

AMENDED IN SENATE JULY 1, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY FEBRUARY 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 151

**Introduced by Assembly Member Vargas
(Coauthors: Assembly Members Firebaugh, Montanez, Mullin,
and Yee)**

January 21, 2003

An act to add Section 41514.15 to the Health and Safety Code,
relating to air pollution, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 151, as amended, Vargas. Air pollution: importation of electrical energy: mitigation fee.

(1) Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law also designates the State Air Resources Board as the state entity responsible for the coordination and review of all levels of government in their efforts to control air pollution.

This bill would require any person that imports electrical energy into the state, or causes electricity to be imported into the state, to, commencing January 1, 2004, pay up to a \$0.001 per kilowatthour air contaminant emission mitigation fee for that electricity, but not to exceed the cost of mitigation, as determined by the state board. The bill would authorize the state board, commencing January 1, 2006, to

reduce that fee to a lower amount, upon making a determination that the lower fee amount would further enhance reductions of emissions of air contaminants. The bill would impose the fee only if the electricity is produced by an electrical generating facility, as defined, that is located within an air basin shared by a district and Mexico and located in Mexico within 100 kilometers of the United States border. Additionally, under the bill, the fee would only apply if the electrical generating facility's initial production of electricity occurred after January 1, 2003, and the state board determines that the electrical generating facility was not constructed using the best available control technology (BACT) for air contaminants.

The bill would establish the Imported Electricity Air Pollution Mitigation Subaccount in the Air Pollution Control Fund, and would require the air contaminant emission mitigation fees to be deposited in that subaccount. The bill would make the moneys deposited in the subaccount ~~from the mitigation fees continuously appropriated without regard to fiscal years, thereby making an appropriation.~~

~~The bill would require the state board to distribute the revenues generated from the mitigation fees available to the state board, upon appropriation by the Legislature, for distribution to each district in the state that the state board determines is directly impacted by emissions of air contaminants from those electrical generating facilities, and. The bill would require each district receiving those revenues to fund projects within their jurisdiction to mitigate the environmental or health impacts of electricity generation facilities. By prescribing additional duties on districts, this bill would impose a state-mandated local program.~~

(2) 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: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 41514.15 is added to the Health and
- 2 Safety Code, to read:

1 41514.15. (a) Any person ~~that~~ who imports electrical energy
2 into ~~the state, or causes electricity to be imported into the state,~~
3 ~~shall the state~~ shall pay an electrical generation fee in the amount
4 described in subdivision (b) to the state board to mitigate the air
5 pollution caused by the generation of that electricity, if the
6 electrical generating facility that generated the electricity meets all
7 of the following criteria:

8 (1) Is located within an air basin shared by a district and
9 Mexico, as determined by the state board.

10 (2) Is located in Mexico.

11 (3) Is located within 100 kilometers of the United States border.

12 (4) First produced electricity after January 1, 2003.

13 (5) Was not constructed using the best available control
14 technology (BACT) for air contaminants, as determined by the
15 state board.

16 (b) Commencing January 1, 2004, the electricity generation
17 mitigation fee described in subdivision (a) shall be assessed by the
18 state board at a rate of not more than \$0.001 per kilowatthour of
19 electricity that is imported into the state, but not to exceed the cost
20 that the state board determines is necessary to mitigate the
21 environmental or health impacts of electricity generation facilities
22 meeting the criteria described in subdivision (a) and any associated
23 administrative costs to each impacted district. Commencing
24 January 1, 2006, the state board may impose a fee less than the
25 ~~\$0.01~~ \$0.001 per kilowatthour of electricity imposed by this
26 subdivision, if the state board determines that the lower fee amount
27 would further enhance reductions of emissions of air
28 contaminants.

29 (c) The fees collected by the state board pursuant to subdivision
30 (a) shall be deposited into the Imported Electricity Air Pollution
31 Mitigation Subaccount, which is hereby established in the Air
32 ~~Pollution Control Fund. Notwithstanding Section 13340 of the~~
33 ~~Government Code, moneys deposited in the subaccount pursuant~~
34 ~~to this section shall be continuously appropriated to the state board,~~
35 ~~without regard to fiscal years, for the purposes described in~~
36 ~~Pollution Control Fund. The moneys deposited in the subaccount~~
37 ~~pursuant to this section shall be available to the state board, upon~~
38 ~~appropriation by the Legislature, for the purposes described in~~
39 subdivision (d).

(d) (1) The state board shall distribute the revenues that are deposited in the subaccount pursuant to this section to each district that the state board determines is directly impacted by emissions of air contaminants from an electrical generating facility that meets the criteria described in subdivision (a), in the proportion that the state board determines the district is impacted.

(2) A district receiving revenues pursuant to paragraph (1) shall utilize those moneys to fund projects within their jurisdiction that the district determines will mitigate the environmental or health impacts of electricity generation facilities meeting the criteria described in subdivision (a). *The district may not expend more than 10 percent of the moneys it receives from the state board pursuant to paragraph (1) for administrative costs.*

(e) For the purposes of this section, “electrical generating facility” means every electrical generating unit of a powerplant that is located at a common site in Mexico. If more than one electrical generating unit exists at a powerplant project, all of the electrical generating units shall be deemed to be part of one electrical generating facility.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.