



Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Reva Feldman, City Manager

Date prepared: June 10, 2020 Meeting date: June 22, 2020

Subject: Senate Bill 1099 – Support (Mayor Farrer)

RECOMMENDED ACTION: At the request of Mayor Farrer, authorize the Mayor to submit a letter of support for Senate Bill (SB) 1099, which would allow essential facilities to operate permitted emergency backup generators in the event of Public Safety Power Shutoffs (PSPS).

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2019-2020. This project is part of normal staff operations.

DISCUSSION: To help mitigate the risks of wildfires, utilities may initiate PSPS to deenergize parts of their distribution systems, which can result in reducing or eliminating access to a reliable power supply for water agencies that need electricity to move and deliver water. This potential lack of water greatly increases the need for access to alternative power sources that can help support a safe and reliable water supply and maintain the ability to effectively respond to wildfires.

SB 1099 would allow the most essential facilities to operate permitted emergency backup generators in the event of a PSPS. The bill proposes allowing these critical facilities to use backup generators without it counting toward permitted annual runtime and avoiding permitting fees charged by the Air Quality Management District (AQMD). Among other benefits, this flexibility would protect public health and safety by ensuring electricity was available to pump and treat water during the outages.

Numerous water districts and other public agencies have indicated their support for SB 1099, including but not limited to: Association of California Water Agencies (ACWA);

Metropolitan Water District of Southern California, and Las Virgenes Municipal Water District.

Mayor Farrer is requesting Council authorization to submit a letter of support for SB 1099. The letter would be submitted through the California Legislature Position Letter Portal for submittal to the bill author's staff, as well as any committees considering the legislation at the time the letter is submitted, currently including the Senate Environmental Quality and Appropriations Committees.

ATTACHMENT: SB 1099

AMENDED IN SENATE JUNE 2, 2020

SENATE BILL

No. 1099

Introduced by ~~Senator Dodd~~ *Senators Dodd and Glazer*
(Coauthor: Senator Moorlach)

February 19, 2020

An act to add ~~Article 9.5 (commencing with Section 42010) to Chapter 3 of Part 4 of Division 26 of Section 42451.1~~ to the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1099, as amended, Dodd. Emergency backup generators: critical facilities: ~~exemption~~. *order for abatement: stipulations.*

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires the State Air Resources Board to identify toxic air contaminants that are emitted into the ambient air of the state and to establish airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.

~~This bill, consistent with federal law, would require air districts to adopt a rule, or revise its existing rules, to allow critical facilities with a permitted emergency backup generator to use that emergency backup generator during a deenergization event or other loss of power, and to test and maintain that emergency backup generator, as specified, without having that usage, testing, or maintenance count toward that emergency backup generator's time limitation on actual usage and routine testing and maintenance. The bill would prohibit air districts from imposing a~~

~~fee on the issuance or renewal of a permit issued for those critical facility emergency backup generators. By requiring air districts to adopt a new permitting program for those critical facility emergency backup generators, the bill would impose a state-mandated local program. The bill also would define certain terms for purposes of these provisions.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Existing law establishes one or more hearing boards with a specified membership in each air district for the purposes of performing specified functions, including issuing orders for abatement, after notice and a hearing, whenever the hearing boards find that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit or is in violation of specified laws or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

This bill would require, either commencing January 1, 2022, or 12 months after the adoption of a specified rule on emergency backup generators, the air pollution control officer to develop stipulations, as specified, and conditions, as specified, for an order for abatement that allows the operator of a critical facility, as defined, to use a permitted emergency backup generator, as defined, in exceedance of that permit's runtime and testing and maintenance limits if specified conditions are met. The bill would require the stipulations to be in effect for not more than 5 years or the length of time agreed upon for the replacement of the emergency backup generator in the conditions. The bill would specify that the stipulations are subject to the approval of the hearing board when the order for abatement is being considered. By adding to the duties of air districts, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Catastrophic wildfires and other natural disasters are increasing in frequency and intensity due to climate change and other factors.

(b) Wildfires dramatically increase carbon emissions and work against the state's goals to reduce greenhouse gas emissions and achieve a carbon-neutral future.

