

BOARD MEETING DATE: January 10, 2014

AGENDA NO. 16A

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee held a meeting on Friday, December 13, 2013. The next Legislative Committee meeting is scheduled for Friday, January 17, 2014, at 9 a.m. in Conference Room CC8.

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

Agenda Item	Recommendation Action
2014 Federal and State Legislative Goals and Objectives	Approve
AB 1330 (John Perez) Environmental Justice	<i>SUPPORT IF AMENDED to replace current provisions with part or all of the policy guidelines included within the SCAQMD bill analysis. The Executive Officer is to enter into the legislative process on this bill and to coordinate with the Chair of the Legislative Committee and with the Chair of the Board.</i>

RECOMMENDED ACTION:

Receive, file this report, and approve agenda items as specified in this letter.

Josie Gonzales
Chair
Legislative Committee

LBS:PFC:jf

Attendance [Attachment 1]

The Legislative Committee met on December 13, 2013. Committee Chair Supervisor Josie Gonzales was present at SCAQMD's Diamond Bar headquarters. Committee Members Supervisor Michael D. Antonovich and Dr. Clark E. Parker, Sr. attended via teleconference. In addition, Dr. William Burke, Governing Board Chair, was appointed to the Committee for this meeting and attended via teleconference.

Update on Federal Legislative Issues

Mark Kadesh of Kadesh & Associates, SCAQMD federal legislative consultant, updated the Committee on key Washington D.C. issues.

Mr. Kadesh reported that Senator Patty Murray and Congressman Paul Ryan reached an agreement on a two-year budget deal and the House passed it 333-94. The Senate is expected to pass this budget bill the following week. Relative to this agreement, it provides the top line numbers for federal government spending for 2014 at just over \$1 trillion, which is a slight increase from the \$988 billion level in 2013. The deal replaces some sequestration cuts with revenue increases that will help ameliorate cuts to discretionary spending programs and agency budgets (including EPA). More significantly, this returns the budget to regular order instead of the recurring crisis and continuing resolutions. This change may help SCAQMD because it increases the likelihood that there will be 2014 and 2015 Energy and Water appropriations bills that go through the regular appropriations process and could include the continuation of the zero-emissions goods movement grant program.

Mr. Kadesh also reported that Lisha Smith, Deputy Executive Officer of Legislative & Public Affairs (LPA), and Marc Carrel, LPA Program Supervisor, were in DC last month for several Capitol hill meetings to discuss issues relating to the Emissions Control Area (ECA), the surface transportation bill (MAP -21), and clean locomotives, among others. They met with Senator Feinstein and Senator Boxer's staff as well as with House staff from the offices of Reps. Hahn, Napolitano and Capps.

Mr. Kadesh reported that SCAQMD staff has been helping Rep. Capps and Waxman on their ECA delegation letter in opposition to the International Maritime Organization's (IMO) proposal to delay implementation of emission standards. Rep. Hahn is especially important here because she co-chairs the bipartisan ports caucus along with Texas Republican Ted Poe.

Further, Mr. Kadesh stated that SCAQMD staff met with Senate Environmental and Public Works (EPW) staff and discussed the upcoming transportation bill, including goods movement issues. MAP-21 expires at the end of next September. It is unclear whether MAP-21 will be reauthorized during the current Congress, largely due to the debate over identifying a new revenue source for funding. It is expected that this bill will be more actively addressed in January 2014.

Mr. Kadesh also reported that Grant Cope, a senior staffer with Senate EPW, who we have worked with extensively on marine vessel and other issues, is leaving his current post. He is moving to Sacramento to become Deputy Secretary for Environmental Policy for Governor Brown. He is being replaced on EPW by a Rep. Waxman staff member.

Finally, Mr. Kadesh reported that when Rep. Bill Young (R. FL) passed away last month, it led to a chain of changes at House Appropriations that resulted in Rep. Ken Calvert becoming the new Chair of the House Interior Appropriations Subcommittee.

Mia O'Connell of the Carmen Group, SCAQMD federal legislative consultant, also provided the Committee with updates on key Washington D.C. issues.

Ms. O'Connell provided an overview of SCAQMD staff's November meetings in Washington, D.C. These included:

- A meeting on MAP-21 reauthorization issues with staff at the House Transportation & Infrastructure (T&I) Committee;
- A meeting on rail reauthorization issues with staff at the Rail Subcommittee of the House T&I Committee;
- A meeting on MAP-21 and air quality issues with the Assistant Secretary for Transportation Policy at the US Dept. of Transportation; and
- Meetings with Member offices (including Reps. Miller, Rohrabacher, Cook and Royce) on air quality issues related to marine vessels.

Ms. O'Connell also reported on a change in leadership at the White House Council on Environmental Quality (CEQ). Nancy Sutley, chair of CEQ since 2009, announced she is stepping down effective February 2014.

Ms. O'Connell also discussed Congress' expected priorities for 2014, which include:

- The Water Resources Development Act (WRDA): Final bill passage is expected in January or early February;
- The Rail Reauthorization bill: House T&I Rail Subcommittee is currently drafting this bill which could be ready early in 2014 soon after WRDA is done; and
- MAP-21: The House T&I and Senate EPW Committees are now drafting separate bills. Committee markups are expected in February/March 2014, with floor action in April/May, conference committee in June, and final bill passage in July 2104. This is an optimistic scenario, assuming that critical funding issues can be resolved.

Update on Sacramento Legislative Issues

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

Mr. Gonzalez reported on state legislative issues in 2014 that will be of interest to SCAQMD, including:

- An effort by environmental groups and clean vehicle manufacturers to secure at least \$170-\$200 million in cap and trade funding to fund electric vehicle deployment through the Clean Vehicle Rebate Program (CVRP) and the Hybrid Truck & Bus Voucher Incentive Project (HVIP). There has been positive feedback from the Governor's office on this funding possibility in the budget. This could include funding for air districts to conduct outreach in low income environmental justice communities. These groups are looking for both initial two-year funding and for long-term funding sources for these two programs. Senators Kevin de Leon and Ellen Corbett are expressing interest in this long-term effort.
- SB 459 (Pavley), which was signed into law in 2013, had its funding stripped out in appropriations committee and Senator Fran Pavley is expected to introduce a bill in 2014 to restore that funding. There is a possibility for funding for air districts to help with outreach to low-income environmental justice communities to promote vehicle retirement programs.
- The self-generation incentive program, a long standing program managed by the Energy Commission and the Public Utilities Commission that provides incentives for renewable technology to reduce greenhouse gases (GHG's) will expire at the end of 2014. A coalition of interests is forming that supports reauthorizing the program for two years.
- Several environmental groups and renewable energy developers are looking at permitting and installation cost issues and seeking to facilitate the ability of these developers to work with local governments to install renewable technology such as rooftop solar systems. No concrete proposal is available.

Jason Gonsalves of Joe A. Gonsalves & Son, SCAQMD state legislative consultant, also briefed the Committee on other key Sacramento issues.

Mr. Gonsalves reported that the Legislature is scheduled to return from recess on January 6, 2014. The Governor is scheduled to release his budget on January 10th. The Legislative Analyst Office has estimated that there will be a \$6.4 billion budget surplus in the state in the upcoming budget year, with the surplus to grow to \$9.6 billion by

2017-18, which is around the time when Prop. 30 sunsets in 2016-17. The issue of contention is whether this surplus will be maintained or if legislators will look to restore cuts from prior years. The Assembly Democrats' budget blueprint calls for spending about \$3.5 billion of this coming year's surplus to restore cuts from prior deficit years. In contrast, the Governor's office appears to be planning on holding the line and does not propose to increase spending.

Mr. Gonsalves also reported that eight special elections were held in 2013 with one of the most recent occurring on November 19th to fill former Assembly Member Blumenfield's seat, which was won by Democratic candidate Matt Dababneh. On December 3rd, Sebastian Ridley-Thomas, son of Los Angeles County Supervisor Mark Ridley-Thomas, won the 54th Assembly District race. Additionally, December 1st Senator Bill Emmerson resigned his Senate seat.

Mr. Gonsalves noted that the passage of Prop. 28 that allows legislators to remain in the same house for up to 12 years, has already had an impact. Senator Noreen Evans is not seeking reelection for her Senate seat; however, Assembly Member Marc Levine, who is the obvious replacement candidate, has opted to remain in the Assembly and not run for the Senate.

Mr. Gonsalves reported that, as mentioned earlier, Grant Cope has been appointed by Governor Brown to serve as Deputy Secretary for Environmental Policy at Cal EPA. Also, Camille Wagner has been appointed chief deputy of legislative affairs in Governor Brown's office, where she previously served in the Governor's legislative unit.

Finally, Mr. Gonsalves noted a couple of key legislative deadlines: January 24th is the deadline to get bill language to the legislative counsel's office, January 31st is the deadline to pass 2 year bills, and February 21st is the deadline to introduce new bills in 2014.

Dr. Burke inquired as to whether Senate Pro Tem Steinberg has announced when he will leave his leadership post within the State Senate. Mr. Gonsalves responded that Senator Steinberg has not made a public announcement regarding this.

