

CITY OF SACRAMENTO

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DEPARTMENT OF LAW
812 TENTH STREET
SUITE 201
SACRAMENTO, CA 95814
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May 17, 1985

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City Attorney
THEODORE H. KOBAY, JR.
Assistant City Attorney
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
DIANE B. BALTER
RICHARD F. ANTOINE
Deputy City Attorneys

Law and Legislation Committee
City of Sacramento
Sacramento, California

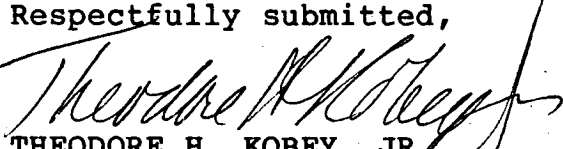
Honorable Members in Session:

SUBJECT: AB 2210 (O'Connell) and AB 681 (Tanner)

SUMMARY

The County Air Pollution Control District requests the City's support of AB 2210 and AB 681, and has submitted the attached material. A representative of the District will be present at the meeting on May 23, 1985, to discuss these bills and answer any questions.

Respectfully submitted,


THEODORE H. KOBAY, JR.
Assistant City Attorney

THK/jmv
Attachments

ASSEMBLY BILL

No. 2210

Introduced by Assembly Member O'Connell

March 8, 1985

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2210, as amended, O'Connell. Air pollution: fee schedule.

Under existing law, the board of an air pollution control district or air quality management district is authorized to adopt a schedule of annual fees to cover the costs of programs related to permitted stationary sources authorized or required by law. Existing law requires that the fees for any fiscal year do not exceed the actual cost of district programs for the preceding year, plus an adjustment no greater than the change in the annual California Consumer Price Index, as specified.

This bill would, instead, permit districts to establish fees to cover the costs of their programs in the current fiscal year plus any deficit from the preceding year. *The district board would be required to determine if the fees exceed the reasonable cost of the program and to reimburse the applicant for the portion of the fee which the district board determines is unreasonable.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 42311 of the Health and Safety
2 Code is amended to read:
- 3 42311. (a) A district board may adopt, by regulation,
4 a schedule of annual fees for the evaluation, issuance, and
5 renewal of permits to cover the cost of district programs
6 related to permitted stationary sources authorized or
7 required under this division that are not otherwise
8 funded. The fees assessed under this section shall be
9 established so as to cover the actual cost of district
10 programs for the fiscal year in which the fees are
11 established, together with any deficit from the preceding
12 year. *The district board shall determine whether the fees*
13 *assessed under this section exceed the reasonable cost of*
14 *the program and if the district board determines that the*
15 *fees exceed these costs, the district board shall reimburse*
16 *any applicant for that portion of the fee which the district*
17 *board determines is unreasonable.* Any revenues
18 received by the district pursuant to the fees, which
19 exceed the cost of the programs, shall be carried over for
20 expenditure in the subsequent fiscal year, and the
21 schedule of fees shall be changed to reflect that
22 carryover. Every person applying for a permit,
23 notwithstanding Section 6103 of the Government Code,
24 shall pay the fees required by the schedule.
- 25 (b) In addition to the fees authorized by subdivision
26 (a), the district board may adopt, by regulation, a fee
27 schedule for district programs related to permitted
28 stationary sources for fiscal years ending before July 1,
29 1986, which allows the district to offset the loss of any
30 state and federal subvention funds. The total amount
31 raised by this fee schedule shall not exceed the amount
32 of funds lost from state and federal subventions.
- 33 (c) Except as provided in Section 42313, all the fees
34 shall be paid to the district treasurer to the credit of the
35 district.
- 36 (d) This section does not apply to the south coast
37 district board which is governed by Section 40510.
- 38 (e) In addition to providing notice as otherwise

