Date of Hearing: April 11, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 1851 (Gray) – As Amended April 4, 2016

SUBJECT: Vehicular air pollution: reduction incentives

SUMMARY: Creates and expands a broad array of incentive programs to increase the sales and use of certain clean air vehicles. Specifically, **this bill**:

1) Makes findings regarding California's climate change goals and declares the intent of the Legislature to provide more realistic incentives to move customer demand for zero-emission-vehicles (ZEV) to meet the state's greenhouse gas (GHG) emission reduction goals.

2) Requires California Air Resources Board (ARB), beginning on January 1, 2017, to limit Clean Vehicle Rebate Program (CVRP) rebates to vehicles with an manufacturer's suggested retail price (MSRP) of $60,000.

3) Requires the ARB, beginning January 1, 2017, to provide CVRP rebates in the following amounts:

   a) 10% of the MSRP for qualified plug-in hybrid electric vehicles;

   b) 15% of the MSRP for qualified plug-in battery-electric vehicles; and,

   c) 25% of the MSRP for qualified fuel cell vehicles;

4) Requires ARB, beginning January 1, 2017, to increase CVRP rebates to provide the following incentive amounts for residents of a disadvantaged community:

   a) 40% of the MSRP for qualified plug-in hybrid electric vehicles;

   b) 45% of the MSRP for qualified plug-in battery-electric vehicles; and,

   c) 55% of the MSRP for qualified fuel cell vehicles.

5) Requires ARB to implement a process to allow eligible CVRP applicants to obtain prompt pre-approval prior to purchasing or leasing a qualifying vehicle and to implement a process that allows new motor vehicle dealers to be refunded any CVRP incentive amount applied to the applicant's conditional sales contract or other vehicle purchase or lease agreement in no fewer than seven days.

6) Authorizes a new car dealer to apply the CVRP incentive amount to the applicant's conditional sales contract or other vehicle purchase or lease agreement as a down payment or amount due at lease sign or delivery.

7) Requires ARB to suspend the CVRP pre-approval process if there are insufficient funds available to award CVRP incentives to provide dealers and consumers with no less than 30-days advanced notice if the pre-approval process is suspended.

8) Requires ARB to adopt regulations implementing the enhanced CVRP rebates and related provisions.

9) Requires that GGRF monies, be available upon appropriation by the Legislature, for the enhanced CVRP rebates.

10) Requires ARB to issue rebates to a property owner or lessee for the purchase and installation of up to two electric vehicle (EV) charging stations on residential properties for residents of disadvantaged communities and up to 10 EV charging stations on commercial or multifamily properties, with rebates provided as follows:

    a) $2,000 for the first year of installation;

    b) $1,500 following the first year of installation; and,

    c) $1,000 following the second year of installation.

11) Requires, to qualify for the EV charging station rebate, that the EV charging station be in service during the calendar year in which the rebate is claimed.

12) Requires that the property owner or lessee who receives rebates for the installation of an EV charging system maintain the charging station for a minimum of 60 months.

13) Requires ARB to verify that EV charging systems that are installed using the rebates remain operative for a minimum of five years. Failure to meet this requirement would result in the rebate amount being reclaimed by ARB.

14) Requires that the rebate recipient not claim a rebate for the installation of an EV charging station if an existing EV charging station has been removed from the property in the previous 12 months.

15) Provides that ARB shall limit eligible EV charging station rebates to Level 2 stations (220 volt chargers) and rapid charging ports.

16) Requires ARB to issue regulations with regard to EV charging station rebates.

17) Requires that GGRF monies be available, upon appropriation by the Legislature, for allocation for EV charging system incentives.

18) Requires, for the purposes of calculating sales and use tax (SUT) that the value of a trade-in vehicle be deducted from the sales price of a qualifying clean air vehicle and that GGRF funds be used, upon appropriation by the Legislature, to reimburse counties and cities for any revenue losses that may result.

19) Removes the cap on the green high-occupancy vehicle (HOV) lane stickers thereby allowing an unlimited number of qualifying vehicles (plug-in electric hybrid vehicles) access to HOVs with single occupants.

20) Makes related, clarifying amendments.

21) Defines a variety of terms.