Recommend 2014 Legislative Goals and Objective [Attachment 2]

Lisha B. Smith, Deputy Executive Officer, presented to the Committee the staff recommendations for SCAQMD's 2014 state and federal Legislative Goals and Objectives.

SCAQMD Executive Officer Dr. Barry Wallerstein noted that he had been in communication with Governing Board Member Dr. Joseph Lyou, who indicated that there will be considerable discussion regarding how AB 32 auction revenues are spent,

and whether there should be a set aside to help facilitate the transition to zero and near-zero emission vehicles. Dr. Wallerstein then recommended that the state Legislative Goals and Objectives be amended to include that SCAQMD will work to get the approval of the Legislature and Governor of this zero emission vehicle funding effort in a manner that reinforces the Governing Board's policies in the implementation of the AQMP, the promotion of low emission vehicles and the protection of disproportionately impacted communities.

The Legislative Committee approved staff's recommendation for State and Federal Legislative Goals and Objectives for 2014, as amended.

Recommend Position on State Bill [Attachment 3]

Barbara Baird, District Counsel, presented AB 1330 (John Perez) for the Committee's consideration.

AB 1330 (John Pérez) Environmental justice

This bill would expand the SB 535 (De Leon, Chapter 830, Statutes of 2012) statute to use the California Environmental Protection Agency's (Cal/EPA) list of environmental justice communities in the state to provide additional financial and administrative assistance from state agencies and local governments, and would amend the Ralph M. Brown Act to ensure access to public meetings by limited-English-speakers.

This bill would also increase coordination and enforcement of environmental protection laws and intends to increase funding for environmental improvements in environmental justice communities, through increased fines, among other things.

Staff recommended a position of Support if amended to replace current provisions with part or all of the policy guidelines included within the SCAQMD bill analysis.

Dr. Wallerstein proposed that this bill be one of the SCAQMD's highest priorities and that staff come back to the Legislative Committee on a monthly basis to report on its progress. He also said that the goal is to make a strong effort to work cooperatively with the Speaker's Office on this bill.

Dr. Burke commented that he spoke with Speaker Pérez who said that he would like to work with SCAQMD on this bill and have its support. Dr. Burke also expressed an interest in having the Governing Board members review the staff's suggested policy recommendations to provide their input. Dr. Wallerstein responded that there is a concern that the bill's provisions and content are already actively being created, and that a delay on the part of the SCAQMD providing its input may impact the agency's ability to have its concerns addressed and impede the District's opportunity to have an active role in creating key provisions in the bill.

Maya Golden-Krasner from Communities for a Better Environment and with the California Environmental Justice Alliance (CEJA) provided public comment. CEJA has been working closely with the Speaker on the new language for AB 1330. She stated that the doubled fines and green zones trust fund language, as well as essentially all of the language that applies to air districts, is being withdrawn from AB 1330. CEJA also has reviewed and supports SCAQMD's proposed recommendations for AB 1330. CEJA's main goal on the bill is to enhance the ability of the air districts to deal with repeat violators, especially in disproportionately impacted communities, and violations that threaten public health. Ms. Golden-Krasner believes that SCAQMD's recommendations address this goal and indicated her willingness to work with the Agency to draft mutually acceptable language.

The Legislative Committee approved staff's recommendation to SUPPORT IF AMENDED to replace current provisions with part or all of the policy guidelines included within the SCAQMD bill analysis. The Executive Officer is to enter into the legislative process with this bill and to coordinate with the Chair of the Legislative Committee and with the Chair of the Board.

Amend Existing Contract for Legislative Representation in Washington, D.C.

Lisha B. Smith, Deputy Executive Officer, presented to the Committee staff's recommendation regarding amending an existing contract for SCAQMD's legislative representation in Washington, D.C.

The current contracts for legislative and regulatory representation in Washington D.C. will expire on January 14, 2014. The contracts have an option for two one-year extensions. To further the agency's policy positions at the federal level, staff recommends exercising the first one-year extension for Kadesh & Associates, LLC as SCAQMD's legislative and regulatory representation in Washington, D.C. Total contract amount for Kadesh & Associates, LLC is proposed to be the current contract amount plus a Consumer Price Index increase for Calendar Year 2014.

After discussion by Committee Members, *the Legislative Committee approved staff's recommendation to exercise the first one-year contract extension for Kadesh & Associates, LLC as SCAQMD's legislative and regulatory representation in Washington, D.C. The Legislative Committee also approved a six-month contract extension for the Carmen Group, Inc. to serve as SCAQMD's legislative and regulatory representation in Washington, D.C. and will revisit the contract for the end of the six month period.*

For additional information on this item, please refer to January 10, 2014 Governing Board Agenda Item #3.

Report from SCAQMD Home Rule Advisory Group [Attachment 4]

Please refer to Attachment 4 for written report.

Other Businesses: None

Public Comment Period:

Please refer to AB 1330 position recommendation for Maya Golden-Krasner from Communities for a Better Environment and with the California Environmental Justice comments on AB 1330.

In addition, Mr. Bill Lamarr confirmed that the defense of South Coast AQMD Rule 317 was consistent and part of the Agency's legislative program for 2014.

Attachments

1. Attendance Record
2. 2014 Legislative Goals and Objectives
3. AB 1330 Bill Analysis and Bill Language
4. SCAQMD Home Rule Advisory Group Report

ATTACHMENT 1

ATTENDANCE RECORD –December 13, 2013

DISTRICT BOARD MEMBERS:

Dr. William A. Burke (teleconference)
Supervisor Josie Gonzales
Supervisor Michael Antonovich (teleconference)
Dr. Clark E. Parker, Sr. (teleconference)

STAFF TO COMMITTEE:

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

DISTRICT STAFF:

Barry Wallerstein, Executive Officer
Barbara Baird, Chief Deputy Counsel
Elaine Chang, Deputy Executive Officer
Peter Greenwald, Senior Policy Advisor
Mohsen Nazemi, Deputy Executive Officer
Marc Carrel, Program Supervisor
Tina Cox, Senior Public Information Specialist
Philip Crabbe, Community Manager
Kim White, Public Affairs Specialist
Paul Wright, Audio Visual Specialist

OTHERS PRESENT:

Mark Abramowitz, Board Member Assistant (Lyou)
Tracia Almiron, SANBAG
Danielle Fasse, SCE
Dan Flores, San Bernardino County
Candice Gantt, SCE
Maya Golden-Krasner, Communities for a Better Environment
Paul Gonsalves, Gonsalves & Son (teleconference)
Will Gonzalez, Gonzalez, Quintana & Hunter (teleconference)
Jacob Haik, Board Member Consultant (Buscano)
Stewart Harris, Carmen Group (teleconference)
Gary Hoitsma, Carmen Group (teleconference)
Mark Kadash, Kadash & Associates (teleconference)
Chris Kierig, Kadash & Associates (teleconference)
Bill LaMarr, California Small Business Alliance
Rita Loof, RadTech
Debra Mendelsohn, Board Member Assistant (Antonovich)
Peter Okurowski, CEA
Mia O'Connell, Carmen Group (teleconference)
David Rothbart, LACSD
Andy Silva, Board Member Assistant (Gonzales)
Susan Stark, Tesor Consultant
Warren Weinstein, Kadash & Associates (teleconference)

Attachment 2a



South Coast Air Quality Management District



21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

DRAFT SCAQMD's State Legislative Goals & Objectives for 2014

SCAQMD Authority / Policy Implementation

Protect SCAQMD's authority to ensure its implementation of the Board's clean air policies and programs, as required by state and federal law, including the 2007 and 2012 AQMPs. As well, seek to broaden current air district authority to address chronic, serial violators.

Environmental Justice

Support legislation to promote environmental justice initiatives, to reduce localized health risks, to develop clean air technology that directly benefits disproportionately impacted communities, and to enhance community participation in decision-making.

Energy

Support legislation that advances the Board's Energy Policy which promotes reliable, cost effective and clean energy for all consumers in the basin facilitating attainment of clean air standards and support for a healthy economy.

Salton Sea

In conjunction with the Imperial County Air Pollution Control District and other stakeholders, work on legislation mitigating the Salton Sea's potential for increased emissions as well as its potential to generate renewable energy.

Mobile Sources

Support legislative and/or regulatory actions that reduce mobile source emissions within the South Coast region, as needed, to attain clean air standards by statutory deadlines. Oppose legislative efforts to roll back feasible regulations needed to attaining clean air standards pursuant to the Air Quality Management Plan.

Surface Transportation & Goods Movement

Support and expand air quality policy and funding considerations and the role of air districts in the implementation of state and federal surface transportation and goods movement policies and programs, including those relating to MAP-21 and its successor legislation.

Air Quality Funding

Right-size funding for clean air programs that protect public health, particularly incentive programs and research and development projects that create opportunities to partner with local businesses, communities and residents.

Also, work with CAPCOA, ARB and other stakeholders to establish greater flexibility in the implementation of the Carl Moyer Program to further maximize emission reductions and program efficiencies.

