

APPROVED
BY THE CITY COUNCIL

MAY 31 1994

OFFICE OF THE
CITY CLERK

4.6

DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SACRAMENTO, CA

ADMINISTRATION
ROOM 300, 95814-2987
(916) 264-5571
FAX (916) 264-7185
BUILDING INSPECTIONS
ROOM 200, 95814-2998
(916) 264-5716
FAX (916) 264-7046
ECONOMIC DEVELOPMENT
ROOM 300, 95814-2987
(916) 264-7223
ENVIRONMENTAL SERVICES
ROOM 301, 95814-3982
(916) 264-7037
PLANNING
ROOM 200, 95814-2998
(916) 264-5381

May 19, 1994

City Council
Sacramento, California

Honorable Members in Session:

**SUBJECT: DESIGNATION OF THREE CITY COUNCIL MEMBERS TO THE
SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT
DISTRICT BOARD**

LOCATION: CITYWIDE

RECOMMENDATION:

1. That the Mayor designate three members of the City Council as City representatives to the Sacramento Metropolitan Air Quality Management District Board, and
2. That the names of these three members be submitted to the Board of Supervisors, presently acting as the Sacramento Metropolitan Air Quality Management District Board, for their action on reconstituting the Board per the requirements of AB 75.

CONTACT PERSON: Carol L. Branan, Division Manager (916)264-7598

FOR THE COUNCIL MEETING OF: May 31, 1994

SUMMARY:

State law regarding the composition of local air district boards of directors has been amended by AB 75, Hauser (Chapter 961, Statutes of 1993). The amendments require city representation

**Sacramento Metropolitan Air Quality
Management District Board
May 19, 1994**

on the boards of districts, including the Sacramento Metropolitan Air Quality Management District. County staff is recommending that the new Board representation be 5 members of the Board of Supervisors, 3 members of the Sacramento City Council, and 1 member from the City of Isleton, Folsom, or Galt.

COMMITTEE/COMMISSION ACTION:

None

BACKGROUND:

On March 1, 1994 the Board of Supervisors of the County of Sacramento reviewed a staff report outlining the requirements of AB 75 and directed staff to begin discussions between the City and County representatives that would lead to the implementation of AB 75.

The recommendation of County staff is that the reconstituted Sacramento Metropolitan Air Quality Management District Board contain 5 members of the Board of Supervisors representing Sacramento County, 3 members of the City Council of the City of Sacramento, and 1 member of a City Council from one of the cities of Folsom, Isleton or Galt.

County staff has been meeting with all of the affected jurisdictions and has received support from the staff of the City of Sacramento concerning their proposed makeup of the new Board, but there is disagreement among the cities of Folsom, Isleton, and Galt.

The deadline for reconstituting a new Board is July 1, 1994. By that date the composition of the Board must be determined jointly by the County and cities within the District. The new Board's composition must be approved by a majority of the population within the incorporated area of the County (by the City of Sacramento and two of the three other cities). AB 75 is ambiguous as it pertains to the composition of the new Board if an agreement cannot be reached. It does not establish a mechanism for reconstituting the new Board should the County and cities not reach agreement. It is County Counsel's belief (See Attachment A) that the Board of Supervisors is authorized to continue acting as the Sacramento Metropolitan Air Quality Management District Board until such time as an agreement is reached or clarifying legislation is enacted.

Assuming that the other cities can reach agreement with the County, staff recommends that the City Council direct the Mayor to submit three names to the Board of Supervisors as the City

**Sacramento Metropolitan Air Quality
Management District Board
May 19, 1994**

Council representatives on the new Board. These names should be submitted to the Board as soon as possible, to enable them to act prior to the July 1, 1994 deadline.

In the event that agreement on the makeup of the new Board cannot be reached by July 1, 1994, an updated report will be submitted to the City Council concerning the status of the process and recommending future actions.

FINANCIAL CONSIDERATIONS:

None

POLICY CONSIDERATIONS:

The requirements of AB 75 that there be city representation on air district boards is a change in the policy of the County Board of Supervisors. Representation on the air district board has been provided by the members of the Board of Supervisors. Based upon the importance that air quality issues have to the health of the City and the economic well being of the City, staff believes that AB 75 dictates a positive change in local policy.

