

## Legislators Speed Through Final Bills

GOP assails swift action on measures targeting pollution, restrooms and online sales.

By Evan Halper and Carl Ingram, Los Angeles Times Staff Writers

SACRAMENTO - California legislators whipped through dozens of bills in an end-of-session frenzy Wednesday, ultimately passing measures that would crack down on Central Valley air pollution, require cleaner bathrooms in public schools and move the state a step closer to taxing sales over the Internet.

Republicans continued to voice frustration at the fast pace in which legislation breezed through both houses, which Democrats dominate. Some accused Democrats of trying to take advantage of a vulnerable Gov. Gray Davis, who faces a recall election Oct. 7. The governor will probably feel pressure to either sign various measures into law, or risk losing the support of interest groups that are pushing them.

Legislative rules prohibit new measures from being introduced at this point in the session. But legislators got around that with a technique known as "gut and amend": several existing bills that had been languishing for months were suddenly stripped of their original contents, filled with new amendments and brought up for a floor vote.

Even issues as seemingly benign as clean bathrooms in public schools sparked spirited debate.

Assemblyman Fabian Nuñez (D-Los Angeles) told legislators that money for keeping school bathrooms clean is sometimes diverted by schools, leaving the facilities so dirty that children don't use them.

"[Students] should be concentrating on what goes on in the classroom, not whether they may get an infection from using the bathroom," he said.

Some Republicans countered that it was absurd that a law had to be passed to force schools to keep their bathrooms clean. "We're debating the wrong issue here," said Assemblyman Doug La Malfa (R-Richvale), saying the solution to the problem was getting new school board members in the districts with dirty bathrooms.

The bill, already approved by the Senate, passed 47 to 29 in the Assembly, and Davis announced that he would sign it.

"Clean and working facilities are elements of a well-run school," he said in a statement.

Meanwhile, Democrats stopped some inter-party fighting that had threatened to kill a package of groundbreaking clean-air bills for the Central Valley.

Sen. Dean Florez (D-Shafter) had accused urban liberals - usually on the same side as him on environmental issues - of colluding with the agriculture lobby to stop his proposals because it could cost them political contributions. The bills failed to make it through the Assembly last week when several Democrats abstained from voting on them.

On Wednesday, the bills were back, and Democrats worked out a compromise to get them passed.

The package would require farmers to abide by federal and state clean-air laws from which they have been exempt. Under the compromise, the new restrictions will be implemented on a graduated scale in which farms in areas where air quality has been improving will be subject to less stringent requirements.

"Three of the four dirtiest cities in the entire country in terms of air pollution are in the Central Valley," said Assemblywoman Sarah Reyes (D-Fresno). "The agriculture industry has been 100% exempt from federal, state and local air quality laws. This bill is a comprehensive measure to clean the air for future residents of the San Joaquin Valley."

Republicans called the package a "job killer" that will put more farms out of business.

"California farmers will be the only farmers in America to have to run their family farms under these regulations," said Assemblyman Steve Samuelian (R-Clovis).

Assembly legislators ultimately passed the central bill in the package, AB 700, by a vote of 45 to 24, and then went on to pass the companion bills soon after. The bills will now go back to the Senate, where they are expected to be approved and sent to the governor.

Democrats also managed to pass measures that they hope will raise billions of dollars for dwindling state coffers by cracking down on what they described as abusive tax shelters, and ultimately enabling the state to tax sales made over the Internet.

On a bipartisan 24-10 vote, the Senate gave final legislative approval to the Internet tax bill by Sen. Debra Bowen (D-Marina del Rey). It would install California as a member of a 38-state organization known as the Streamlined Sales Tax Project, whose goal is to help states find ways to tax Internet transactions.

The U.S. Supreme Court has forbidden states to tax online sales unless the retailer also has a physical presence in the state, such as a store, headquarters or warehouse.

Traditional California merchants have long complained that online sales give an unfair advantage to their Internet competitors. Bowen said the state lost an estimated \$1.75 million in revenue from online sales in 2001 and stands to lose much more this year as Internet sales expand.

Davis has yet to take a position on the bill, but has said in the past that he would consider supporting taxation of Internet sales as part of an overall budget reform package.

Both houses passed bills that would empower the state to go after people who use a variety of tax shelter schemes to avoid paying their fair share of taxes, a practice that the Franchise Tax Board has estimated costs California about \$500 million a year.

