

ASSEMBLY BILL NO. 416—ASSEMBLYWOMAN SWANK

MARCH 27, 2017

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to establish a program to use certain settlement money received from the Volkswagen Corporation and its subsidiaries. (BDR S-1050)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to environmental protection; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to establish a program to use certain settlement money received from the Volkswagen Corporation and its subsidiaries; requiring the program to include priorities and other provisions for administering the program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The United States District Court for the Northern District of California recently
2 approved two partial consent decrees in litigation between the United States
3 Department of Justice and the Volkswagen Corporation and its subsidiaries
4 regarding the installation and use of emissions testing devices in many vehicles
5 sold and operated in the United States. One provision of the partial consent decrees
6 requires the Volkswagen Corporation to fund a Mitigation Trust, the money from
7 which will be disbursed to each state based on the number of affected vehicles
8 which were sold in each of those states. The money must be used to defray the cost
9 of projects intended to offset the excess emissions of nitrogen oxides caused by the
10 vehicles. (Partial Consent Decree, *In re Volkswagen “Clean Diesel” Marketing,*
11 *Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D.
12 Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re Volkswagen “Clean*
13 *Diesel” Marketing, Sales Practices and Products Liability Litigation*, No. MDL No.
14 2672 CRB, (N.D. Cal. Dec. 20, 2016))

15 This bill requires the Division of Environmental Protection of the State
16 Department of Conservation and Natural Resources, in consultation with the



* A B 4 1 6 R 1 *

17 Department of Motor Vehicles and the Department of Transportation, to develop a
18 program for distributing money from the Mitigation Trust to assist residents of this
19 State and local governmental entities in this State in repowering the engines of
20 certain vehicles with new diesel, alternate fueled or all-electric engines, or
21 replacing certain vehicles with new diesel, alternate fueled or all-electric vehicles,
22 to the extent that such repowering or replacing is authorized by the terms of the
23 consent decrees. The program developed by the Division must include a preference
24 for repowering or replacing vehicles: (1) which are equipped with engines that were
25 manufactured not later than 2006; (2) with over 200,000 miles registered on the
26 odometer; (3) operated by and for a small business or a school district; and (4)
27 which have been operated in this State for not less than one half of the time the
28 vehicle has been owned by the current owner. Distributions of money to a local
29 governmental entity for repower or replacement of an eligible vehicle must be
30 limited to not more than 80 percent of the cost of such repowering or replacing.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** 1. The Division of Environmental Protection of
2 the State Department of Conservation and Natural Resources, in its
3 role as lead agency on behalf of this State designated as required in
4 section 4.2.1 of Appendix D to the Partial Consent Decree, shall,
5 upon a determination of Beneficiary status pursuant to section 4.0 of
6 Appendix D to the Partial Consent Decree, prepare and submit a
7 Beneficiary Mitigation Plan as required by section 4.1 of Appendix
8 D to the Partial Consent Decree, which includes, without limitation,
9 the provisions of subsections 2 and 3 to the extent that such
10 provisions are permissible under the requirements of the Partial
11 Consent Decree and the Second Partial Consent Decree.

12 2. The Division of Environmental Protection of the State
13 Department of Conservation and Natural Resources, in consultation
14 with the Department of Motor Vehicles and the Department of
15 Transportation, shall develop a program for distributing money
16 received from the Mitigation Trust to residents of this State and
17 local governmental entities in this State to assist residents of this
18 State and local governmental entities in this State to:

19 (a) Replace with a new diesel, alternate fueled or all-electric
20 vehicle; or

21 (b) Repower with a new diesel, alternate fueled or all-electric
22 engine,

23 ➤ any vehicles that are eligible for replacement or repowering
24 under the terms of the Partial Consent Decree. The Division of
25 Environmental Protection of the State Department of Conservation
26 and Natural Resources may award grants or subgrants of money to
27 any resident of this State, a local governmental entity or other
28 person or entity to carry out the provisions of the program.



* A B 4 1 6 R 1 *

1 3. The program developed pursuant to subsection 2 must
2 include, without limitation:

3 (a) Priorities for the distribution of available money which
4 incorporate a preference for replacing or repowering a vehicle:

5 (1) Which is equipped with an engine that was manufactured
6 not later than 2006.

7 (2) With over 200,000 miles registered on the odometer.

8 (3) Operated by and for a small business or a school district.

9 (4) Which has been operated in this State for not less than
10 one half of the time the vehicle has been owned by the current
11 owner.

12 (b) A limitation on the amount of money a local governmental
13 entity may receive to repower or replace a vehicle owned by the
14 local governmental entity, which must not exceed 80 percent of the
15 cost to repower or replace the vehicle.

16 (c) A procedure by which the owner of an eligible vehicle may
17 apply to participate in the program.

18 (d) Any documents or other evidence which the owner of an
19 eligible vehicle must provide, if applicable, to prove to the
20 satisfaction of the Division or its designee that the vehicle meets one
21 or more of the criteria in paragraph (a).

22 4. As used in this section:

23 (a) "Beneficiary" has the meaning ascribed to it in section 1.1 of
24 Appendix D to the Partial Consent Decree.

25 (b) "Beneficiary Mitigation Plan" means the submittal required
26 of a Beneficiary pursuant to section 4.1 of Appendix D to the Partial
27 Consent Decree.

28 (c) "Mitigation Trust" means the trust established by section
29 2.0.1 of Appendix D to the Partial Consent Decree and funded
30 pursuant to paragraph 14 of the Partial Consent Decree, paragraph
31 17 of the Second Partial Consent Decree and any subsequent
32 amendments to the Partial Consent Decree.

33 (d) "Partial Consent Decree" means Partial Consent Decree, *In*
34 *re Volkswagen "Clean Diesel" Marketing, Sales Practices and*
35 *Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal.
36 Sept. 30, 2016).

37 (e) "Second Partial Consent Decree" means Second Partial
38 Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales*
39 *Practices and Products Liability Litigation*, No. MDL No. 2672
40 CRB, (N.D. Cal. Dec. 20, 2016).

41 (f) "Small business" means a business conducted for profit in
42 this State which employs not more than 50 employees.

43 **Sec. 2.** This act becomes effective upon passage and approval.

