

Date of Hearing: April 17, 2017

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 1317 (Gray) – As Amended April 17, 2017

**SUBJECT:** Carl Moyer Memorial Air Quality Standards Attainment Program

**SUMMARY:** Adds stationary irrigation or water conveyance engines (well pumps) to the list of equipment that is eligible for Carl Moyer Memorial Air Quality Attainment Program (Moyer Program) incentive funding.

**EXISTING LAW:**

- 1) Establishes the Moyer Program pursuant to AB 1571 (Villaraigosa), Chapter 923, Statutes of 1999, administered by the California Air Resources Board (ARB) and local air districts, to fund the incremental cost of cleaner-than-required vehicles, engines, and equipment with the primary objective being to achieve air quality improvements that would not otherwise occur through regulations or other legal mandates. The Moyer Program is funded by vehicle registration surcharges adopted by local air districts in non-attainment areas.
- 2) Expands the Moyer Program pursuant to AB 923 (Firebaugh), Chapter 707, Statutes of 2004, to cover additional pollutants and engines and by imposing a \$1 fee on tire sales.
- 3) Extends the date for each of the various fees and surcharges that support the Moyer Program until January 1, 2024, pursuant to AB 8 (Perea), Chapter 401, Statutes of 2013.
- 4) Authorizes a local air district in non-attainment areas to levy a fee of up to \$2 on motor vehicles registered within the air district.
- 5) Authorizes a local air district in non-attainment areas to increase the fee to a maximum of \$6 on motor vehicles, under specified conditions.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The Moyer Program was created in 1998 to help fleet owners replace, repower, or retrofit engines, vehicles, and equipment to achieve air quality improvements that would not otherwise occur through regulations or other mandates. The Moyer Program is funded by vehicle registration surcharges adopted by local air districts in non-attainment areas. Eligible applicants include individuals, companies, or public agencies that own one or more covered sources that operate primarily within California.

The Moyer Program is implemented through a partnership between ARB and local air districts. ARB manages program funds, develops program guidelines and protocols, and establishes criteria for vehicle and equipment projects. Air districts solicit, evaluate, select, fund, and monitor specific eligible projects in their areas. Large air districts must ensure that at least one-half of funds are spent on projects to reduce pollution and toxic exposure in environmental justice communities.

According to the author, many farmers in the Central Valley successfully compete for Moyer Program grants to replace diesel-powered well pumps on their properties and that the equipment is specifically covered by the Moyer Program because it serves an agricultural purpose. The author points out, however, that landowners whose properties are located on lands held under state or federal conservation easements and that use identical equipment to convey water for non-agricultural purpose are unable to compete for Moyer Program grant funding. The author believes that because the equipment is similar in nature, it is unfair to exclude landowners from competing for Moyer Program grant funds simply because they have chosen to place their properties under a conservation easement.

To address this issue, the author introduced this bill to add "stationary irrigation or water conveyance engines" to the list of sources that are covered under the Moyer Program. By making this change, landowners in the author's district, who are currently unable to compete for program funding to replace their diesel well pumps, would be able to submit an application and be considered to receive grant monies to replace this equipment.

*Committee comments:* By making stationary irrigation or water conveyance well pump engines eligible for Moyer Program this bill has the potential to offer immediate relief to certain landowners in the Central Valley who have been unable to replace high-polluting, well pump equipment which will help address significant air quality problems in that area.

*Committee concern:* It is important to note that this bill does not take into account longstanding concerns with respect the use of Carl Moyer funds. For example, regulatory fees established prior to 2010 (due to Proposition 26) are subject to the Sinclair Paint nexus test, which helps determine whether a levy is a fee or a tax. This test requires that there be a clear nexus between the use of a mitigation fee and the adverse effects related to the activity on which the fee is levied. While the Moyer Program authorizes air districts to charge a motor vehicle fee, which in turn funds the program, there are concerns that these fees, particularly for the stationary equipment at issue in this bill, do not meet the Sinclair Paint test nexus, because the monies are going for non-motor vehicle projects. While this bill does not create a Sinclair Paint test nexus issue, it could be viewed as exacerbating one.

*Related legislation:* AB 1274 (O'Donnell) would expand smog abatement fees and require that they be used to fund the Carl Moyer Program. AB 1274 is awaiting a hearing in this committee.

*Previous legislation:* AB 8 (Perea), Chapter 401, Statutes of 2013, extended programs that accelerate the turnover of older vehicles and equipment and invest in the development and deployment of advanced technologies necessary to achieve the California's air quality, climate, and energy goals until January 1, 2024.

SB 513 (Beall), Chapter 610, Statutes of 2013, updated the Moyer Program as well as local incentive programs.

AB 1507 (Lieu), Chapter 571, Statutes of 2010, required ARB, by July 1, 2011, to revise project guidelines for a project that reduces GHG emissions to allow funds from specified programs and funding sources to be used for a project also funded under the Moyer Program or the Goods Movement Emission Reduction Program without those additional public funds being factored into the criteria emission reduction cost-effectiveness calculations under either of those programs.

AB 923 (Firebaugh), Chapter 707, Statutes of 2004, expanded the Moyer Program to include agricultural sources of air pollution as well as cars and light-duty trucks and to include hydrocarbon and particulate matter pollution. AB 923 also provided additional funding for the Moyer Program from an adjustment to the tire fee, and authorized local air districts to increase motor vehicle registration fees by up to \$2 for programs to reduce air pollution.

AB 1571 (Villaraigosa), Chapter 923, Statutes of 1999, established the Moyer Program through which ARB provides grants to offset the incremental costs of purchasing or retrofitting engines in order to reduce specified emissions.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Grassland Water District (Sponsor)  
Audubon California  
California Association of Resource Conservation Districts  
California Waterfowl Association  
Coalition for Clean Air  
Defenders of Wildlife  
Natural Resources Defense Council

**Opposition**

None received

**Analysis Prepared by:** Victoria Alvarez / TRANS. /