MBE/WBE

None.

Respectfully Submitted,



DIANNE GUZMAN, AICP
Director, Planning & Development

APPROVED BY:


WILLIAM H. EDGAR
CITY MANAGER

RESOLUTION NO. 94-342

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

RESOLUTION DESIGNATING THREE CITY COUNCIL MEMBERS TO THE SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT BOARD

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. The Mayor designate three members of the City council as City representatives to the Sacramento Metropolitan Air Quality Management District Board.
2. The City submit the names of these three members to the Board of Supervisors for their action on reconstituting the Board per the requirements of AB75.

MAYOR

Attest:

City Clerk

APPROVED
BY THE CITY COUNCIL

MAY 31 1994

OFFICE OF THE
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

EMD
ATTACHMENT A

APPROVED
BOARD OF DIRECTORS

COUNTY OF SACRAMENTO
STATE OF CALIFORNIA

MAR 01 1994

By Beverly A. Williams
Clerk of the Board

March 1, 1994
1:00 p.m.
Separate Item

To: Board of Directors
Sacramento Metropolitan Air Quality Management District

From: Norm Covell, Air Pollution Control Officer
Director, Environmental Management Department

Subject: RECONSTITUTION OF DISTRICT BOARD PURSUANT TO AB 75

RECOMMENDATIONS:

1. That your Board support an Air Quality Management District Board structure as follows:
 - ◆ 5 members of the Board of Supervisors representing Sacramento County
 - ◆ 3 members of the City Council of the City of Sacramento
 - ◆ 1 member of a City Council from one of the cities of Folsom, Isleton or Galt
2. That your Board authorize the County Executive and Air Pollution Control Officer to meet with City managers to promote the above recommendations.

DISCUSSION:

State law regarding the composition of local air district boards of directors has been amended by AB 75, Hauser (Chapter 961, Statutes of 1993). The amendments require city representation on the boards of many districts, including the Sacramento Metropolitan Air Quality Management District. The attached memo from County Counsel details the new requirements regarding the size and composition of the reconstituted board, and the selection of board members. The amended law specifies an effective date of July 1, 1994.

Other 1993 legislation of concern to the Board is AB 1890 (Sher). This bill impacts the budget process that local air districts must follow. One of the requirements of AB 1890 is an extra public hearing to review the district budget



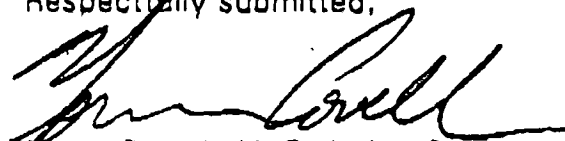
Board of Directors
Sacramento Metropolitan Air Quality Management District
March 1, 1994
Page 2

separate from the budget adoption process. In the implementation of AB 75 and AB 1890, it is possible that the Air District budget will be reviewed by the reconstituted Board.

Discussions will be required between County and City representatives to initiate the process leading to implementation of AB 75.

Precedent for the structure recommended by staff presently exists in the composition of appointees to the Sacramento Environmental Commission.

Respectfully submitted,



Norm Covell, Air Pollution Control officer
Director, Environmental Management Department

Concur:

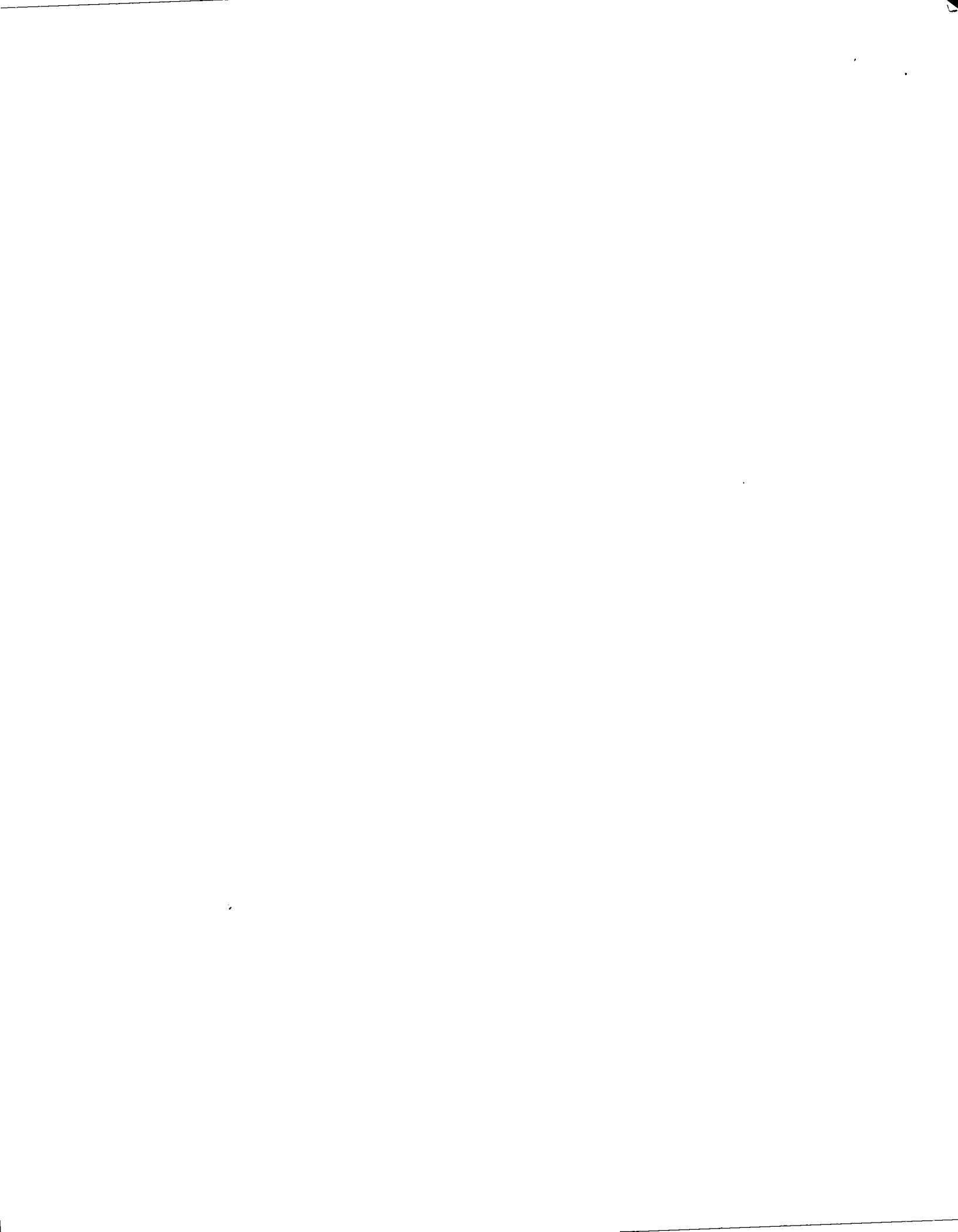


Bob Smith, County Executive

NC\BN:leh

Attachment: County Counsel Memo

cc: County Counsel



COUNTY OF SACRAMENTO

Inter-Department Correspondence

February 24, 1994

To: Norm Covell, Air Pollution Control Officer
Director, Environmental Management Department

From: Michele Bach
Supervising Deputy County Counsel

Subject: Reconstitution of Board of Directors of the Sacramento
Metropolitan Air Quality Management District Pursuant
to AB 75

SMAQMD is currently governed by a board of directors consisting solely of the Sacramento County Board of Supervisors. The Legislature recently enacted AB 75 which amends Health and Safety Code Section 40980.¹ Pursuant to AB 75, the SMAQMD's Board of Directors ("Board") must be reconstituted, by July 1, 1994, to include representatives of the cities within Sacramento County ("County").

In order to comply with AB 75's mandate, you are recommending that the SMAQMD Board be restructured so as to include five (5) members of the Board of Supervisors, three (3) members of the City Council of the City of Sacramento, and one (1) member of the city council for either Folsom, Isleton or Galt. This recommended composition for the new SMAQMD Board is legally authorized by AB 75.

