

Senate Environmental Quality Committee

2003-04 Legislative Update

AIR QUALITY

SB 288 (Sher) enacts the Protect California Air Act of 2003 to prohibit air quality management districts from amending or revising their new source review requirements to be less stringent than those that existed on December 30, 2002, except under certain circumstances. SB 288 also extends the authority of the South Coast AQMD to set a \$1 fee on motor vehicle registration renewals. Status: Chapter 476, Statutes of 2003.

SB 656 (Sher) requires the Air Resources Board to identify all readily available, feasible, and cost effective proposed control measures to reduce PM 10 and PM 2.5 emissions. Status: Chapter 738, Statutes of 2003.

SB 700 (Florez) repeals the exemption of agricultural sources of air pollution from state permitting requirements and requires air districts to adopt rules and regulations for agricultural practices to reduce air pollutants at these sources. SB 700 also contains other related requirements. Status: Chapter 479, Statutes of 2003.

SB 701 (Florez) creates the California Clean Air Bond Act of 2004. Status: Senate Appropriations Committee.

SB 704 (Florez) repeals the Agricultural Biomass-to-Energy Incentive Grant Program, and requires the Energy Commission to provide incentives to eligible projects. SB 704 also requires the Energy Commission to allocate \$6 million from the Renewable Resource Trust Fund for the 2003-04 fiscal year to provide incentives to a facility. Status: Chapter 480, Statutes of 2003.

SB 705 (Florez) prohibits the issuance of a permit to burn certain categories of agricultural waste within the jurisdiction of the San Joaquin Valley Air Pollution Control District, commencing on specified dates. Status: Chapter 481, Statutes of 2003.

SB 709 (Florez) revises authority of the San Joaquin Valley Unified Air Pollution Control District and provides specified fee authority. Status: Chapter 483, Statutes of 2003.

SB 807 (Ashburn) revises the exemption of agricultural sources of air pollution from state permitting requirements to exclude equipment as a major source of air pollution, thereby making this equipment subject to a permit. Status: Failed passage in the Senate Environmental Quality Committee April 28, 2003 (2-5).

SB 981 (Soto) enacts the Children's Health and Petroleum Pollution Remediation Act of 2003 to fund petroleum pollution source reduction and public health remediation programs, funded by a \$.30 fee for each barrel of crude oil received at a refinery. Status: Approved by Senate Environmental Quality Committee April 21, 2003 (5-2); Senate Revenue and Taxation Committee.

AB 151 (Vargas) requires the Air Resources Board to distribute funds to mitigate the environmental or health impacts of electricity generation facilities, funded by a \$0.001 per kilowatt-hour air contaminant emission mitigation fee if the electricity is generated by a facility within an air basin shared by an air district and Mexico. Status: Failed in the Senate Energy, Utilities and Communications Committee (1-2).

AB 471 (Simitian) prohibits cruise ship onboard incineration within 3 miles of the California coast. Status: Chapter 706, Statutes of 2004.

AB 720 (Matthews) prohibits any air district from adopting a rule or regulation that restricts or prohibits the installation of a clean-burning solid fuel appliance. Status: Failed in the Assembly Natural Resources Committee April 21 (5-3) .

AB 729 (Lieber) prohibits the Bay Area Air Quality Management District from adopting rules and regulations that infringe on local government's authority to plan or control land use, and requires the district to adopt revised regulations to reduce fugitive emissions and flared gases from oil refineries. Status: Assembly Natural Resources Committee.

AB 788 (Chavez) extends the prohibition of the Air Resources Board from adopting a regulation pertaining to disinfectants from December 1, 2003, to January 1, 2005. Status: Senate Environmental Quality Committee.

AB 998 (Lowenthal) establishes nontoxic dry cleaning incentive grant program. Status: Chapter 821, Statutes of 2003.

AB 1090 (Longville) revises requirements for membership on the South Coast Air Quality Management District by exempting the San Bernardino County Board of Supervisors appointment from the district residency requirement until January 1, 2006. Status: Chapter 686, Statutes of 2003.

AB 1500 (Diaz) assesses a \$1.00 fee on each barrel of crude oil refined in California to be used for remediation of petroleum related pollution in the state's air, water and land. Status: Assembly Transportation Committee.