EXISTING LAW:

1) Requires ARB, pursuant to AB 32 (Núñez), Chapter 488, Statutes of 2006, to develop a plan to reduce GHG emissions to 1990 levels by 2020. Under AB 32, ARB is authorized to include the use of market-based mechanisms to comply with these regulations (cap and trade).

2) Established the GGRF in the State Treasury and requires all funds collected pursuant to cap and trade, with certain limited exceptions, be deposited into the fund for appropriation by the Legislature.

3) Created the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP), pursuant to AB 118 (Núñez), Chapter 750, Statutes of 2007, and extended by AB 8 (Perea), Chapter 401, Statutes of 2013, which requires the California Energy Commission (Commission) to fund projects that develop and deploy technologies and alternative and renewable fuels in the marketplace to help meet the state's climate change goal including, but not necessarily limited to, expanding alternative fueling infrastructure such as EV charging systems.

4) Created the Air Quality Improvement Program (AQIP), administered by ARB and the Commission, in consultation with local air districts, to fund specified air quality improvement projects which includes the CVRP, administered by ARB, to promote the production and use of ZEVs.

5) Requires, pursuant to SB 535 (de León), Chapter 830, Statutes of 2013, that a minimum of 25% of the available monies in the GGRF go to projects that provide benefits to identified disadvantaged communities and that a minimum of 10% of the available monies in the fund go to projects located within identified disadvantaged communities.

6) Established the Charge Ahead California Initiative pursuant to SB 1275 (de León), Chapter 530, Statutes of 2014, that, among other things, included the goal of placing into service at least one million ZEVs and near-zero emission vehicles by January 1, 2023, and increasing access for disadvantaged, low-income, and moderate-income communities and consumers to ZEVs and near-zero-emission vehicles.

7) Authorizes a local jurisdiction to impose SUT on the sale of, storage, use, or other consumption of tangible personal property unless specifically exempted.

8) Established, pursuant to Executive Order B-16-2012, the goal of placing 1.5 million ZEVs on California's roadways by 2025.

9) Adopted, pursuant to ARB's Advanced Clean Cars Program, a variety of strategies to convert the passenger fleet to zero- and near-zero emission vehicles by advancing vehicle emission standards for vehicles which included the requirement that by 2025, ZEV sales would represent 15% of sales in 2025.

10) Allows certain qualifying ZEVs to utilize HOV lanes regardless of occupancy level to incentivize the purchase and use of these clean vehicles.

FISCAL EFFECT: Unknown

COMMENTS: With the passage of AB 32, California committed to reducing GHG emissions. Given that the transportation sector contributes nearly 40% of emissions, it makes sense why so many emissions reduction programs target the transportation sector. While AB 1851 focuses solely on the light-duty (or passenger) fleet, it is important to recognize that the light-duty vehicle sector is only one component of a much larger transportation system that includes ports, trucking, maritime, and rail industries, each of which is a significant contributor of criteria pollutants and GHG emissions. It is also important to recognize that the freight sector (which includes heavy-duty trucks, ports, highway infrastructure, and rail) has some of the greatest adverse effects on disadvantaged communities because these communities tend to border freight corridors and associated facilities such as warehouses and freight hubs.

This bill focuses on much-needed state efforts to convert the existing light-duty or passenger fleet from predominant use of higher polluting, internal combustion engine (ICE) vehicles to cleaner cars such as zero- and near-zero-emission vehicles. The author points out that recent goals and mandates related to converting the passenger fleet, set forth by the Legislature, the Governor, and ARB, have put increasing pressure on the auto industry to produce and sell these vehicles. Specifically, the author points to ARB's Advanced Clean Cars Program, which requires manufacturers to sell certain percentages of ZEVs. The author contends that while these goals are intended to create pressure and increase adoption of ZEVs, that the mechanisms currently available to dealers to get buyers to consider these vehicles are not working. He specifically points to the current suite of incentives such as CVRP and HOV access as not providing enough incentives for consumers to take action. He notes that market forces outside of a car dealer's control, such as low gas prices, also has an impact on whether or not buyers opt to purchase or lease ZEVs. To illustrate this point, he points to sales data that show in 2015 ZEVs represented 3.1% of new cars sold in California, far from the 25% goal set by the ZEV Mandate for sales in 2025.