1. Provisions of AB 75

Pursuant to AB 75, the new Board must be composed of at least one member of the Board of Supervisors and one member who is either a mayor or city council member. The Board of Supervisors is authorized to select those members of the new SMAQMD Board who are County Supervisors. The City Selection Committee (which is comprised of the mayors of the cities of Sacramento, Folsom, Galt and Isleton) is charged with selecting the city representatives on the new SMAQMD Board.

The size and composition of the SMAQMD Board must be determined jointly by the County and cities within the SMAQMD.

¹All statutory references are to the Health and Safety Code unless otherwise specified.

Norm Covell

-2-

February 24, 1994

The new Board's composition must be approved by a majority of the ~~cities that contain a majority of the population within the incorporated area of the County,~~ in other words, it must be approved by the city of Sacramento and ~~two of the three other cities.~~ The new Board must "reflect, to the extent feasible and practicable, the geographic diversity of the [County] and the variation of population between the cities in the [County]."

2. Composition of New SMAQMD Board

The County and the cities are free to negotiate any mutually acceptable agreement regarding the size and membership of the new SMAQMD Board. The only limitation on the Board's composition is that it must include at least one member of the Board of Supervisors and one mayor or city councilperson.

Thus, the new SMAQMD Board could theoretically consist of one member of the Board of Supervisors and one mayor or city councilperson. However, AB 75 also authorizes a number of other alternatives, including your recommendation that the new SMAQMD Board consist of 5 members of the Board of Supervisors, 3 City of Sacramento councilpersons, and 1 city council member for either Folsom, Isleton or Galt.

For example, subject to agreement by the County and the requisite majority of cities, the new SMAQMD's composition could also run the gamut from one member of the Board of Supervisors and all the mayors and council members of all the cities within the County to all the members of the Board of Supervisors and a single city representative. Similarly, the Board could also consist of all members of the Board of Supervisors and all the mayors and city council members within the County.

3. Consequence of Failure to Agree on Composition of New SMAQMD Board

If an agreement cannot be reached on the new Board's composition, AB 75 provides that ~~one-third of the new Board's membership would consist of city representatives and two-thirds of its membership would consist of members of the Board of Supervisors.~~ AB 75 further provides that if the number of members of the new SMAQMD Board is such that it is not divisible by three, the number of County supervisors on the Board shall be increased to the nearest integer and the number of city representatives decreased to the nearest integer. Thus, a five member SMAQMD Board would consist of four members of the Board of Supervisors and one city representative, while a seven member SMAQMD Board would consist of five members of the Board of Supervisors and two city representatives.

Norm Covell

-3-


February 24, 1994

AB 75 is patently ambiguous insofar as it pertains to the composition of the new Board if an agreement cannot be reached by the County and the cities. Although it addresses the ratio of city/county representatives on the new Board, AB 75 does not include a mechanism for establishing the size of the new Board should the County and the cities be unable to reach such an agreement. It merely reiterates that the number of Board members shall be determined jointly by the County and the cities within the SMAQMD. Thus, an issue arises as to the status of the SMAQMD Board if the County and the cities are unable to reach the required agreement by July 1, 1994.

Government Code Section 1302 provides that public officers are generally authorized to continue to discharge their official duties until such time as their successor is appointed. This statutory rule reflects the fundamental public policy disfavoring vacancy in public office. *Hartford Acc. & Indemn. Co. v. Tulare* (1947) 30 Cal.2d 832, 836. Therefore, unless there is an express provision in the relevant statute to the contrary, a public officer may continue to perform the duties of such office until a successor is selected and qualifies. *Id.*

No such prohibition is contained in AB 75. Absent an express legislative intent to abolish or eliminate the SMAQMD Board, it is this Office's view that the Board of Supervisors is authorized to continue acting as the SMAQMD Board until such time as agreement is reached or clarifying legislation is enacted.

If you have any questions, please feel free to contact me.



MICHELE BACH
Supervising Deputy County
Counsel