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**SB-372 Medium- and heavy-duty fleet purchasing assistance program: zero-emission vehicles.** (2021-2022)

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**Senate Bill No. 372**

**CHAPTER 639**

An act to add Article 4 (commencing with Section 44274.10) to Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicles.

[ Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 372, Leyva. Medium- and heavy-duty fleet purchasing assistance program: zero-emission vehicles.

Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality. Pursuant to its existing statutory authority, the state board has established the Clean Vehicle Rebate Project, as a part of the Air Quality Improvement Program, to promote the use of zero-emission vehicles by providing rebates for the purchase of new zero-emission vehicles.

Existing law, the California Pollution Control Financing Authority Act, establishes the California Pollution Control Financing Authority, with specified powers and duties, and authorizes the authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution.

This bill would establish the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program within the Air Quality Improvement Program to make financing tools and nonfinancial supports available to operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zero-emission vehicles. The bill would require the state board to designate the California Pollution Control Financing Authority as the agency responsible for administering the program and would require the state board and the authority to enter into an interagency working agreement for the development and administration of the program. The bill would require the state board and the authority, in developing and implementing the program, to consult with various stakeholders regarding specified program components, develop and design, in consultation with other relevant state agencies, as provided, financing tools and nonfinancial supports that are most appropriate for different sizes and sectors of medium- and heavy-duty vehicle fleets, and ensure that the financial tools and nonfinancial supports required pursuant to the program are available to operators of medium- and heavy-duty fleets by January 1, 2023, as provided. The bill would require the authority to develop, in consultation with the state board, a data collection and dissemination strategy for the program, as provided, and to track project implementation and report to the state board project outcomes no less than annually. The bill would require the state board to provide on its internet website information regarding the potential financing and grant options and other technical assistance available through the program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) The transition to zero-emission medium- and heavy-duty vehicles is the goal of the state, as outlined in the Governor's Executive Order No. N-79-20 and the State Air Resources Board's Advanced Clean Trucks and Advanced Clean Fleets regulations.

(b) Statewide, about 12,000,000 Californians live in communities that exceed the federal ozone and PM 2.5 standards. According to the American Lung Association, more than 90 percent of Californians live in counties affected with unhealthy air during certain parts of the year. The south coast and San Joaquin Valley are the only two areas in the nation designated as "extreme" nonattainment. Researchers found that southern California has seen a 10 percent increase in deaths attributable to ozone pollution from 2010 to 2017, inclusive.

(c) Emissions from medium- and heavy-duty vehicles make up a significant proportion of harmful air pollution in California, despite making up just 7 percent of vehicles on the road. Heavy-duty trucks are responsible for about 35 percent of total statewide NOx emissions and over 70 percent of NOx emissions from on-road mobile sources. Heavy-duty trucks are also responsible for approximately 26 percent of total statewide diesel PM emissions.

(d) The risks of near-road air pollution are particularly high for disadvantaged and underserved communities and communities of color because these communities constitute a higher percentage of the population near major roadways.

(e) These emissions near roadways add to the health burdens in disadvantaged and underserved communities and communities of color and cleaning up transportation emissions in these communities is long overdue and should be the focus of state clean air programs.

(f) Using zero-emission vehicles instead of internal combustion engine vehicles saves the operators of medium- and heavy-duty vehicle fleets money over the lifetime of the zero-emission vehicles because zero-emission vehicles have lower operation costs. Additionally, using zero-emission medium- and heavy-duty vehicles has broader societal benefits, including improved health outcomes, resulting in reduced costs related to health care.

(g) Even with this lower operating cost, getting to this transition requires near-term, scalable, and replicable financing tools and nonfinancial supports, such as technical and policy supports, with an understanding that small and microfleets of medium- and heavy-duty vehicles will require development of specific financing solutions relative to larger fleets of medium- and heavy-duty vehicles, and the state's commitment to developing those financing solutions.

(h) Small and microfleets are more likely to operate in disadvantaged and underserved communities and communities of color, have less access to market capital, and face other financial burdens, and, for those reasons, could benefit from the cost savings of zero-emission vehicles if financing tools and nonfinancial supports are designed for, and directed to, those fleets. Furthermore, these tools must be in place to support small and microfleets given the development of the Advanced Clean Fleets regulation by the State Air Resources Board.

(i) Large fleets will likely need public moneys and nonfinancial supports to help transition those fleets to zero-emission vehicles. These tools can be leveraged with infusions of private capital.

(j) Public moneys, other financing tools, and nonfinancial policy supports can be designed to go where they are needed the most and will have the most impact, bringing in as much private capital as possible to complement and leverage limited existing funding, while ensuring that small and microfleets are made economically better off through this process, rather than adding to their financial burden of purchasing a new or used vehicle.