The author introduced this bill to provide significant financial incentives to purchase certain clean air vehicles. The author points out that this method has been successfully implemented in Norway where incentives were set at nearly 50% of a qualifying vehicles' price. He notes that these programs have substantially increased sales and improved market penetration. It should also be noted, however, that along with substantial incentives, countries like Norway have also created substantial "disincentives" for purchasing conventional vehicles including increased taxes on these vehicles. This, along with the relatively high cost of fuel and shorter driving distances create circumstances that are substantially different from those in California.

The contention that substantially increasing rebates will automatically spur consumer purchases is likely correct given that rebates would be increased by several orders of magnitude over the current program. For example, individuals purchasing a Chevy Volt currently receive a $1,500 rebate. Under this bill, the consumer would receive a $3,300 or $13,000 for disadvantaged community residents. For battery electric vehicles (such as a Nissan LEAF) for which current rebates are set at $2,500, this bill would provide rebates of $4,350 or $13,050 for disadvantaged community residents. For fuel cell vehicles, where rebates are currently set $5,000, increased rebates pursuant to AB 1851 would be $14,375 or $31,625 for disadvantaged community residents). The important question is whether or not these purchasing habits will be sustained after the program ends. In the state of Georgia, when successful incentive programs were eliminated, electric car sales in the state plummeted by 90%, leaving it open to question whether

incentives actually create a lasting effect on buyer behavior or if the incentives only temporarily affect buyer choice insomuch as decision making is influenced solely by the rebate. Overall, the California New Car Dealers Association (CNCDA) estimates that annual expenditures for this program would be in the vicinity of $750 million to $2 billion annually

Vehicle charging incentives: There is little question that EV owners need to have the confidence that they will be able to locate and use EV charging stations so that they can confidently operate their vehicles. Without this assurance, many will simply choose not to purchase EVs. To address these concerns, the author included provisions in this bill that would provide additional incentives for the installation of EV charging stations in single family homes, multi-unit dwellings, and commercial buildings. Specifically, this bill would authorize up to $4,500 in incentive funding, paid over a period of several years, for individuals in disadvantaged communities who wish to install up to two (Level 2 or fast) charging systems. For commercial developments and multi-unit dwelling, individuals would be authorized to receive a $4,500 rebate (per charging system) for the installation of up to ten (Level 2 or fast) EV charging systems. The funding for these rebates would come from the GGRF, upon appropriation by the Legislature. To ensure that the systems are installed and utilized as intended, this bill would require that ARB ensure that the EV charging systems are installed maintained for at least 5 years and, if they are not, ARB would be required to seek reimbursement of the incentive amount from the incentive program recipient.

While the availability of EV charging systems can be an impediment to EV adoption, it is unclear whether incentive programs for the installation of home, commercial, and multi-unit dwelling charging systems are needed. For example, studies show that most EV owners use a standard, 110 outlet to charge their vehicles at home overnight. Given that the program only qualifies individuals for Level 2 or fast charging systems, many may not feel compelled to utilize the incentive funding.

Multi-unit dwellings and commercial buildings present a unique set of challenging circumstances with respect to EV charging system installation. For example, retrofitting a building to accommodate increased loads on the electrical system as can be very costly. Additionally, unless these systems include a payment collection system, many landlords or commercial property owners may pass on installing EV charging systems to avoid these increased costs.

Manufacturer's suggested retail price cap: In an effort to limit rebate amounts, the author has included an MSRP "cap" of $60,000 which would effectively limit buyers who wish to use incentives to vehicles with an MSRP of $60,000 or less. On one hand, it is wise to institute a cap as a mechanism to limit annual program expenditures; however, instituting an MSRP cap would exclude a number of vehicles that would otherwise qualifying (namely Tesla and some Cadillac models). With substantial incentive amounts at stake, it is likely that buyers would steer away from purchases of these higher-priced vehicles. While it could be argued that this could further encourage auto manufactures to lower their price point, it could also be argued that this could harm California-based companies and the dealers that sell these high-priced vehicles.