1 required, before adopting a regulation establishing fees
2 pursuant to this section, the district board shall hold at
3 least one public meeting, at which oral or written
4 presentations can be made, as part of a regularly
5 scheduled meeting. Notice of the time and place of the
6 meeting, including a general explanation of the matter to
7 be considered, and a statement that the information
8 required by this section is available, shall be mailed at
9 least 14 days prior to the meeting to any interested party
10 who files a written request with the district board. Any
11 written request for the mailed notices shall be valid for
12 one year from the date on which it is filed unless a
13 renewal request is filed. Renewal requests for the mailed
14 notices shall be filed on or before April 1 of each year. The
15 district board may establish a reasonable annual charge
16 for sending the notices based on the estimated cost of
17 providing that service. At least 10 days prior to the
18 meeting, the district board shall make available to the
19 public information indicating the amount of cost, or
20 estimated cost, required to provide the service for which
21 the fee is charged and the revenue sources anticipated to
22 provide the service. Any costs incurred by the district
23 board in conducting the required meeting may be
24 recovered from fees charged for the programs which
25 were the subject of the meeting.

26 (f) The Legislature finds and declares that because
27 districts vary greatly in their dependence on state and
28 federal subvention programs, county and district
29 property tax support, and permit fees, it is necessary to
30 provide a transition period to develop an equitable
31 funding mechanism for local districts. Subdivision (b)
32 accordingly authorizes districts to adopt certain fee
33 schedules only for fiscal years ending before July 1, 1986,
34 unless a later enacted statute deletes or extends this date.

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DATE OF HEARING: May 23, 1985

AB 2210

SACRAMENTO CITY COUNCIL
LAW AND LEGISLATION COMMITTEE
COUNCILMAN DOUG POPE, CHAIRMAN

AB 2210 (O'CONNEL) - AS INTRODUCED: March 8, 1985

RECOMMENDED POSITION: Support

SUBJECT: SHOULD AIR POLLUTION CONTROL DISTRICTS BE AUTHORIZED TO ESTABLISH FEES TO COVER THE COSTS OF THEIR PROGRAMS IN THE CURRENT FISCAL YEAR PLUS ANY DEFICIT FROM THE PRECEDING YEAR?

DIGEST:

Current law authorizes air quality management districts are authorized to establish fees to cover their costs in operating air quality programs. These fees are set annually by the district board, and cannot be set in amounts exceeding the actual costs of district programs for the preceding year plus an adjustment for inflation no greater than the change in the annual Consumer Price Index.

This Bill permits districts to establish fees to cover costs of their programs in the preceding fiscal year plus any deficit from the preceding year.

This Bill also deletes several obsolete sections of Air Quality Law.

COMMENTS:

1) Need For Bill. According to the sponsor, the Santa Barbara Air Pollution Control District, this bill would permit full recovery of costs to districts in operating air quality programs. The current law limits districts to cost recovery in one year commensurate with expenditures made during the prior year, plus an inflation adjustment. According to the Santa Barbara district, when costs to the district rise and fees cannot be adjusted to reflect increases in the costs of operation during the current year, the general taxpayer ends up supporting the district's activities.

In Santa Barbara's case, the workload for processing permits in 1985 has increased dramatically over that in preceding years due to growth in the oil and natural gas exploration in the vicinity.

Given over \$4 billion in proposed facilities for the area, the district is fearful that it may not be able to cover its costs in processing permits for these facilities due to limitations in the law.

The district's operational costs in FY 1984-85 was \$370,000. Its estimated costs for FY 1985-86 is expected to reach \$3.4 million, nearly a tenfold increase.

2) Conformity With South Coast AQMD Law Governing Fees. The South Coast Air Quality Management District presently has authority to levy fees without regard to prior year's expenditures. This bill would extend the same authority to all other districts in the state.

3) Deletion of Obsolete Reference. This bill would delete sections which required the Legislative Analyst to report to the Legislature by October 1, 1983 on the workability of the fees established by districts.

SOURCE: Santa Barbara Air Pollution Control District

SUPPORT: California Air Pollution Control Officers Assoc.
County Supervisors Association of California

OPPOSITION: None on File



COUNTY OF SACRAMENTO

700 H Street, Room 7650
Sacramento, California 95814-1280
(916) 440-6509

BAXTER C. CULVER
Legislative Advocate

DONNA BUTLER
Legislative Assistant

May 2, 1985

**AIR POLLUTION
CONTROL DISTRICT**

MAY 07 1985

SACRAMENTO COUNTY

The Honorable Jack O'Connell
Member, California State Assembly
Room 4158, State Capitol
Sacramento, California 95814

Dear Assemblyman O'Connell:

Sacramento County supports your AB 2210, which would permit the Air Pollution Control Districts to establish fees to cover costs of their programs in the current fiscal year, plus any deficit from the preceding year.