(k) It is important to ensure the distribution of funds to seaports throughout the state to widen adoption of these vehicles with specific offerings to overcome existing obstacles to accessing funding and that will complement their different operational models in order to accomplish the goals of Article 4 (commencing with Section 44274.10) of Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code.

(l) Bus fleets are often on the cutting edge of zero-emission vehicle transportation, help to support the transition to zero-emission vehicles, and would benefit from financial and nonfinancial support designed to suit their fleets.

**SEC. 2.** Article 4 (commencing with Section 44274.10) is added to Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code, to read:

#### **Article 4. Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program**

**44274.10.** For purposes of this article, the following definitions apply:

- (a) "Administering agency" means the California Pollution Control Financing Authority.
- (b) "Financing tools" includes, but is not limited to, any of the following:
  - (1) Capital instruments, which are financing instruments that increase access to capital or other resources or reduce the cost of capital, or both, such as interest rate reductions, public-backed "soft" loans, grants, bonds, and investment aggregation, also known as warehousing.
  - (2) Risk reduction instruments, which are financing instruments that reduce exposure to risk or uncertainty, such as performance guarantees and asset residual value guarantees.
  - (3) Cost smoothing instruments, which are financing instruments that reduce and smooth up-front or recurrent costs, or both, such as operational leasing, all-inclusive leasing, also known as wet leasing, lease-purchase agreements, and on-bill financing.
- (c) "Fleet" means one or more vehicles under common control or ownership.
- (d) "Medium- and heavy-duty vehicle" includes, but is not limited to, trucks, buses, and vehicles used for construction and earth moving purposes.
- (e) "Nonfinancial supports" means technical support, such as supports for technical management of electric medium- and heavy-duty vehicles, technical assistance for financing approaches, battery health programs, and creation of residual markets, or policy action, such as policy measures to enable financing or encourage fleet transitions.
- (f) "Program" means the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program established pursuant to Section 44274.11.
- (g) "Underserved community" means any of the following communities:
  - (1) A low-income community as defined by paragraph (2) of subdivision (d) of Section 39713.
  - (2) A community identified as a disadvantaged community by the California Environmental Protection Agency pursuant to Section 39711.
  - (3) A community selected by the state board pursuant to Section 44391.2.
  - (4) A community located on lands belonging to a federally recognized California Native American tribe.

**44274.11** (a) The Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program is hereby established within the state board's Air Quality Improvement Program established pursuant to Section 44274 to make financing tools and nonfinancial supports available to the operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zero-emission vehicles. The state board shall designate the California Pollution Control Financing Authority as the agency responsible for administering the program.

(b) The state board and the administering agency shall enter into an interagency working agreement for the development and administration of the program.

**44274.12.** (a) As part of the interagency working agreement entered into pursuant to Section 44274.11, the state board and the administering agency shall do all of the following when developing and implementing the program:

- (1) Seek input from environmental justice organizations, medium- and heavy-duty vehicle fleets of diverse sizes and types, financiers, original truck equipment manufacturers, transportation, logistics, and fleet management companies, nongovernmental organizations, and other relevant stakeholders on all of the following topics:
  - (A) Which medium- and heavy-duty fleets should be designated as high-priority fleets pursuant to paragraph (5), taking into consideration the implications for climate change, pollution and environmental justice, state policy regarding clean air and transportation, and post-COVID economic recovery.
  - (B) How to apply to the program the Governor's Office of Business and Economic Development's findings on the critical barriers that impede medium- and heavy-duty fleets in different sectors and of different fleet sizes from transitioning to zero-emission vehicles.

(C) The financing tools and nonfinancial supports that should be used to help overcome the critical barriers identified pursuant to subparagraph (B).

(D) How to determine whether the program is successful in meeting its goals.

(2) Develop and design, in consultation with other relevant state agencies and building on the input received pursuant to paragraph (1), financing tools and nonfinancial supports that are most appropriate for different sizes and sectors of medium- and heavy-duty vehicle fleets.

(3) Ensure the financing tools and nonfinancial supports identified pursuant to paragraph (2) have no redundancies or inefficiencies with other state programs.

(4) Ensure that a minimum of 75 percent of financing products offered under the program are directed towards operators of medium- and heavy-duty fleets whose fleets directly impact, or operate in, an underserved community.

(5) Designate which medium- and heavy-duty fleets are the high-priority fleets that will have access to the program first based on a consideration of state transportation policy and the input received pursuant to paragraph (1). The administering agency shall designate port and drayage truck fleets as one of the high-priority fleets until a date determined by the state board.

