

SUBJECT: CONSIDERATION OF RESOLUTION REQUESTING THE DELAY OF IMPLEMENTATION OF FUELS PRODUCTION AND TRANSPORT UNDER CALIFORNIA'S MARKET BASED PROGRAM TO REDUCE CARBON EMISSIONS ("CAP AND TRADE")

SOURCE: City Manager

COMMENT: Vice Mayor Hamilton requested, and the City Council approved, the consideration of a Resolution requesting the delay of implementation of fuels production and transport under California's market based program to reduce carbon emissions ("Cap and Trade").


California's Cap and Trade Program took effect on January 1, 2012, and is designed to encourage businesses to reduce their emissions of greenhouse gases (GHG) by placing a cap on the total GHG they may produce, and then allowing them to buy or sell emission credit, depending on their ability to meet the cap. The program is being implemented over time, and currently only applies to the manufacturing sector. In January 2015, the program is scheduled to apply to the production and transport of gasoline and diesel fuels. AB 69 (Perea) proposes to delay the implementation of fuels into the Cap and Trade Program until January 1, 2018.

Estimates of the program's scheduled expansion effect on the price of gasoline vary from \$0.10 to \$0.20 per gallon. A 2010 analysis commissioned by the California Air Resources Board (CARB) estimated gasoline price increases between 4 and 19 percent, which at \$4.00 per gallon, the increase would be \$0.16 to \$0.76 per gallon.

Both Democrat and Republican State Legislators have expressed concern as to the lack of consumer awareness of the potential for an impending price increase, as well as the impact even a small increase in fuel prices could have on the still recovering California economy.

RECOMMENDATION: That the City Council consider a Resolution requesting the delay of implementation of fuels production and transport under California's market based program to reduce carbon emissions ("Cap and Trade").

ATTACHMENTS: 1) Draft Resolution  
2) AB 69 (Perea) Bill Text

C/M 

Item No. 29

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE,  
COUNTY OF TULARE, STATE OF CALIFORNIA, REQUESTING THE DELAY  
OF IMPLEMENTATION OF FUELS PRODUCTION AND DELIVERY UNDER  
CALIFORNIA'S MARKET BASED PROGRAM TO REDUCE CARBON EMISSIONS  
("CAP AND TRADE")

WHEREAS, the City Council of the City of Porterville is concerned about the impact of the fuels-under-the-cap regulation in California, and the increased price of fuel for consumers; and

WHEREAS, any increase in the price of fuel will harm the most vulnerable members of our community, particularly those who must continue to commute to work or drive to larger communities for services such as healthcare or to obtain household necessities, and who are least able to diversify their transportation options; and

WHEREAS, California and Tulare County are still in the early stages of economic recovery and already facing potential negative impacts from a sustained drought, a price increase on fuel will serve to weaken the economic recovery; and

WHEREAS, many Californians are still unemployed and unemployment rates in Tulare County remain in double digits, which places these individuals at a disadvantage when it comes to paying for basic necessities like fuel; and

WHEREAS, professional estimates put the probable increase in the price of gasoline between \$0.16 and \$0.76 per gallon; and

WHEREAS, the majority of Californians are unaware that this price increase is pending; and

WHEREAS, the State's greenhouse gas reduction goals are already on track and will not be helped by this price increase.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville calls upon Governor Jerry Brown and the California Air Resources Board to delay the implementation of fuels under Cap and Trade so that Californians have more time to prepare.

APPROVED AND ADOPTED this 5<sup>th</sup> day of August, 2014.

ATTEST:  
John D. Lollis, City Clerk

\_\_\_\_\_  
Milt Stowe, Mayor

\_\_\_\_\_  
By: Patrice Hildreth, Chief Deputy City Clerk

AMENDED IN SENATE JULY 2, 2014  
AMENDED IN SENATE AUGUST 12, 2013  
AMENDED IN SENATE JULY 11, 2013  
AMENDED IN SENATE JUNE 27, 2013  
AMENDED IN SENATE JUNE 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 69**

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Introduced by Assembly Member Perea  
(~~Coauthor: Assembly Member Stone~~)  
(*Coauthors: Assembly Members Brown, Daly, Hall, Roger Hernández,  
Rodríguez, and Salas*)  
(*Coauthors: Senators Correa and Torres*)

January 10, 2013

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An act to add ~~Article 6.5 (commencing with Section 14615)~~ to Chapter 5 of Division 7 of the Food and Agricultural Code, and to add and repeal Chapter 4.7 (commencing with Section 116765) of Part 12 of Division 104 of *Section 38576* to the Health and Safety Code, relating to ~~drinking water, making an appropriation therefor~~ *greenhouse gases*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Perea. ~~Groundwater: drinking water: Nitrate at Risk Fund. California Global Warming Solutions Act of 2006: market-based compliance mechanisms: exemption.~~