Current law limits the ability of districts to recover costs of permit programs by allowing fee schedules to be established based on previous year expenditures plus an adjustment not to exceed changes in the California Consumer Price Index. Some districts have suffered severe permit revenue losses due to this limitation on expenditures.

One example of the unfair position districts find themselves in as a result of current law would be in the case of employee vacancies. Districts develop budgets based on projected need, and then retain resources to fill those needs. Should an employee leave for one reason or another, the vacancy is filled based on civil service procedures. Often districts cannot fill vital positions for many months, thus personnel expenditures can be substantially reduced. In such a case, permit revenues would be reduced to reflect previous year expenditures and not reflect actual revenue needs for current programs.

Another example of the limiting effect of the current law can be seen when equipment necessary to conduct permit programs is replaced. Since permit revenues are limited to the previous years expenditures, districts are prevented from adjusting permit revenues to recover the costs of new or replacement equipment.

In both of the above examples, revenue losses would compound from year to year. Your bill would remove the limitation, thereby permitting districts to implement fee schedules to recover costs of permit programs in the current year based on an approved budget.

Sincerely,

Baxter Culver
Legislative Advocate

c: Members, Assembly Natural Resources Committee

cc: APCD, Co. Exec.

ASSEMBLY BILL

No. 681

Introduced by Assembly Member Tanner

February 13, 1985

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 681, as amended, Tanner. Air pollution: toxic air contaminants.

Existing law requires air pollution control districts and air quality management districts to propose regulations enacting airborne toxic control measures on nonvehicular sources not later than 120 days after their adoption by the State Air Resources Board and to adopt the regulations within 6 months after adoption by the state board. District new source review rules and regulations are required to control emissions of toxic air contaminants, except that processors of food and fiber operating 6 months or less in any calendar year are exempt until January 1, 1987.

This bill would authorize a district board to adopt fees, in addition to any other authorized fees, to be assessed against the emissions of toxic air contaminants which do not exceed the *reasonable, anticipated* cost for the district activities set forth above, *as demonstrated by the board. The bill would require a district that imposed the fee and could not demonstrate the reasonableness of the fee to reimburse that portion of the fee determined not to be reasonable.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42311 of the Health and Safety
2 Code is amended to read:

3 42311. (a) A district board may adopt, by regulation,
4 a schedule of annual fees to be paid for the evaluation,
5 issuance, and renewal of permits to cover the cost of
6 district programs related to permitted stationary sources
7 authorized or required under this division that are not
8 otherwise funded. In no event shall the fees assessed
9 under this section exceed, for any fiscal year, the actual
10 cost of district programs for the immediately preceding
11 fiscal year with an adjustment no greater than the change
12 in the annual California Consumer Price Index, as
13 determined pursuant to Section 2212 of the Revenue and
14 Taxation Code, for the preceding year. Any revenues
15 received by the district pursuant to the fees, which
16 exceed the cost of the programs, shall be carried over for
17 expenditure in the subsequent fiscal year, and the
18 schedule of fees shall be changed to reflect that
19 carryover. Every person applying for a permit,
20 notwithstanding Section 6103 of the Government Code,
21 shall pay the fees required by the schedule.

22 (b) In addition to the fees authorized by subdivision
23 (a), the district board may adopt, by regulation, a fee
24 schedule for district programs related to permitted
25 stationary sources for fiscal years ending before July 1,
26 1986, which allows the district to offset the loss of any
27 state and federal subvention funds. In no event shall the
28 total amount raised by this fee schedule exceed the
29 amount of funds lost from state and federal subventions.

30 (c) Except as provided in Section 42313, all the fees
31 shall be paid to the district treasurer to the credit of the
32 district.

33 (d) This section does not apply to the south coast
34 district board which is governed by Section 40510.