(6) Provide financing tools to operators of small and microfleets of medium- and heavy-duty vehicles that include, but are not limited to, direct assistance, such as incentives, grants, and vouchers, that increase access to capital and reduce exposure to market risks or uncertainties. The state board and the administering agency shall determine how many vehicles constitute a small fleet and a microfleet for purposes of the program.

(7) Provide financing tools to operators of large fleets of medium- and heavy-duty vehicles to increase access to private capital in ways that make it easier, less expensive, or reduce uncertainties, or any combination of these things, for the operators to transition to zero-emission vehicles. The state board and the administering agency shall determine how many vehicles constitute a large fleet for purposes of the program.

(8) Enable the stacking or coordinated combination of financial tools and nonfinancial supports.

(9) Facilitate the decommissioning of high-polluting medium- and heavy-duty vehicles in accordance with the state's clean air targets and goals.

(10) Enable the development of replicable business models that allow private capital to fully engage, while meeting the goals of this article.

(11) Include optimal financing tools and appropriate nonfinancial supports that are designed and targeted to catalyze electrification at scale.

(12) Encourage emerging flexible business, operational, and ownership models that accomplish the goals of this article, such as lease-backs or electric vehicle managers and lessors.

(13) Ensure the financing tools and nonfinancial supports designed and developed pursuant to this section are available to operators of medium- and heavy-duty fleets by January 1, 2023.

(b) Upon appropriation by the Legislature, the state board may allocate moneys to the program from, but is not limited to funding the program from, all of the following funding sources:

(1) The Air Quality Improvement Fund created by Section 44274.5.

(2) The Greenhouse Gas Reduction Fund created by Section 16428.8 of the Government Code.

(3) The General Fund.

(c) (1) The state board shall ensure that the program aligns with milestones established in Executive Order No. N-79-20 and the goals set forth in Resolution 20-19 adopted by the state board on June 25, 2020, along with the proposed revisions to Division 3 (commencing with Section 1900) of Title 13 of the California Code of Regulations known as the Proposed Advanced Clean Trucks Regulation, which were approved by the state board on June 25, 2020.

(2) The state board shall do both of the following:

(A) Establish penetration targets for deployment of financing tools and nonfinancial supports to operators, including, but not limited to, those whose fleets directly impact, or operate in, underserved communities for each milestone specified in paragraph (1).

(B) Compile data and information about the deployment of financing tools and nonfinancial supports provided pursuant to the program to operators, including, but not limited to, those whose fleets directly impact, or operate in, underserved communities.

(d) The state board shall coordinate with the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, and the administering agency to provide marketing, education, and outreach to underserved communities regarding the program.

**44274.13.** (a) The administering agency, in consultation with the state board, shall develop a data collection and dissemination strategy for the program to facilitate informed decisionmaking by other state agencies and private sector financiers.

(b) The administering agency shall keep confidential all business trade secrets and proprietary information about fleets that the administering agency gathers or becomes aware of through the course of implementing and administering this article, including through applications for financial assistance. Business trade secrets and proprietary information obtained pursuant to this subdivision are not subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) The strategy developed pursuant to subdivision (a) shall include data that is necessary to facilitate the financing of zero-emission vehicles in order to increase the scalability of financial tools and nonfinancial supports. These data include, but are not limited to, vehicle and battery performance, upfront and operational costs, residual values, operational revenues, and zero-emissions vehicle miles traveled.

(d) The administering agency shall track project implementation and report to the state board the outcomes no less often than annually, including vehicle or equipment data necessary to calculate criteria air pollutant and greenhouse gas emission reductions, demographic and business data necessary to determine cobenefits, and socioeconomic benefits to residents, including those in underserved communities. Specific data points shall be determined by the state board and included in the interagency agreement described in Sections 44274.11 and 44274.12.

**44274.14.** The state board, in consultation with the administering agency, shall consult with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission on the use of on-bill tariff products for charging and fueling infrastructure that would allow operators of medium- and heavy-duty fleets to see fuel cost savings of zero-emission vehicles relative to diesel fuel.

**44274.15.** The state board shall create, in coordination with other state agencies that administer programs similar to the program established in Section 44274.11, a "one-stop shop" that provides information on the state board's internet website to operators of medium- and heavy-duty fleets about all of the potential financing and grant options and other technical assistance available to help obtain financing for zero-emission medium- and heavy-duty vehicles.

**SEC. 3.** The Legislature finds and declares that Section 2 of this act, which adds Section 44274.13 to the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to appropriately protect the trade secrets and other proprietary materials of businesses, it is necessary to limit access to the proprietary information of businesses seeking financial and nonfinancial tools, supports, and assistance related to zero-emission vehicles under Section 2.