



AGENDA

CHINO HILLS LEGISLATIVE ADVOCACY COMMITTEE
MONDAY, JUNE 13, 2016

2:00 P.M.

CIVIC CENTER, CITY COUNCIL CONFERENCE ROOM
14000 CITY CENTER DRIVE, CHINO HILLS, CALIFORNIA

This agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda unless the Legislative Advocacy Committee makes a determination that an emergency exists or that a need to take immediate action on the item came to the attention of the City subsequent to the posting of the agenda. The City Clerk has on file copies of written documentation relating to each item of business on this Agenda available for public inspection in the Office of the City Clerk and on the City's website at www.chinohills.org while the meeting is in session. Materials related to an item on this Agenda submitted to the Committee after distribution of the agenda packet are available for public inspection in the Office of the City Clerk at 14000 City Center Drive, Chino Hills, CA during normal business hours.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office, (909) 364-2620, at least 48 hours prior to the start of the meeting to enable the City to make reasonable arrangements. Thank you.

Speaker Cards - Those persons wishing to address the Legislative Advocacy Committee on any matter, whether or not it appears on the agenda, are requested to complete and submit to the City Clerk a "Request to Speak" form available from City Staff. In accordance with the Public Records Act, any information you provide on this form is available to the public. You are not required to provide personal information in order to speak, except to the extent necessary for the City Clerk to call upon you. Comments will be limited to three minutes per speaker.

PLEASE SILENCE ALL PAGERS, CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE COUNCIL IS IN SESSION. Thank you.

COMMITTEE MEMBERS

ED GRAHAM
PETER ROGERS

2:00 P.M. - CALL TO ORDER

1. **PUBLIC COMMENTS:** At this time members of the public may address the Legislative Advocacy Committee regarding any items within the subject matter jurisdiction of the Committee, whether or not the item appears on the agenda. Individual audience participation is limited to three minutes per speaker. Please complete and submit a speaker card to City Staff.

PUBLIC MEETING

2. [Approve June 6, 2016 Meeting Minutes](#)
3. [Discussion of SB 1387 \(de León\) relating to non-vehicular air pollution, market-based incentive programs, and South Coast Air Quality Management District board](#)

ADJOURNMENT:

MINUTES

Item No.: 2

LEGISLATIVE ADVOCACY COMMITTEE
CITY OF CHINO HILLS
REGULAR MEETING
June 6, 2016

The Regular meeting of the Legislative Advocacy Committee was called to order at 2:00 p.m.

PRESENT: COMMITTEE MEMBERS: ED GRAHAM
PETER ROGERS

ABSENT: COMMITTEE MEMBERS: NONE

ALSO PRESENT: KONRADT BARTLAM, CITY MANAGER
CHERYL BALZ, CITY CLERK

PUBLIC COMMENTS

There were no public comments.

MEETING MINUTES

The Legislative Advocacy Committee without formal motion unanimously approved the May 18, 2016 Legislative Advocacy Committee minutes.

GOVERNOR'S BY RIGHT HOUSING PROPOSAL

City Manager Bartlam reported on the impacts of the Governor's By Right Housing proposal and stated that if approved it would take away the public review process for development projects. Following discussion, the Committee without formal motion directed staff to prepare a letter of support to be submitted to Senator Richard Roth and Assembly Member Adrin Nazarian. Motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 2:06 p.m.

Respectfully submitted,

Cheryl Balz
City Clerk

**LEGISLATIVE ADVOCACY COMMITTEE
AGENDA STAFF REPORT**



Meeting Date: June 13, 2016

CITY CLERK USE ONLY

Item No.: 3

TO: COMMITTEE MEMBERS

FROM: CITY CLERK

SUBJECT: SENATE BILL SB 1387 (DE LEÓN) - AMEND SECTIONS 39616, 40420, AND 40424 OF THE HEALTH AND SAFETY CODE, RELATING TO NON-VEHICULAR AIR POLLUTION

RECOMMENDATION:

Authorize Mayor to execute letter of opposition to Senate Bill SB 1387 (de León) relating to non-vehicular air pollution, market-based incentive programs, and South Coast Air Quality Management District board.

