

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 650 (Arambula) – As Amended April 17, 2023

SUBJECT: San Joaquin Valley Unified Air Pollution Control District: board.

SUMMARY: Makes changes to the governing board of the San Joaquin Valley Unified Air Pollution Control District (District). Specifically, **this bill:**

- 1) Increases the district board from 15 to 19 voting members to also include:
 - a) One public member, appointed by the Governor, of a California Native American Tribe selected from a list of candidates submitted by local tribal organizations that has a presence within the San Joaquin Air Basin (Basin). The term of office for this member shall be four years.
 - b) Three public members appointed to four year terms by the Governor, with advice and consent of the speaker of the Assembly, as follows:
 - i) Two public members selected from a list submitted by a nonprofit organization that has a presence within the Basin who has subject matter expertise in environmental justice or social justice issues.
 - ii) One public youth member selected from lists submitted by either of the following:
 - (1) A youth-serving nonprofit organization that has a presence within the District.
 - (2) An institution of higher education within the District.
 - iii) The youth member shall be a resident of the County of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, or Tulare, or of that portion of the County of Kern that is within the Basin, and be between 18 and 26 years of age, inclusive, and shall not be an elected official.
- 2) Increases the term of office for the city council board members from three to four years.
- 3) Specifies that beginning January 1, 2024, and excluding district board membership held prior to January 1, 2024, a member whose appointed terms span a total of eight or more years shall no longer be eligible for appointment.
- 4) Defines “tribal organization” to mean an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe that is recognized by the United States Secretary of the Interior and identified in the most current Federal Register, or that is listed on the contact list maintained by the Native American Heritage Commission as a California Native American tribe.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

1) **Bill Summary and Author’s Statement.** This bill would increase the board of the District from 15 to 19 members. These additional members of the board would consist of a public member of a California Native American tribe, appointed by the Governor, two members of the public who have subject matter expertise in environmental justice or social justice issues and one youth member between 18 and 26 years old, appointed by the Governor with the advice and consent of the Speaker of the Assembly. This bill would specify the terms of additional board members are four years, and makes changes to the term limits for existing members. Lastly, this bill, beginning January 1, 2024, provides that a member whose appointed terms span a total of eight or more years must no longer be eligible for appointment, as specified. The Central Valley Air Quality Coalition is the sponsor of this bill.

2) **Author’s Statement.** According to the author, “The San Joaquin Valley is home to some of the most disenfranchised people in the state. This includes those in rural or farmworker communities, Disadvantaged Communities, Tribal nations, young people, and those living at or below the poverty level. Often times these people live adjacent to transportation corridors or stationary sources of pollution with extremely localized and severe pollution levels.

“Poor air quality has numerous negative impacts on health, including the development of asthma and other respiratory illnesses in children as well as increased risk of cancer and cardiovascular disease in adults. Exposure to air pollution can also slow and stunt lung development in growing children, harming their health now and reducing their lung function as adults.

“For the San Joaquin Valley, data suggests that PM2.5 exposure is responsible for 1,200 cases of premature death in the valley each year. However, the distribution of premature deaths is not equal as disadvantaged communities are at a disproportionately higher risk. People of color additionally are more likely to be exposed to air pollution and more likely to suffer harm to their health from air pollution than white people.

“Despite these disparities, people from communities that have experienced the worst health impacts of air pollution have historically been excluded from exerting meaningful influence over decisions made by the 15-member board of the San Joaquin Valley Air Pollution Control District. Studies show that California’s air quality regulatory structure, in which local elected officials serve as regulators of the polluters in their vicinity, is prone to industry capture and conflicts of interest.

“Many of the elected officials that make up the board of the Air District are not representative of these groups. It may be true that they are also impacted by the same bad air, but many of the solutions proposed by the board often overlook or ignore the voices, perspectives and ideas put forth by communities that have been fighting for a seat at the table for decades.

“Adding new public seats will ensure that these communities are represented in District decisions, which will lead to new ideas and decisions more reflective of the diversity of the region and will ultimately benefit communities that have historically lacked a voice in those spaces where decisions are made. Air district boards that are made up of voting members

from their most vulnerable communities are the best at protecting the health of those communities.”

