



January 24, 2020

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative related to funding for state and local air quality regulatory agencies (A.G. File 19-0032).

Background

Federal Air Quality Standards. The federal Clean Air Act (CAA) requires states to meet specified air quality standards for six pollutants, including ozone, that are considered harmful to public health and the environment. Under the CAA, the U.S. Environmental Protection Agency (EPA) revises the standards every five years and designates areas that do not meet the standards. Areas that do not meet the standards are considered “nonattainment” areas, which range from marginal to extreme nonattainment.

California Air Resources Board (CARB). The CAA requires that each state has a plan—called a State Implementation Plan (SIP)—to demonstrate how air quality standards will be achieved, maintained, and enforced. CARB is the state entity responsible for developing this plan in California. CARB works with each local air district to develop an air quality management plan that is incorporated into the SIP, including for nonattainment areas. Under federal law, if a state does not submit a SIP to EPA, nonattainment areas within that state become ineligible for federal highway funds.

In addition, CARB generally is responsible for the regulation of mobile sources of emissions—such as cars and trucks. CARB also operates various financial incentive programs to encourage emission reductions and administers other programs, such as cap-and-trade.

CARB administers various fees and other charges to support its activities, as well other state and local programs. In 2019-20, CARB is budgeted at \$1.4 billion, which comes from revenues generated by various taxes and fees.

Local Air Quality Districts. There are 35 air districts in California. In addition to working with CARB to produce air quality management plans as part of the SIP, air districts are responsible for implementing the plans within their jurisdictions. Air districts regulate stationary

sources of emissions—such as factories and refineries—and operate incentive programs to encourage emission reductions in their jurisdictions. Two air districts in California are designated extreme nonattainment of the 1997 federal air quality standards for ozone—the San Joaquin Valley Air Pollution Control District (SJVAPCD) and South Coast Air Quality Management District (SCAQMD). In 2019-20, SJVAPCD has an operating budget of \$60 million, and SCAQMD has an operating budget of \$171 million.

Proposal

The measure requires that the following provisions be implemented if SJVAPCD and SCAQMD are not in attainment of the federal air quality standards for ozone by July 1, 2023:

- ***Reallocate All CARB Funds to Local Air Districts.*** The funds would be allocated to local air districts on a per capita basis to be used for air quality improvement programs. The measure prohibits the Governor and Legislature from providing CARB any additional funds. The reallocation of funds to local air districts would be in effect until attainment of the federal air quality standards for ozone is reached in the two air districts.
- ***Maintain CARB's Regulatory Powers.*** Though CARB would not have any funding, the measure states that the board would retain its regulatory powers.
- ***Require New Board Members to Be Appointed.*** The terms of all existing CARB board members would be terminated and replaced by individuals appointed by local air districts. (Currently, the Governor appoints the board members.)

Fiscal Effects

The provisions of this measure would have various fiscal effects for state and local governments. The magnitude of these effects is subject to uncertainty and would depend on various factors, including actual ozone levels in SJVAPCD and SCAQMD in 2023 and subsequent years; how the measure is implemented by the state and local air districts; and responses by the federal government, courts, and private industry.

Reduced State Funding for Air Quality Activities. Under the measure, if SJVAPCD and SCAQMD are not in attainment with 1997 federal air quality standards for ozone, CARB would lose all of its funding—currently about \$1.4 billion—for an unknown period of time. Consequently, CARB could not employ staff to operate its programs or fulfill its regulatory responsibilities. Without administrative and enforcement staff, CARB programs are less likely to generate as much revenue as they do currently from fees and other charges, which would result in a decline in revenues for programs operated by other state departments. For example, without staff to administer the state's cap-and-trade program, it is unclear how much revenue would be generated. To the extent that this program's revenue—currently about \$3 billion annually—declined, there would be less funding for the various state programs funded by cap-and-trade proceeds, such as transit and forest health projects. It is unclear the extent to which the state could authorize a different state department to perform the program administration work currently done by CARB given the measure's requirement that CARB retain its regulatory powers. Moreover, if another department could be given these responsibilities, the state would

need to identify new funding sources to support these activities, resulting in additional state costs.

Potential Loss of Federal Transportation Funds. If CARB does not have the staff or funding to develop California's SIP, the state would be out of compliance with the federal air quality reporting requirements. As a consequence, all nonattainment areas in California would be ineligible to receive federal highway funds, potentially totaling billions of dollars annually. Such loss of federal funds would affect both state and local transportation projects.

Local Fiscal Effects. Under the measure, the 35 local air districts would receive increased funds for air quality improvements that had previously been budgeted for CARB. However, the amount of additional funds local air districts would receive is uncertain, given that it is unclear how much revenue would be generated from programs currently administered by CARB, such as the cap-and-trade program.

Summary of Fiscal Effects. We estimate that this measure could have the following major fiscal effects on state and local governments:

- If certain air quality standards are not met, eliminates all state funding for CARB—\$1.4 billion currently—for an unknown period of time; shifts some or all of this funding to local air districts.
- Potential loss of billions of federal dollars annually for state and local transportation projects for an unknown period of time.

Sincerely,

Gabriel Petek
Legislative Analyst

Keely Martin Bosler
Director of Finance