AB 1637 (La Suer) repeals Air Resources Board alternative administrative penalty provisions. Status: Assembly Natural Resources Committee.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

SB 18 (Burton) enacts various requirements for traditional tribal cultural sites, including conservation easements and Planning and Zoning Law. This measure no longer amends CEQA. Status: Chapter 905, Statutes of 2004.

SB 352 (Escutia) revises school district consultation requirements regarding proposed school-sites near certain facilities. SB 352 also amends the Education Code to prohibit the approval by a school district governing board of a school-site within 500 feet of a freeway or other busy traffic corridor unless certain conditions are met. SB 352 also makes technical amendments to these provisions. Status: Chapter 688, Statutes of 2003.

SB 532 (Romero) adds a definition of "cumulative effects" and requires an EIR to include a determination whether or not there is a reasonable possibility that a project would result in, or contribute to, a significant risk to public health from exposure to one or more hazardous or toxic substances or materials. SB 532 requires a risk assessment to be performed if a reasonable possibility exists. Status: Senate Appropriations Committee.

SB 647 (Sher) requires a local agency to retain a notice of determination for 12 months rather than 9 months, and requires the Office of Planning and Research to retain this notice for 12 months. SB 647 also includes definitions for "military base" and "reuse plan" that were contained in another repealed section of the act. Status: Chapter 525, Statutes of 2004.

SB 711 (Kuehl) specifies that CEQA applies to an action by the State Board of Forestry and Fire Protection for conversion of timberland and oak woodlands, and requires regulations to provide alternatives for mitigating these conversions. Status: Assembly Appropriations Committee.

SB 945 (Sher) consolidates two sections relating to revision of the CEQA guidelines, deletes obsolete references, and corrects definitions of hazardous emissions and substances. Status: Chapter 689, Statutes of 2004.

SB 1074 (Committee on Environmental Quality) clarifies definition of "infill site", extends date for Resources Agency to develop protocol for reviewing application of certified regulatory programs, revises notice requirements for master EIRs, and makes a technical amendment to criteria for housing exemptions. SB 1074 also revises bodily contact requirements for Modesto Reservoir, makes a technical amendment to expenditures of the California Integrated Waste Management Board, and clarifies a definition of "sewage sludge" for cruise ships. Status: Chapter 742, Statutes of 2003.

SB 1334 (Kuehl) requires counties to determine whether a project may result in a conversion of oak woodlands and requires one or more specified mitigation measures if the county determines that there may be a significant effect on oak woodlands. Status: Chapter 732, Statutes of 2004).

SB 1350 (Morrow) repeals a requirement for OPR to consider a class of exemption for treatment of medical waste by steam sterilization (OPR completed this requirement). Status: Chapter 63, Statutes of 2004).

SB 1486 (Hollingsworth) exempts the construction of any overpass from CEQA if the overpass is built within an easement or right-of-way controlled by a state or local transportation agency or by a city or county. Status: Failed in the Senate Environmental Quality Committee (2-4).

SB 1889 (Committee on Environmental Quality) defines “trustee agency” and references the term in various provisions of the act. SB 1889 also extends the Oakland focused EIR provision from January 1, 2005 to January 1, 2008. Status: Chapter 744, Statutes of 2004.

AB 406 (Jackson) requires access to a project site that is under CEQA review to be granted to public agency employees or consultants when the public agency is carrying out its CEQA responsibilities. AB 406 also prohibits a project applicant from enforcing against its consultants a confidentiality agreement that inhibits or prevents the disclosure of certain information. Status: Senate Environmental Quality Committee.

AB 677 (Firebaugh) requires local agency to file a notice exemption with the Office of Planning and Research for housing and infill exemptions. Status: Chapter 837, Statutes of 2003.

AB 1545 (Simitian) requires a lead agency to accept comments on environmental documents by email and to treat email comments as equivalent to written comments. Status: Chapter 695, Statutes of 2003.

AB 1798 (Levine) provides that neither a Rapid Bus route nor a system of multiple Rapid Bus routes should be considered a reasonable or feasible alternative to the East-West Bus Rapid Transit system in the Burbank-Chandler corridor from North Hollywood to Warner Center for purposes of compliance with CEQA. Status: Failed in the Senate Environmental Quality Committee (1-5).