*The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring*

*and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing state board regulations require specified entities to comply with a market-based compliance mechanism beginning January 1, 2013, and require additional specified entities to comply with that market-based compliance mechanism beginning January 1, 2015.*

*This bill instead would exempt categories of persons or entities that did not have a compliance obligation, as defined, under a market-based compliance mechanism beginning January 1, 2013, from being subject to that market-based compliance mechanism beginning January 1, 2015, and until December 31, 2017. The bill would require all participating categories of persons or entities to have a compliance obligation beginning January 1, 2018.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.~~

~~This bill would establish the Nitrate at Risk Fund, to be administered by the department. This bill would continuously appropriate, without regard to fiscal years, the fund to the department for the purposes of loans, principal forgiveness loans, or grants to certain water systems operating in a high-nitrate at-risk area for specified purposes. This bill would require the state board, on or before January 1, 2022, to submit a report to the Legislature that includes specified information relating to the fund and contaminated drinking water. This bill would repeal these provisions on January 1, 2024.~~

~~(2) Existing law requires every person who manufactures or distributes fertilizing materials to be licensed by the Secretary of Food~~

~~and Agriculture and to pay a license fee that does not exceed \$300. Existing law requires every lot, parcel, or package of fertilizing material to have a label attached to it, as required by the secretary. Existing law requires a licensee who sells or distributes bulk fertilizing materials to pay to the secretary an assessment not to exceed \$0.002 per dollar of sales for all sales of fertilizing materials, as prescribed, for the purposes of the administration and enforcement of provisions relating to fertilizing materials. In addition to that assessment, existing law authorizes the secretary to impose an assessment in an amount not to exceed \$0.001 per dollar of sales for all sales of fertilizing materials for the purpose of providing funding for research and education regarding the use of fertilizing materials.~~

~~This bill, with prescribed exceptions, would require a person who sells for use in this state fertilizer materials to pay to the secretary a fertilizer materials charge, until January 1, 2016, of \$0.01 per dollar of materials. This bill, on and after January 1, 2016, would permit the department to increase the amount of the charge, as specified, to an amount no greater than \$0.04 per dollar of materials if 80% of the moneys in the fund are committed, and would require the Fertilizer Inspection Advisory Board to discuss the charge and provide a recommendation to the department. This bill would prohibit the fertilizer materials charge from being imposed when the department determines that more than \$60,000,000 of the moneys in the fund are uncommitted. This bill would require a seller of fertilizer materials to remit the charge to the secretary to be deposited in the fund.~~

~~(3) The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ . Appropriation: *yes-no*. Fiscal committee: *yes*. State-mandated local program: *no*.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *The landmark California Global Warming Solutions Act of*
- 4     *2006 (Division 25.5 (commencing with Section 38500) of the*
- 5     *Health and Safety Code) set the goal of reducing greenhouse gas*
- 6     *emissions to 1990 levels by 2020. The act required the State Air*
- 7     *Resources Board to develop a scoping plan, including direct*
- 8     *regulations, performance-based standards, and market-based*

1 mechanisms to achieve this level of greenhouse gas emissions  
2 reductions.

3 (b) The State Air Resources Board has implemented a  
4 market-based compliance mechanism under the California Global  
5 Warming Solutions Act of 2006 (Division 25.5 (commencing with  
6 Section 38500) of the Health and Safety Code).

7 (c) Beginning January 1, 2015, the State Air Resources Board's  
8 market-based compliance mechanism will expand from covering  
9 large industrial facilities to include carbon-based transportation  
10 fuels used today by the state's motorists.

11 (d) Including transportation fuels in a market-based compliance  
12 mechanism will require suppliers of transportation fuels to  
13 purchase carbon allowances for gasoline and diesel sold and used  
14 in the state, therefore, adding a carbon price to the cost of  
15 transportation fuels.

16 (e) The State Air Resources Board's regulatory analysis for the  
17 market-based compliance mechanism anticipates carbon allowance  
18 costs ranging from \$15 to \$75, inclusive, per ton between 2015  
19 and 2020.

20 (f) Including transportation fuels in a market-based compliance  
21 mechanism will link the cost of gasoline and diesel to potentially  
22 volatile carbon markets placing the state's motorists, families, and  
23 small businesses at risk.

24 (g) Many areas of the state continue to struggle from  
25 disproportionately high unemployment rates and the state's  
26 hard-working low-income and middle-income families will likely  
27 suffer most from this sudden addition in addition to potentially  
28 volatile carbon costs on transportation fuels.