The Senate passed and returned to the Assembly for approval of Senate changes a bill, AB 1601, by Assemblyman Dario Frommer (D-Los Feliz) that would impose tougher fines on tax cheats and agents who promote illegal shelters. In turn, the Assembly approved and sent back to the Senate an identical bill, SB 614, by Sen. Gil Cedillo (D-Los Angeles).

A Franchise Tax Board spokeswoman said abusive tax shelters, as they are called, are created by wealthy individuals and businesses to unlawfully set aside certain assets that should be taxed. These typically can involve such mechanisms as limited liability partnerships, phony losses and other machinations that are buried under complex layers of corporate structures, she said.

The governor also signed other bills that have passed both houses of the Legislature in recent days. Among them:

- SB 515, which would limit the ability of corporations to use free speech laws to block consumer lawsuits against them.

- AB 458, which would prohibit foster parents from discriminating against children on the basis of gender, race, disability or HIV status. The bill requires equal access to services and benefits for all foster children, and sets new training requirements for foster parents.
- SB 90, which would require landlords to provide reasonable documentation or receipts for every repair to protect tenants from being overcharged.

## **Valley air bills go to governor**

### **Five measures target agriculture, raise vehicle fees**

By Jake Henshaw, Visalia Times-Delta Sacramento Bureau, September 12, 2003

SACRAMENTO -- The Senate on Thursday sent the governor a wide-ranging package of bills to combat air pollution in the San Joaquin Valley.

The five measures by Sen. Dean Florez, D-Shafter, include provisions to require new permits to farm, allow new fees on vehicles and end open field burning of agricultural waste.

The bills are part of a larger effort to clean up the Valley's air, which is among the dirtiest in the nation and a contributor to high asthma rates.

Agriculture largely has backed off its intense opposition to some of the measures because of amendments adopted in the Assembly and approved by the Senate on Thursday.

But they all drew at least some opposing Senate votes, and the bill that has been the most controversial sparked a final legislative debate.

#### **Ag exemptions to end**

Senate Bill 700, which Florez called the "linchpin" of his bill package, would end agriculture's 56-year exemption from federal clean air rules requiring permits.

"Air pollution in the Valley is going up, but the amount of farmland is decreasing," said Sen. Jeff Denham, R-Salinas, whose district also includes Madera.

"How can we say agriculture is responsible?" Denham said.

Sen. Charles Poochigian, R-Fresno, said economically stressed growers have felt unfairly singled out by these bills despite their work to clean up the air, which he acknowledged is a high priority for everyone in the Valley.

"In better times with the very important goal of cleaning up the air, some of the ideas encompassed in some of the bills that have been presented might make some sense and be worthy of even acceptance, but not now," Poochigian said.

Florez responded that the bill was heavily amended in an attempt to address growers' concerns, so that it now primarily targets large farms and dairies and delays new regulations until pollution studies under way are available.

"If agriculture feels singled out, it is because they are the only ones that have the exemption from clean air [rules], period," he said.

Sen. Mike Machado, D-Linden, a farmer, added that the requirements of the bill were not unreasonable.

"As an agricultural practitioner in the Valley, there is the technology to be able to be in compliance with this bill," Machado said.

Florez acknowledged that SB700 is "tough medicine" but added that "we need relief.

"This [bill] does it," he concluded. "This is a balanced measure."

The other bills passed by the Senate are:

i SB704: Offers \$6 million in incentives for biomass facilities to use agricultural waste.

i SB705: Phases out open field burning of agricultural waste by 2010 but allows a temporary delay in the ban if adequate alternative disposal methods aren't available in specific cases.

i SB708: Increases the second and subsequent fines for operating gross-polluting vehicles by \$35, with the additional revenue dedicated to funding a vehicle inspection and checkpoint program.

i SB709: Gives the San Joaquin Valley Air Pollution Control Board some authority to deal with vehicle pollution, allowing the board to require ride-sharing programs for companies of 100 or more employees and to impose a \$1 fee on vehicle registration.

## **Bills to clean air go to governor**

### **Senate votes to end ag exemption as Florez's measures pass.**

By Jennifer M. Fitzenberger

Bee Capitol Bureau

*(Published Friday, September 12, 2003, 6:17 AM)*

SACRAMENTO -- Clean-air bills once in peril swept through the Senate Thursday with relative ease and now are at the mercy of Gov. Davis.

Four of five bills -- the heart of an aggressive legislative package by Sen. Dean Florez -- received a majority vote without debate.