It is important to note that a similar MSRP cap was suggested by ARB in 2014 as part of proposed CVRP program revisions to address growing concerns incentives were mostly being used by the affluent to purchase expensive vehicles. After receiving numerous complaints about the potential adverse impacts of the cap on the CVRP program and California's economy, as well as concerns as about how the proposal could stifle competition and innovation, ARB ultimately

opted not to implement the MSRP cap in the CVRP. While this same argument could be made for the MSRP cap in AB 1851, because incentive amounts are based on a qualifying vehicle's MSRP, eliminating the MSRP cap in this bill would serve to further increase incentive amounts for vehicles and undoubtedly place an increased burden on the GGRF.

Sales tax exemption: The author proposes to increase incentives for the purchase of certain ZEVs by providing that, for the purposes of calculating SUT, that the value of a trade-in vehicle be deducted from the sales price of a qualifying ZEV. This bill addresses potential loss of revenue to local jurisdictions by requiring that they be reimbursed using GGRF revenues. While it is true that ZEVs are comparatively more costly than traditional vehicles, resulting in an increased tax burden on the consumer, these vehicles also provide substantial cost savings to buyers in terms of lower maintenance costs and reduced fueling costs. It is likely these savings, especially over time, would far outweigh the amount that would be offset by the SUT exemption. Additionally, while lowering the tax burden on the buyer would provide a benefit, the pass-through costs to the GGRF could prove substantial.

HOV sticker program incentives: Under current law, green HOV access stickers are available for 85,000 plug-in hybrid electric vehicles that meet certain requirements. To date, the 85,000 has been met meaning that no new green stickers can be issued. The white sticker program, which provides HOV access to battery-electric and fuel cell vehicles, does not have a cap on the number of stickers that can be issued. The green stickers, as well as the white stickers, provide plug-in electric hybrid vehicles with access to HOV lanes and freeway ramps, regardless of occupancy level, until 2019.

To further incentivize the purchase of ZEVs the author has included a provision that would lift the cap on green HOV sticker program, thereby providing that an unlimited number of vehicles that qualify for the green sticker program can access HOV lanes. While it is true that HOV access provides a low-overhead and popular method by which to incentivize the purchase of HOVs, providing an unlimited number of qualifying vehicles access to HOV lanes could result in increased HOV lane congestion thereby decreasing their utility for ZEV owners and carpoolers alike. It is also important to point out that this bill conflicts with AB 1964 (Bloom), that recently passed out of this committee in that AB 1964 provides plug-in hybrid electric vehicles access to HOV lanes for only a three year period upon execution of the existing program in 2019.

Writing in support, CNCDA writes that in 2015, California's new car dealers sold more than two million new vehicles but of this number, only 3.1% were ZEV and plug-in hybrid vehicles. CNCDA states unequivocally that drastic measures need to be taken immediately to improve ZEV adoption rates if the states goals and mandates are to be achieved. CDNA notes that while existing incentive programs have been successful, they clearly are not creating enough of an incentive to get buyers to purchase these cars. CNCDA feels strongly that substantially increased subsidies, such as those provided in countries like Norway, are needed to get buyers' attention.

Committee concerns: If the state wishes to meet its clean air and climate goals, it must definitely help complete the transformation of the passenger fleet from traditional petroleum fuel vehicles to zero- and near-zero-emission vehicles. Yet despite spending millions of dollars, lagging sales of ZEVs leaves one wondering if the efforts have been for not or if additional effort, and expense, should be imparted. This is a complex question with even more complex answers and it

is unclear if incentives alone, no matter how much money is spent, will encourage buyers to adopt ZEVs, particularly when gas prices are low and the cost of conventional vehicles is competitive or lower than ZEVs.

Therefore, this bill stands on the premise that increasing incentives (to up to half the value of a vehicle) is what is needed to convert the fleet, but given the cost of nearly $2 billion annually, it is important to evaluate whether or not other projects, in the transportation sector or otherwise, would achieve more gains with similar, or fewer, expenditures of increasingly popular GGRF revenues.

This bill along with AB 1710 (Calderon) would make changes to the CVRP and other programs to provide additional incentive funding to encourage ZEV adoption. While this bill is more prescriptive in that it outlines specific program parameters, AB 1710 aims to achieve similar outcomes by directing ARB to develop a the program based specified parameters. In addition, this bill, along with many others would, draw heavily on GGRF revenues, much of which is already subject to continuous appropriation by the Legislature.

