state tax refunds tied to a delayed federal start to the tax filing season.

The Governor's 2021-22 State Budget proposal aims to provide funding for immediate COVID-19 response and relief efforts where Californians need it most while making investments for an equitable and broad-based economic recovery. It advances direct cash supports of $600 to millions of Californians through the Golden State Stimulus, extends new protections and funding to help keep people in their homes and invests in relief grants for small businesses. The Budget intensifies the Governor's commitment to equity in and for our schools, reflected by the highest levels of school funding in California's history.

The Budget reflects $34 billion in budget reserves and discretionary surplus revenues that include: $15.6 billion in the Proposition 2 Budget Stabilization Account (Rainy Day Fund) for fiscal emergencies; $3 billion in the Public School System Stabilization Account; an estimated $2.9 billion in the state's operating reserve; and $450 million in the Safety Net Reserve. The state began the year with an operating surplus of $15 billion.

The Budget continues progress in paying down the state's retirement liabilities and reflects $3 billion in additional payments required by Proposition 2 in 2021-22 and nearly $6.5 billion over the next three years. In addition, the improved revenue picture allows the state to delay $2 billion in scheduled program suspensions for one year.

SPECIAL ELECTION: 54TH ASSEMBLY DISTRICT

On March 12, 2021, Governor Newsom announced the special election to fill the 54th Assembly District seat. Former Assemblymember, and now Senator, Sydney Kamlager Dove won the seat that was vacated by Senator Holly Mitchell who is now a Los Angeles County Supervisor.

Governor Newsom issued a proclamation calling for a primary election for May 18, 2021. If no candidate wins 50% plus one of the vote during that election, a special election for the top two vote-getters will be held on July 20, 2021.

Now that the election has been called, the period for candidates to file has begun. Candidates had until March 24 to file their declaration of candidacy. The field consist of 5 Democrats and one No Party Preference.

PATH TO 100% CLEAN ENERGY

On March 15, 2021, the California Energy Commission (CEC), California Public Utilities Commission (CPUC) and California Air Resources Board (CARB) released the first joint agency report and a summary document examining how the state's electricity system can become carbon free by 2045.

The report is the initial analysis called for in Senate Bill 100 (SB 100, De León, Chapter 312, Statutes of 2018), the state's landmark policy requiring that renewable and zero-carbon energy resources supply 100% of electric retail sales to customers by 2045. The

bill was signed into law in 2018 and calls for these resources to replace fossil fuels for generating electricity in the state.

The 178-page report finds that the goals of SB 100 can be achieved in different ways, but reaching them will require significant investments in new and existing technologies and an increased, sustained build-out of clean energy projects to bring new resources on-line. The report modeled various scenarios to examine sample paths to carbon-free energy. It will be followed with additional analyses of energy reliability and evolving conditions.

Highlights from the report include the following:

- To reach the 2045 target while electrifying other sectors to meet the state's economywide climate goals, California will need to roughly triple its current electricity grid capacity.

- California will need to sustain its expansion of clean electricity generation capacity at a record-breaking rate for the next 25 years. On average, the state may need to build up to 6 gigawatts (GW) of new renewable and storage resources annually.

- In addition to social benefits such as less air pollution and improved public health, transitioning to a carbon-free electric system will also create thousands of jobs such as manufacturing and installing wind turbines and solar panels and developing new clean energy technologies.

- Modeling of the core scenario for achieving 100% clean electricity showed a 6% increase in total annual electricity system costs by 2045, compared to the estimated cost of achieving 60% renewable electricity by 2030.

- Advancements in emerging technologies, increased demand flexibility and cost declines in existing technologies may decrease the total electricity resource requirements and implementation costs. These topics, along with reliability, will be examined more closely in future analyses.

- A clean electricity grid is necessary to achieve economy-wide carbon neutrality. Using clean electricity to power transportation, buildings and industrial operations helps decarbonize these sectors of the economy, which, along with electricity generation, account for 92% of the state's carbon emissions.

California has already made significant progress toward a clean energy future. Due to many efforts that promote renewable energy, energy efficiency and the storage technologies needed to retire fossil fuel resources, the state's electricity mix is already more than 60% carbon free. About 36% of that comes from renewable sources, predominantly wind and solar.

