

Senate Bill No. 656

CHAPTER 738

An act to add and repeal Section 39614 of the Health and Safety Code, relating to air quality.

[Approved by Governor October 8, 2003. Filed with Secretary of State October 9, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 656, Sher. Air quality: particulate matter.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires district plans for attaining state ambient air quality standards to assess the cost-effectiveness of available and proposed emission control measures.

This bill would require the state board, not later than January 1, 2005, in consultation with the districts, and after at least one public workshop, to identify, develop, and adopt at a public meeting a list of the most readily available, feasible, and cost-effective, as defined, proposed control measures, based on rules, regulations, and programs existing as of January 1, 2004, that could be employed by the state board and the districts to reduce emissions of PM 2.5 and PM 10, as defined, from new and existing stationary, mobile, and area sources. The bill would also require the state board and each district to adopt an implementation schedule, as defined, for the most cost-effective measures on that list after prioritizing the measures based on specified factors. The bill would require the state board and each district, in carrying out those requirements, to adopt and implement control measures to reduce PM 2.5 and PM 10 from stationary, area, and mobile sources, and to make progress toward attainment of state and federal particulate matter standards. The bill would require the state board, by January 1, 2009, to prepare, and make available to the public, a report on the actions taken by the state and districts to comply with the requirements of the bill. The bill would repeal these provisions on January 1, 2011. The additional duties for districts required by the bill would impose a state-mandated local program.



(2) Existing law makes a violation of any rule, regulation, permit or order of the state board or a district a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

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

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

(1) The body of scientific evidence demonstrating health effects related to particulate matter exposure has grown tremendously over the past 10 years, and presents a compelling public health case for reducing emissions and exposures.

(2) Both coarse and fine particulate matter (PM 10 and PM 2.5, respectively) are linked in scientific literature to a range of serious health impacts, including premature mortality, acute and chronic bronchitis, asthma attacks and emergency room visits, upper respiratory illnesses, and days with work loss.

(3) Exposure to particulate pollution is particularly dangerous for sensitive groups including, but not limited to, the elderly, individuals with asthma and other lung illnesses, infants, and children.

(4) Recent scientific literature on particulate matter demonstrates serious health impacts in infants and children including, but not limited to, mortality, reduced birth weight, premature birth, asthma exacerbation, and acute respiratory infections.

(5) The state board recently reviewed the particulate matter air quality standard pursuant to the Children's Environmental Health Protection Act (Chapter 731 of the Statutes of 1999) and based on that review, tightened the existing PM 10 annual standard and added a stringent new PM 2.5 annual standard.



(6) The state board has adopted a statewide risk reduction plan for reducing diesel particulate matter emissions by 2010, however it is necessary to ensure the prompt implementation of that plan and its particulate reduction goals.

(7) One component of particulate matter pollution, diesel particulate matter, has been identified as a toxic air contaminant by the state board based upon the cancer risk posed by public exposure to this pollutant. In order to be effective, control measures to reduce particulate pollution need to control not only diesel particulate and other directly emitted PM 10 and PM 2.5, but also control precursors that contribute to formation of particulate matter, including, but not limited to, oxides of nitrogen, sulfur oxide, reactive organic gases and ammonia.

(8) Data from the existing air monitoring network, emission inventory, and other scientific studies should be used to identify sources of particulate pollution and prioritize control measures for that pollution and its precursors.

(9) The United States Environmental Protection Agency has recently begun the process to implement the federal fine particulate standard and to designate area attainment status. However, attainment of the federal standards is at least a decade in the future and the federal standard is less stringent and protective of public health than the state particulate standard.

(b) The Legislature therefore declares that it is essential that the state board and the districts take readily available, feasible, and cost-effective measures to reduce the public's exposure to PM 2.5 and PM 10.

(c) It is the intent of the Legislature that the State Air Resources Control Board, and each air quality management district and air pollution control district in the state consider the impact of proposed control measures for PM 2.5 and PM 10 on other criteria pollutants when adopting the implementation schedule pursuant to Section 39614 of the Health and Safety Code.

SEC. 2. Section 39614 is added to the Health and Safety Code, to read:

39614. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Cost-effective" or "cost-effectiveness" means either of the following, as applicable:

(A) For the state board, a determination using the standards, formulas, and criteria used by the state board to calculate cost-effectiveness for other regulations.

(B) For a district, a determination using the standards and process described in Section 40922.



(2) “Implementation schedule” means a schedule that specifies dates for final adoption, implementation, and sequencing of control measures pursuant to this section.

(3) “Measures” means any of the following:

(A) Emissions limits, control technologies, or performance standards designed to limit emissions for a source or source category.

(B) Examples of adopted state or local district regulations.

(C) Examples of programs.

(4) “PM 2.5” means particulate matter of 2.5 microns and smaller in size.

(5) “PM 10” means particulate matter of 10 microns and smaller in size.

(6) “Programs” means any state or local program that reduces either of the following:

(A) Smoke from agricultural or wood burning sources.

(B) Diesel emissions.

