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AN ACT TO ADDRESS THE HEALTH AND ECONOMIC DEVELOPMENT IMPACTS OF NONATTAINMENT OF FEDERALLY-MANDATED AIR QUALITY STANDARDS IN THE SAN JOAQUIN VALLEY, CALIFORNIA, BY DESIGNATING AIR QUALITY EMPOWERMENT ZONES

SEPTEMBER 24, 2008.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 3565]

together with

MINORITY VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 3565) to address the health and economic development impacts of nonattainment of federally-mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones, reports favorably thereon, and recommends that the bill do pass.

PURPOSES OF THE LEGISLATION

This legislation would address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones within the Valley that may apply for federal grants for the purpose of replacing or retrofitting polluting vehicles and engines in order to improve the health of the population living in the zones. This legislation is intended to establish an empowerment zone model that may be applied in the future elsewhere to address areas heavily impacted by air pollution.

GENERAL STATEMENT AND BACKGROUND

The San Joaquin Valley faces serious air quality challenges that impact the health, development, and economy of the Valley. The San Joaquin Valley Air Basin has been designated under the Clean Air Act as a nonattainment area with respect to the 8-hour ozone standard and the $PM_{2.5}$ standard. In order to meet the 8-hour ozone standard under the Clean Air Act, the Valley would have to reduce its nitrogen oxide emissions to not more than 160 tons per day from the current emissions of approximately 624 tons per day.

Elevated ozone levels in the Valley contributes to asthma rates that are 3 times the State average and 5 times the national average. Nonattainment of the Clean Air Act standards costs the Valley more than $3 billion annually. This legislation will address these serious air quality challenges by authorizing the designation of geographical areas within the Valley as air quality empowerment zones that are eligible for Federal grants and technical assistance, to benefit the residents of the zone through improved air quality and health. These funds will be used to replace or retrofit heavily-polluting vehicles or engines in order to improve the health of the population living in the zones.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 would provide that the Act may be cited as the "Air and Health Quality Empowerment Zone Designation Act of 2008".

Section 2. Purpose

Section 2 would state that the purpose of the Act is to establish criteria for the designation of specific geographic areas as air and health quality empowerment zones that may apply for grants authorized for the purpose of replacing or retrofitting polluting vehicles or engines in order to improve the health of the population living in the zones.

Section 3. Findings

Section 3 finds that the San Joaquin Valley faces serious air quality challenges that impact the health, development, and economy of the Valley, and that the failure of the Valley to meet the Clean Air Act standards for ozone and $PM_{2.5}$ contributes to school absences due to illness, asthma rates that are 3 times the State average and 5 times the national average, and costs the Valley more than $3 billion annually, an area with chronic double-digit unemployment rates. Section 3 further finds that the Federal Government must partner with the Valley and the State to address air quality, health and economic development for Valley residents through designation of areas within the Valley as air quality empowerment zones that are eligible for Federal grants and technical assistance.

Section 4. Definitions

Section 4 would define the term "Administrator" to mean the Administrator of the Environmental Protection Agency (EPA). The term "Agency" would be defined to mean the EPA. Section 4 would define the term "Clean Air Act" to mean the Clean Air Act (42

U.S.C. 7401 et seq.). The term "$PM_{2.5}$" would be defined to mean particulate matter with a diameter that does not exceed 2.5 micrometers. The term "Strategic Plan" would be defined to mean, with respect to an area, the plan contained in the application for designation of the area under Section 5 of the Act. Finally, Section 4 would define the term "Valley" to mean the San Joaquin Valley, California.

Section 5. Air Quality Empowerment Zone designation procedures

Section 5 would provide that the Administrator of EPA may designate areas nominated for designation under this section as air and health quality empowerment zones. The designation would remain in effect for 10 years or until the Administrator revokes the designation. The Administrator may revoke the designation if the Administrator determines that the local air pollution district in which the designated area is located has been designated as being in attainment with the $PM_{2.5}$ and ozone standards under the Clean Air Act, or is not complying substantially with, or fails to make progress in achieving the goals of, the strategic plan.

No area may be designated an air and health quality empowerment zone unless the area is nominated by the air pollution control district with jurisdiction over the area, the air pollution control district provides written assurances to the Administrator that the strategic plan will be implemented, and the Administrator determines that the information provided is reasonably accurate. The Application for designation must demonstrate that the area meets the eligibility criteria in section 6 of the Act, and must include a strategic plan for accomplishing the purposes of the Act. The strategic plan must describe: the process by which the area is a full partner in developing and implementing the plan; the extent to which local institutions and organizations have contributed to the planning process; the State, local, and private resources that will be available and the public/private partnerships that will be used; the funding requested under any Federal program in support of the Act; baselines, methods, and benchmarks for measuring success; and other information that may be required by the Administrator.