(c) Wildfires and other natural disasters also can cause significant impacts and a threat to the state's water and wastewater facilities, which are critical to ensuring a safe and reliable water supply for people, businesses, agriculture, and the environment.

(d) To help mitigate the risks of wildfires, investor-owned utilities have initiated public safety power shutoffs to deenergize parts of their distribution systems, and, in some cases, portions of the transmission system, actions that reduce or eliminate access to a reliable power supply for the state's water agencies as they count on a reliable source of electricity to move and deliver water.

(e) Actions need to be taken to reduce the impacts of deenergization—~~wildfires~~, *wildfires* and other events on critical facilities, including increasing access to alternative power sources that can help support a safe and reliable water supply and maintain the state's ability to effectively respond to wildfires.

~~SEC. 2. Article 9.5 (commencing with Section 42010) is added to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, to read:~~

~~Article 9.5. Emergency Backup Generators~~

~~42010. For purposes of this article, the following terms apply:~~

~~(a) "Critical facility" means a facility necessary or convenient in providing essential public services, including, but not limited to, facilities such as police stations, fire stations, emergency operations centers, water and wastewater facilities, incident~~

1 ~~command posts, and communication systems used to support~~
2 ~~essential public services.~~

3 (b) ~~“Deenergization event” means the interruption of power due~~
4 ~~to a public safety power shutoff.~~

5 (c) ~~“Emergency backup generator” means an internal~~
6 ~~combustion engine greater than 50 brake horsepower and gas~~
7 ~~turbines greater than 2,975,000 British thermal units per hour for~~
8 ~~nonutility power generation that does not operate more than 200~~
9 ~~hours per year and is only operated in the event of an emergency~~
10 ~~power failure or for routine testing and maintenance.~~

11 (d) ~~“Loss of power” means a failure in an electric generation,~~
12 ~~distribution, and transmission system or a disruption to electrical~~
13 ~~power from an electricity provider due to an emergency event,~~
14 ~~including a wildfire.~~

15 (e) ~~“Public safety power shutoff” means a preventative measure~~
16 ~~to deenergize all, or a portion of, an electric generation,~~
17 ~~distribution, or transmission system when the electricity provider~~
18 ~~reasonably believes there is an imminent and significant risk that~~
19 ~~strong winds, or other extreme and potentially dangerous weather~~
20 ~~events, increase the probability of a wildfire.~~

21 (f) ~~“Water and wastewater facilities” includes drinking water~~
22 ~~and wastewater treatment plants, pumping stations, storage~~
23 ~~facilities, and water facilities needed to maintain water service and~~
24 ~~the water pressure necessary for firefighting.~~

25 ~~42012. (a) Consistent with federal law, a district shall adopt~~
26 ~~a rule, or revise its existing rules, to allow critical facilities with a~~
27 ~~permitted emergency backup generator to do any of the following~~
28 ~~with that emergency backup generator without having it count~~
29 ~~toward that permitted emergency backup generator’s time~~
30 ~~limitation on actual usage and routine testing and maintenance:~~

31 (1) ~~Use the emergency backup generator during a deenergization~~
32 ~~event or other loss of power.~~

33 (2) ~~Test or maintain the emergency backup generator for~~
34 ~~consistency with any of the following:~~

35 (A) ~~The National Fire Protection Association Standard 110 for~~
36 ~~Emergency and Standby Power Systems, or its successor.~~

37 (B) ~~Industry best practices~~

38 (C) ~~Recommendations by the manufacturer of the emergency~~
39 ~~backup generator.~~

1 ~~(b) A district shall not impose a fee on the issuance or renewal~~
2 ~~of a permit issued for an emergency backup generator described~~
3 ~~in subdivision (a).~~

4 ~~SEC. 3. If the Commission on State Mandates determines that~~
5 ~~this act contains costs mandated by the state, reimbursement to~~
6 ~~local agencies and school districts for those costs shall be made~~
7 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
8 ~~4 of Title 2 of the Government Code.~~

9 ~~SEC. 2. Section 42451.1 is added to the Health and Safety~~
10 ~~Code, to read:~~

11 ~~42451.1. (a) For purposes of this section, the following terms~~
12 ~~have the following meanings:~~