The report was developed using computer modeling and incorporates existing studies; the state's energy, climate, equity and public health priorities; and information gathered through a yearlong series of public workshops throughout the state. Although the report examines the challenges and opportunities for a carbon-free electricity system, the three agencies highlight that it is only a first step in an ongoing effort. The agencies also note that costs, performance and innovations in zero-carbon technologies will change over the next 25 years.

Currently, the CPUC, California Independent System Operator and CEC are implementing actions to prevent electricity shortages and ensure delivery of clean, reliable and affordable energy in response to the August 2020 extreme heat wave. Among the actions are expediting the regulatory and procurement processes to develop additional resources that can be on-line by summer 2021 and ensuring that the generation and storage projects under construction are completed as scheduled.

This year, CARB will also begin the process to update the Assembly Bill 32 Climate Change Scoping Plan, which will assess progress towards reducing GHG emissions 40% below 1990 levels by 2030 and chart the path to carbon neutrality by 2045. The CARB board will consider acting on the scoping plan in late 2022.

LEGISLATIVE DEADLINES

Mar. 25 - April 5 Spring Recess

Apr. 30 Last day for policy committees to meet and report to fiscal committees fiscal bills introduced in their house.

May 7 Last day for policy committees to meet and report to the floor non-fiscal bills introduced in their house.

May 10 - Governor's Budget Revise.

May 14 Last day for policy committees to meet prior to June 7.

May 21 Last day for fiscal committees to meet and report to the floor bills introduced in their house.

June 1-4 Floor session only.

June 4 Last day for each house to pass bills introduced in their house.

June 15 Budget Bill must be passed.

ATTACHMENT 3C

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RESOLUTE

South Coast Air Quality Management District

Legislative and Regulatory Update – March 25, 2021

❖ Important Dates

Mar. 25	–	Spring Recess begins upon adjournment of the Legislature.
Apr. 5	–	Legislature reconvenes from Spring Recess.
Apr. 30	–	Last day for policy committees to meet and report to fiscal bills introduced in their house to the Appropriations Committee.
May 7	–	Last day for policy committees to meet and report to non-fiscal bills introduced in their house to the floor.
May 14	–	Last day for policy committees to meet until June 7.
May 21	–	Last day for Appropriations Committees to meet and report to non-fiscal bills introduced in their house to the floor.
Jun. 1-4	–	Floor session only.
Jun. 4	–	Last day for each house to pass bills introduced in that house.
Jun. 7	–	Committee meetings resume.
Jun. 15	–	Budget bill must be passed by midnight.

❖ **RESOLUTE Actions on Behalf of South Coast AQMD.** RESOLUTE partners David Quintana and Jarrell Cook continued their representation of SCAQMD before the State's Legislative and the Executive branch. Selected highlights of our recent advocacy include:

- Submitted position letters on behalf of SCAQMD on AB 96 (O'Donnell) and AB 220 (Voepel); additionally, RESOLUTE maintained a line of communication with the authors' offices to monitor potential amendments and the overall status of the measures.
    - AB 96 is set to be heard in committee on April 5 with potential amendments that are being urged by the Chair, Assemblymember Friedman.
    - AB 220 was heard in Committee but not voted on as the author agreed to take amendments that would narrow it to apply to collector cars more directly.