CEQA

Support sensible reforms to CEQA that do not undermine air pollution analysis or mitigation, including administrative streamlining efforts.

Climate Change

Seek to influence climate change initiatives and facilitate their implementation consistent with Board policy. In particular, support efforts directing that AB 32 revenue auctions be spent on programs that maximize co-benefits, promote zero emission vehicles, and address air quality and public health impacts in disproportionately affected communities.

Offsets

Monitor and engage in policy efforts related to New Source Review emission offset requirements for stationary sources, as necessary, while furthering the pursuit of clean air objectives.

Education and Outreach

Coordinate with local elected officials, Board Members and other stakeholders to advocate for shared air quality priorities in Sacramento and Washington D.C.

Attachment 2b



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

DRAFT SCAQMD's Federal Legislative Goals & Objectives for 2014

Technology Advancement

Expand current and seek additional funding opportunities for advanced clean technologies and clean air research, development, demonstration and deployment programs, including those related to:

- Zero and near-zero emission technologies;
- Clean vehicles (such as light-, medium- and heavy-duty vehicles, locomotives, marine vessels, and aircraft technologies), clean fuels and refueling technologies and infrastructure;
- Clean energy sources;
- Implementation of the 2007 Air Quality Management Plan (AQMP) and 2012 AQMP;
- Implementation of the Clean Communities Plan; and
- Support of environmental justice initiatives.

Marine Vessels

Seek protection of current federal and international controls on marine vessel emissions, including those required within the North American Emission Control Area (ECA) as designated by the International Maritime Organization.

Pursue legislative and/or administrative processes to reduce marine vessel emissions, through regulatory and/or incentive based policies, in order to facilitate attainment of federal clean air standards within the South Coast region by statutory deadlines.

Surface Transportation

Work with Congress, the White House, federal, state and local agencies, business, environmental and community groups, and other stakeholders to:

- Monitor and engage as necessary with implementation issues relating to MAP-21 at the federal level.
- Protect and/or expand clean air funding opportunities under federal surface transportation legislation (including the Moving Ahead for Progress in the 21st Century Act (MAP-21) and MAP-21 successor legislation) and other legislation for energy, water, commerce, goods movement, and related areas;
- Enhance the provisions of the successor legislation to MAP-21 to maximize benefits to air quality, particularly with respect to transportation, goods movement and energy

issues; and provide for a greater role for air agencies in transportation planning and programming, consistent with Board policy;

Locomotives

Pursue legislative and/or administrative processes to reduce locomotive emissions, through regulatory and/or incentive-based policies, in order to facilitate attainment of federal clean air standards within the South Coast region by statutory deadlines.

Reduction of Toxic Emissions

Work with congressional and federal agency staff, including the U.S. Departments of Energy, and Transportation, and the Environmental Protection Agency (EPA), to expand funding under the Diesel Emission Reduction Act (DERA) and other programs; and pursue other legislative or administrative provisions to reduce toxic emissions within the South Coast region.

Clean Air Act

Protect SCAQMD's authorities under the federal Clean Air Act (CAA) and extend or enhance SCAQMD's subvention funding under CAA Sections 103 and 105.

National Ambient Air Quality Standards

Support policies that protect science-driven and health-based selection of national ambient air quality standards.

AQMP

Support legislation and/or administrative processes to ensure implementation of the 2007 AQMP and 2012 AQMP, as needed.

Climate Change

Seek to influence climate change initiatives and facilitate their implementation at local levels, consistent with the Board's policy.

New Source Review Offsets

Work with congressional and federal agency staff and other stakeholders to modernize federal New Source Review offset requirements for areas where the supply of offsets is inadequate, while furthering the pursuit of clean air objectives.

Environmental Justice

Support legislation to promote environmental justice initiatives, to reduce localized health risks, to develop clean air technology that directly benefits disproportionately impacted communities, and to enhance community participation in decision-making.

Attachment 3a

AB 1330 (John Perez) Environmental justice.

Summary: This bill would expand the SB 535 (De Leon, Chapter 830, Statutes of 2012) statute to use the California Environmental Protection Agency’s (Cal/EPA) list of environmental justice communities in the state to provide additional financial and administrative assistance from state agencies and local governments, and would amend the Ralph M. Brown Act (Act) to ensure access to public meetings by limited-English-speakers.

This bill would also increase coordination and enforcement of environmental protection laws and intends to increase funding for environmental improvements in environmental justice communities, through increased fines, among other things.

Background: This bill was led by local environmental groups but ultimately moved to the Senate inactive file. There was a strong coalition of opposition to this bill from business and farming interests, to the Western States Petroleum Association (WSPA), among others; however, legislative leadership in both chambers have committed to moving it in 2014.

Status: 9/13/13 - Failed Deadline pursuant to Rule 61(a)(14). (Last location was INACTIVE FILE on 9/12/2013.) This is a 2-year bill.

Specific Provisions: Specifically, this bill would require, among other things:

- 1) The establishment of the Green Zone Trust Fund (Fund) that would have its funds expended to support projects that in environmental justice communities;
- 2) The doubling of the amount of fines assessed against hazardous waste, air district or solid waste permit holders for emission or discharge violations that exceed permitted emission or discharge levels in environmental justice communities;
- 3) That 50% of the money collected by these violations be deposited in the Fund or the Toxic Substances Control Account and go to environmentally beneficial projects in environmental justice communities;
- 4) Funds derived from penalties for violations occurring in an environmental justice community are to be preferably, but not required, to be disbursed within that environmental justice community or within two miles of that community.
- 5) That public entities, local governments, or nonprofit organizations be allowed to submit applications for projects for inclusion as a Green Zone Environmental Project;
- 6) The increase of the cap on grant amounts awarded as part of the Environmental Justice Small Grant Program, established by the Cal/EPA, which provides grants to eligible community groups that are involved in working to address environmental justice issues. The grant amount cap would be raised from \$20,000 to \$50,000; and
- 7) That the Act be amended to ensure that local agency regulations, which may set time limits for public testimony, recognize the need for additional time for interpreter services so that language barriers do not result in reduced opportunities for public testimony for some speakers.

Impacts on AQMD’s Mission, Operations or Initiatives: The general intent of this bill to help environmental justice communities and to address air quality related health impacts in disproportionately impacted communities is in line with District priorities. However, the bill as currently drafted has raised several concerns, including, but not limited to the following:

- 1) It is unclear how the bill’s provisions interact with specified criteria in current state law regarding air district fines. Because fines are assessed based on a variety of factors, including the seriousness of the harm and the ability to pay, it is unlikely that the bill’s language calling for a “doubling” of the fines would actually result in those “doubled” fines being collected. If a business’ ability to pay results in a certain fine amount, doubling that fine would be inconsistent with this factor and practically speaking, the additional amount may be difficult to collect from an already financially strained business. Business failures could also increase as a result, which would again mean less fees and fines could be collected;
- 2) Because a “doubling” of the fines is likely not feasible, given the criteria in existing law, the bill’s language that calls for 50% of the fines “collected” to go to the Fund may end up inadvertently shifting away funds that air districts normally use to mitigate or ameliorate air pollution , including toxic contaminant impacts in and around environmental justice communities. This is inconsistent with the bill’s intent to provide more resources to help disproportionately impacted environmental justice communities to reduce negative environmental outcomes;
- 3) Penalties collected for violations in the South Coast region would go into the bill’s new Fund and from there could be redirected to benefit areas in other parts of California and outside of the South Coast region, thus failing to benefit the communities that were directly impacted by those particular violations; and
- 4) As written, the bill may result in other unintended consequences such as creating an impetus for businesses to leave environmental justice communities due to geographically defined higher fines, resulting in job loss and economic adversity in these already disadvantaged communities.

Legislative leadership has committed to bringing this bill back in 2014 and to reworking the language in the bill. SCAQMD staff has informed Speaker Perez’s office that SCAQMD plans on providing input on the bill, if it does indeed move in 2014. The District would work with the author’s office, CAPCOA and other stakeholders to develop and rework the bill’s content, with the intent of creating a bill that is beneficial for environmental justice communities and that facilitates enforcement of air quality violations, yet is not harmful to existing efforts to fight air pollution and air toxics.