The linchpin -- Senate Bill 700, which ends the agriculture industry's historic exemption from air operating permits -- passed after two Valley senators warned it is too restrictive and costly to farmers.

Florez, D-Shafter, said he hopes Davis will join his fight to clean the central San Joaquin Valley's polluted air. "Hopefully, he will look favorably on this legislation," Florez said. "Given the stakes, I hope that he will side on the side of asthmatic kids and residents of the Central Valley who have trouble breathing."

Davis has not indicated whether he will sign the bills. He has until Oct. 12, though Florez said the U.S. Environmental Protection Agency wants a pledge to repeal agriculture's exemption by Thursday.

The EPA, forced by an environmental lawsuit, told California last year to end the exemption or face sanctions including a loss of billions of dollars in highway funds and increased fees for some businesses.

SB 700 is the only bill to repeal the exemption, which Florez said is strong reason for Davis' approval.

Sharp debate over SB 700, which has rattled the Capitol for weeks, continued Thursday with speeches on the Senate floor.

It was the Senate's second vote on the bills, which were amended in the Assembly.

Sen. Jeffrey Denham, R-Salinas, argued Valley farms are not the only source of pollution. Singling out agriculture, he said, is not fair.

Clean-air measures beyond ending the exemption would burden small farms that struggle financially to stay afloat, said Sen. Chuck Pochigian, R-Fresno.

"They are not corporate magnates. They are ordinary people trying to make a living," Pochigian told his colleagues. "They are losing their farms. They are making no money at all in some cases."

Farmers possibly could stomach the extra hits in better economic times, but not now, Pochigian said. He said the bill "punishingly exceeds federal regulations" even with 49 amendments pressed by the agriculture industry.

SB 700 passed along party lines, with two senators not voting.

The other bills passed in similar fashion except for SB 704, which would provide incentives for biomass facilities to take more farm waste.

It was supported by Denham and Poochigian.

Also getting the nod was SB 705, which briefly stalled last week on the Assembly floor. The bill would phase out burning of field crops by June 1, 2005, and all other farm waste, such as orchard removals, by 2010. Florez added language to extend the dates for farms that meet certain criteria.

SB 709, granting more authority to Valley air officials in regulating vehicle emissions, and SB 708, increasing fees for drivers of gross-polluting vehicles and putting the increased revenue toward pollution control, also go to the governor.

Florez said Thursday he hadn't decided whether to take up SB 707 today, the last day to send bills to Davis. If he doesn't, he could hold it until the Legislature reconvenes next year.

SB 707, which would set buffer zones between dairies and cities by blocking new dairy construction within three miles of urbanized areas, is hotly opposed by agriculture interests.

Said Gary Conover, director of government relations for Western United Dairymen: "We would like to see the bill go away."

The reporter can be reached at [jfitzenberger@fresnobee.com](mailto:jfitzenberger@fresnobee.com) or (916) 326-5541.

[Fresno Bee editorial:](#)

## **Stormy passage**

**Approval of cleanup legislation is a mile marker on road to better air.**

*(Published Friday, September 12, 2003, 6:21 AM)*

Legislation designed to help clean up the Valley's grimy air appeared to be wheezing as it neared the finish line this week, but it managed a last burst of energy to move out of the state Assembly and closer to the governor's desk.

Principal among the four bills passed Wednesday by the Assembly -- all authored by state Sen. Dean Florez, D-Shafter -- was SB 700, which Florez has called the "linchpin" of his larger package of measures. It repeals a decades-old agricultural industry exemption from the need to acquire air pollution permits.

The repeal is important because the federal Environmental Protection Agency -- in response to a lawsuit against it by environmentalists -- has threatened severe sanctions against the state this fall if the exemption is not scratched from the books. Those sanctions, which would have hit businesses very hard, now will be moot if SB 700 is signed by Gov. Gray Davis.

Also passing out of the Assembly Wednesday were SB 704 and SB 705; the latter will phase out open-field burning of ag wastes, the former will create incentives for biomass power plants to take that waste and burn it to generate electricity. SB 709 gives useful new powers over vehicle emissions to the San Joaquin Valley Air Pollution Control District.

A state Senate conference committee took up those four bills on Thursday, along with already approved SB 708, which raises fines for so-called "gross-polluting" vehicles. All five passed the full Senate as amended on Thursday, and are now headed to the governor.

This hasn't been easy. The ag industry fought most of these bills tooth-and-nail, and some urban Democrats in the Assembly tagged along, for reasons that never sounded terribly compelling. But now the bills -- somewhat amended, but never gutted by their foes -- are headed to the governor.

