

San Joaquin Air Regulations Upheld by Court -

Does Not Bode Well For Rest of State!

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Also In This Update

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- **IRS Issues 2011 Mileage Rates**

The San Francisco Chronicle reported this morning that a federal appeals court has upheld San Joaquin Valley air-quality rules limiting harmful emissions from housing developments and other construction projects, a decision that could "boost" similar plans in the Bay Area and elsewhere around the state.

The National Association of Home Builders challenged regulations passed in 2005 by the San Joaquin Valley Air Pollution Control District for eight counties, from San Joaquin to Kern, that have some of the nation's dirtiest air. The rules require developers to cut emissions substantially - by 45 percent below the average amount of particulates typically spewed by construction equipment - or pay a fee.

The builders said the district was trying to set emissions standards for trucks and other construction vehicles, which are regulated solely by the federal government. But the Ninth U.S. Circuit Court of Appeals in San Francisco ruled 2-1 on Tuesday that the district's limits were based on the amount of air pollution from each development site, not individual vehicles.

Although the rules may affect engine emissions or encourage developers to use lower-polluting vehicles, they are part of a local agency's authority to regulate land use, the court said.

A state appellate court and a federal judge also had upheld the rules. The builders association could ask the full appeals court for a rehearing or appeal to the U.S. Supreme Court.

The state attorney general's office and environmental groups filed arguments supporting the district.

Attorney Paul Cort of Earthjustice, which represented Environmental Defense and several Sierra Club chapters, said the ruling was the first on the issue from a federal appeals court and "will empower other areas to follow suit."

Locally, the Bay Area Air Quality Management District is considering its own limits on emissions from new development and construction, spokeswoman Lisa Fasano said Wednesday.

The district is monitoring the San Joaquin Valley's approach "to provide some guidance about how we might move to a similar rule," she said. But the district is about a year away from adopting regulations and has not decided whether to propose project-by-project emissions limits or other features of the valley's rules, Fasano said.

The Bay Area suffers from some of the same pollutants as the San Joaquin Valley, such as airborne particulates, but it comes from different sources - more from diesel trucks, overall traffic and winter wood-burning and less from farms and dairies, she said. The court ruling nonetheless "will bode well for the Bay Area," Fasano said.

Tough Choices Ahead for Voters on State Budget

The LA Times reports this morning that California voters could be presented with a tough choice by summer under a proposal that Gov.-elect Jerry Brown is considering: Approve new taxes or other revenue in a special election, or live with far fewer government services.

Brown is holding talks with small groups of lawmakers and influential interest groups about how to put that decision before the public. He won't discuss his plans publicly, but people involved in the private discussions expect him to propose a special election after enacting a dire austerity budget in the spring.

State Senate minority leader Bob Dutton (R-Rancho Cucamonga), who met with Brown this week, said the governor-elect told Republican senators he wants to "rip the Band-Aid off next year" and hinted that a special election was part of the plan.

"He intimated strongly that he wanted to go to the ballot but did not say so explicitly," Dutton said.

The discussions are the first indication of how Brown may be planning to address the state's budget deficit, which he has identified as his immediate priority. By law, he must propose a balanced budget by Jan. 10, and he vowed while campaigning not to raise taxes without voters' OK.

Bipartisan support would be required in the Legislature to place a budget measure on the ballot. Republicans may go along, Dutton said, if a revenue hike were proposed alongside meaningful changes in the budget process.

"If you were talking about a complete structural reform that could not be changed, then yeah, we'd be happy to work with" the Brown administration, Dutton said.

Senate Budget Committee Chairman Mark Leno (D- San Francisco), who said he has had informal discussions with Brown, said a special election "would have to be next June," in time for the fiscal year that starts July 1.

"We are looking at a \$25-billion deficit," Leno said. "Voters need to understand what damage would be done if it were resolved with cuts alone."

A summer election would require the Legislature to pass a budget by about March, Leno said — months before lawmakers typically reach a consensus on spending.

That plan would probably be marked by extreme austerity measures that voters would have to live with if they did not approve a tax increase or some other way of raising revenue, Leno said.

Brown hosted a public budget forum with state and local lawmakers Wednesday but made it clear that he was not ready to talk about specific proposals to close the budget gap.

"Today, we're not going to argue about solutions," Brown said.

But during the campaign, Brown talked openly about asking voters to help fix the state's budget problems.

"Anything you do, whether you cut or seek revenue, is going to require a vote of the people, and that's really my plan," he told CNBC in June. "The governor's main job is not just to have a few good ideas, but to lead a process whereby the people have teed up for them some key decisions about what we're going to do less, and what we're going to do different, or if we want to pay for some more money."

Brown has been conferring with advisors who specialize in campaigns and elections. Last week, he and his wife, Anne Gust, were spotted huddling with a team of advisors in a private room in a downtown Sacramento restaurant. Among those in attendance were pollster Jim Moore, campaign strategist David Townsend and Republican consultant Jack Flanigan — tacticians who could help him with a ballot strategy.

If Brown calls for a special election in 2011, selling a tax plan to voters could be a major challenge.

In 2009, the Legislature and Gov. Arnold Schwarzenegger placed six budget-related measures on a special-election ballot. They included extending temporary tax hikes as well as proposed limits on future state spending. Voters overwhelmingly rejected them.

"The public is very, very skeptical of anything Sacramento does," said Adam Mendelsohn, an adviser to Schwarzenegger who worked on the 2009 special-election campaign. "One of the things that was so apparent after the 2009 election was how difficult it was to go out and get the public to endorse a plan created by Sacramento to help Sacramento.... There's very much a sense of, 'It's your problem, figure out how to solve it. Don't ask us to do your job.'"

Kevin Gordon, a political adviser to education groups, said Wednesday's budget forum was Brown's first step in "taking the public's temperature."

At the forum, the governor-elect summoned fiscal experts to outline the state's financial problems. They warned of skyrocketing debt and chronic budget shortfalls. State Controller John Chiang brought one of the few moments of levity, comparing himself and his fiscal colleagues to the "four horsemen of the Apocalypse."

Brown noted that the budget shortfall, projected over the next 18 months, is larger than annual state spending on prisons, welfare and the University of California and California State University systems combined.

"What we're looking at today is much worse than it's ever been before," Brown said.

Still, he struck an upbeat note. He said there exists "a zone of potential common agreement, and that's where I'm going to focus in the coming months."

IRS Issues 2011 Standard Mileage Rates

The Internal Revenue Service (IRS) recently announced the 2011 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on January 1, 2011, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 51 cents per mile for business miles driven;
- 19 cents per mile driven for medical or moving purposes; and
- 14 cents per mile driven in service of charitable organizations.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs as determined by the same study.

A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for any vehicle used for hire or for more than four vehicles used simultaneously.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

For more information, visit the IRS website at www.irs.gov.



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