Policy guidelines that are consistent with the District’s intent to help develop the bill’s content to benefit environmental justice communities, as described above, include, but are not limited to, the following:

- 1) Provide the hearing board with the ability to issue temporary and preliminary orders for abatement similar to a temporary restraining order and preliminary injunction in court;
- 2) Expand the Air Pollution Control Officer’s (APCO) existing authority under Health and Safety Code Section 42304 to suspend a permit, which currently exists only for failure to provide information, to include violations of air pollution requirements, to the fullest extent consistent with constitutional due process. The permit holder should have the right to expedited appeal;
- 3) Grant the APCO authority to request information from any known or suspected air pollution source similar to pre-litigation administrative subpoena power for enforcement or permitting purposes, and power to request information, including economic information, from such known or suspected source that is reasonably relevant to a proposed or potential rulemaking. Failure to provide the information could be made subject to civil penalties where it is not actually a subpoena enforceable by contempt;
- 4) Increase the maximum penalties for public nuisance so that they are proportionate to the number of people affected, the degree of harm, the duration of violation, and the size of the company causing the nuisance;
- 5) Allow a public nuisance odor violation to be proven by the testimony of an inspector establishing the existence of the odor, the source of the odor, the geographic area which was affected, and monitoring results showing the existence in the affected areas of levels of pollutants at or above established odor thresholds for the contaminant at issue, provided the district receives complaints for that incident from a considerable number of persons. Actual testimony of the complainants would not be required;
- 6) Establish new penalty ceilings for serious, serial, emission violators;
- 7) Link penalty ceilings to the consumer price index;
- 8) Increase administrative civil penalties from \$500 to a higher value (e.g. \$5,000); and
- 9) Allow an APCO to suspend or deny permits for failure to pay past judgments (i.e. entity has been to court and violations adjudicated).

Recommended Position: Support if amended to replace current provisions with part or all of the policy guidelines above.

Attachment 3b

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1330

Introduced by Assembly Member John A. Pérez

February 22, 2013

An act to amend ~~Section~~ *Sections 12812.2 and 54954.3* of the Government Code, ~~and to amend Sections 25135 and 44050 of, and to add Sections 25135.10, 25135.11, 25196.1, and 42410.1 to, the Health and Safety Code, and to amend Section 71116 of, and to add Sections 71117 and 71119 to 45024.1, 45025.1, 71116.1, 71117.5, 71119, and 71119.5 to, the Public Resources Code, relating to environmental justice, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1330, as amended, John A. Pérez. Environmental justice.

(1) Existing law requires the Secretary for Environmental Protection to convene a Working Group on Environmental Justice to assist the secretary in developing an agency wide strategy for identifying and addressing gaps in existing programs, policies, or activities of the boards, departments, and offices of the California Environmental Protection Agency that may impede the achievement of environmental justice. Existing law requires the agency to identify disadvantaged communities for investment opportunities under the California Global Warming Solutions Act of 2006.

This bill would require the agency, on or before January 1, 2015, to establish a list of environmental justice communities identifying the top 15% of communities in the state, based on census tracts, that are

disproportionately impacted by environmental hazards. The bill would require the agency to revise the list on a triennial basis.

(2) Existing law imposes administrative, civil, and criminal fines and penalties for a violation of specified environmental laws and establishes the maximum amount of fines and penalties.

This bill would require the enforcement agency with jurisdiction over those environmental laws and the courts to double the maximum amount of fines and penalties assessed if a violation occurs at a facility located in an environmental justice community that results in an increased level of emissions or discharges that exceeds the level permitted under that environmental law. The bill would require a specified amount of fines and penalties collected pursuant to this provision to be deposited into the Green Zone Trust Fund, which the bill would establish in the State Treasury. By requiring an enforcement agency to deposit a specified portion of fines and penalties it collects into the Green Zone Trust Fund, the bill would increase the level of service provided by the enforcement agency, thereby imposing a state-mandated local program. The bill would require moneys in the Green Zone Trust Fund, upon appropriation by the Legislature, to be expended by the California Environmental Protection Agency to support Green Zone Environmental Projects that are environmentally beneficial to environmental justice communities. The bill would require the agency, on or before January 1, 2015, to establish guidelines to designate Green Zone Environmental Projects.

(3) Existing law gives the responsibility and authority to a deputy to the Secretary for Environmental Protection to, in consultation with the Attorney General, establish a cross-media enforcement unit to assist a board, department office, or other agency that implements a law or regulation within the jurisdiction of the California Environmental Protection Agency.

This bill would require the secretary to ensure that the unit give priority to enforcement actions for a violation occurring in an environmental justice community.

(4) Existing law requires the Department of Toxic Substances Control to prepare, adopt, and review triennially a state hazardous management plan that serves as a comprehensive planning document for the state and as a useful source of information for the public, local government, and regional councils of government.

This bill would require the department, on or before January 1, 2016, in consultation with the Hazardous Waste Reduction Advisory

Committee, which the bill would establish, to prepare and submit to the Legislature the state hazardous waste reduction plan that identifies measures necessary to achieve significant reduction in hazardous waste generated and disposed of in California by 2025 to the maximum extent practicable. The bill would require the department, on or before January 1, 2017, and biennially thereafter, to report to the Legislature on its progress toward achieving the reduction goals in the plan.

(4)

(5) The Ralph M. Brown Act requires a local legislative body to provide an opportunity for members of the public to directly address the body concerning any item described in a notice of meeting. The act authorizes the legislative body to adopt reasonable regulations limiting the total amount of time allocated for public testimony for each individual speaker.

This bill would, if a local legislative body limits the time for public comment, prohibit the body from counting the time used by a translator to translate comments from a non-English-speaking commenter in determining whether the speaker has exceeded his or her time limit unless simultaneous translation equipment is used to allow the body to hear the translated public testimony simultaneously.

~~(2) Existing law requires the Secretary for Environmental Protection to convene a Working Group on Environmental Justice to assist the secretary in developing, by July 1, 2002, an agencywide strategy for identifying and addressing gaps in existing programs, policies, or activities of the agency's boards, departments, and offices that may impede the achievement of environmental justice.~~

~~This bill would require the secretary, with the assistance of the Cal/EPA Interagency Working Group on Environmental Justice, to periodically revise and update the agencywide strategy to identify and address any additional gaps. The bill would require the secretary to submit to the Governor and the Legislature, by July 1, 2014, a report on the revision and update of the strategy.~~

~~(3) The bill would require each board, department, and office of the California Environmental Protection Agency to maintain a publicly available database on its Internet Web site of its ongoing enforcement cases and compliance histories of its regulated entities. The bill would require the California Environmental Protection Agency to provide links to the databases on its Internet Web site.~~

(6) Existing law requires the California Environmental Protection Agency to establish the Environmental Justice Small Grant Program

to provide grants to eligible community groups that are involved in working to address environmental justice issues. Existing law caps the amount of a grant at \$20,000.

This bill would raise the grant cap to \$50,000.

(7) This bill would require the California Environmental Protection Agency to maintain an agencywide public database of complaints and enforcement cases for each board, department, and office of the agency.

(8) This bill would appropriate \$800,000 from the Hazardous Waste Control Account to the Department of Toxic Substances Control for the purposes of preparing the state hazardous waste reduction plan.

(9) The bill would declare that the provisions of the bill are severable.

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

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

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

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

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

3 (1) The Legislature, in 2001, enacted Senate Bill 828 of the
4 2001–02 Regular Session (Chapter 765 of the Statutes of 2001) to
5 require the California Environmental Protection Agency to convene
6 a Working Group on Environmental Justice to assist the agency
7 in developing an agencywide strategy for identifying and
8 addressing gaps in existing programs, policies, or activities that
9 may impede the achievement of environmental justice.

10 (2) After the development of the strategy, Senate Bill 828
11 requires each board, department, and office within the agency, in
12 coordination with the Secretary for Environmental Protection and
13 the Director of the Office of Planning and Research, to review its
14 programs, policies, or activities that may impede the achievement
15 of environmental justice.

16 (3) Senate Bill 828 also requires the secretary to submit, on a
17 triennial basis beginning on January 1, 2004, a report to the

1 Governor and the Legislature, on the implementation of the above
2 requirements.

3 (4) In September of 2004, the agency submitted to the Governor
4 and the Legislature a report on actions taken to implement Senate
5 Bill 828.

6 (5) In October of 2004, the agency issued the Environmental
7 Justice Action Plan identifying opportunities for the agency and
8 its boards, departments, and offices to take the initial steps toward
9 addressing environmental justice issues.

10 (6) Since 2004, the agency has not submitted a report to the
11 Governor or the Legislature on the implementation of the
12 Environmental Justice Action Plan.

13 (7) Additionally, issues regarding environmental justice not
14 addressed by the agency may have arisen since 2004.

15 (b) It is the intent of the Legislature that the agency should
16 update the Environmental Justice Action Plan to address issues
17 regarding environmental justice that may have arisen since 2004
18 that may have impeded the achievement of environmental justice.

19 (c) It is further the intent of the Legislature to ensure increased
20 public participation from individuals in the environmental justice
21 community in the governmental decisionmaking process.

22 *SEC. 2. Section 12812.2 of the Government Code is amended*
23 *to read:*

24 12812.2. (a) One of the deputies to the Secretary for
25 Environmental Protection shall be a deputy secretary for law
26 enforcement and counsel, who, subject to the direction and
27 supervision of the secretary, shall have the responsibility and
28 authority to do all of the following:

29 (1) Develop a program to ensure that the boards, departments,
30 offices, and other agencies that implement laws or regulations
31 within the jurisdiction of the California Environmental Protection
32 Agency take consistent, effective, and coordinated compliance
33 and enforcement actions to protect public health and the
34 environment. The program shall include training and cross-training
35 of inspection and enforcement personnel of those boards,
36 departments, offices, or other agencies to ensure consistent,
37 effective, and coordinated enforcement.