35 (e) In addition to providing notice as otherwise
36 required, before adopting a regulation charging fees
37 pursuant to this section, the district board shall hold at
38 least one public meeting, at which oral or written

1 presentations can be made, as part of a regularly
2 scheduled meeting. Notice of the time and place of the
3 meeting, including a general explanation of the matter to
4 be considered, and a statement that the information
5 required by this section is available, shall be mailed at
6 least 14 days prior to the meeting to any interested party
7 who files a written request with the district board. Any
8 written request for the mailed notices shall be valid for
9 one year from the date on which it is filed unless a
10 renewal request is filed. Renewal requests for the mailed
11 notices shall be filed on or before April 1 of each year. The
12 district board may establish a reasonable annual charge
13 for sending the notices based on the estimated cost of
14 providing that service. At least 10 days prior to the
15 meeting, the district board shall make available to the
16 public information indicating the amount of cost, or
17 estimated cost, required to provide the service for which
18 the fee is charged and the revenue sources anticipated to
19 provide the service. Any costs incurred by the district
20 board in conducting the required meeting may be
21 recovered from fees charged for the programs which
22 were the subject of the meeting.

23 (f) The Legislature finds and declares that, because
24 districts vary greatly in their dependence on state and
25 federal subvention programs, county and district
26 property tax support, and permit fees, it is necessary to
27 provide a transition period to develop an equitable
28 funding mechanism for local districts. Subdivision (b)
29 accordingly authorizes districts to adopt certain fee
30 schedules only for fiscal years ending before July 1, 1986,
31 unless a later enacted statute deletes or extends this date.

32 (g) In addition to any other fees authorized by this
33 section, a district board may adopt, by regulation, a
34 schedule of annual fees to be assessed against the
35 emissions of toxic air contaminants identified pursuant to
36 the procedure set forth in Sections 39660, 39661, and
37 39662. *The A district board shall demonstrate that the*
38 *fees assessed under this subdivision shall not exceed the*
39 *do not exceed the reasonable, anticipated costs of funding*
40 *district activities mandated by Section 39666. If the*

- 1 *district does not make this demonstration, it shall make*
- 2 *reimbursement for that portion of the fee not*
- 3 *determined to be reasonable.*

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SACRAMENTO CITY COUNCIL
LAW AND LEGISLATION COMMITTEE
COUNCILMAN DOUG POPE, CHAIRMAN

AB 681 (TANNER) - AS INTRODUCED: February 13, 1985

RECOMMENDED POSITION: Support

SUBJECT

Toxic air contaminants - fees

DIGEST

Existing law (AB 1807, 1983) establishes a state program for the identification and regulation of toxic air contaminants from nonvehicular sources. This program requires the State Air Resources Board to adopt airborne toxic control measures for substances determined to be toxic air contaminants. It also requires that the local air pollution control districts and air quality management districts adopt rules and regulations implementing airborne toxic control measures within their jurisdiction.

This bill authorizes the district board of an air quality management district or air pollution control district to adopt, by regulation, a schedule of annual fees to be assessed against emissions of toxic air contaminants. The assessment of fees would be limited to toxic air contaminants identified and regulated under the state's toxic air contaminants program.

The bill requires that any fees assessed against emissions of toxic air contaminants be no greater than necessary to fund air district activities relating to the toxic air contaminants program.

FISCAL EFFECT

The bill would result in some administrative and technical costs to local air districts, and in revenue to local air districts from the collection of fees.

1. This bill is intended to provide a funding mechanism for Air Pollution Control District activities relating to the regulation of toxic air contaminants.

Benzene was recently the first toxic air contaminant to be identified under the AB 1807 process; the Bay Area Air Quality Management District estimates that it will cost that district approximately \$129,000 to implement the toxic air contaminants program for benzene. The ARB expects to identify six compounds per year as toxic air contaminants. Once the ARB has adopted control measures, under the Suggested Control Measure (SCM) development process, for these substances, the local air districts will be required to adopt the same or equivalent control measures as those adopted by the ARB for new and existing sources.