Suggested amendments: This bill does not currently provide an "exit strategy" whereby incentive funding could be discontinued should the program prove too costly or be unsuccessful, nor is it clear whether this program would supplant existing CVRP rebates or add to them. Further, as written, AB 1851 would provide substantially higher rebates for persons who live in a disadvantaged community, without regard to the individual's income and could potentially incentivize manufactures to keep vehicle prices high.

To address these concerns, the author has agreed to take amendments in the Assembly Transportation Committee that would:

1) Limit incentives to the first $60,000 of a vehicle's MSRP or the final sales price of the vehicle, whichever is lower;

2) Include a provision to sunset the program on January 1, 2026;

3) Include a provision clarifying that only low- and moderate-income individuals in disadvantaged communities would qualify for the enhanced rebates; and,

4) Clarifies that the incentives provided in this bill would replace, not be added to, existing incentives provided pursuant to CVRP.

Double referral: This bill will be referred to the Assembly Natural Resources Committee should it pass out of this committee.

Related legislation: AB 1964 (Bloom), creates a new program (upon expiration of the existing program) to allow plug-in hybrid electric vehicles access to HOV lanes for a three-year period, regardless of vehicle occupancy level. AB 1964 passed out of this committee on April 4, 2016, with a 14 to 2 vote and is currently awaiting a hearing in the Assembly Appropriations Committee.

AB 1710 (Calderon), requires ARB, in coordination with the Commission, on or before January 1, 2019, to develop and implement a comprehensive program to promote advanced-technology

light-duty vehicle deployment in the state to drastically increase the use of ZEVs to meet the state's emissions reduction goals. AB 1710 is scheduled to be heard by this committee on April 11, 2016.

AB 1965 (Cooper), requires ARB to expand the Enhanced Fleet Modernization Plus Up Program in disadvantaged communities and in areas with poor air quality to increase retirement of high polluting vehicles and replace them with cleaner cars. AB 1965 is scheduled to be heard by this committee on April 11, 2016.

Previous legislation: SB 1275 (de León), Chapter 530, Statutes of 2014, established the Charge Ahead California Initiative that, among other things, set the goal of placing one million zero- and near-zero-emission vehicles into service on California's roadways by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-, and moderate-income communities and consumers.

AB 8 (Perea), Chapter 401, Statutes of 2013, extended until January 1, 2024, extra fees on vehicle registrations, boat registrations, and tire sales in order to fund the programs that support the production, distribution, and sale of alternative fuels and vehicle technologies, as well as air emissions reduction efforts.

SB 535 (de León), Chapter 830, Statutes of 2013, required that a minimum of 25% of the available moneys in the GGRF go to projects that provide benefits to identified disadvantaged communities and that a minimum of 10% of the available moneys in the fund to projects located within identified disadvantaged communities.

AB 945 (Ting) of 2015, would have provided a partial SUT exemption for the purchase and use of a qualified vehicle. AB 945 was held on the Assembly Appropriations Committee suspense file.

AB 1077 (Ting and Muratsuchi), of the 2013-14 Legislative Session, provided a partial SUT exemption for QMV, as specified, and reduced the amount of vehicle license fee imposed on an owner of a QMV. AB 1077 was held on the Assembly Appropriation Committee suspense file.

AB 118 (Núñez), Chapter 750, Statutes of 2007, created the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 that required the Commission to implement the ARFVTP and provide funding measures to specified entities to develop and deploy technologies and alternative and renewable fuels in the marketplace to help attain the state’s climate change policies.

AB 32 (Núñez), Chapter 488, Statutes of 2006, required the ARB to develop a plan of how to reduce emissions to 1990 levels by the year 2020 and also required ARB to ensure that, to the extent feasible, GHGs reduction requirement and programs direct public and private investment toward the most disadvantaged communities.

AB 1007 (Pavley), Chapter 371, Statutes of 2005, required ARB and the Commission to develop a plan to increase alternative fuels use in California.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance of Automobile Manufacturers
California New Car Dealers Association

Opposition

California Taxpayers Association

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