38 (2) (A) In consultation with the Attorney General, establish a
39 cross-media enforcement unit to assist a board, department, office,
40 or other agency that implements a law or regulation within the

1 jurisdiction of the California Environmental Protection Agency,
 2 to investigate and prepare matters for enforcement action in order
 3 to protect public health and the environment. The unit may inspect
 4 and investigate a violation of a law or regulation within the
 5 jurisdiction of the board, department, office, or other agency,
 6 including a violation involving more than one environmental
 7 medium and a violation involving the jurisdiction of more than
 8 one board, department, office, or agency. The unit shall exercise
 9 its authority consistent with the authority granted to the head of a
 10 department pursuant to Article 2 (commencing with Section 11180)
 11 of Chapter 2 of Part 1.

12 *(B) The Secretary for Environmental Protection shall ensure*
 13 *that the unit shall give priority to enforcement actions for violations*
 14 *that have occurred in a community listed pursuant to Section*
 15 *71117.5 of the Public Resources Code.*

16 (3) Refer a violation of a law or regulation within the jurisdiction
 17 of a board, department, office, or other agency that implements a
 18 law or regulation within the jurisdiction of the California
 19 Environmental Protection Agency to the Attorney General, a
 20 district attorney, or city attorney for the filing of a civil or criminal
 21 action.

22 (4) Exercise the authority granted pursuant to paragraph (3)
 23 only after providing notice to the board, department, office, or
 24 other agency unless the secretary determines that notice would
 25 compromise an investigation or enforcement action.

26 (b) Nothing in this section shall authorize the deputy secretary
 27 for law enforcement and counsel to duplicate, overlap, compromise,
 28 or otherwise interfere with an investigation or enforcement action
 29 undertaken by a board, department, office, or other agency that
 30 implements a law or regulation subject to the jurisdiction of the
 31 California Environmental Protection Agency.

32 (c) The Environmental Protection Agency shall post on its Web
 33 site, updated no later than December 1 of each year, the status of
 34 the implementation of this section.

35 ~~SEC. 2.~~

36 SEC. 3. Section 54954.3 of the Government Code is amended
 37 to read:

38 54954.3. (a) Every agenda for regular meetings shall provide
 39 an opportunity for members of the public to directly address the
 40 legislative body on any item of interest to the public, before or

1 during the legislative body’s consideration of the item, that is
2 within the subject matter jurisdiction of the legislative body,
3 provided that no action shall be taken on any item not appearing
4 on the agenda unless the action is otherwise authorized by
5 subdivision (b) of Section 54954.2. However, the agenda need not
6 provide an opportunity for members of the public to address the
7 legislative body on any item that has already been considered by
8 a committee, composed exclusively of members of the legislative
9 body, at a public meeting wherein all interested members of the
10 public were afforded the opportunity to address the committee on
11 the item, before or during the committee’s consideration of the
12 item, unless the item has been substantially changed since the
13 committee heard the item, as determined by the legislative body.
14 Every notice for a special meeting shall provide an opportunity
15 for members of the public to directly address the legislative body
16 concerning any item that has been described in the notice for the
17 meeting before or during consideration of that item.

18 (b) The legislative body of a local agency may adopt reasonable
19 regulations to ensure that the intent of subdivision (a) is carried
20 out, including, but not limited to, regulations limiting the total
21 amount of time allocated for public testimony on particular issues
22 and for each individual speaker.

23 (c) (1) To ensure that a non-English speaker who uses a
24 translator receives the same opportunity to directly address the
25 legislative body of a local agency as a speaker who does not use
26 a translator, notwithstanding subdivision (b), if that body limits
27 time for public comment, the time used by a translator to translate
28 a non-English speaker’s comments into English shall not count
29 toward the speaker’s allotted time.

30 (2) Paragraph (1) shall not apply if the legislative body of a
31 local agency utilizes simultaneous translation equipment in a
32 manner that allows that body to hear the translated public testimony
33 simultaneously.

34 (d) The legislative body of a local agency shall not prohibit
35 public criticism of the policies, procedures, programs, or services
36 of the agency, or of the acts or omissions of the legislative body.
37 Nothing in this subdivision shall confer any privilege or protection
38 for expression beyond that otherwise provided by law.

39 ~~SEC. 3. Section 71117 is added to the Public Resources Code,~~
40 ~~to read:~~

1 ~~71117. (a) The Secretary for Environmental Protection shall,~~
2 ~~with the assistance of the Cal/EPA Interagency Working Group~~
3 ~~on Environmental Justice, periodically revise and update the~~
4 ~~agencywide strategy developed pursuant to Section 71113 to~~
5 ~~identify and address any additional gaps in existing programs,~~
6 ~~policies, or activities that impede the achievement of environmental~~
7 ~~justice.~~

8 ~~(b) (1) On or before July 1, 2014, the secretary shall submit to~~
9 ~~the Governor and the Legislature a report on the implementation~~
10 ~~of this section.~~

11 ~~(2) The report required by paragraph (1) that is submitted to the~~
12 ~~Legislature shall be submitted pursuant to Section 9795 of the~~
13 ~~Government Code.~~

14 ~~(3) Pursuant to Section 10231.5 of the Government Code, this~~
15 ~~subdivision is inoperative on July 1, 2018.~~

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

18 ~~71119. (a) Each board, department, and office of the California~~
19 ~~Environmental Protection Agency shall maintain a public database~~
20 ~~on its Internet Web site of its ongoing enforcement cases, to the~~
21 ~~extent the information on the database would normally be available~~
22 ~~pursuant to the California Public Records Act (Chapter 3.5~~
23 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
24 ~~Government Code), and compliance histories of its regulated~~
25 ~~entities that have committed violations focusing on information~~
26 ~~related to how the entities rectified the violation.~~

27 ~~(b) The California Environmental Protection Agency shall~~
28 ~~provide links to the databases on its Internet Web site.~~

29 ~~SEC. 4. Section 25135 of the Health and Safety Code is~~
30 ~~amended to read:~~

31 ~~25135. (a) The Legislature finds and declares as follows:~~

32 ~~(1) An effective planning process involving public and private~~
33 ~~sector participation exists at the county level for establishing new,~~
34 ~~or expanding existing, solid waste facilities, but an equivalent~~
35 ~~process has not been established at the local level to plan for the~~
36 ~~management of hazardous wastes.~~

37 ~~(2) Counties are presently required to prepare solid waste~~
38 ~~management plans for all waste disposal within each county and~~
39 ~~for all waste originating in each county. While the department has~~
40 ~~requested that counties include in their solid waste management~~

1 plans a hazardous waste management element, there is not presently
2 a clear mandate that they do so.

3 (3) Hazardous waste management planning at the local level
4 has been hampered because the department has not provided the
5 counties with adequate and comprehensive planning guidelines,
6 there is a lack of accurate data on hazardous waste generation,
7 handling, and disposal practices, adequate funding has not been
8 available, and local expertise in hazardous waste planning has not
9 been developed.

10 (4) The failure to plan for the safe and effective management
11 of hazardous wastes has contributed to the public's general
12 uncertainty in viewing proposals to site hazardous waste facilities
13 at various locations throughout the state. Because advance planning
14 has not taken place, local governments are not prepared to consider
15 siting proposals and the public has not received adequate answers
16 to questions concerning the need for proposed facilities.

17 (5) Safe and responsible management of hazardous wastes is
18 one of the most important environmental problems facing the state
19 at the present time. It is critical to the protection of the public health
20 and the environment, and to the economic growth of the state. If
21 environmentally sound hazardous waste facilities are not available
22 to effectively manage the hazardous wastes produced by the many
23 industries of the state, economic activity will be hampered and the
24 economy cannot prosper.

25 (6) *The Legislature has given the Department of Toxic*
26 *Substances Control responsibility for the state's hazardous waste*
27 *management system to protect public health and the environment*
28 *from toxic harm.*

29 (7) *California needs a statewide strategy to reduce the amount*
30 *of hazardous waste it generates and disposes.*

31 (b) The Legislature, therefore, declares that it is in the public
32 interest to establish an effective process for hazardous waste
33 management planning at the local level. This process is consistent
34 with the responsibility of local governments to assure that adequate
35 treatment and disposal capacity is available to manage the
36 hazardous wastes generated within their jurisdictions.

37 (c) It is the intent of the Legislature that the hazardous waste
38 management plans prepared pursuant to this article serve as the
39 primary planning document for hazardous waste management at
40 the local level; that the plans be integrated with other local land

1 use planning activities to ensure that suitable locations are available
2 for needed hazardous waste facilities; that land uses adjacent to,
3 or near, hazardous waste facilities, or proposed sites for these
4 facilities, are compatible with their operation; and that the plans
5 are prepared with the full and meaningful involvement of the
6 public, environmental groups, civic associations, generators of
7 hazardous wastes, and the hazardous waste management industry.

