
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

Bill No: AB 2721
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Consultant: Peterson

Hearing Date: 6/29/22
Tax Levy: No
Fiscal: No

BAY AREA AIR QUALITY MANAGEMENT DISTRICT: DISTRICT BOARD: COMPENSATION

Adds active transportation to Bay Area Air Quality Management District Board compensation and increases the compensation board members receive for each meeting day.

Background

California Air Resources Board. California's efforts to protect the public from the harmful effects of air pollution and help prepare the state for the effects of climate change involves federal, state, and local governments. The California Air Resources Board (CARB) works with the federal Environmental Protection Agency (EPA) and spearheads the state's non-vehicular air pollution efforts through 35 air pollution control districts and air quality management districts (air districts). CARB comprises 16 members, including 12 members the Governor appoints and the Senate confirms. Five of these members serve on local air districts, four are experts in fields that shape air quality rules, two are members of the public, and one serves as the CARB chair. The remaining four members include two members who represent environmental justice communities (one each appointed by the Senate and the Assembly) and two non-voting members for Legislative oversight (also one each appointed by the Senate and the Assembly). AB 197 (Eduardo Garcia, 2016) established staggered six-year terms for CARB's voting members.

Local air districts. CARB oversees the state's 35 air districts, who adopt and enforce rules and regulations to achieve and maintain state and federal air quality standards affected by businesses and facilities, ranging from oil refineries to auto body shops to dry cleaners. State law spells out the membership of these local air districts' governing boards, but there are many variations. Some are county-specific, while others are regional entities with representation from more than one county, and some have their own specific governing statutes. While governance structures vary, each district appoints an air pollution control officer, whose responsibilities include enforcing all orders, regulations, and rules the district board prescribes.

Air districts generally receive funding from grants, subventions, permit fees, penalties, and/or a surcharge or fee on motor vehicles registered in the district. If these funding sources do not provide the district with sufficient revenues to meet its expenses, an air district can levy an annual per capita assessment on those cities that have agreed to have a member on the district board and on the county or counties included within the district. Any annual per capita assessment imposed on the cities and/or counties included in a district must be imposed on an equitable per capita basis.

Bay Area Air Quality Management District (BAAQMD). BAAQMD is the air district that regulates air emissions in the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara and portions of the Counties of Solano and Sonoma. A 24-member board governs the district. The number of members representing each county depends on each county's population:

- Counties with a population of 300,000 or less appoint one member of the bay district board;
- Counties with a population of 750,000 or less, but more than 300,000, appoint two members of the bay district board;
- Counties with a population of 1,000,000 or less, but more than 750,000, appoint three members of the bay district board; and
- Counties with a population of more than 1,000,000 appoint four members of the bay district board.

Boards of supervisors or the city selection committee appoint members depending on the number of members the county appoints. A board of supervisors can appoint a member of their board or someone from a list the city selection committee creates. The city selection committee can either appoint a mayor or a city councilmember of a city in that portion of the district. Members appointed by the board of supervisors serve four-year terms. Members the city selection committee appoints serve two-year terms.

BAAQMD reimburses board members for actual and necessary expenses incurred in the performance of board duties, such as various types of transportation, including taxis, shuttles, buses, public transportation, and personal vehicle usage. In addition, BAAQMD can compensate board members up to \$100 per day for attending meetings of the board, board committees, or while on official district business, not to exceed \$6,000 per year. BAAQMD enacted an ordinance to implement this policy.

BAAQMD wants to compensate board members that use active transportation, like walking and biking, instead of traditional forms of transportation. In addition, it wants to increase the per diem meeting rate, which state law has capped at \$100 per day since 1986.

Proposed Law

Assembly Bill 2721 adds active transportation travel to a meeting to the types of compensation that Bay Area Air Quality Management District board members can receive.

The bill changes from \$100 per diem compensation for each meeting day to \$100 per meeting not to exceed \$200 per day. The bill retains the districts \$6,000 annual compensation limit.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, "Currently, Bay Area Air Quality Management District Board members can only be reimbursed up to \$100 per day for attending one or multiple

meetings. This amount has remained unchanged for over 30 years despite rising inflation and the increased cost of living. Under existing law, board members can only be compensated for certain types of transportation to and from meetings such as driving a personal vehicle, using a taxi or ride share service, or using transit such as buses, trains, and ferries.

“AB 2721 allows these meetings to be more efficient, by changing compensation from \$100/day to \$100/meeting without changing the annual compensation limit. It also allows the Board to create a compensation schedule that encourages members to take active transportation methods to meetings, such as walking or bicycling.”

2. Necessary? BAAQMD compensates members for actual and necessary expenses incurred in the performance of board duties. Included in the district’s policy for reimbursement are various transportation costs, including taxis, shuttles, buses, public transportation, and personal vehicle usage. Notably missing are other forms of transportation like walking and bicycling. This means board members who could walk to meetings may instead decide to take public transportation or drive, when they might just as easily be able to walk or bike. According to BAAQMD, state law does not generally include active transportation like walking and biking in the definition of actual and necessary expenses, and even if it did, it would not allow that compensation to consider benefits like reduced traffic, better health, and reduce air pollution. AB 2721 adds active transportation travel to and from board meetings and district business to the types of compensation board members can receive that are subject to the \$6,000 limit. However, the bill does not provide a definition for active transportation travel, nor does it limit the amount of compensation a board member can receive for such travel. In the absence of this statutory guidance, BAAQMD would have the flexibility to compensate members for active transportation in any amount subject to the \$6,000 annual cap. The Committee may wish to consider amending the bill to define what constitutes active transportation travel, and clarify that BAAQMD must take action at a public meeting to approve the addition of active transportation travel to the type of compensation that board members may receive.

3. Pass go and collect \$200. Separate from the addition of active transportation, AB 2721 increases board member compensation from \$100 per meeting day to \$100 per meeting up to \$200 per day. While the bill increases the compensation a member can receive per day, it does not change the \$6,000 maximum annual compensation. According to BAAQMD, there are instances where board members attend multiple meetings per day, and compensation has not increased in over 30 years. On the one hand, increasing this amount may encourage board members to attend more meetings on the district’s behalf. On the other hand, some board members may receive more compensation for the same amount of meetings they attended previously. The Committee may wish to consider whether the increase in compensation to \$200 per day is fully justified.

4. Incoming! The Senate Environmental Quality Committee approved AB 2721 at its June 1 hearing on a vote of 5-0. The Senate Governance and Finance Committee is hearing AB 2721 as the committee of second reference.

Assembly Actions

Assembly Natural Resources Committee:
Assembly Floor:

10-0
67-3

Support and Opposition (6/27/22)

Support: Bay Area Air Quality Management District (SPONSOR)

Opposition: None submitted.

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