

ASSEMBLY BILL

No. 721

Introduced by Assembly Member Nunez

February 17, 2005

An act to add Chapter 2 (commencing with Section 42100) to Part 3 of Division 30 of the Public Resources Code, relating to metal plating facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 721, as introduced, Nunez. Metal plating facilities: pollution reduction fund.

(1) The California Integrated Waste Management Act of 1989 establishes a comprehensive program implemented by the California Integrated Waste Management Board and local agencies to reduce, recycle, and reuse solid waste in an efficient and cost-effective manner.

This bill would require the Business, Transportation and Housing Agency to establish a loan program or a loan guarantee program, or both, for chrome plating facilities. The bill would create the Chrome Plating Pollution Prevention Account in the State Treasury, and would require that the money in the account be expended by the agency, upon appropriation by the Legislature, to make specified loans and loan guarantees. The bill would require the agency to make loans or loan guarantees available only to a generator that is a small business and meets other requirements.

The bill would require the State Air Resources Board, or the air pollution control district or air quality management district, whichever has jurisdiction over the plating facility, to determine whether the project proposed for funding will result in the plating facility meeting the applicable local, state, or federal standards.

The bill would authorize the agency to adopt regulations to implement the bill's requirements and to adopt emergency regulations to implement the loan program and loan guarantee program. The bill would require the agency, by January 1, 2007, and every even-numbered year thereafter, to submit a report to the Legislature concerning the performance of the loan or loan guarantee program.

(2) Existing law creates, in the State Treasury, the Hazardous Waste Reduction Loan Account, which is continuously appropriated to the Business, Transportation and Housing Agency to make loans to generators for equipment, projects, or facilities for the reduction of hazardous waste.

This bill would transfer all the funds remaining in the Hazardous Waste Reduction Loan Account on January 1, 2006, to the Chrome Plating Pollution Prevention Account and would appropriate that amount to the California Environmental Protection Agency for expenditure in accordance with the bill, as specified, thereby making an appropriation.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

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

3 (1) Metal plating facilities are establishments primarily
4 engaged in all types of electroplating, plating, anodizing,
5 coloring, and finishing of metals and formed products. Facilities
6 conducting metal plating activities include everything from
7 small, low-volume operations like jewelry repair shops to
8 high-volume production lines.

9 (2) This industry provides significant support to other larger
10 industry segments in the state, particularly manufacturing
11 industries. The automotive, electronics, machine equipment, and
12 defense industry are the four largest industry segments served by
13 metal platers.

14 (3) According to the Department of Toxic Substances Control,
15 there are approximately 875 metal plating facilities in the State of
16 California, 67 percent of which are located in the five-county Los
17 Angeles area, the largest concentration of metal platers anywhere
18 in the United States. There are also large numbers of metal

1 platers located in the San Francisco Bay area, San Diego County,
2 and the Central Valley regions of the state.

3 (4) Statistics indicate that 113 Members of the Legislature,
4 which equates to 94% of the Members, have at least one metal
5 plater in their district, and over one-third of the state's legislative
6 districts house at least 10 facilities.

7 (5) The metal plating process impacts the environment,
8 including air, water, and soil, in a very intensive manner. The
9 process involves the use of various toxic materials, and generates
10 significant amounts of solid and hazardous waste. For example,
11 hexavalent chromium, a chemical compound intrinsic to the
12 chrome plating process, is a known human carcinogen and a
13 potent toxic air contaminant.

14 (6) The metal plating industry's limited ability to access capital
15 for environmental improvements and investments has been
16 identified by the United States Environmental Protection Agency
17 as one of its biggest obstacles in meeting and exceeding current
18 environmental requirements.

19 (b) The Legislature hereby further declares that it is in the best
20 interest of the people of California to address the various
21 environmental issues posed by the metal plating industry while
22 preserving its economic vitality. Specifically, funds should be
23 provided to support environmental compliance, pollution
24 prevention, and emission reduction measures.