8 (d) It is further the intent of the Legislature, in enacting this
9 article, to define the respective responsibilities of state and local
10 governments in hazardous waste management planning; to establish
11 a comprehensive planning process in which state and local
12 government, the public, and industry jointly develop safe and
13 effective solutions for the management and disposal of hazardous
14 wastes; to ensure that local governments are assisted adequately
15 by the state in carrying out their responsibilities; and to provide
16 funding for local-level planning.

17 (e) *It is further the intent of the Legislature to create significant*
18 *disincentives for new releases of hazardous substances that can*
19 *contaminate soil, buildings, and other environmental media,*
20 *thereby preventing the generation of hazardous waste in the future.*

21 (f) *It is further the intent of the Legislature to ensure that*
22 *reducing hazardous waste disposal in hazardous waste landfills*
23 *does not result in increased health and environmental burdens to*
24 *other communities.*

25 (g) *It is further the intent of the Legislature to reduce the impact*
26 *of hazardous waste generation and disposal on individuals in*
27 *low-income communities by ensuring that individuals in these*
28 *impacted communities have a greater role in shaping governmental*
29 *priorities and decisionmaking and that environmental justice*
30 *concerns are considered during hazardous waste facility permitting*
31 *and decisionmaking.*

32 (h) *It is further the intent of the Legislature to look to the private*
33 *sector to develop new technologies and increase pollution*
34 *prevention practices to reduce hazardous waste generation.*

35 (i) *It is further the intent of the Legislature to look to the private*
36 *sector to develop new technologies and practices to remediate*
37 *sites contaminated by hazardous substances.*

38 (j) *It is further the intent of the Legislature to ensure that*
39 *California significantly reduce its generation and disposal of*
40 *hazardous waste. This is accomplished by requiring a statewide*

1 hazardous waste management plan to provide thorough analysis,
2 reduction measures, and specific guidelines to achieve these
3 reductions by 2025.

4 SEC. 5. Section 25135.10 is added to the Health and Safety
5 Code, to read:

6 25135.10. (a) For the purposes of this section, “generation”
7 means the act or process of generating hazardous waste, but does
8 not include the removal of contaminated soil or water.

9 (b) (1) On or before January 1, 2016, the department, in
10 consultation with the advisory committee established pursuant to
11 Section 25135.11, shall prepare and submit, in compliance with
12 Section 9795 of the Government Code, to the Legislature the state
13 hazardous waste reduction plan that identifies measures necessary
14 to achieve significant reduction in hazardous waste generated and
15 disposed of in California by 2025 to the maximum extent
16 practicable. The hazardous waste reduction plan prepared
17 pursuant to this section shall serve as a comprehensive planning
18 document to ensure that the best practices are implemented to
19 reduce hazardous waste generation and disposal.

20 (2) In preparing the plan, the department shall take into
21 consideration methods that can serve to reduce the generation of
22 hazardous waste, including pollution prevention, hazardous waste
23 disposal practices in the state, and the impacts of hazardous waste
24 disposal in or near low-income communities.

25 (3) In developing the plan, the department shall hold public
26 meetings to discuss elements that could be included in the plan.

27 (c) The plan shall include, but need not be limited to, all of the
28 following elements:

29 (1) A description of preferred hazardous waste management
30 practices, programs, incentives, requirements, prohibitions, or
31 other measures necessary to reduce hazardous waste generation
32 and disposal. At a minimum, the description shall include steps
33 for all of the following:

34 (A) Reducing the generation of hazardous wastes to the
35 maximum extent feasible.

36 (B) Reducing the use of hazardous materials and increasing the
37 use of less hazardous or nonhazardous alternatives.

38 (C) Reducing the disposal of hazardous waste that may pose a
39 significant threat to human health or the environment to the
40 maximum extent practicable.

1 (D) Reducing the risk of exposure to communities threatened
2 by releases of hazardous substances and hazardous wastes.

3 (E) Reducing the risk of exposure to communities near sites
4 contaminated by hazardous waste substances and hazardous waste.

5 (2) Identification of the hazardous waste streams produced in
6 the state.

7 (3) A recommendation for a baseline of statewide hazardous
8 waste disposal and a baseline for hazardous waste generation in
9 the state from which the identified reductions are to be measured.

10 (4) An evaluation of hazardous waste generated and disposed
11 of in California and an evaluation of the feasibility of implementing
12 waste reduction options.

13 (5) A list of those waste reduction measures that have been
14 determined to be technically feasible, an assessment of the potential
15 for the amount of waste reduction that might be achieved if
16 implemented, and an evaluation of factors that could influence the
17 achievement of those reductions.

18 (6) Identification of statutory and regulatory changes to
19 permitting of hazardous waste facilities that would reduce the
20 health and environmental burden on communities adjacent to
21 hazardous waste landfills.

22 (7) A target for the reduction of hazardous waste generation
23 and disposal by 2025 and a set of recommendations for achieving
24 those reductions.

25 (8) An implementation schedule for carrying out the
26 recommendations. The schedule shall include the following:

27 (A) Any changes in departmental policies or procedures that
28 do not require statutory or regulatory changes to implement, and
29 a proposed timetable for their adoption. The schedule shall project
30 the adoption of departmental policies or procedures no later than
31 January 1, 2017.

32 (B) Any regulations within the department's statutory authority
33 that would need to be adopted in order to carry out the
34 recommendations in the plan, and a proposed timetable for their
35 adoption.

36 (C) Any statutory changes that would need to be enacted in
37 order to carry out the recommendations in the plan.

38 (d) The plan shall avoid proposals that would do either of the
39 following:

1 (1) Weaken the health and environmental protections to
2 surrounding communities from the remediation of sites
3 contaminated by hazardous substances or lead to reduced cleanups
4 of contaminated sites.

5 (2) Attempt to accomplish hazardous waste disposal reductions
6 through shipping the waste out of state.

7 (3) Rely on strategies that produce disproportionate impacts
8 on low-income communities and communities of color.

9 (e) The department shall release and post on the department's
10 Internet Web site a draft of the hazardous waste reduction plan
11 for public review and comment. The comment period shall be no
12 less than 60 days, and the department shall hold at least one public
13 hearing that includes the advisory committee on the draft plan
14 during the public comment period.

15 (f) The requirement for submitting a report imposed under
16 paragraph (1) of subdivision (c) is inoperative on January 1, 2020,
17 pursuant to Section 10231.5 of the Government Code.

18 (g) Notwithstanding Section 10321.5 of the Government Code,
19 on or before January 1, 2017, and every two years thereafter, the
20 department shall report to the Legislature, in compliance with
21 Section 9795 of the Government Code, on its progress toward
22 achieving the reduction goals in the state hazardous waste
23 reduction plan. The report shall include all of the efforts the
24 department has made to achieve these goals, as well as identify
25 those recommendations in the plan that were not implemented,
26 and an explanation as to why the recommendations were not
27 implemented. If the goals are not on track to be met, the report
28 shall also include recommendations for additional steps that would
29 be necessary to meet the reduction goals specified in the plan.

30 SEC. 6. Section 25135.11 is added to the Health and Safety
31 Code, to read:

32 25135.11. (a) The Hazardous Waste Reduction Advisory
33 Committee is hereby created. The advisory committee shall consist
34 of seven members, as follows:

35 (1) Two members appointed by the Speaker of the Assembly.

36 (2) Two members appointed by the Senate Committee on Rules.

37 (3) One member appointed by the Governor.

38 (4) One member appointed by the Secretary of the California
39 Environmental Protection Agency.

- 1 (5) *One member appointed by the President of the University*
2 *of California.*
- 3 (b) *The members shall include:*
- 4 (1) *At least one representative from an environmental justice*
5 *organization that works in one of the communities listed pursuant*
6 *to Section 71117.5 of the Public Resources Code.*
- 7 (2) *One representative from an environmental justice*
8 *organization, a public health organization, or an academic school*
9 *of public health that works in one of the communities listed*
10 *pursuant to Section 71117.5 of the Public Resources Code.*
- 11 (3) *Two academic experts in hazardous waste reduction.*
- 12 (4) *One representative of an organized labor group that works*
13 *in hazardous waste facilities.*
- 14 (5) *One academic expert in public health and environmental*
15 *hazards posed by toxic substances.*
- 16 (6) *One expert in regulation and enforcement related to*
17 *hazardous waste law.*
- 18 (7) *The director or designated appointee from the director's*
19 *executive team serving as an ex officio member.*
- 20 (c) *Beginning March 1, 2014, the advisory committee shall meet*
21 *at least three times each year to solicit public input with the goal*
22 *of assisting the department in its preparation of a state hazardous*
23 *waste reduction plan pursuant to Section 25135.10. In advising*
24 *the department, the advisory committee, at a minimum, shall do*
25 *both of the following:*
- 26 (1) *Recommend statutory, regulatory, policy, and permitting*
27 *changes that would reduce the generation and the quantity of*
28 *hazardous waste in the state, encourage the use of nonhazardous*
29 *alternatives, and fulfill all the goals and requirements of the plan*
30 *developed pursuant to Section 25135.10.*
- 31 (2) *Recommend regulatory steps for enhancing enforcement of*
32 *toxic laws and regulations to create significant disincentives for*
33 *contaminating soil, buildings, and other environmental media with*
34 *hazardous materials that are used and stored.*
- 35 (d) *The department shall assist and support the advisory*
36 *committee in holding public meetings to discuss the hazardous*
37 *waste reduction plan, including soliciting input on ways to reduce*
38 *the generation and disposal of hazardous waste, and participation*
39 *at each meeting of the advisory committee by the appropriate*

1 member of the director's executive team for each of the agenda
2 items to be discussed at the meeting.