(b) On or before January 1, 2005, the state board, in consultation with the districts, and after at least one public workshop, shall develop and adopt at a public meeting a list of the most readily available, feasible, and cost-effective proposed control measures, based on rules, regulations, and programs existing in California as of January 1, 2004, that could be employed by the state board and the districts to reduce PM 2.5 and PM 10 and make progress toward attainment of state and federal PM 2.5 and PM 10 standards. The list shall include measures to reduce emissions from new and existing stationary, mobile, and area sources, and shall indicate whether those measures apply to new, modified, or existing sources. In developing the list, the state board shall take into account information it determines to be appropriate and relevant from emissions inventories, air monitoring data, and other scientific studies, including, but not limited to, information associated with compliance with the federal ambient air standards for particulate matter. The list shall include control measures for all of the following emission source categories:

(1) Stationary combustion sources.

(2) Woodstoves and fireplaces.

(3) Commercial grilling operations.

(4) Agricultural burning.

(5) Construction and grading operations.

(6) Diesel-powered engines used in stationary and mobile applications, including, but not limited to, control measures that do any of the following:

(A) Reduce heavy-duty vehicle idling.

(B) Require the use of ultra low-sulfur diesel fuel.



(C) Encourage, and require to the extent authorized by law, fleet turnover or the pull-ahead of new technology.

(D) Use public funds, including, but not limited to, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds to upgrade, retrofit, or replace heavy-duty engines with less polluting alternatives.

(E) Promote increased purchase and use by government agencies of low-emission heavy-duty vehicles and equipment.

(c) The state board shall specify in the list adopted pursuant to subdivision (a) whether a proposed control measure is intended to reduce emissions of PM 2.5, PM 10, or both, and whether it is a proposed control measure for adoption by the state board or by a district. The state board and the districts shall adopt and implement only those control measures within their respective jurisdictions in accordance with applicable provisions of state law.

(d) (1) Not later than July 31, 2005, after at least one public workshop and a noticed public hearing, and in a manner otherwise in accordance with this section, the state board shall adopt an implementation schedule for the state measures on the list developed pursuant to subdivision (b) and each district shall adopt an implementation schedule for the most cost-effective local measures from the list for that district after prioritizing the measures based on the factors identified in subparagraph (A) of paragraph (2). The state board and each district, in carrying out the requirements of this section, shall adopt and implement control measures to reduce PM 2.5 and PM 10 from stationary, area, and mobile sources, and to make progress toward attainment of state and federal PM 2.5 and PM 10 standards.

(2) In developing an implementation schedule pursuant to this subdivision, the state board and each district shall do all of the following:

(A) Prioritize adoption and implementation of proposed control measures based on the effect individual control measures will have on public health, air quality, and emission reductions, and on the cost-effectiveness of each control measure.

(B) Strive to integrate the scheduling of control measures with the federal planning process for attainment of the federal ambient air quality standards for particulate matter in an efficient manner, to the extent that integration does not delay the adoption of control measures.

(3) An implementation schedule adopted by a district pursuant to this subdivision may not include a control measure that meets any of the following criteria:

(A) Is substantially similar to a control measure already adopted by the district, as determined by the district.



(B) Is substantially similar to a control measure scheduled for adoption by the district within two years of the adoption of the implementation schedule, as determined by the district.

(C) The district has determined there is a readily available, feasible, and cost-effective alternative control measure that will achieve an equivalent or greater emission reduction.

(D) Is intended to reduce emissions of a precursor to PM 2.5 or PM 10, if the district has adopted and implemented the measure or scheduled the measure for adoption within two years of the adoption of the implementation schedule as part of the district's ozone attainment plan pursuant to subdivision (a) or (b) of Section 40914.

(4) If a district determines that a readily available, feasible, and cost-effective alternative control measure exists as described in subparagraph (C) of paragraph (3), the district shall adopt that measure.

(e) Nothing in this section requires a district to adopt a control measure to further regulate emissions from any source that operates under, or requires a district to modify, either of the following programs:

(1) A market-based incentive program that complies with Section 39616.

(2) An interchangeable emission reduction credit program that is consistent with the methodology adopted by the state board pursuant to Section 39607.5.

(f) Nothing in this section is intended to alter or affect any of the following:

(1) The authority of the state board or a district to adopt a control measure for PM 2.5 and PM 10 pursuant to this division.

(2) The authority of the state board or a district over diesel-powered engines established pursuant to this division.

(3) The authority of a district to modify either of the programs described in paragraphs (1) or (2) of subdivision (e).

(4) The authority of a district to adopt measures necessary to attain state or federal air quality standards.

(g) In identifying control measures for woodstoves and fireplaces pursuant to paragraph (2) of subdivision (b), the state board shall include a consideration of rules and regulations encouraging the use of wood fuel appliances that meet the standards established in Subpart AAA of Part 60 of Title 40 of the Code of Federal Regulations.

(h) In adopting the list and implementation schedule pursuant to this section, the state board is not subject to the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) Not later than January 1, 2009, the state board shall prepare a report, and make available to the public, on the actions taken by the state



board and local districts to comply with this section. The report shall include, but is not limited to, all of the following:

- (1) Adopted and proposed rules.
 - (2) Regulations and programs.
 - (3) Air quality and public health impacts of state and district actions taken pursuant to this section.
 - (4) Cost-effectiveness of rules, regulations, and programs implemented pursuant to this section.
 - (5) Recommendations for further actions to assist in achieving state air quality standards for particulate matter.
- (j) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