AB 2814 (Simitian) clarifies that failure by a petitioner or plaintiff to name potential parties, other than the person that applied for and received an approval, is not grounds for dismissal. Status: Chapter 522, Statutes of 2004.

AB 2902 (Hancock) prohibits a public agency from making a finding that project changes or alterations are within the responsibility and jurisdiction of another public agency unless certain requirements are met (e.g., hearing, negotiations). Status: Senate Environmental Quality Committee.

AB 2922 (Laird) clarifies procedures for using a master EIR after 5 years and corrects a cross-reference in the infill exemption. Status: Chapter 684, Statutes of 2004.

AB 3090 (Horton) directed OPR and the Resources Agency to revise the CEQA guidelines to reflect the California Supreme Court’s holding in Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal. 4th 165 (relating to initiative measures). Status: Vetoed.

HAZARDOUS WASTE/SOLID WASTE

SB 20 (Sher) enacts the Electronic Waste Recycling Act of 2003 to provide for the convenient recycling of electronic devices in California. On and after July 1, 2004, the bill imposes an electronic waste recycling fee between \$6 and \$10 (depending on the size of the electronic device)

upon the purchase of an electronic device from a retailer. This bill was double-referred to the Natural Resources Committee. Status: Chapter 526, Statutes of 2003.

SB 391 (Florez) makes any person who is found to be in violation of laws that result in illness or injury requiring emergency medical transportation or immediate medical treatment of any individual in a nonoccupational setting from any pesticide used in the production of an agricultural commodity, liable to the individual harmed or to the medical provider for the immediate costs of uncompensated medical care from acute injuries and illnesses of the exposed individual. Status: Chapter 913, Statutes of 2004.

SB 568 (Sher) prohibits a person serving as a peer reviewer for the California Environmental Protection Agency and its boards, departments, and office if they had a financial interest in the decision. SB 568 also provides that this provision applies only to a peer review initiated on or after January 1, 2004. Status: Vetoed.

SB 1168 (Ortiz) requires the Division of Environmental and Occupational Disease Control at the State Department of Health Services and the Office of Environmental Health Hazard Assessment to establish the Healthy Californians Biomonitoring Program to utilize biospecimens to identify toxic chemicals that are present in the bodies of Californians and initiate plans to minimize exposure to these contaminants if necessary. Status: Failed passage in Assembly Health Committee (9-5).

SB 1180 (Figueroa) sets fees on manufacturers and distributors of fluorescent lamps and other lamps containing mercury to fund programs administered by the Department of Toxic Substances Control and the California Integrated Waste Management Board intended to reduce the volume of mercury released into the environment. Status: Assembly Appropriations Committee.

AB 302 (Chan) seeks to reduce the exposure of women and children to brominated flame retardants by prohibiting a person from manufacturing, processing, or distributing in commerce a product, or a flame-retarded part of a product, containing more than 0.1% pentaBDE or octaBDE on and after January 1, 2008. Status: Chapter 205, Statutes of 2003.

AB 338 (Levine) establishes requirements for the Department of Transportation to require the use of certain levels of crumb rubber on state highway or repair projects that use asphalt. Status: Vetoed.

AB 389 (Montañez) enacts the California Land Reuse and Revitalization Act of 2004, which provides an innocent landowner, a bona fide purchaser, or a contiguous property owner with broad immunities from liability for response costs or damage claims under most state statutory and common laws that impose liability for pollution conditions caused by a release, or threatened release, of a hazardous material. The immunity attaches upon entering into an agreement with a state agency for a site investigation or response action. Status: Chapter 705, Statutes of 2004.

AB 455 (Chu) enacts the Toxics in Packaging Prevention Act, which bans the sale of any package that includes a heavy metal (such as lead, cadmium, mercury, or hexavalent chromium) that

was intentionally introduced during manufacturing or distribution, and prohibits the incidental concentration of these metals on or after January 1, 2006. Status: Chapter 679, Statutes of 2003.

AB 1006 (Chu) bars public schools from using the "most highly toxic" pesticides on school property. Status: Senate Agriculture and Water Resources Committee.

AB 1353 (Matthews) requires treated wood waste to be disposed of in a Class I hazardous waste landfill or a composite-lined portion of a solid waste landfill unit (Class II or Class III), and specifies requirements for the generation and management of treated wood waste. Status: Chapter 597, Statutes of 2004.