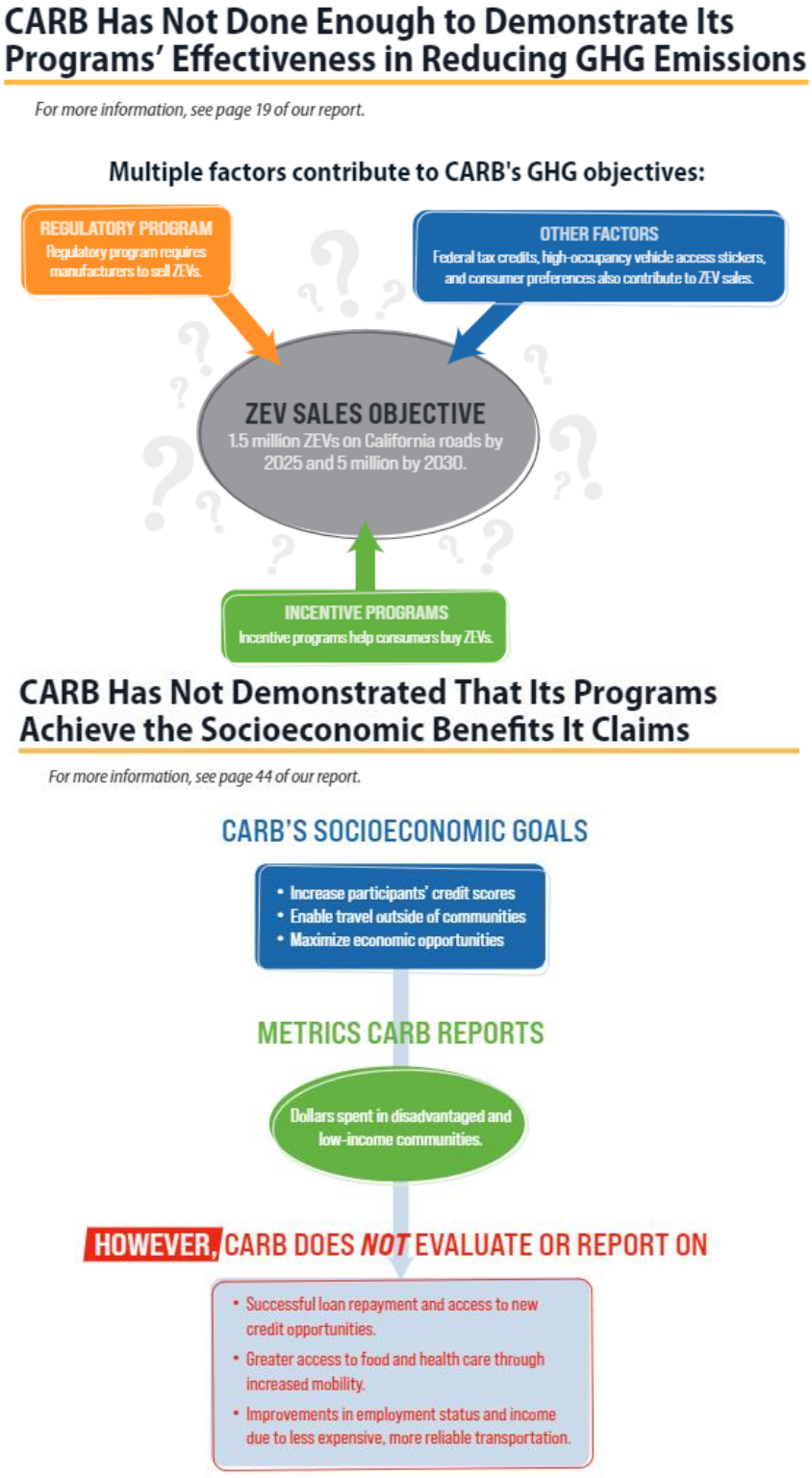
❖ **Governor Newsom Appoints Rob Bonta as California Attorney General.** Assemblymember Rob Bonta (D-Oakland) was appointed to the role of California Attorney General by Governor Gavin Newsom, filling the seat vacated by Xavier Becerra's appointment as Health and Human Services Secretary for President Biden.

Bonta is the first Filipino-American to hold the office, and his nomination comes after a string of anti-Asian violence. He has indicated that his top priority upon entering office would be to address what he called "our fundamentally broken criminal justice system." Bonta's appointment will trigger a special election for his Assembly seat.

❖ **Sydney Kamlager Wins Special Election for Senate District 30.** Assemblymember Sydney Kamlager (D-Los Angeles) won an easy victory in the race to claim the state senate seat formerly held by L.A. County Supervisor Holly Mitchell.