BACKGROUND/ANALYSIS:

As proposed, SB 1387 (de León) would add three new voting members to the SCAQMD agency's 13-member Governing Board. Those appointments would be made by the Governor, Senate Committee on Rules, and the Speaker of the Assembly, which each already appoint one member to the regional air pollution control agency's board.

SB 1387 would tip the scales of equity by giving state-selected representatives almost 40 percent of the seats on a regional board that is meant to represent local interests and is currently represented by city and county officials from the four counties SCAQMD serves.

A majority of SCAQMD Governing Board members are local elected officials, including a county supervisor from each of the three counties served by the agency and five city council members from the district - all elected by local voters. Additionally, the five City Selection appointments are elected in open meetings at each of the four counties' City Selection Committees. If SB 1387 is adopted, it will seriously dilute local control of this important regional agency.

This legislation would also significantly weaken the SCAQMD's ability to utilize its innovative cap-and-trade system to achieve cost-effective emissions reductions in Southern California by requiring California Air Resources Board approval of any changes.

FISCAL IMPACT:

There is no fiscal impact.

REVIEWED BY OTHERS:

This item has been reviewed by the City Manager.

Respectfully submitted,



Cheryl Balz, City Clerk

Attachments:

SB 1387 Bill analysis

SENATE RULES COMMITTEE Office of Senate Floor Analyses (916) 651-1520 Fax: (916) 327-4478	SB 1387
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THIRD READING

Bill No: SB 1387
 Author: De León (D), Lara (D) and Allen (D)
 Amended: 4/7/16
 Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 4/20/16
 AYES: Wieckowski, Hill, Jackson, Leno, Pavley
 NOES: Gaines, Bates

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/27/16
 AYES: Lara, Beall, Hill, McGuire, Mendoza
 NOES: Bates, Nielsen

SUBJECT: Nonvehicular air pollution: market-based incentive
 programs: South Coast Air Quality Management
 District board

SOURCE: Author

DIGEST: This bill adds three members to the South Coast Air Quality Management District (SCAQMD) Governing Board, as specified, and creates a process by which the California Air Resources Board (ARB) is required to either 1) approve, or 2) disapprove, revise, and then approve, any plan for, changes to, or rules implementing, a local air district's market-based incentive program.

ANALYSIS:

Existing law:

- 1) Provides ARB with primary responsibility for control of mobile source air pollution and provides that air pollution control districts (APCDs) and air quality management districts (AQMDs) have primary responsibility for controlling air pollution from all sources, other than emissions from mobile sources, and establishes certain powers, duties, and requirements for those districts.
- 2) Creates certain AQMDs, with related authority, including the SCAQMD under the Lewis-Presley Air Quality Management Act. SCAQMD covers portions of Los Angeles, Orange, Riverside, and

San Bernardino counties within the South Coast Air Basin.

- 3) Establishes the SCAQMD Governing Board, and specifies the Board consist of 13 members, where one member each is appointed by the Governor, Senate Rules Committee, and the Speaker of the Assembly, and the other 10 members are appointed by regional government entities in the South Coast Air Basin, as specified.
- 4) Requires SCAQMD adopt a plan to achieve and maintain the state and federal ambient air quality standards for the South Coast Air Basin, and requires that plan and subsequent revisions contain deadlines for compliance with federal air quality standards and schedules and deadlines to achieve the state ambient air quality standards by the earliest date achievable, including by use of best available retrofit control technology (BARCT).
- 5) Makes findings and declarations that other options for air quality improvement, including market-based incentive programs, should be explored, provided those programs provide equivalent emission reductions.