Section 6. Eligibility criteria

Section 6 would provide that a nominated area is eligible only if the area: (1) has been designated as being in extreme nonattainment of the 8-hour ozone national ambient air quality standard (NAAQS) and the NAAQS for $PM_{2.5}$; (2) the nominated area has emissions of nitrogen oxides from farm equipment of at least 30 tons per day or emissions of volatile organic compounds from farming operations of at least 40 tons per day in calendar year 2010; (3) the area meets or exceeds the national average in asthma rates or school days missed due to the adverse health impacts of elevated ozone levels; (4) the area experiences unemployment rates higher than the national average; and (5) the State or local government will match at least 50% of the funds provided by the Federal Government under the Act.

Section 7. Eligible grant applicants

Section 7 would provide that any air pollution control district or other local government entity authorized to regulate air quality in

a State under the Clean Air Act may apply for a grant under the Act.

Section 8. Authorization of Air and Health Empowerment grants

Section 8 would authorize grants to areas designated air and health quality empowerment zones under the Act, in an amount determined by the Administrator based on need and the information provided in the application.

Section 8 would require the Administrator to make a grant to each designated air and health quality empowerment zone on the date of the designation and again on the first day of the first fiscal year that begins after the date of the designation.

Section 8 would require the air pollution control district or other local government entity with Clean Air Act jurisdiction over the empowerment zone to oversee the use of the grant funds. The grant funds can be used only to carry out activities that achieve the purposes of the Act, in accordance with the strategic plan, and for activities that benefit the residents of the zone through improved air quality and health.

Section 8 would authorize the appropriation to the Administrator of $20,000,000 for each of fiscal years 2009 through 2013 to provide grants under this Act.

LEGISLATIVE HISTORY

This legislation was sponsored by Senator Boxer. The Committee on Environment and Public Works met on September 17, 2008, when it was ordered favorably reported by voice vote.

HEARINGS

The Committee did not hold hearings on this legislation during the 110th Congress.

ROLLCALL VOTES

There were no rollcall votes. The Committee on Environment and Public Works met to consider this legislation on September 17, 2008. A quorum of the Committee being present, it was reported favorably without amendment by a voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b)(2) of rule XXVI of the Standing Rules of the Senate, the Committee states that there are not expected to be regulatory costs to private entities under this legislation, which provides grants to retrofit or replace polluting vehicles or engines.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee finds that this legislation would impose no Federal intergovernmental unfunded mandates on State, local or tribal governments, and does not impose private sector mandates.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SEPTEMBER 24, 2008.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Air and Health Quality Empowerment Zone Designation Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 3565—Air and Health Quality Empowerment Zone Designation Act of 2008

Summary: This legislation would authorize the Environmental Protection Agency (EPA) to create air quality empowerment zones in the San Joaquin Valley in California. Certain entities within those zones would then be eligible for grants to fund the replacement or retrofitting of vehicles or engines to reduce air pollution. The bill would authorize the appropriation of $20 million for each of fiscal years 2009 through 2013 for EPA to provide such grants. Assuming appropriation of the authorized amounts, CBO estimates that implementing this legislation would cost $82 million over the 2009–2013 period and $18 million after 2013. Enacting the bill would not affect direct spending or revenues.

This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of this bill is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). For this estimate, CBO assumes that this legislation will be enacted near the start of fiscal year 2009 and that the amounts authorized by the bill will be appropriated each year. Estimated outlays are based on historical spending patterns for similar programs.

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	20	20	20	20	20	100
Estimated Outlays	8	16	18	20	20	82

Intergovernmental and private-sector impact: This legislation contains no intergovernmental or private-sector mandates as defined in UMRA. Local governments and pollution control districts would benefit from grants authorized by the bill. Any costs to those entities, including matching funds to comply with grant conditions, would be incurred voluntarily.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Burke Doherty; and Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

MINORITY VIEWS OF SENATOR INHOFE

The Air and Health Quality Empowerment Zone Designation Act of 2008 should be opposed and returned to the Environment and Public Works Committee by the full Senate until a more equitable solution is agreed to that does not ignore the problems that other areas in the country are facing with nonattainment. This bill addresses the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones within the Valley. While the bill has good intentions to help address the severe air quality situation in the San Joaquin valley, it unfortunately amounts to an earmark specifically for the Valley area.

I have been supportive of the use of diesel retrofits in the past as the most cost effective method in reducing NO_X and particulate matter emissions. But rather than creating another separate grant program that authorizes $20 million annually and specifically eliminates the consideration of other eligible areas that have attainment problems, I support efforts to help all other areas who are struggling to meet their attainment goals in an equitable manner. While the bill's author claims the Act is to function as a demonstration program, nothing in the Act calls for it to be evaluated by an independent body or leaves it open to expansion of other eligible areas.

I note that these struggling areas, including the San Joaquin valley, will only increase as the planning gets underway for the newly revised ozone and $PM_{2.5}$ designations. These new designations will add more pressure on struggling local economies and industries in these uncertain economic times. I look forward to working in a bipartisan manner on a more comprehensive approach that will address these challenges to ensure that our most vulnerable areas of this country in nonattainment can continue to achieve economic prosperity while their air becomes cleaner.

JAMES M. INHOFE.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.

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