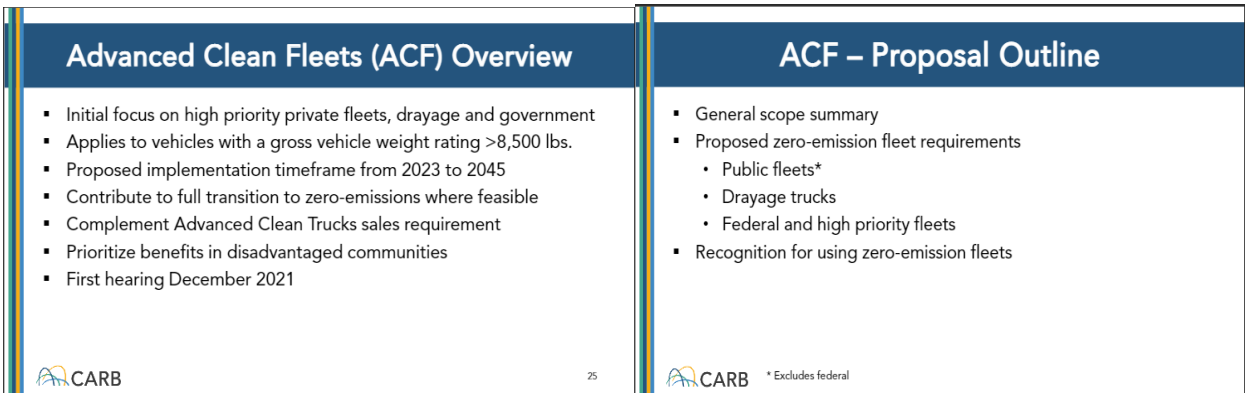
❖ **Legislature Holds a Joint Hearing on CARB Audit.** On March 16, the Joint Legislative Audit Committee, the Assembly Transportation Committee, and the Senate Transportation Committee held a joint hearing following the release of the February 23 audit of the California Air Resources Board.

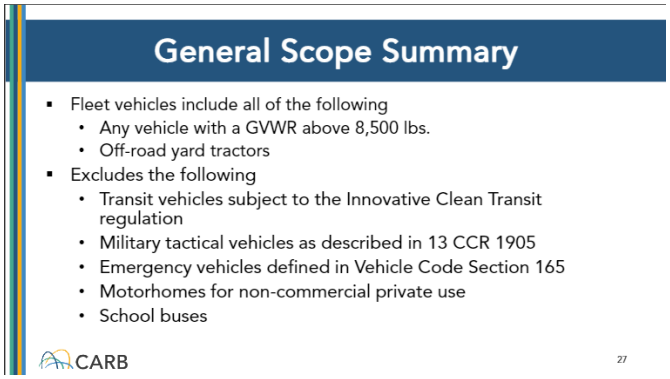
At the hearing, the auditor, Elaine Howell, emphasized the conclusions from the audit, recommending that CARB improve its programs by (1) measuring the actual GHG benefits of its transportation programs, (2) providing the non-GHG benefits of its programs, and (3) improving its reporting on its programs to the Legislature.



❖ **CARB Holds Workshop on Advanced Clean Fleets Regulation.** The California Air Resources Board held two public workshops on its Advanced Clean Fleets Regulation on March 2 and March 4. The sets targets for buying electric vehicles for public fleet owners, private fleet companies, and owners of drayage trucks.

The workshop highlighted the state's challenges in reducing NOx and $PM_{2.5}$ emissions—especially in the San Joaquin Valley and the South Coast, noting that transportation remains the largest source of greenhouse gases by a significant margin. The workshop noted that action beyond current programs is needed by 2031, while emphasizing that CARB viewed Zero-Emissions vehicles as key to successfully reducing NOx and GHGs.





The full staff presentation details CARB's proposed requirements for public fleets, drayage trucks, private and federal fleets, and the incentives to encourage hiring ZEV fleets. A recording of the workshop is available here.

❖ **The National Renewable Energy Laboratory Releases Study to Move Los Angeles to 100% Renewable Energy.** The city of Los Angeles has released a study by the National Renewal Energy Laboratory that offers a plan to move the city to 98% clean energy within the next decade and 100% by 2035. Among the study's key findings include a recommendation that Los Angeles will need to add 470 to 730 megawatts of solar, wind and batteries every year for the next 25 years on average. The proposal advises to replace all of the city's gas plants with renewable hydrogen fuel.