25 SEC. 2. Chapter 2 (commencing with Section 42100) is added
26 to Part 3 of Division 30 of the Public Resources Code, to read:

27
28 CHAPTER 2. METAL PLATING FACILITIES

29
30 42100. For purposes of this chapter, the following definitions
31 apply:

32 (a) "Agency" means the Business, Transportation and Housing
33 Agency.

34 (b) "Board" means the State Air Resources Board.

35 (c) "Chrome plating" has the same meaning as "decorative
36 chromium electroplating" as defined in the regulations specifying
37 a hexavalent chromium toxic control measure for chrome plating
38 adopted by the board and contained in Section 93102 of Title 17
39 of the California Code of Regulations.

1 (d) “Emission reduction” has the same meaning as “airborne
2 toxic risk reduction measure,” as defined in subdivisions (a) and
3 (b) of Section 44390 of the Health and Safety Code.

4 (e) “Loan applicant” means a small business that produces
5 hazardous waste and applies for financial assistance pursuant to
6 this chapter to reduce hazardous waste as generated.

7 (f) “Metal plating facility” means an establishment primarily
8 engaged in all types of electroplating, plating, anodizing,
9 coloring, and finishing of metals and formed products for the
10 trade.

11 (g) “Pollution prevention” means the same as source
12 reduction, as defined by subdivision (e) of Section 25244.14 of
13 the Health and Safety Code.

14 (h) “Sensitive receptor” means a school, general acute care
15 hospital, long-term health care facility, and child day care
16 facility. For purposes of this subdivision, “general acute care
17 hospital” has the meaning provided by subdivision (a) of Section
18 1250 of the Health and Safety Code, “long-term health care
19 facility” has the meaning provided by subdivision (a) of Section
20 1418 of the Health and Safety Code, and “child day care facility”
21 has the meaning provided by Section 1596.750 of the Health and
22 Safety Code.

23 42101. (a) The agency shall conduct a loan or loan guarantee
24 program, or both programs, to assist chrome plating facilities to
25 upgrade, replace, or purchase high performance environmental
26 control technologies that will enable that facility to meet or
27 exceed existing regulatory requirements and develop additional
28 pollution prevention opportunities.

29 (b) In establishing the loan or loan guarantee program
30 pursuant to subdivision (a), the agency shall make every effort to
31 integrate and leverage existing financing mechanisms for this
32 new program, including the Treasurer's California Pollution
33 Control Financing Authority California Capital Access Program
34 (CalCAP) and the California Infrastructure and Economic
35 Development Bank's (I-Bank) Revenue Bond program.

36 42101.1. The agency shall only make loan or loan guarantee
37 funds available to loan applicants that meet all of the following
38 eligibility requirements:

39 (a) The loan applicant is a small business, as defined in
40 subdivision (d) of Section 14837 of the Government Code.

1 (b) The loan applicant owns or operates a chrome plating
2 facility.

3 (c) Loan funds are not obtainable, upon reasonable terms,
4 from private financial institutions, or any other government
5 agency.

6 (d) The loan applicant demonstrates the ability to repay the
7 loan, and the availability of adequate collateral to secure the loan.

8 (e) All facilities owned or operated by the loan applicant are
9 subject to compliance with the Hexavalent Chromium ATCM for
10 Decorative and Hard Chrome Plating and Chromic Acid
11 Anodizing Facilities, as provided in Section 93102 of Title 17 of
12 the California Code of Regulations.

13 42101.2. A complete loan application shall include all of the
14 following:

15 (a) Evidence of eligibility.

16 (b) An environmental audit, as specified in Section 5268 of
17 Title 10 of the California Code of Regulations.

18 (c) Financial and legal documents necessary to demonstrate
19 the applicant's ability to repay and provide collateral for the loan.
20 The agency shall develop a standard list of documents required
21 of all applicants, and may also request from individual applicants
22 additional financial and legal documents not provided on this list.

23 (d) A detailed cost estimate of the equipment required by the
24 facility to meet existing regulatory requirements.

25 (e) Any other information that the agency determines
26 necessary to include in an application form.