29 (h) Before including transportation fuels in a market-based  
30 compliance mechanism, the State Air Resources Board must ensure  
31 that the state's motorists, families, and small businesses are  
32 prepared for this carbon price signal with sufficient notice,  
33 information, and protection from certain and volatile cost increases  
34 for their transportation fuels.

35 SEC. 2. Section 38576 is added to the Health and Safety Code,  
36 to read:

37 38576. (a) For purposes of this section, "compliance  
38 obligation" means the quantity of greenhouse gas emissions for  
39 which a person or entity is required to submit greenhouse gas

1 emissions allowances or offsets to the state board pursuant to a  
2 market-based compliance mechanism.

3 (b) (1) If the state board adopts a market-based compliance  
4 mechanism pursuant to this part, only those categories of persons  
5 or entities that had a compliance obligation beginning January 1,  
6 2013, and until December 31, 2014, shall have a compliance  
7 obligation beginning January 1, 2015, and until December 31,  
8 2017.

9 (2) Beginning January 1, 2018, all categories of persons or  
10 entities participating in a market-based compliance mechanism  
11 shall have a compliance obligation.

12 SEC. 3. This act is an urgency statute necessary for the  
13 immediate preservation of the public peace, health, or safety within  
14 the meaning of Article IV of the Constitution and shall go into  
15 immediate effect. The facts constituting the necessity are:

16 To allow sufficient lead time to make necessary adjustments to  
17 the program before it takes effect January 1, 2015, it is necessary  
18 for this act to take effect immediately.

19 SECTION 1. Article 6.5 (commencing with Section 14615) is  
20 added to Chapter 5 of Division 7 of the Food and Agricultural  
21 Code, to read:

22  
23 Article 6.5. Nitrate at Risk Fund Charge

24  
25 14615. (a) For the purposes of this section, "fund" means the  
26 Nitrate at Risk Fund created by Section 116765 of the Health and  
27 Safety Code.

28 (b) (1) Except as provided in subdivision (d), every person who  
29 sells for use in this state fertilizer materials shall pay to the  
30 secretary the applicable charge. Those sales expressly include all  
31 sales made electronically, telephonically, or by any other means  
32 that result in a fertilizer material being shipped to or used in the  
33 state. There is a rebuttable presumption that fertilizer materials  
34 that are sold or distributed into or within this state by any person  
35 are sold or distributed for use in this state. A fertilizer materials  
36 charge shall be paid at the following rates for sales of fertilizer  
37 materials for use in this state:

38 (1) Until January 1, 2016, a charge of \$0.01 per dollar of  
39 materials sold.

1     ~~(2) On and after January 1, 2016, the State Department of Public~~  
 2 ~~Health may increase the amount of the charge to an amount no~~  
 3 ~~greater than \$0.04 per dollar of materials sold if 80 percent of the~~  
 4 ~~moneys in the fund are committed. In determining the amount of~~  
 5 ~~the charge, the State Department of Public Health shall consider~~  
 6 ~~the demand for the moneys in the fund. In determining the charge,~~  
 7 ~~the State Department of Public Health shall allow stakeholder~~  
 8 ~~participation and make available to the public the information upon~~  
 9 ~~which the State Department of Public Health calculates, bases, or~~  
 10 ~~determines the charge. The Fertilizer Inspection Advisory Board,~~  
 11 ~~described in Section 14581, shall discuss the charge and provide~~  
 12 ~~a recommendation to the State Department of Public Health.~~

13     ~~(2) A seller of fertilizer materials shall remit the fertilizer~~  
 14 ~~materials charge to the secretary to be deposited in the fund.~~

15     ~~(c) The fertilizer materials charge shall not be imposed when~~  
 16 ~~more than sixty million dollars (\$60,000,000) of the moneys in~~  
 17 ~~the fund are uncommitted.~~

18     ~~(d) A person is not required to pay the charge provided for in~~  
 19 ~~this section as follows:~~

20     ~~(1) In those cases where the person did not first sell the fertilizer~~  
 21 ~~material into or within this state or have actual knowledge, at the~~  
 22 ~~time of its sale, that the fertilizer would be sold for use in this state.~~

23     ~~(2) If the fertilizer material is for use in further manufacturing~~  
 24 ~~or formulating of fertilizer material.~~

25     ~~SEC. 2. Chapter 4.7 (commencing with Section 116765) is~~  
 26 ~~added to Part 12 of Division 104 of the Health and Safety Code,~~  
 27 ~~to read:~~