- 3) **Local Air Districts.** The California Air Resources Board (CARB) oversees the state’s 35 air districts, which 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 unique memberships spelled out in district-specific governing statutes.
- 4) **San Joaquin Valley Air Pollution Control District.** Formed in 1991, the District consists of eight counties, including San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and the portion of Kern that is within the Basin. The District is a single integrated agency with all staff under one centralized management structure that has the following:
 - a) An individual air pollution control officer who is responsible for the issuance of all permits by the District.
 - b) A single budget for the District with resources allocated based on the program needs for the Basin.
 - c) A uniform fee structure.
 - d) Three hearing boards. One hearing board serves the northern region (Merced, San Joaquin, and Stanislaus), one serves the central region (Fresno, Kings, and Madera), and the last serves the south region (Kern and Tulare).
 - e) A citizen’s advisory committee.

The District is governed by a board of 15 voting members, as follows:

- a) Eight members, one of whom must be appointed by each of the eight counties within the District. The board of supervisors of each of those counties must, by majority vote, appoint one of its members to serve as a member of the District board.
- b) Five city council members appointed by the special city selection committee. The special city selection committee must not appoint more than one city council member representing a city located in the same county. Of the five appointed city council members, three must be from a city having a population of less than 100,000, with one member selected from each of the regions. The other two appointed city council members must be from a city having a population of 100,000 or more, with each member selected from a different region. The terms of office for city appointed members is three years.
- c) One public member, appointed to a four-year term by the Governor, with advice and consent of the Senate, who is a physician, actively practicing within the District, whose daily practice or research specialty lies in the health effects of air pollution on vulnerable populations.

- d) One public member, appointed to a four-year term by the Governor, with advice and consent of the Senate, who has a medical or scientific expertise in the health effects of air pollution.

Each board member must be appointed on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems of the Basin. Additionally, each board member must be appointed on the basis of their ability to attend substantially all meetings of the District board and are prohibited from appointing an alternate for any purpose. All members of the District board are required to be residents of the District.

According to the District, the revenue to fund the District's annual operating budget comes from the following three sources:

- a) Permit fees paid annually by applicable businesses operating within the District.
 - b) Motor vehicle registration fees generated by a \$19 surcharge fee for every vehicle registered within the District. A part of these fees are used for the internal operations of the District and a portion is distributed to qualified applicants for programs intended to reduce vehicle emissions.
 - c) The District receives federal and state grants annually from the California Air Resources Board and the United States Environmental Protection Agency.
- 5) **San Joaquin Valley Basin.** According to the Senate Environmental Quality Committee analysis for AB 2550 (Arambula) from last year, "The San Joaquin Valley (Valley) is surrounded by mountain ranges which trap air pollutants within the air basin. The Valley's weather conditions include frequent periods of high pressure, temperature inversions, long, hot summers, and stagnant, foggy winters, all of which are conducive to the formation and retention of air pollutants. This problem is exacerbated by high levels of pollution emission from heavy vehicle traffic along I-5 and highway 99, locomotive traffic, tractors and irrigation pumps from the agriculture industry, flares from fossil fuel extraction, and smoke from wood-burning stoves and fireplaces. The air pollution crisis has only worsened as wildfires become more common and generate even more pollutants that become trapped in the Valley. These factors have led to the air quality in the Valley consistently being ranked among the worst in the country by such groups as the World Health Organization, the American Lung Association, and the US EPA."

According to the District, "The District's regulatory program was recently approved by EPA as meeting Most Stringent Measures requirements for the nation. Coupled with this regulatory effort to address sources under the District's jurisdiction, given the air quality challenge, the District's Governing Board has also been a leader in developing and implementing clean air incentive programs to accelerate the deployment of new vehicles and equipment under state and federal jurisdiction, with over \$5 billion in combined clean air investments throughout the Valley through this effort...."