3 SEC. 7. Section 25196.1 is added to the Health and Safety
4 Code, to read:

5 25196.1. (a) Notwithstanding any provision of this article
6 establishing the maximum amount of administrative, civil, or
7 criminal fines or penalties, for a violation that occurs in a facility
8 located in a community listed pursuant to Section 71117.5 of the
9 Public Resources Code and that results in an increased level of
10 emissions or discharges that exceeds a level permitted by this
11 chapter, the department, unified program agency, or the court
12 shall double the maximum amount of fines or penalties assessed
13 for the violation.

14 (b) Fifty percent of the fines or penalties collected pursuant to
15 this section that are deposited into the Toxic Substances Control
16 Account pursuant to Section 25192 shall be expended, upon
17 appropriation by the Legislature, by the department for
18 environmentally beneficial projects, as defined in Section 71116.1
19 of the Public Resources Code, authorized pursuant to Section
20 25173.6 that are located within a community listed pursuant to
21 Section 71117.5 of the Public Resources Code.

22 SEC. 8. Section 42410.1 is added to the Health and Safety
23 Code, to read:

24 42410.1. (a) Notwithstanding any other provision of this article
25 establishing the maximum amount of administrative, civil, or
26 criminal fines or penalties, for a violation that occurs in a facility
27 located in a community listed pursuant to Section 71117.5 of the
28 Public Resources Code and that results in an increased level of
29 emission or discharges that exceeds the level permitted pursuant
30 to this division, the state board, district, or the court shall double
31 the maximum amount of fines or penalties assessed for the
32 violation.

33 (b) Fifty percent of the fines or penalties collected pursuant to
34 this section shall be deposited into the Green Zone Trust Fund
35 established pursuant to Section 71116.1 of the Public Resources
36 Code.

37 SEC. 9. Section 45024.1 is added to the Public Resources Code,
38 to read:

39 45024.1. (a) Notwithstanding any provision of this article
40 establishing the maximum amount of a civil fine or penalty for a

1 violation occurring in a facility located in a community listed
2 pursuant to Section 71117.5 that results in an increased level of
3 emissions or discharges that exceeds the level permitted by this
4 division, the department, local enforcement agency, or the court
5 shall double the maximum amount of the fines or penalties assessed
6 for the violation.

7 (b) Fifty percent of the fines or penalties collected pursuant to
8 this section shall be deposited into the Green Zone Trust Fund
9 established pursuant to Section 71116.1.

10 SEC. 10. Section 45025.1 is added to the Public Resources
11 Code, to read:

12 45025.1. (a) Notwithstanding paragraph (1) of subdivision
13 (a) of Section 45025, for a violation occurring in a facility located
14 in a community listed pursuant to Section 71117.5 that results in
15 an increased level of emissions or discharges that exceeds the level
16 permitted by this division, the court shall double the maximum
17 amount of criminal fines or penalties assessed for the violation.

18 (b) Fifty percent of the fines or penalties collected pursuant to
19 this section shall be deposited into the Green Zone Trust Fund
20 established pursuant to Section 71116.1.

21 SEC. 11. Section 71116 of the Public Resources Code is
22 amended to read:

23 71116. (a) The Environmental Justice Small Grant Program
24 is hereby established under the jurisdiction of the California
25 Environmental Protection Agency. The California Environmental
26 Protection Agency shall adopt regulations for the implementation
27 of this section. These regulations shall include, but need not be
28 limited to, all of the following:

29 (1) Specific criteria and procedures for the implementation of
30 the program.

31 (2) A requirement that each grant recipient submit a written
32 report to the agency documenting its expenditures of the grant
33 funds and the results of the funded project.

34 (3) Provisions promoting the equitable distribution of grant
35 funds in a variety of areas throughout the state, with the goal of
36 making grants available to organizations that will attempt to
37 address environmental justice issues.

38 (b) The purpose of the program is to provide grants to eligible
39 community groups, including, but not limited to, community-based,
40 grassroots nonprofit organizations that are located in areas

1 adversely affected by environmental pollution and hazards and
2 that are involved in work to address environmental justice issues.

3 (c) (1) Both of the following are eligible to receive moneys
4 from the fund.

5 (A) A nonprofit entity.

6 (B) A federally recognized tribal government.

7 (2) For the purposes of this section, “nonprofit entity” means
8 any corporation, trust, association, cooperative, or other
9 organization that meets all of the following criteria:

10 (A) Is operated primarily for scientific, educational, service,
11 charitable, or other similar purposes in the public interest.

12 (B) Is not organized primarily for profit.

13 (C) Uses its net proceeds to maintain, improve, or expand, or
14 any combination thereof, its operations.

15 (D) Is a tax-exempt organization under Section ~~501(e)(3)~~
16 *501(c)(3)* of the federal Internal Revenue Code, or is able to
17 provide evidence to the agency that the state recognizes the
18 organization as a nonprofit entity.

19 (3) For the purposes of this section, “nonprofit entity”
20 specifically excludes an organization that is a tax-exempt
21 organization under Section ~~501(e)(4)~~ *501(c)(4)* of the federal
22 Internal Revenue Code.

23 (d) Individuals may not receive grant moneys from the fund.

24 (e) Grant recipients shall use the grant award to fund only the
25 project described in the recipient’s application. Recipients shall
26 not use the grant funding to shift moneys from existing or proposed
27 projects to activities for which grant funding is prohibited under
28 subdivision (g).

29 (f) Grants shall be awarded on a competitive basis for projects
30 that are based in communities with the most significant exposure
31 to pollution. Grants shall be limited to any of the following
32 purposes and no other:

33 (1) Resolve environmental problems through distribution of
34 information.

35 (2) Identify improvements in communication and coordination
36 among agencies and stakeholders in order to address the most
37 significant exposure to pollution.

38 (3) Expand the understanding of a community about the
39 environmental issues that affect their community.

1 (4) Develop guidance on the relative significance of various
2 environmental risks.

3 (5) Promote community involvement in the decisionmaking
4 process that affects the environment of the community.

5 (6) Present environmental data for the purposes of enhancing
6 community understanding of environmental information systems
7 and environmental information.

8 (g) (1) The agency shall not award grants for, and grant funding
9 shall not be used for, any of the following:

10 (A) Other state grant programs.

11 (B) Lobbying or advocacy activities relating to any federal,
12 state, regional, or local legislative, quasi-legislative, adjudicatory,
13 or quasi-judicial proceeding involving development or adoption
14 of statutes, guidelines, rules, regulations, plans or any other
15 governmental proposal, or involving decisions concerning siting,
16 permitting, licensing, or any other governmental action.

17 (C) Litigation, administrative challenges, enforcement action,
18 or any type of adjudicatory proceeding.

19 (D) Funding of a lawsuit against any governmental entity.

20 (E) Funding of a lawsuit against a business or a project owned
21 by a business.

22 (F) Matching state or federal funding.

23 (G) Performance of any technical assessment for purposes of
24 opposing or contradicting a technical assessment prepared by a
25 public agency.

26 (2) An organization's use of funds from a grant awarded under
27 this section to educate a community regarding an environmental
28 justice issue or a governmental process does not preclude that
29 organization from subsequent lobbying or advocacy concerning
30 that same issue or governmental process, as long as the lobbying
31 or advocacy is not funded by a grant awarded under this section.

32 (h) The agency shall review, evaluate, and select grant recipients,
33 and screen grant applications to ensure that they meet the
34 requirements of this section.

35 (i) The maximum amount of a grant provided pursuant to this
36 section may not exceed ~~twenty thousand dollars (\$20,000)~~. *fifty*
37 *thousand dollars (\$50,000)*.

38 (j) For the purposes of this section, "environmental justice" has
39 the same meaning as defined in Section 65040.12 of the
40 Government Code.

1 (k) This section shall be implemented only during fiscal years
2 for which an appropriation is provided for the purposes of this
3 section in the annual Budget Act or in another statute.