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- 6) Authorizes a district to adopt a market-based incentive program as an element of the district's plan for attainment of state or federal ambient air quality standards, if that plan meets specified requirements.
- 7) Requires a district's plan for attainment or plan revision submitted to the state prior to January 1, 1993, be designed to achieve equivalent emission reductions and reduced cost and job impacts compared to current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment.
- 8) Prohibits a district from implementing a market-based incentive program unless the state board determines the above requirements are met.
- 9) Requires a district's plan or plan revision submitted on or after January 1, 1993, be designed to allow the trading of reductions among a variety of sources and requires ARB to approve the above plan or plan revision prior to program implementation and make their determination no later than 90 days from the date of plan or plan revision submission.
- 10) Requires the district, upon adoption of rules and regulations to implement the market-based program, to submit the rules and regulations to ARB, and requires ARB, within 90 days, to determine whether the rules and regulations meet specified requirements.

This bill:

- 1) Makes findings and declarations that other options for air quality improvement, including market-based incentive programs, may be explored, provided those programs provide

populations are not disproportionately impacted.

- 2) Strikes the January 1, 1993 date for plan or plan revision submission, and requires any district plan or plan revision achieve equivalent emission reductions and reduced cost and job impacts compared to current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment.
- 3) Prohibits a district from implementing any revisions to an adopted market-based incentive program, unless ARB determines the plan or plan revision complies with the above requirements.
- 4) Requires, if ARB determines a plan or plan revision does not meet the specified requirements for a market-based incentive program, that ARB notify the district, revise the plan or plan revision so that it complies with specified requirements, and approve the plan or plan revision.
- 5) Specifies that the above plan or plan revision approved by ARB shall take effect immediately and is binding on the district.
- 6) Requires, if ARB determines a district rule does not meet the specified requirements for a market-based incentive program, ARB notify the district, revise the rule so that it complies with specified requirements, and adopt the rule.
- 7) Specifies that the above rule approved by ARB shall take effect immediately and have the same legal force and effect as a district rule.
- 8) Expands the SCAQMD Governing board by three to increase the

membership to 16, with the additional members appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly.

- 9) Requires the above appointees be representatives of a bona fide nonprofit environmental justice organization that advocates for clean air and pollution reductions in one or more communities within the South Coast Air Basin.

Background

- 1) SCAQMD Governing Board. Local air districts and their governing boards have primary jurisdiction over air pollution from all sources in their air basin, other than emissions from mobile sources.

As prescribed by state law, the SCAQMD board is made up of 13 members, where three are appointed by the state (one each by the Senate Rules Committee, the Speaker of the Assembly, and the Governor) and 10 are appointed by local governments. The members of the board serve four-year terms. Currently, Dr. William Burke, appointed by the Speaker of the Assembly, serves as the Chairman of the SCAQMD Board.

- 2) Air quality in the South Coast Air Basin and public health effects. Under the federal Clean Air Act, the United States Environmental Protection Agency (US EPA) establishes National Ambient Air Quality Standards that apply for outdoor air throughout the country. These federal standards exist for several air pollutants due to their negative impact on public health above specified concentrations, including ozone and particulate matter, among others. Nonattainment areas are regions that do not meet the national ambient air quality standard for one of those pollutants.

South Coast has some of the worst air quality in the nation, and is in serious nonattainment for particulate matter (<2.5 microns, or PM 2.5) and extreme nonattainment for ozone.

Air Quality Management Plan. As SCAQMD is a nonattainment region for particulate matter and ozone, state law requires the district to adopt a plan, termed the Air Quality Management Plan (AQMP), to achieve and maintain the state and federal ambient air quality standards for the South Coast Air Basin and submit this plan, subject to approval, to the ARB for inclusion into the state implementation plan (SIP--comprehensive state plans required by the federal law, detailing how regions of the state will achieve and maintain attainment). The AQMP was originally adopted in 1982, and is formally reviewed every two years. The SCAQMD is currently working on the 2016 AQMP.

- 3) RECLAIM. AB 1054 (Sher, Chapter 1160, Statutes of 1992) authorizes local air districts to adopt a market-based incentive program as an element of a local air district's air quality management plan for attainment of the state or federal ambient air quality standards and is authorized as a substitute for command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment.