For the sake of cleaner air and healthier lives in the Valley, he should sign them immediately.

LASTGASP

"We can't go on living this way.

And we won't."

It wasn't easy, but legislation that will help clean up the Valley's polluted air is finally on its way to the governor's desk.

[Fresno Bee Letters to the Editor, September 12, 2003:](#)

## 'Higher standards'

By Tim Curley, Coarsegold

*(Published Friday, September 12, 2003, 6:23 AM)*

The people of the Valley need to set higher standards for ourselves. I am speaking specifically about our environment. For too long we have settled for much less than we deserve. We have settled for mediocrity. We allow our air pollution to get worse and worse each year and our children to get sicker and sicker; we allow urban development to proceed unchecked, creating urban silos instead of smart communities; and we allow ourselves to use water wastefully, refusing to pay as we go.

We have settled because we are lazy. We do not take the time to look beyond our own self-interests and recognize that our indifference and parochial attitudes are slowly but surely strangling all that is beautiful in our Valley. We have no sense of stewardship, and we refuse to take any responsibility for what is happening to our Valley. As long as the grass in the front yard is green and the car is bigger than the neighbor's, what else is there to care about?

My wife and I have watched good friends leave the Valley because it was too unhealthy for themselves and their children, or because they want a better life. We struggle with the same decision. We love the Valley, but are sick of the lack of concern.

## The wrong target

By Mike LaSalle, Hanford

*(Published Friday, September 12, 2003, 6:23 AM)*

Dr. David Pepper and Kevin D. Hamilton, RRT, recently chastened Dr. G.L. Thurston for failing to consider the UCLA California Health Interview Survey regarding the incidence of asthma in the Valley. What puzzles me is why these learned men of science failed to note the University of Southern California study, funded by the California Air Resources Board, and completed in 2002, that was published in *The Lancet*, a British medical journal (359:386-391).

This study followed more than 3,500 youngsters living in 12 Southern California communities for five years. This study discovered that, overall, the children living in the six communities with the lowest ozone and particulate matter levels had a greater incidence of developing asthma than did the children living in the six communities with the highest ozone and particulate matter levels. The study demonstrated that ozone and particulate matter (dust and smoke), at the levels commonly experienced in our Valley, do not cause the asthma problem that the air activists claim they do.

While it may be true that our Valley experiences a 17% asthma rate, a recent study in the Harlem section of New York City found youngsters suffer a 25% asthma rate, and Great Britain is known to experience a 30% asthma rate. You cannot blame dusty fields or large dairies for contributing to their high asthma rates. Indeed, the scientists blame indoor allergens, not outdoor air, as the primary culprits.

Simply put, the USC study suggests that going after agriculture in order to improve our asthma problem is as foolish as trying to cure a headache with a hammer.

[S.F. Chronicle editorial, Sept. 12, 2003:](#)

## **A breath of fresh Valley air**

EMERGENCY ROOMS filled with asthma patients, smog-blotted views of the Sierra and frequent don't-drive days: San Joaquin Valley residents know the signs of severe air pollution.

But until this week, little was being done. Now, after weeks of negotiating,

the Legislature is sending Gov. Gray Davis a remarkable set of bills that can begin cleaning the valley's air, among the worst in the nation.

Most important is an end to agriculture's exemption from clean-air laws. For 63 years, tractors and diesel field pumps didn't need to meet the same tailpipe rules as cars and trucks. This special treatment will vanish if Davis signs SB700 by Sen. Dean Florez, D-Shafter.

Other newly approved bills by Florez end open-field burning of farm waste, give incentives to biomass generators to use the debris as fuel, raise fines of gross-polluting clunker cars and expand the authority of local smog boards.

Farm lobbyists fought the changes fiercely, but accepted the results after winning amendments to phase in new rules gradually and exempt small farms and dairies.

The votes, which fell generally along party lines, showed that agriculture had loosened its political grip as the bills were moderated. In the Assembly, a key bloc of urban Democrats, who had sided with agriculture in early Assembly tests, ended up approving the package.

The result is a huge change for the valley, where agriculture, a \$27 billion industry, long held sway. But farmers sensibly saw that unhealthy pollution was in no one's interest and that major changes were in order.

Don't expect instantly scrubbed skies. Interpreting the new rules may weaken intended results. The business-friendly Bush administration may poke holes in air-quality laws. And farming accounts for only about a quarter of the valley's dirty air.