"While much progress has been made, the San Joaquin Valley faces significant air quality challenges. The District, in coordination with CARB, is responsible for developing plans to attain state and federal air quality standards for, and the authority to reduce emissions is

shared across local, state and federal government through collaborative work and clear oversight responsibilities under state and federal law, including approval authority of local plans by the state appointed CARB. The state and federal governments have the authority to regulate mobile sources of pollution that now account for the majority of the air pollution in the San Joaquin Valley and across California, and also work closely with the District to review and approve plans, rules, and other air quality measures. The District continues to aggressively do its part to seek emission reductions from sources that fall under its regulatory authority and to advocate for resources and policies to reduce mobile source emissions.”

- 6) **Policy Considerations.** The Committee may wish to consider the following:
- a) **Balance.** Air district board membership varies across the state, based on factors including whether district boards include state appointees and who makes those appointments. The Governor appoints, and the Senate confirms, two public members to the San Joaquin Valley Unified Air Pollution Control District board, including one physician and one medical or science expert. Other air districts do not have any state appointees, and instead rely on local officials to appoint public members. For example, the other members of the Antelope Valley Air Quality Management District board select a public member to serve on their board based on the specific experience the other board members find most desirable. With these four additional seats, AB 650 would put the balance of the board membership at six state-appointed public members compared to thirteen locally-elected officials. Under the measure, the Governor would be able to appoint all four new members and three of those members would require consent of the Assembly Speaker. This bill would add a public member of a California Native American tribe, two public members with a subject matter expertise of in environmental justice or social justice issues, and a public youth member. Is the Governor best equipped to determine who meets those qualifications compared to the local officials who serve on the board? The Committee may wish to consider if these changes shift the balance of power too much towards state appointees.
 - b) **Lists.** This bill would add four new members to the District board. While this bill requires the Governor to make the appointment of these new board members, the lists that the Governor must choose from are created by groups related to potential candidates. For instance, two of the public members must be chosen “from a list submitted by a nonprofit organization that has a presence within the San Joaquin Valley Air Basin who has subject matter expertise in environmental justice or social justice issues.” However, this bill does not identify which nonprofits qualify under the category of “environmental or social justice issues,” or provide that a minimum number of candidates be identified. This could potentially lead to only one or two individuals being included on the list, theoretically removing the decision making authority from the Governor and giving it to the nonprofit organizations that qualify under the broad categories of environmental or social justice. The Committee may wish to consider if additional safeguards are needed to ensure the Governor is afforded multiple candidates to choose from.
- 7) **Previous Legislation.** AB 559 (Arambula), Chapter 559, Statutes of 2021, revised and expanded the governing board of the San Joaquin River Conservancy to include a youth member and a member of a California Native American tribe, among other provisions.

SB 342 (Gonzalez) of 2021 would have added two additional seats to the South Coast Air Quality Management District (SCAQMD) Governing Board to be filled by persons residing in and working directly with pollution-burdened and vulnerable communities on issues of environmental justice in the South Coast Air Basin. This bill failed passage on the Senate Floor.

AB 423 (Gloria) Chapter 744, Statutes of 2019, restructured the governing board of the San Diego County Air Pollution Control District to be governed by an 11-member board consisting of two county supervisors, six council members or mayors from specified cities, and three public members. This bill also added specified duties to the district and requires an audit of the district by CARB.

SB 1387 (De León) of 2016 would have added three members to the SCAQMD Governing Board that work directly with communities in the South Coast Air Basin that are disproportionately burdened by and vulnerable to high levels of pollution and issues of environmental justice. SB 1387 failed passage on the Assembly Floor.

AB 1288 (Atkins), Chapter 586, Statutes of 2015, expanded the Board membership of CARB from 12 to 14 members, and required the Senate Rules Committee and Speaker of the Assembly to each appoint one of these additional members who works directly with pollution-burdened and vulnerable communities.

SB 1548 (Flores), Chapter 622, Statutes of 2008, created a local city selection committee and process to appoint the five city representative members to the District.

SB 719 (Machado and Flores) Chapter 728, Statutes of 2007, increased the District's governing board from 11 members to 15 members, increased the number of city members on the district board from three to five members, and required the Governor to appoint two public members with specified qualifications and subject to Senate confirmation.

SB 999 (Machado) of 2006 would have increased the size of the board from 11 members to 15 members by increasing the number of city representatives from three to five, adding two public members with specified qualifications, and changed the appointment procedures for city representatives.