27 42101.3. (a) The maximum amount the agency may loan for
28 one applicant is seventy-five thousand dollars (\$75,000), the
29 minimum amount the agency may loan is twenty-five thousand
30 dollars (\$25,000). A loan applicant shall not have more than one
31 loan, pursuant to this article, outstanding at any one time.

32 (b) The term of the loan is a maximum of 20 years if secured
33 by real property, and 10 years if not secured by real property.
34 The interest rate for loans shall be set at the rate earned by the
35 Surplus Money Investment Fund at the time of the loan
36 commitment.

37 (c) Loan funds shall not be used to finance any more than 90
38 percent of the costs necessary to upgrade, replace, or purchase
39 control technology.

1 (d) The repeal of this chapter shall not extinguish a loan
2 obligation, impair the deed of trust or other collateral made
3 pursuant to this chapter, or prevent the state from pursuing
4 appropriate action for collection.

5 (e) The agency may charge a loan fee to loan applicants of up
6 to 2 percent of the requested loan amount. The loan fee shall be
7 deposited in the Chrome Plating Pollution Prevention Account.

8 42101.4. The board, or the local district, as defined in Section
9 39025 of the Health and Safety Code, whichever has jurisdiction
10 over the plating facility, shall determine whether the project
11 proposed for funding will result in the plating facility meeting
12 applicable local, state, or federal standards. The agency shall
13 carry out all of the other requirements of this chapter.

14 42102. (a) There is hereby created, in the State Treasury, the
15 Chrome Plating Pollution Prevention Account, for the purpose of
16 receiving all of the following:

17 (1) Deposits of state, federal, or local government money, and
18 other public or private money for expenditure by the board for
19 the purposes of this chapter.

20 (2) Repayments of loans or loan guarantees and interest and
21 late fees on those accounts.

22 (b) Notwithstanding Section 16305.7 of the Government
23 Code, all interest or other increments resulting from the
24 investment of the funds in the account pursuant to Article 4
25 (commencing with Section 16470) of Chapter 3 of Part 2 of
26 Division 4 of Title 2 of the Government Code shall be deposited
27 in the account.

28 (c) All interest accruing on the interest payments from loan
29 applicants or interest earned on the funds in the account shall be
30 deposited into that account.

31 (d) The money in the account shall be expended by the
32 agency, upon appropriation by the Legislature, to make loans or
33 loan guarantees pursuant to this chapter.

34 42103. All funds remaining in the Hazardous Waste
35 Reduction Loan Account, as established pursuant to Section
36 14096 of the Corporations Code, on January 1, 2006, are hereby
37 transferred to the Chrome Plating Pollution Prevention Account
38 and appropriated therefrom to the agency for expenditure
39 pursuant to subdivision (d) of Section 42102.

1 42104. The agency, in collaboration with the board, shall
2 prepare and adopt criteria and procedures for evaluating
3 applications for low interest loans and loan guarantees awarded
4 pursuant to Section 42101.

5 42105. On or before January 1, 2007, and every
6 even-numbered year thereafter, the agency shall prepare a report
7 concerning the performance of the loan or loan guarantee
8 program established by this chapter, including the number and
9 size of loans made, characteristics of loan recipients, and the
10 amount of money spent on administering the program. Copies of
11 the report shall be submitted to the appropriate fiscal and policy
12 committees of the Legislature, and, upon request, to individual
13 Members of the Legislature.

14 42106. The agency, in collaboration with the board, may
15 adopt regulations to implement this chapter. The agency may
16 adopt emergency regulations to implement the loan program or
17 loan guarantee program, in accordance with Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code, and for the purposes of that chapter,
20 including Section 11346.1 of the Government Code, the adoption
21 of these regulations is an emergency and shall be considered by
22 the Office of Administrative Law as necessary for the immediate
23 preservation of the public peace, health, and safety, and general
24 welfare. Notwithstanding Chapter 3.5 (commencing with Section
25 11340) of Part 1 of Division 3 of Title 2 of the Government
26 Code, an emergency regulation adopted by the board pursuant to
27 this section shall be filed with, but not repealed by, the Office of
28 Administrative Law, and shall remain in effect until revised by
29 the agency.

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