Pursuant to AB 1054, the SCAQMD adopted the Regional Clean Air Incentives Market, or RECLAIM in 1993, which went into effect January 1994. RECLAIM was designed and adopted amidst an economic recession in the region with widespread industry and electrical utility support. The program replaced a series of existing command and control rules and was intended to allow for the most efficient emission reduction projects within the sector to achieve the desired emissions reductions

with the lowest economic cost to industry.

Instead of permitting individual equipment and devices, the

program sets individual emissions limits on nitrogen oxide (NOx) and sulfur oxide (SOx) for facilities as a whole. Credits, (called RECLAIM Trading Credits, or RTCs) are provided to the facility in an amount equivalent to their emissions limit assigned under the program. RTCs may be traded or sold. RECLAIM sources may choose to install emission control equipment that enables them to operate within their allocation, or they may exceed emissions allocations as long as they acquire sufficient RTCs from other sources. In 2013, there were 275 facilities in the program, including refineries, power plants, and other industrial sources.

Overallocation of credits. RECLAIM has been criticized over the years for an oversupply of credits, starting from the original allocation of credits where the initial distribution of RTCs in 1994 exceeded actual NOx emissions by 60%. This significant overallocation was due in part to incorrect economic growth assumptions for the region. Other than a few notable exceptions, the oversupply of credits have kept credit prices relatively low compared to costs associated with installing pollution control equipment. As a result, the largest polluters in the region have primarily chosen to comply by purchasing RTCs to exceed their NOx emissions cap under the program, instead of by reducing NOx through installation of readily available pollution control equipment.

In March of this year, the US EPA disapproved portions of the 2012 AQMP related to the achievement of the 2006 PM 2.5 standard, citing deficiencies in the 2010 version of the RECLAIM program that allowed for excess of pollution trading credits and delay of pollution controls for some facilities. According to the SCAQMD Web site, district staff expect that recent RECLAIM amendments last December will address the disapproval and ensure compliance with federal Clean Air Act requirements.

RECLAIM amendments. Despite the initial excess allocation of

credits, RECLAIM has only been amended twice to reduce excess RTCs for NOx (called a credit "shave") - once in 2004, and recently in December of 2015.

According the December 4, 2012 staff report, amendments to the program were needed to address BARCT requirements in state law. BARCT evaluation is required by California law to assess the advancement in control technology to ensure that

RECLAIM facilities achieve the same emission reductions that would have occurred under a command-and-control approach and that emissions reduction from the program fully contribute to the efforts in the Basin to achieve federal ambient air quality standards.

Specifically, SCAQMD staff proposal recommended amendments to shave NOx RTC credits from 26.5 tons/day (tpd) to 14 tpd with a front loaded implementation schedule. The proposal notes that the 14 tpd day value represents the emissions reductions necessary to comply with state law BARCT requirements, with a 10% compliance margin, adjustments for projected growth, and uncertainties in the BARCT analysis. The staff proposal also recommended amendments to retire RTCs from larger NOx emitting facilities that have shut down to help address oversupply of credits.

During the public comment portion of the hearing, support was expressed among industry representatives for a reduced shave of 12 tpd, a back loaded implementation schedule, and a removal of the proposal to retire credits from facility shut downs from consideration at the hearing. A motion to approve these amendments, in lieu of the staff-proposed amendments, passed by a vote of 7-5 at the December 4, 2015 SCAQMD Governing Board meeting.

ARB letter. In January, Richard Corey, Executive Officer of ARB, wrote a letter to Dr. Barry Wallerstein, the former executive officer of the SCAQMD, expressing significant concerns over the December SCAQMD Board vote, including

whether the RECLAIM amendments meet requirements in state law.

On February 6, 2016, Dr. Wallerstein replied to Mr. Corey's letter, stating, "We believe that several of CARB staff's conclusions are incorrect and do not accurately reflect the public process for the referenced rulemaking." The letter also noted that SCAQMD would be submitting the December 4th RECLAIM amendments to ARB for inclusion into the SIP in late February of this year.