SB 999 (Machado) of 2004 would have increased the membership of the board from 11 to 15, requiring two appointments by the Governor, one Senate appointment, and one appointment by the Speaker of the Assembly. This bill died in the Assembly Appropriations Committee.

- 8) **Arguments in Support.** According to the Central Valley Air Quality Coalition, "The San Joaquin Valley air basin has continuously failed to meet the 1979 ozone pollution standards as well as the 1997 standard for fine particle pollution (PM_{2.5}), standards so old that they are no longer considered to be health protective. These failures result in numerous negative health impacts and social costs, including hundreds of premature deaths, tens of thousands of asthma attacks, thousands of cases of bronchitis, and thousands of lost work and school days. The San Joaquin Valley remains at serious risk of continued failure to meet these outdated as well as future, more health protective air quality standards.

“Diverse and equitable representation is a core component for ensuring decisions made at the San Joaquin Valley Air Pollution Control District put health and equity at the forefront of decision making. The Legislature affirmed that need when it passed AB 719 in 2009 to add a doctor and scientist seat to the board that are appointed by the Governor. It also added 2 additional seats for representatives from city councils in the region; originally the bill would have added 2 environmental justice seats and the 2 city seats were a compromise. While these additions have led to some improvements, the absence of further community representation has hindered the District’s ability to be responsive to the needs of Valley breathers whose health is most impacted by unhealthy air.

“Adding new public seats will ensure that these communities are represented in District decisions, which will lead to new ideas and decisions more reflective of the diversity of the region that will ultimately have a less negative impact (and more of a benefit) on communities that have historically lacked a voice in those decision making spaces.”

- 9) **Arguments in Opposition.** According to Stanislaus County, “This number of state appointments is unprecedented in locally controlled air quality management agencies or other local regulatory agencies and would significantly reduce local control and buy-in of District actions. For comparison, the District is only one of two local air quality management agencies with state appointees out of 35 agencies statewide, and this Bill would result in far more state representation than all other air quality management and other similar local regulatory agencies. In addition to the dilution of local control, the new state appointments would be selected from lists developed by narrowly defined special interest groups, in some instances being limited to specific geographies. This method of selecting members is not in the spirit of local agencies representing a cross section of interests, and risks disenfranchising members of the public not included in those narrowly defined groups or regions...

“...Through this diverse representation of elected officials and appointed health leaders, the District’s Governing Board has demonstrated their ability to effectively address air quality issues in one of the most challenged regions in the nation due to its natural geography, freight impacts, and a variety of other factors. The Governor appointees have provided additional and beneficial public health expertise to the District’s deliberations, and all District actions have been approved by the District’s Governing Board, the vast majority through unanimous action amongst the Board’s diverse representation from throughout the Valley.

“Stanislaus County opposes AB 650 given the current regulatory framework and distinct roles of local, state, and federal governments in addressing air quality issues and the successful track record of the current Board. The unprecedented nature of the new appointments and diminished local authority called for under AB 650 will not provide the tools or resources needed to continue to improve ambient air quality in the region.”

REGISTERED SUPPORT / OPPOSITION:

Support

Central Valley Air Quality Coalition [SPONSOR]
350 Humboldt
Ban Single Use Plastic
California Environmental Voters

Californians for Pesticide Reform
Central California Environmental Justice Network
Clean Action Water
Climate Action California
Coalition for Clean Air
Elders Climate Action, Northern California Chapter
Elders Climate Action, Southern California Chapter
Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Leadership Counsel for Justice and Accountability
Little Manila Rising
Mi Familia Vota
Pesticide Action Network
Public Health Advocates
Santa Cruz Climate Action Network
The Climate Center
Valley Improvement Projects

Opposition

California Air Pollution Control Officers Association
California State Association of Counties
City of Avenal
City of Clovis
County of Fresno
County of Kern
County of Merced
County of San Joaquin
County of Stanislaus
Nisei Farmers League
Rural County Representatives of California
San Joaquin County
San Joaquin Valley Air Pollution Control District
Urban Counties of California
Western States Petroleum Association
1 Individual

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