

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 27, 2010
POSITION: Oppose

BILL NUMBER: SB 1402
AUTHOR: R. Dutton

BILL SUMMARY: State Air Resources Board: Administrative and Civil

Existing law subjects violators of air pollution laws to specified civil and administrative penalties and imposes various duties on the Air Resources Board (Air Board) related to the reduction of air pollution.

This urgency bill would require any communication from the Air Board stating that an administrative or civil penalty for a violation of air pollution law could be or will be imposed either by Air Board or another party to contain specified information. The bill would require this information and final mutual settlement agreements reached between the Air Board and a party related to the violation to be made publicly available. Finally, the bill would require the Air Board to submit to the Legislature a report summarizing the motor vehicle and fuels administrative penalties imposed by the Air Board for calendar year 2011, and annually thereafter, and would require the state board to publish a penalty policy, not later than March 1, 2011, for motor vehicle and fuels requirements based on specified criteria.

FISCAL SUMMARY

The Air Board estimates a cost of \$510,000 Air Pollution Control Fund (APCF) annually and three positions to implement the bill's provisions. The bill would require additional laboratory testing and quantification of illegal emissions exceeding state limits for approximately 2,000 penalty cases per year (the Air Board's current enforcement effort level). These positions also would ensure that communications related to these cases include specifically detailed information related to the manner in which each penalty amount was determined, appropriateness of penalty provision applied, and aggravating and mitigating factors considered. Finally, the positions would prepare and provide the penalty policy and annual reports and ensure that the required information is publicly available. The bill does not contain an appropriation.

COMMENTS

The intent of the bill appears to be to add transparency to the Air Board's process of assessing penalties on parties in violation of air quality laws and regulations. While supporting the bill's apparent intent, the Department of Finance opposes this bill for the following reasons:

- The bill is unnecessary. The Air Board has been and continues to work with stakeholders on its enforcement policy in response to comments regarding transparency and consistency in its enforcement program. Specifically, the Air Board is working with stakeholders to achieve higher levels of compliance, expedite settlements, prioritize actions, eliminate economic advantage from violations, ensure consistent enforcement results and increase access to the Air Board's administrative hearing process.
The bill would impose significant costs upon the Air Board, for which no appropriation or other funding mechanism is provided. The APCF's ongoing funding is fully subscribed in support of existing programs, and the use of one-time penalty revenue in the fund to support ongoing enforcement efforts does not represent prudent fiscal policy.

Continued

Analyst/Principal Date Program Budget Manager Date
(0623) K. DaRosa Karen Finn

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
3900/Air Res Bd	SO	No		--	C	\$510	C	\$510	0115
<u>Fund Code</u>	<u>Title</u>								
0115	Air Pollution Control Fund								