13 ~~(1) "Critical facility" means a facility necessary in providing~~
14 ~~essential public services, including, but not limited to, facilities~~
15 ~~such as hospitals, police stations, fire stations, emergency~~
16 ~~operations centers, water and wastewater facilities, incident~~
17 ~~command posts, and communication systems used to support~~
18 ~~essential public services.~~

19 ~~(2) "Deenergization event" means the interruption of power~~
20 ~~due to a public safety power shutoff.~~

21 ~~(3) "Emergency backup generator" means an internal~~
22 ~~combustion engine greater than 50 brake horsepower and gas~~
23 ~~turbines greater than 2,975,000 British thermal units per hour for~~
24 ~~nonutility power generation that does not operate more than 200~~
25 ~~hours per year and is only operated in the event of an emergency~~
26 ~~power failure or for routine testing and maintenance.~~

27 ~~(4) "Loss of power" means a failure in an electric generation,~~
28 ~~distribution, and transmission system or a disruption to electrical~~
29 ~~power from an electricity provider due to an emergency event,~~
30 ~~including a wildfire.~~

31 ~~(5) "Public safety power shutoff" means a preventative measure~~
32 ~~to deenergize all, or a portion of, an electric generation,~~
33 ~~distribution, or transmission system when the electricity provider~~
34 ~~reasonably believes there is an imminent and significant risk that~~
35 ~~strong winds, or other extreme and potentially dangerous weather~~
36 ~~events, increase the probability of a wildfire.~~

37 ~~(6) "Water and wastewater facilities" includes drinking water~~
38 ~~and wastewater treatment plants, pumping stations, storage~~
39 ~~facilities, and water facilities needed to maintain water service~~
40 ~~and the water pressure necessary for firefighting.~~

1 **(b) (1)** Commencing January 1, 2022, an air pollution control
2 officer shall develop stipulations for an order for abatement issued
3 pursuant to subdivision (b) of Section 42451 that allows the
4 operator of a critical facility to use a permitted emergency backup
5 generator in exceedance of that permit's runtime and testing and
6 maintenance limits if both of the following are met:

7 **(A)** The operation of the emergency backup generator occurs
8 as the result of a deenergization event or other loss of power.

9 **(B)** The testing and maintenance for that emergency backup
10 generator is in accordance with the National Fire Protection
11 Association Standard 110 for Emergency and Standby Power
12 Systems.

13 **(2)** Commencing 12 months after the adoption of a district rule
14 on emergency backup generators on or after January 1, 2021, that
15 limits the hours of operation of that emergency backup generator
16 during a deenergization event, an air pollution control officer shall
17 develop stipulations for an order for abatement that allows the
18 operator of a critical facility to use a permitted emergency backup
19 generator in exceedance of that permit's runtime and testing and
20 maintenance limits if both of the following are met:

21 **(A)** The operation of the emergency backup generator occurs
22 as the result of a deenergization event or other loss of power.

23 **(B)** The testing and maintenance for that emergency backup
24 generator is in accordance with the National Fire Protection
25 Association Standard 110 for Emergency and Standby Power
26 Systems.

27 **(c)** In accordance with the stipulations developed pursuant to
28 subdivision (b), the operator of a critical facility shall be subject
29 to the conditions negotiated with the district, including, but not
30 limited to, both of the following:

31 **(1) (A)** A schedule for the replacement of the Tier 1 or lower
32 emergency backup generator with the cleanest, feasible, and
33 applicable technology.

34 **(B)** The replacement schedule shall be technically and
35 economically feasible and consider the useful life of the emergency
36 backup generator.

37 **(2)** Reporting requirements after a deenergization event or
38 testing and maintenance that results in an exceedance of the
39 permit's operational limit.

1 (d) *The stipulations developed pursuant to subdivision (b) shall*
2 *not be in effect for more than five years or the length of time agreed*
3 *upon for the replacement of the emergency backup generator.*

4 (e) *The stipulations developed pursuant to subdivision (b) shall*
5 *be subject to the approval of the hearing board when the order*
6 *for abatement is being considered pursuant to Section 42451.*

7 SEC. 3. *No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *a local agency or school district has the authority to levy service*
10 *charges, fees, or assessments sufficient to pay for the program or*
11 *level of service mandated by this act, within the meaning of Section*
12 *17556 of the Government Code.*

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