

State of California
AIR RESOURCES BOARD

Resolution 09-47

May 28, 2009

Agenda Item No: 09-5-6

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, in section 43000 of the Health and Safety Code, the Legislature has declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and, in sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically addressing the serious air pollution problem caused by motor vehicles;

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) authorizes \$200 million for replacing and retrofitting school buses;

WHEREAS, the 2007 Budget Act signed by Governor Schwarzenegger on August 24, 2007 appropriated these funds to be implemented through ARB's Lower-Emission School Bus Program (Program);

WHEREAS, on March 27, 2008, in Resolution 08-23, the Board approved the revised 2008 Lower-Emission School Bus Program Guidelines (Guidelines), directed the Executive Officer to ensure that the program is effectively and expeditiously implemented, and delegated to the Executive Officer the authority to adjust the school district \$25,000 per bus match fund requirement and cost cap for new buses purchased;

WHEREAS, the local air districts began project implementation consistent with executed grant agreements and Guidelines by soliciting and evaluating project applications, and executing contracts with individual school districts;

WHEREAS, the California Department of Finance issued Budget Letter 08-33 on December 18, 2008, directing all State entities having expenditure control and oversight of General Obligation bond programs (including Proposition 1B), to cease authorizing any new grants or obligations for bond projects, including new phases for existing projects, to suspend all projects, and to instruct all grant or loan recipients not to enter into any new agreements or contracts that would be funded from bond monies;

WHEREAS, in consideration of the Department of Finance Budget Letter 08-33, the Executive Officer issued a letter dated December 23, 2008, to local air districts as recipients of General Obligation bond funds, instructing them to suspend entering into any new equipment contracts or expending funds for existing contracts funded with Proposition 1B monies;

WHEREAS, in early April 2009, ARB received a first installment of bond funding to reimburse ARB for the approximately \$12 million in expenditures for local agency grant agreements made before the funding suspension, and in late April 2009, ARB was notified that a second installment of approximately \$71 million would be forthcoming;

WHEREAS, ARB's ability to disburse funding is dependent on securing State bond funds, and the timing and amount of Program funds released to ARB by the State Treasurer's Office from bond sales is uncertain; and

WHEREAS, the suspension of funds has resulted in no new executed contracts between local air districts and school districts and has prevented the local air districts from moving forward with Program implementation and meeting certain milestones and deadlines identified in the Program Guidelines; as a result of this situation, it is necessary to:

1. delegate to the Executive Officer, or his or her designee, the authority to amend grant agreements to reflect that the grant is contingent upon the availability of bond revenues;
2. extend deadlines in the Program Guidelines to reflect the period of delay and restart period for local air districts to obligate funds via executed contracts with school districts and liquidate funds upon project completion; and
3. delegate to the Executive Officer the authority to make changes to the Program Guidelines that are consistent with the statute and the goals established by the Board, if needed to enable effective implementation of the Program.

NOW, THEREFORE, BE IT RESOLVED that the Board finds it necessary and appropriate for the effective and fair implementation of the Program that ARB disburse funding only upon securing State bond funds, and that local air districts be precluded from entering into any new equipment contracts or expending funds for existing contracts until they have received written notification from ARB regarding available funding amounts and the ability to restart projects, and that grant agreements with local air districts be amended by the Executive Officer to this effect;

BE IT FURTHER RESOLVED that the Board finds that circumstances have occurred since the Guidelines were adopted that have prevented the local air districts and school districts from meeting the requirements of the Guidelines, and that therefore the Board delegates to the Executive Officer, and his or her designee, the authority to make necessary changes to the existing timelines in the Guidelines, provided that these timelines remain consistent with the statutory limitations.

BE IT FURTHER RESOLVED that the Board affirms the existing authority of the Executive Officer to interpret or clarify the Program Guidelines, and delegates to the Executive Officer, or his or her designee, the authority to adopt changes to the Program Guidelines that he or she deems necessary to enable effective implementation of the Program, provided that such changes are consistent with statute and the goals established by the Board. Staff shall identify those changes when the Board considers the next comprehensive update to the Program Guidelines.

I hereby certify that the above is a true and correct copy of Resolution 09-47, as adopted by the Air Resources Board.

/s/

Monica Vejar, Clerk of the Board