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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 2721

**Author:** Lee

**Version:** 3/10/2022

**Hearing Date:** 6/1/2022

**Urgency:** No

**Fiscal:** No

**Consultant:** Eric Walters

**SUBJECT:** Bay Area Air Quality Management District: district board: compensation

**DIGEST:** This bill, while maintaining the existing compensation limit of \$6,000 per year, doubles the daily compensation that a member of the Bay Area Air Quality Management District (BAAQMD) board may receive for attending meetings from \$100 to \$200, and authorizes BAAQMD board members to receive compensation for active transportation travel to meetings.

**ANALYSIS:**

Existing law:

- 1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)
- 2) Establishes local air districts to, among other things, control emissions from stationary sources. (HSC §40000 et seq.)
- 3) Establishes the 24-member Bay Area Air Quality Management District (BAAQMD) to regulate air emissions in the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma, and to serve and function as specified. (HSC § 40200 et seq.)
- 4) Requires BAAQMD board members receive actual and necessary expenses incurred in the performance of board duties and authorizes compensation not to exceed \$100 per day for attending meetings of the board or committees of the board or while on official business of the district, not to exceed \$6,000 per year. (HSC § 40227)

This bill:

- 1) Increases the compensation that may be received by BAAQMD board members from \$100 to \$200 per day.
- 2) Includes active transportation to a BAAQMD meeting, as specified, as a permissible activity for receiving compensation.

## Background

- 1) *Per diem compensation.* People who serve on an elected or appointed governing board for any number of purposes are sometimes prohibited from being compensated for serving in that position, but very commonly may have their associated lodging, meals, and incidental expenses covered, where appropriate, on a daily basis—a per diem.

Receiving a per diem is exceedingly common for members of boards or other bodies in California. The limits of those per diems are often set in statute, such as is the case for the BAAQMD. Changing the details of what the per diem is limited to, or what expenses are eligible to be covered, must be done by the Legislature, and cannot be done by the BAAQMD itself.

- 2) *Getting to work in the Bay Area.* Bay Area employers with more than 50 employees are currently required to offer a commute benefits program, overseen by BAAQMD and the Metropolitan Transportation Commission (MTC). Under the program, employers must offer employees one of the following benefits: employer carpool or transit, subsidy for use of transit, active transportation subsidy, or an employer benefit that similarly reduces vehicle miles traveled (VMT). Because BAAQMD board members are not employees they are not covered, however the Government Code does provide local officials the ability to be reimbursed for documented expenses to attend meetings, such as IRS mileage for driving, tolls, transit, etc. According to BAAQMD, because expenses related to walking or biking are not clearly documented, the Government Code doesn't cover them, thus walkers and bikers (on the Board) are left out of commute benefits and Government Code reimbursement provisions.

According to BAAQMD, compensation for active transportation would likely be based on a combination of intrinsic factors such as the social cost of carbon, reduced VMT, etc. In the end, it would be less than an IRS mileage rate, but would at least acknowledge that there is a benefit to reduced driving, and arguably serve a display of leadership from the Board on the issue.

**Comments**

- 1) *Purpose of Bill.* According to the author, “Currently, BAAQMD board members can only be reimbursed up to \$100 per day for attending one or multiple meetings. This amount has remained unchanged for over 30 years despite rising inflation and the increased cost of living. Under existing law, board members can only be compensated for certain types of transportation to and from meetings such as driving a personal vehicle, using a taxi or ride share service, or using transit such as buses, trains, and ferries.

“AB 2721 allows these meetings to be more efficient, by changing compensation from \$100/day to \$100/meeting without changing the annual compensation limit. It also allows the Board to create a compensation schedule that encourages members to take active transportation methods to meetings, such as walking or bicycling.”

**Related/Prior Legislation**

**SOURCE:** Bay Area Air Quality Management District

**SUPPORT:**

Bay Area Air Quality Management District

**OPPOSITION:**

None received

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