The SCM development process is guided by a protocol between the California Air Pollution Control Officers Association, the Air Resources Board, and the Environmental Protection Agency. Actual rule development is accomplished by a lead agency(s) under direction of a Technical Review Group (TRG) consisting of members from the above noted agencies. Sacramento APCD is a member of the TRG.

2. Under existing law, APCDs are authorized to assess fees to cover district program costs related to permitting stationary sources of air pollution. These permit-related fees are not based on emissions. The South Coast Air Quality Management District, which would not be governed by this bill, is the only air district which is now authorized to adopt fees based on emissions.

SUPPORT

The Air Resources Board
Bay Area Air Quality Management District
Sierra Club

Sacramento County and APCD
American Lung Association
California Air Pollution Control Officers Association

OPPOSE

California Council for Environmental and Economic Balance
California Manufacturers Association



BAY AREA AIR QUALITY MANAGEMENT DISTRICT

FACT SHEET

AB 681

Scheduled for hearing by the Assembly Committee on Environmental Safety & Toxic Materials on May 8, 1985.

AB 681 was introduced by Assemblywoman Tanner at the request of the Bay Area Air Quality Management District and has been endorsed by the California Air Pollution Control Officers Association, the Air Resources Board and the Sierra Club.

After extensive discussions involving the ARB, local districts, the Department of Health Services and affected industrial associations, AB 1807 (Tanner) was enacted in 1983. The compromises agreed upon resulted in a workable procedure to identify toxic substances, and a de-centralized enforcement program. The Act included substantial responsibilities for local air pollution Control Agencies (See Section 39665 and 39666, H & S Code.)

AB 681 proposes to finance these responsibilities by authorizing local districts to adopt a fee schedule, by regulation, against the emission of toxic air contaminants from stationary sources.

Even though the major portion of the toxics which will be identified by 1988 are emitted from stationary sources, the same industrial associations who worked on the compromises that resulted in the final version of AB 1807 are opposing AB 681 on the basis that it isn't "equitable". They want the State Treasurer to pay the expenses - not the companies that emit the toxics.

We believe this is a specious argument and we respectfully urge that you authorize local agencies to establish fees to fund this important aspect of the state-wide toxics central program.

- ALAMEDA COUNTY
Joseph E. Blum
Executive Director
L. N. Jones, Council
Frank M. Ogawa
- CONTRA COSTA COUNTY
Thomas J. O'Grady
Sylvia Whitt, McPeak
- MARIN COUNTY
Barbara Blum
- NAPA COUNTY
Sam Crayton
- SAN FRANCISCO COUNTY
Paul G. Bell
Carmelita Bell
- SAN MATEO COUNTY
Edward Barbour, Jr.
Charles G.
Estelita N. Gonzalez
- SANTA CLARA COUNTY
F. J. Dillon
Ralph P. Oestrich, Sr.
Thomas J. Ferraro
Irene Christensen
- SOLANO COUNTY
John A. O'Connell
- SONOMA COUNTY
Henry R. Roth
(Secretary)

AIR POLLUTION
CONTROL DISTRICT

MAY 09 1985

SACRAMENTO COUNTY

May 8, 1985

Honorable Sam Farr, Member
California State Assembly
State Capitol, Room 3120
Sacramento, CA

Dear Sam:

Per our discussion this morning, enclosed please find proposed amendments to AB 681 (Tanner), which are designed to respond to the concern raised by some industry representatives.

The first paragraph would require the fees to be adjusted annually, following a public hearing, to assure that as additional substances are identified, the costs of the program are shared equitably among all sources of toxic air contaminants.

The second paragraph addresses the goal of limiting the districts' reliance on fees if other funds are available. Basically, the language would limit the districts' fees to the direct costs of permitting, monitoring, and enforcement for specific sources of toxic air contaminants, to the extent supplemental appropriations or state subventions are made available to cover other district costs such as rule development, ambient monitoring, data collection, etc.

Therefore, if industry and the districts can successfully persuade the Legislature and the Governor to provide funds from the Motor Vehicle Account or the General Fund, than the districts' fee authority would be limited to the recovery of their direct costs.