4 *SEC. 12. Section 71116.1 is added to the Public Resources*
5 *Code, to read:*

6 *71116.1. (a) The Green Zone Trust Fund is hereby established*
7 *in the State Treasury and, upon appropriation by the Legislature,*
8 *shall be expended by the California Environmental Protection*
9 *Agency for the purposes to support projects that are*
10 *environmentally beneficial to environmental justice communities.*

11 *(b) On or before January 1, 2015, the California Environmental*
12 *Protection Agency shall adopt guidelines for the implementation*
13 *of this section on or before January 1, 2015. The guidelines shall*
14 *do all of the following:*

15 *(1) Establish criteria and procedures for designating Green*
16 *Zone Environmental Projects.*

17 *(2) Establish procedures for the disbursement of funds on an*
18 *annual basis from the Green Zone Trust Fund for Green Zone*
19 *Environmental Projects.*

20 *(3) Preferentially disburse funds derived from penalties for a*
21 *violation occurring in an environmental justice community, or*
22 *within two miles of an environmental justice community, for Green*
23 *Zone Environmental Projects that are in geographic proximity*
24 *with the environmental justice community for which the penalties*
25 *are collected.*

26 *(4) Allow a public entity, local government, or nonprofit*
27 *organization to submit applications for projects for inclusion as*
28 *a Green Zone Environmental Project, if the projects meet the*
29 *criteria established pursuant to paragraph (1).*

30 *(c) In establishing the guidelines, the California Environmental*
31 *Protection Agency shall solicit and consider comments from the*
32 *public, including releasing draft project criteria, implementing a*
33 *public comment period, and hosting a public workshop.*

34 *(d) The adoption of guidelines pursuant to this section is exempt*
35 *from the rulemaking provisions of the Administrative Procedure*
36 *Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of*
37 *Division 3 of Title 2 of the Government Code).*

38 *(e) On or before January 1, 2015, and annually thereafter, the*
39 *California Environmental Protection Agency shall solicit and*

1 release a list of Green Zone Environmental Projects after a public
2 process. The public process shall include all of the following:

3 (1) A public request for proposals that is posted on the agency's
4 Internet Web site and distributed via electronic mail. All proposals
5 shall meet the criteria established in the Green Zone Trust Fund
6 guidelines.

7 (2) A public list of Green Zone Environmental Projects online
8 that is updated on an annual basis.

9 (f) For the purposes of this section, the following definitions
10 shall apply:

11 (1) "Environmentally beneficial" means a project with a
12 primary purpose to improve, protect, or reduce risks to public
13 health or the environment.

14 (2) "Environmental Justice community" means a community
15 listed pursuant to Section 71117.5.

16 (3) "Green Zone Environmental Project" means an
17 environmentally beneficial project occurring within an
18 environmental justice community.

19 SEC. 13. Section 71117.5 is added to the Public Resources
20 Code, to read:

21 71117.5. (a) For the purposes of this section,
22 "disproportionately impacted by environmental hazards" means
23 public health or environmental effects from the emissions or
24 discharge of substances in a geographic area, including
25 environmental pollution for all sources whether in a single medium
26 or in multiple media, routinely, accidentally, or otherwise released
27 into the environment, taking into account sensitive populations
28 and socioeconomic factors, where applicable and to the extent
29 data is available.

30 (b) (1) On or before January 1, 2015, the California
31 Environmental Protection Agency shall establish a list identifying
32 the top 15 percent of communities in the state, based on census
33 tracts, that are disproportionately impacted by environmental
34 hazards. The communities shall be selected based on the criteria
35 specified in Section 39711 of the Health and Safety Code.

36 (2) The California Environmental Protection Agency shall
37 review and revise the list of communities on a triennial basis and
38 shall make the list publicly available on the agency's Internet Web
39 site.

1 (3) *In establishing or revising the list of communities, the*
2 *California Environmental Protection Agency shall solicit and*
3 *consider comments from the public and conduct a public hearing.*

4 (c) *The establishment of the list pursuant to subdivision (b) is*
5 *exempt from the rulemaking provisions of the Administrative*
6 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
7 *Part 1 of Division 3 of Title 2 of the Government Code).*

8 SEC. 14. *Section 71119 is added to the Public Resources Code,*
9 *to read:*

10 71119. (a) (1) *The California Environmental Protection*
11 *Agency shall maintain an agencywide public database on its*
12 *Internet Web site of complaints and enforcement cases for each*
13 *board, department, and office of the agency, to the extent the*
14 *information on the database would normally be available pursuant*
15 *to the Public Records Act (Chapter 3.5 (commencing with Section*
16 *6250) of Division 7 of Title 1 of the Government Code), and*
17 *compliance histories of its regulated entities that have committed*
18 *violations focusing on the date of last inspection, total number of*
19 *violations, total amount of fines, and information related to how*
20 *the entities rectified the violation.*

21 (2) *Information on the compliance histories of regulated entities*
22 *required pursuant to paragraph (1) shall not include information*
23 *prior to 2008.*

24 (b) *The public database shall be interactive and utilize a*
25 *geographic information system platform that allows the public to*
26 *file an environmental complaint with the California Environmental*
27 *Protection Agency.*

28 (c) *On or before January 1, 2017, the California Environmental*
29 *Protection Agency shall post the public database on its Internet*
30 *Web site.*

31 SEC. 15. *Section 71119.5 is added to the Public Resources*
32 *Code, to read:*

33 71119.5. (a) *Subject to applicable legal requirements, in*
34 *awarding grants or funding, a state agency administering a funding*
35 *program shall give priority to projects located in environmental*
36 *justice communities.*

37 (b) *A state agency subject to this section shall provide*
38 *information on the methods for compliance with this section in*
39 *any solicitation issued by that state agency for grants or funding*

1 and shall provide public notice that demonstrates compliance with
2 this section when awarding those grants or funding.

3 (c) For the purpose of this section, “environmental justice
4 community” means a community listed pursuant to Section
5 71117.5.

6 (d) For the purposes of the section, “state agency” means the
7 following:

8 (1) A board, department, or office of the California
9 Environmental Protection Agency.

10 (2) An agency, commission, department, and other subdivisions
11 of the Natural Resources Agency.

12 (3) The Strategic Growth Council.

13 SEC. 16. The sum of eight hundred thousand dollars (\$800,000)
14 is hereby appropriated from the Hazardous Waste Control Account
15 to the Department of Toxic Substances Control for the purposes
16 of revising the state hazardous waste management plant pursuant
17 to Section 25135.10 of the Health and Safety Code.

18 SEC. 17. The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 SEC. 18. No reimbursement is required by this act pursuant
23 to Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act, within the meaning of Section
27 17556 of the Government Code.

Attachment 4

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

LEGISLATIVE REPORT FROM HOME RULE ADVISORY GROUP MEETING OF OCTOBER 15, 2013

HRAG members present:

Dr. Joseph Lyou, Chairman

Dr. Elaine Chang, SCAQMD

Curtis Coleman, Southern California Air Quality Alliance

Chris Gallenstein, CARB (participated by phone)

Jayne Joy, Eastern Municipal Water District

Bill LaMarr, California Small Business Alliance

Joy Langford, Vasari Energy Capital

Rongsheng Luo, SCAG (participated by phone)

Bill Quinn, CCEEB (participated by phone)

Terry Roberts, American Lung Association of California

Larry Rubio, Riverside Transit Agency (participated by phone)

Lee Wallace, So Cal Gas and SDG&E

SCAQMD staff: Bill Wong, Philip Crabbe, Marilyn Traynor

LEGISLATIVE UPDATE

Philip Crabbe presented the following report on what was discussed at the Legislative Committee meeting that occurred on October 11, 2013:

Federal

At the Legislative Committee meeting, SCAQMD's federal consultants provided an update on the U.S. House Transportation and Infrastructure Committee's Panel on 21st Century Freight Transportation, which will end on October 23, 2013. SCAQMD staff shared priorities with the panel. The panel's full recommendations are expected to be included within MAP-21. The consultants also reported on the status of deliberations regarding MAP-21 reauthorization including a recent Senate hearing which outlined a long list of transportation funding options for consideration, including a new sales tax on gasoline potentially favored by Senator Boxer. The Senate and House draft bills are expected to be released in early 2014. The consultants reported on the status of the rail reauthorization in the U.S. House where activity on the bill is expected to begin. It is anticipated that a draft bill will be finished by the end of the year. The consultants provided an update on negotiations to end the federal government shutdown.

State

At the Legislative Committee meeting, SCAQMD's state consultants reported that various upcoming and past elections will have an impact on the California legislature. The consultants also provided an update on various two-year bills. The consultants reported that early discussions have begun on the "Million Electric Vehicle Initiative" for 2014.

Discussion

Mr. Wallace asked how long current transportation funding will last as a result of MAP-21. Mr. Crabbe responded that MAP-21 extended transportation funding for 27 months, through Sept. 2014. Mr. Wallace asked if ports will be included under the successor to MAP-21. Mr. Crabbe responded that the bill will cover surface transportation in the port areas, such as freeways and mass transit, but the bill will not apply to marine vessels. Mr. Crabbe added that there has been a push to add a freight provision to the upcoming bill.

Mr. Montez asked how the government shutdown will affect pending litigation, the application process for SCAQMD permits, and other operations at SCAQMD. Mr. Crabbe responded that the shutdown could eventually impact federal funding received by SCAQMD. Ms. Whynot added that Title V permits for large sources undergo a 45-day review process; however, if EPA does not provide comments, SCAQMD will continue to process the applications despite the furlough.

Mr. LaMarr asked about the status of AB 1330 (http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1301-1350/ab_1330_bill_20130906_amended_sen_v97.pdf). Dr. Lyou responded that Speaker Perez has expressed his intent to move the bill.