Comments

Purpose of this bill. According to the author, "The SCAQMD is one of the leading voices for clean air and climate pollution reductions in the southern California region. In the past six months, with its recent changes in governance, it has voted to dismiss its longstanding executive officer and weaken clean air regulations over its expert staff's recommendations. Outside parties have worked to reduce diversity on the board and to install a majority that is more concerned with polluters than with public health. SB 1387 seeks to modernize the membership of the governing board and to ensure the ARB can conduct speedy oversight of any amendments to smoke stack regulations made by the new board."

FISCAL EFFECT: Appropriation: No Fiscal
Com.:YesLocal: Yes

According to the Senate Appropriations Committee, unknown, likely significant, costs to ARB (Air Pollution Control Fund).

SUPPORT: (Verified5/27/16)

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American Lung Association in California
Clean Power Campaign
Coalition for Clean Air
Physicians for Social Responsibility- Los Angeles

OPPOSITION: (Verified5/27/16)

California Building Industry Association
California Council for Environmental and Economic Balance
American Coatings Association
American Forest & Paper Association
Associated Builders and Contractors of California
Automotive Specialty Products Alliance
Building Industry Association of Southern California
Building Owners & Managers Association of California
California Asphalt Pavement Association
California Association of Realtors
California Auto Body Association
California Business Properties Association
California Chamber of Commerce
California Construction and Industrial Materials Association
California Cotton Ginners and Growers Association
California Independent Oil Marketers Association
California Independent Petroleum Association
California League of Food Processors
California Manufacturers & Technology Association
California Metals Coalition
California Paint Council
California Railroad Industry
California Small Business Alliance
California Small Business Association
California Taxpayers' Association
California Trucking Association
Chemical Industry Council of California
Coalition of Energy Users
Commercial Real Estate Development Association
Construction Industry Air Quality Coalition
Consumer Specialty Products Association
El Monte/South El Monte Chamber of Commerce

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Engineering Contractor's Association
Fullerton Association of Concerned Taxpayers
Future Port
Grocery Manufacturers Association
Harbor Trucking Association
Heraeus

Howard Jarvis Taxpayers Association
Hyatt Die Cast & Engineering Corporation
Independent Oil Producers Agency
Industrial Association of Contra Costa County
Industrial Environmental Association
Inland Empire Economic Partnership
International Council of Shopping Centers
International Warehouse Logistics Association
Kern Country Taxpayers Association
Long Beach Chamber of Commerce
Los Angeles Area Chamber of Commerce
Metal Finishing Association of Northern California
Metal Finishing Association of Southern California
National Federation of Independent Business, California
Printing Industries Association of Southern California
Redondo Beach Chamber of Commerce
Regional Hispanic Chamber of Commerce
Santa Barbara Taxpayers Association
Santa Barbara Technology and Industry Association
Small Business Action Committee
South Bay Association of Chambers of Commerce
Torrance Area Chamber of Commerce
Valley Industry & Commerce Association
Western Agricultural Processors Association
Western States Petroleum Association
Western States Trucking Association

ARGUMENTS IN SUPPORT: Supporters state that SB 1387, by adding three additional environmental justice representatives to the SCAQMD Board, will ensure a Board that better represents its constituency. Coalition for Clean Air also notes that creating an expedited review process for market-based programs would bring more certainty and urgency for determining whether RECLAIM and similar programs meet state and federal air quality requirements.

ARGUMENTS IN OPPOSITION: Opponents state that this bill substantially and adversely modifies the use of market-based incentive programs, including limiting their ability to achieve cost-effective emissions reductions in Southern California, and adds state-level appointed positions to the SCAQMD, effectively shifting local control over critical regional air quality planning to state lawmakers.

Prepared by: Rebecca Newhouse / E.Q. / (916) 651-4108
5/31/16 9:39:29

**** END ****