On the other hand, if supplemental funds are not made available, the districts would be provided the necessary authority to ensure adequate fiscal resources are available to carry out their responsibilities under AB 1807.

As I mentioned, this language is acceptable to the air pollution control districts, but was not agreed to by CCEEB or the California Manufacturers Association.

Honorable Sam Farr
Page 2

May 8, 1985

Thank you for your interest and support. Please let me know if you have any questions.

Best regards,

V. JOHN WHITE
Air Quality Consultant

VJW:ea

Enclosure

cc: Hon. Sally Tanner, Chairwoman
Assembly Environmental Safety and
Toxic Materials Committee
Dorothy Rice, Consultant

bcc: Milt Feldstein
Norm Covell ✓
Mike Papanian

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

March 19, 1985

AIR POLLUTION
CONTROL DISTRICT

MAR 20 1985

SACRAMENTO COUNTY

Evelyn Heidelberg
Vice President
California Council for
Economic Balance
1572 14th Street
Sacramento, CA 95814

Dear Ms. Heidelberg:

You have asked for specifics on costs to the district which necessitate our seeking legislation to fund activities associated with new toxics programs imposed on the district by AB 1807. AB 681 would authorize the district to adopt fees to be assessed against the emission of toxic air contaminants which do not exceed the cost for district activities related to the toxics control program.

The ARB has recently declared benzene to be the first toxic air contaminant under the 1807 process. We are now determining the costs to the district for activities prescribed in Health & Safety Code Sections 39665 and 39666. Following is a list of such activities:

1. Locate sources of benzene emissions in the Bay Area.
 - a) point sources
 - b) mobile sources
 - c) areawide sources
2. Source test to verify emission rates from point sources.
3. Model to estimate downwind concentrations and population exposures to benzene.
4. Air monitor to determine atmospheric concentrations of benzene downwind of sources and in population centers.

The attached table summarizes additional estimated costs to the district in each of these activities specifically associated with the benzene issue.

You also ask the question "Why couldn't these costs be covered under the present permit fee authority in 42311?"

These costs will be incurred by the district in investigating specific sources emitting benzene. 42311 confines

ALAMEDA COUNTY
Edward R. Campbell
Shirley J. Campbell
Fred F. Cooper
Frank H. Ogawa

CONTRA COSTA COUNTY
Thomas J. Corcoran
(Vice Chairperson)
Sunne Wright McPeak

MARIN COUNTY
Al Aramburu

NAPA COUNTY
Harold I. Moskowitz

SAN FRANCISCO COUNTY
Harry G. Britt
Carol Ruth Silver
(Secretary)

SAN MATEO COUNTY
Gus J. Nicolopoulos
K. Jacqueline Speier

SANTA CLARA COUNTY
Rod Diridon
(Chairperson)
Ralph P. Doetsch, Sr.
Roberta H. Hughan
Susanne Wilson

SOLANO COUNTY
Osby Davis

SONOMA COUNTY
Heien B. Rudee

Evelyn Heidelberg,
Vice President
CEEB

March 19, 1985

Page 2

permit fees to the cost of evaluating, issuing and renewal of permits. AB 681 will expand this authority for sources emitting benzene (in this first instance) and will cover the costs of measuring, monitoring, modelling and developing regulations for such sources.

Estimated District Costs - Benzene Program

<u>Activity</u>		<u>Estimated Costs</u>
Identify Sources	½ person year	\$ 13,000
Source Testing and Laboratory	½ person year	26,000
Modelling	½ person year	30,000
Air Monitoring	½ person year	30,000
Regulatory Development	½ person year	30,000
		<hr/>
		\$ 129,000

I hope this information is helpful to you. If you have any questions, please call.

Sincerely,



Milton Feldstein
Air Pollution Control Officer

MF:gp

cc Dorothy Rice, Consultant

ASSEMBLY BILL

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March 8, 1985

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11 established, together with any deficit from the preceding
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17 *board determines is unreasonable.* Any revenues
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30 state and federal subvention funds. The total amount
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22 provide the service. Any costs incurred by the district
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27 districts vary greatly in their dependence on state and
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31 funding mechanism for local districts. Subdivision (b)
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