

AMENDED IN ASSEMBLY JANUARY 28, 2010
AMENDED IN ASSEMBLY SEPTEMBER 12, 2009
AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

SENATE BILL

No. 450

Introduced by Senator Lowenthal
(Coauthor: Assembly Member Bonnie Lowenthal)

February 26, 2009

An act to add and repeal Section 40440.13 of the Health and Safety Code, relating to the South Coast Air Quality Management District. An act to add and repeal Section 52124.2 of the Education Code, relating to class size reduction, and declaring the urgency thereof, to take effect immediately. (PU 20090SB__019394ENR)

LEGISLATIVE COUNSEL'S DIGEST

SB 450, as amended, Lowenthal. ~~South Coast Air Quality Management District. CEQA: permits.~~ *Class size reduction: Long Beach Unified School District.*

(1) Existing law allows a school district that maintains kindergarten or grades 1 to 3, inclusive, to apply to the Superintendent of Public Instruction for an apportionment to implement a K-3 Class Size Reduction Program. The purpose of the program is to ensure that instruction is received in classrooms where there are not more than 20 pupils. The Controller is required to deduct an amount equal to the amount received by the school district for class size reduction from the district's next principal apportionment or apportionments of state funds if the district does not implement its class size reduction program for all grades and classes for which it received funding.

This bill would authorize the Superintendent to approve funding for the Long Beach Unified School District for the 2009–10, 2010–11, and 2011–12 school years for a class size reduction program if the class size exceeds 20 pupils, or the class is housed with another class, and specified criteria are met, including criteria relating to closures on Catalina Island resulting from the May 2007 fire and resultant debris flow hazard due to weather-related conditions. These provisions would become inoperative on July 1, 2012, and would be repealed on January 1, 2013.

(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts certain specified projects from its requirements.~~

~~Under existing law, every air pollution control district or air quality management district in a federal nonattainment area for any national ambient air quality standard is required to establish by regulation, a system by which all reductions in emissions of air contaminants that are to be used to offset certain future increases in the emission of air contaminants are banked prior to use. The South Coast Air Quality Management District (district) promulgated various rules establishing offset exemptions, providing Priority Reserve offset credits, and creating or tracking credits used for offset exemption or Priority Reserve projects. In *Natural Resources Defense Council v. South Coast Air Quality Management District* (Super. Ct. Los Angeles County, 2007, No. BS 110792), the superior court found the promulgation of certain of these district rules to be in violation of CEQA.~~

~~This bill would authorize the district to issue permits in compliance with specified rules promulgated by the district, notwithstanding this~~

court decision. The provisions of the bill would be repealed on May 1, 2012.

~~(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

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

1 SECTION 1. Section 52124.2 is added to the Education Code,
2 to read:

3 52124.2. (a) Notwithstanding any other provision of this
4 chapter, the Superintendent may approve funding for the Long
5 Beach Unified School District pursuant to this chapter for the
6 2009–10, 2010–11, and 2011–12 school years for classes in which
7 the K-3 Class Size Reduction Program is implemented that either
8 exceed 20 pupils or are housed with another class, if the following
9 conditions are met:

10 (1) The school district certifies that the number of pupils
11 enrolled in a district school increased as a direct result of the
12 closures on Catalina Island resulting from the May 2007 fire and
13 resultant debris flow hazard due to weather-related conditions,
14 and this growth increased the number of pupils enrolled in classes
15 in which the K-3 Class Size Reduction Program is implemented.

16 (2) The school district certifies that it lacked sufficient classroom
17 space or credentialed teachers to accommodate the enrollment
18 increase from the closures on Catalina Island resulting from the
19 May 2007 fire and resultant debris flow hazard due to
20 weather-related conditions.

21 (b) This section shall become inoperative on July 1, 2012, and
22 as of January 1, 2013, is repealed, unless a later enacted statute
23 that is enacted before January 1, 2013, deletes or extends the dates
24 on which it becomes inoperative and is repealed.

25 SEC. 2. The Legislature hereby finds and declares that due to
26 unique circumstances relating to the Long Beach Unified School
27 District, a general statute cannot be made applicable within the
28 meaning of Section 16 of Article IV of the California Constitution.

29 SEC. 3. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*

3 *In order to provide timely essential relief to the Long Beach*
4 *Unified School District which would otherwise experience a loss*
5 *of state funding as a result of mandatory fire and weather-related*
6 *school closings on Catalina Island, it is necessary that this bill*
7 *take effect immediately.*

8 ~~SECTION 1. The Legislature finds and declares all of the~~
9 ~~following:~~

10 ~~(a) As a result of the superior court decision in Natural~~
11 ~~Resources Defense Council v. South Coast Air Quality~~
12 ~~Management District (Super. Ct. Los Angeles County, 2007, No.~~
13 ~~BS 110792) holding that the South Coast Air Quality Management~~
14 ~~District (district) violated the requirements of the California~~
15 ~~Environmental Quality Act (CEQA) (Division 13 (commencing~~
16 ~~with Section 21000) of the Public Resources Code) in the~~
17 ~~promulgation of certain district rules, the district is unable to issue~~
18 ~~over a thousand pending permits that rely on the district's internal~~
19 ~~offset bank to offset emissions.~~

20 ~~(b) The district may also have to set aside several thousand~~
21 ~~permits that were previously issued in reliance on the district's~~
22 ~~internal offset bank.~~

23 ~~(c) Prompt legislative action is necessary as an interim measure;~~
24 ~~otherwise projects will be stopped from going forward or frozen~~
25 ~~in place, representing significant losses to the economy and the~~
26 ~~loss of numerous well-paying jobs.~~

27 ~~(d) Nothing in the case described in subdivision (a) requires the~~
28 ~~setting aside of any permit issued by the South Coast Air Quality~~
29 ~~Management District to any essential public service, that relied on~~
30 ~~Rule 1309.1, nor any permit that relied on Rule 1304, between~~
31 ~~September 8, 2006, and November 3, 2008.~~

32 ~~(e) It is the intent of the Legislature that the district process the~~
33 ~~permits of essential public services first when issuing permits~~
34 ~~pursuant to Section 40440.13.~~

35 ~~SEC. 2. Section 40440.13 is added to the Health and Safety~~
36 ~~Code, to read:~~

37 ~~40440.13. (a) Notwithstanding the decision of the court in~~
38 ~~Natural Resources Defense Council v. South Coast Air Quality~~
39 ~~Management District (Super. Ct. Los Angeles County, 2007, No.~~
40 ~~BS 110792), the south coast district may issue permits in reliance~~

1 on, and in compliance with, south coast district Rule 1304, as
2 amended on June 14, 1996, and Rule 1309.1, as amended May 3,
3 2002.

4 (b) Nothing in this section affects the decision in the case
5 described in subdivision (a) concerning the adoption, readoption,
6 or amendment, or environmental review, of south coast district
7 Rule 1315.

8 (c) In implementing subdivision (a), the south coast district shall
9 rely on the emission reduction credit tracking system used prior
10 to the adoption of Rule 1315, until a new tracking system is
11 approved by the United States Environmental Protection Agency
12 and is in effect, at which point that new system shall be used by
13 the south coast district in implementing subdivision (a). The south
14 coast district shall make information concerning the credits, and
15 the tracking of these credits, available to the public.

16 (d) This section shall remain in effect only until May 1, 2012,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before May 1, 2012, deletes or extends that date.

19 SEC. 3. The Legislature finds and declares that a special law
20 is necessary and that a general law cannot be made applicable
21 within the meaning of Section 16 of Article IV of the California
22 Constitution because of unique circumstances concerning the South
23 Coast Air Quality Management District.