AB 1360 (Steinberg) requires the Office of Environmental Health Hazard Assessment to develop and maintain a system of environmental indicators that measure progress and setbacks in the programs affecting human and environmental health, commencing July 1, 2004, to the extent that funds are appropriated by the Legislature for that purpose. Status: Chapter 664, Statutes of 2003.

AB 1369 (Pavley) prohibits the sale, offer for sale or promotional distribution of mercury-added thermostats in this state, beginning January 1, 2006, unless the mercury-added thermostat meets specified criteria. Status: Chapter 626, Statutes of 2004.

AB 1700 (Laird and Wiggins) leverages federal funding for state agency positions that supervise hazardous material cleanup for the remediation and revitalization of contaminated properties, including closed military bases. Status: Chapter 869, Statutes of 2003.

AB 1906 (Lowenthal) increases the petroleum storage fee from \$0.012 per gallon to \$0.013 per gallon beginning January 1, 2005, and to \$0.014 per gallon beginning January 1, 2006. AB 1906 also establishes the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount and requires \$10 million to be annually transferred from the Underground Storage Tank Cleanup Fund into the account for calendar years 2005-07 for costs to remediate petroleum contamination at specified sites. Status: Chapter 774, Statutes of 2004.

AB 1940 (Chan) requires a manufacturer of a high production volume chemical or a reportable chemical to provide the California Environmental Protection Agency with test methods designed to detect cumulative exposure to these chemicals and to detect specific chemicals in a specified medium such as air, water, soil, and the human body. Status: Assembly Floor.

AB 2176 (Montanez) sets various requires for solid waste reduction, reuse, and recycling at large venues and large events. Status: Chapter 879, Statutes of 2004.

AB 2254 (Aghazarian) authorizes the handling and disposal of used gasoline and diesel fuel filters in the same manner as used oil filters are currently regulated. Status: Chapter 240, Statutes of 2004.

AB 2277 (Dymally) on and after January 1, 2006, prohibits a person other than a certified appliance recycler from either: 1) removing materials that require special handling from major appli-

ances, or 2) transporting, delivering, or selling discarded major appliance to a scrap recycling facility. Status: Chapter 880, Statutes of 2004.

AB 2396 (Wiggins) requires the California Integrated Waste Management Board to submit a report by December 21, 2005, to the Legislature and the Governor regarding the use of waste tires for erosion controls. Status: Failed in the Assembly Natural Resources Committee (3-0).

AB 2485 (Chan) allows a school district governing board to make a written request upon any person, corporation, public utility, local publicly owned utility or governmental agency for specified information necessary or useful to assess and determine the safety of a proposed school site or an addition to an existing school site. Status: Chapter 578, Statutes of 2004.

AB 2877 (Aghazarian) re-establishes, until January 1, 2008, the authorization of the Department of Toxic Substances Control to adopt regulations establishing alternative management standards for a limited universe of hazardous wastes. Status: Chapter 175, Statutes of 2004.

AB 2901 (Pavley) enacts the Cell Phone Recycling Act of 2004 and requires all retailers of cellular telephone (cell phones) to have a system in place for the collection, reuse and recycling of cell phones. AB 2901 also requires the Department of Toxic Substances Control to provide information on cell phone recycling and to adopt regulations to prohibit a cell phone from being sold in California if the cell phone is prohibited from sale in the European Union. Status: Chapter 891, Statutes of 2004.

WATER QUALITY

SB 68 (Alpert) creates the San Diego Bay Advisory Committee for Ecological Assessment to prepare a report by December 31, 2005, regarding the water quality and regulation of San Diego Bay. Status: Chapter 497, Statutes of 2003.

SB 181 (Machado) sets notice of noncompliance requirements under the California Safe Drinking Water Act. Status: Chapter 167, Statutes of 2003.

SB 196 (Kuehl) requires the regional water quality control board municipal government representative to be a city councilmember or mayor, and requires the county government representative to be a county supervisor. The appointments are upon the next vacancy occurring on or after January 1, 2004. Status: Chapter 272, Statutes of 2003.

SB 214 (Morrow) requires the State Water Resources Control Board and the regional water quality control boards to prescribe and enforce waste discharge requirements for municipal separate storm sewer systems that conform to the "maximum extent practicable" standard in the Clean Water Act. Status: Senate Environmental Quality Committee.