28  
 29                   ~~CHAPTER 4.7. NITRATE AT RISK FUND~~

30  
 31     ~~116765. The Nitrate at Risk Fund is hereby established in the~~  
 32 ~~State Treasury, to be administered by the State Department of~~  
 33 ~~Public Health. Notwithstanding Section 13340 of the Government~~  
 34 ~~Code, moneys in the Nitrate at Risk Fund are continuously~~  
 35 ~~appropriated, without regard to fiscal years, to the State Department~~  
 36 ~~of Public Health for the purposes described in Section 116766.~~

37     ~~116766. (a) Moneys in the Nitrate at Risk Fund shall be used~~  
 38 ~~for loans, principal forgiveness loans, or grants to a water system~~  
 39 ~~operating in a high-nitrate at-risk area that is one of the following:~~



1 ~~(1) A small community water system serving a disadvantaged~~  
2 ~~community.~~

3 ~~(2) An unregulated system of 2 to 15, inclusive, service~~  
4 ~~connections.~~

5 ~~(3) A nontransient noncommunity water system owned by a~~  
6 ~~public agency.~~

7 ~~(b) Moneys in the Nitrate at Risk Fund may be used for any of~~  
8 ~~the following purposes:~~

9 ~~(1) Preplanning drinking water projects.~~

10 ~~(2) Planning drinking water projects.~~

11 ~~(3) Interim water solutions.~~

12 ~~(4) Constructing drinking water projects.~~

13 ~~(5) Operating and maintaining drinking water systems. The~~  
14 ~~State Department of Public Health shall ensure that moneys used~~  
15 ~~for the purposes of this paragraph are for the operation and~~  
16 ~~maintenance of drinking water systems in communities that have~~  
17 ~~a substantial need and otherwise would not be able to afford to~~  
18 ~~operate or maintain their systems. The State Department of Public~~  
19 ~~Health shall ensure that moneys available for the operation and~~  
20 ~~maintenance of a particular drinking water system pursuant to this~~  
21 ~~paragraph shall not be permanent and shall be phased out over~~  
22 ~~time.~~

23 ~~(c) Moneys in the Nitrate at Risk Fund shall not be used for~~  
24 ~~loans, principal forgiveness loans, or grants to a water system that~~  
25 ~~is a small community water system for the purposes of either~~  
26 ~~paragraph (2) or (4) of subdivision (b) unless no other funding~~  
27 ~~source is available to that system for that purpose.~~

28 ~~116767. (a) On or before January 1, 2022, the state board, in~~  
29 ~~consultation with any other state entity or research institution as~~  
30 ~~appropriate, shall submit to the Legislature a report that includes~~  
31 ~~all of the following information:~~

32 ~~(1) Communities that rely on contaminated drinking water as a~~  
33 ~~primary source of drinking water.~~

34 ~~(2) The principal contaminants and other constituents of concern~~  
35 ~~affecting groundwater and contamination levels in the groundwater~~  
36 ~~sources for the communities described in paragraph (1).~~

37 ~~(3) Potential solutions and funding sources to clean up or treat~~  
38 ~~groundwater or to provide alternative water supplies to ensure the~~  
39 ~~provision of safe drinking water to communities identified in~~  
40 ~~paragraph (1).~~

1 (4) The effect of the use of the moneys in the Nitrate at Risk  
2 Fund for the purposes described in Section 116766 on nitrate  
3 contaminated groundwater used as a source of drinking water.

4 (b) A report to be submitted pursuant to subdivision (a) shall  
5 be submitted in compliance with Section 9795 of the Government  
6 Code.

7 ~~116768. If the responsibility for administering Chapter 4~~  
8 ~~(commencing with Section 116270) is transferred to the state board,~~  
9 ~~the state board shall succeed to and is vested with all of the~~  
10 ~~authority, duties, powers, responsibilities, and jurisdiction of the~~  
11 ~~State Department of Public Health pursuant to this article.~~

12 ~~116769. This article shall remain in effect only until January~~  
13 ~~1, 2024, and as of that date is repealed, unless a later enacted~~  
14 ~~statute, that is enacted before January 1, 2024, deletes or extends~~  
15 ~~that date.~~

16 ~~SEC. 3. This act is an urgency statute necessary for the~~  
17 ~~immediate preservation of the public peace, health, or safety within~~  
18 ~~the meaning of Article IV of the Constitution and shall go into~~  
19 ~~immediate effect. The facts constituting the necessity are:~~

20 ~~To address the public health problem of nitrate contaminated~~  
21 ~~drinking water as soon as possible, it is necessary for this act to~~  
22 ~~take effect immediately.~~