SB 334 (Romero) extends the sunset date for the San Gabriel Water Basin Quality Act from 2005 to 2010, reduces the annual pumping right cap from \$13 to \$10, and revises a reporting requirement. Status: Chapter 192, Statutes of 2003.

SB 1004 (Soto) provides that a cleanup and abatement order issued by the State Water Resources Control Board or a regional water quality control board may require each discharger to provide or pay for uninterrupted replacement water service to each affected public water supplier or private well owner. SB 1004 also establishes a database collection system under the auspices of SWRCB for reporting on the storage of perchlorate. Status: Chapter 614, Statutes of 2003.

AB 121 (Simitian) sets procedures for prohibiting cruise ship discharges of sewage sludge and oily bilgewater in state marine waters and national marine sanctuaries in those waters. Status: Chapter 488, Statutes of 2003.

AB 433 (Nation) revises requirements for vessel ballast water discharges. Status: Chapter 491, Statutes of 2003.

AB 866 (Pavley) revises procedures under the water quality grant program, Integrated Watershed Management Program, and Small Community Groundwater Grant Program. Status: Chapter 493, Statutes of 2003.

AB 897 (Jackson) revises various penalty provisions and requires funds from certain penalties to be deposited in the Waste Discharge Permit Fund to assist regional water quality control boards and certain other public agencies in carrying out certain water quality duties. Status: Chapter 683, Statutes of 2003.

AB 906 (Nakano) sets procedures for prohibiting cruise ship discharges of hazardous waste and "other waste" in state marine waters and national marine sanctuaries in those waters. Status: Chapter 494, Statutes of 2003.

AB 998 (Lowenthal) creates the Nontoxic Dry Cleaning Incentive Program. Status: Chapter 821, Statutes of 2003.

AB 1405 (Wolk) creates the California Watershed Protection and Restoration Act. Status: Chapter 693, Statutes of 2003.

AB 1541 (Montanez) sets penalty for failure to file a required discharge monitoring report, and requires funds from the penalty to be deposited in the Waste Discharge Permit Fund to assist regional water quality control boards and certain other public agencies in responding to significant water pollution problems. Status: Chapter 609, Statutes of 2003.

AB 2093 (Nakano) prohibits the owner or operator of a large passenger vessel from releasing, or permitting anyone to release, any graywater from the vessel into the marine waters of the state. Status: Chapter 710, Statutes of 2004.

AB 2528 (Lowenthal) modifies the type of notice that must be provided by a Public Water System (PWS) when a contaminant is identified in drinking water that the PWS supplies from either surface water or well water. The new notice nomenclature more accurately reflects any regulatory response requirements. The other most significant change to existing law relates to when a

notice is triggered for a contaminant detected in a well water supply. Instead of the notice requirement being triggered by detection of a contaminant *in the water source*, it is only triggered when the PWS is informed that a contaminant is detected *in water that is delivered by the PWS* for human consumption. Status: Chapter 679, Statutes of 2004.

AB 2633 (Frommer) creates the Interceptor Grease Transportation, Recycling and Disposal Act of 2004. AB 2633 establishes legislative intent language; establishes new definitions; establishes a new registration process to transport or manage interceptor grease, including the authority to deny, suspend or revoke a registration based upon specified conditions; specifies the requirements for removal of grease; requires specified manifest procedure and reporting requirements; designates who may receive interceptor grease and its use; and establishes penalties. Status: Vetoed.

AB 2672 (Simitian) prohibits, until January 1, 2010, the owner or operator of a large passenger vessel from releasing, or permitting anyone to release, any sewage from the vessel into the marine waters of the state if certain conditions are met. Status: Chapter 764, Statutes of 2004.

HELPFUL LINKS

If one of these bill summaries interests you, the bill's text and the Committee's analysis of the measure can be seen on the Legislature's website: www.leginfo.ca.gov.

Assembly: <http://www.assembly.ca.gov>

Institute for Local Self Government: <http://www.ilsg.org/>

League of California Cities 2004 Legislative Report:
http://www.cacities.org/resource_files/22981.WRAP%202004.doc

Legislative Analyst's Office: <http://www.lao.ca.gov/>

Senate: <http://www.sen.ca.gov/>