Gov. Gray Davis should sign the bills as a start on solving a critical public health and economic problem for California.

## **Clean-air package in Davis' hands**

By VIC POLLARD, Californian Sacramento Bureau

The Bakersfield Californian

Thursday September 11, 2003, 10:35:10 PM

SACRAMENTO -- A package of major bills by a Kern County lawmaker to help clean up the air by cracking down on dust and emissions from farms and dairies passed the Senate and went to Gov. Gray Davis' desk Thursday.

Davis has not decided whether he will sign the measures, according to a spokesman.

The final legislative approval of the bills by Sen. Dean Florez, D-Shafter, was almost anticlimactic.

Their biggest hurdle was the Assembly, which approved them Wednesday after sometimes emotional debate.

The centerpiece of the package is SB 700, which would take the historic step of ending agriculture's half-century-old exemption from clean air laws.

Florez and other supporters said it is necessary because of a court decision and because air pollution is related to an epidemic of asthma among children in the valley.

"We have a smog problem that far exceeds that of Los Angeles," Florez told his colleagues.

Sen. Byron Sher, D-Palo Alto, said the repeal of the exemption is necessary under the court ruling to prevent California from losing \$2 billion in highway funding and suffering other sanctions.

But he said smog is also also a major health problem.

"This is one of the most important bills we will vote on this year," Sher said.

Republican senators from the valley opposed the measure, arguing that the bill would impose more costly regulations on farmers than is necessary under the court decision.

Sen. Chuck Poochigian, R-Fresno, said air quality is "very, very important" to farmers and all valley residents.

But he said agriculture cannot afford the regulatory burden that would be imposed by the bills.

"This year and last year, in some commodities, has been the worst year -- the worst year -- they have ever had," Poochigian said. "They're losing their farms."

Other bills in the package would phase out open-field burning of farm waste, provide financial incentives for farmers to switch from diesel to electric well pumps, and give the San Joaquin Valley Air Pollution Control District some authority to regulate cars and trucks.

## **Front, center for backroom shenanigans**

By VIC POLLARD, Californian Sacramento Bureau Chief

The Bakersfield Californian

Thursday September 11, 2003, 11:23:00 AM

SACRAMENTO -- Cynthia Cory's face was getting red and her voice was rising.

The lobbyist for the California Farm Bureau Federation was saying she felt farmers were being ignored in the debate over a bill introduced months ago by Sen. Dean Florez, D-Shafter, that would force them to start helping control air pollution.

"This is the first time we've been able to discuss this," she snapped.

Assemblywoman Sarah Reyes, D-Fresno, a staunch supporter of the bill, saw trouble coming.

"Let's just take it down a couple of notches, Cynthia," she said sternly. "We're not going to get into whether this is the first time or not. Let's just discuss this calmly."

Want to know how things really work in Sacramento?

How laws actually get written?

How special-interest lobbyists earn their money by getting laws written to benefit their employers?

Whether you, the average voter, have any influence on the process?

Some Capitol insiders recently gave outsiders a rare glimpse at the heart of the process.

Due to an unusual set of circumstances, reporters were allowed to sit in on a series of meetings at which lawmakers and lobbyists tried to hammer out a compromise on a controversial air pollution bill.

They ultimately failed to reach an agreement, but the bill remains alive and more of these meetings may be in store.

Such sessions are known as bill negotiation meetings. They are the ultimate examples of backroom dealing. By tradition, access is strictly limited to a few lawmakers, lobbyists representing interest groups involved in the issue and legislative staff members.

Under normal circumstances, reporters and the public are never admitted.

For voters who feel alienated from government and left out of the process, this may be one of the reasons why.

During the legislative process, most bills are discussed and voted on by committees during hearings that are always open to the public and press.

The vast majority of bills are written in a legislator's office and sail smoothly through this process because they make only minor, noncontroversial changes in the law.

But any bill that would have a major impact on an industry, the legal process, consumer's rights and other areas that affect lots of money and lots of people usually has a more difficult time.

Their wording is usually hammered out in closed-door negotiating sessions that can often go on for hours or days, sometimes weeks.

The session on the Florez air bill was prompted when it ran into surprise last-minute opposition on the Assembly Appropriations Committee. It appeared that at least one problem was an effort by Democrats to scuttle the bill to protect another Kern County lawmaker, Assemblywoman Nicole Parra, D-Hanford, from having to cast a vote on it. Her vote either way could become an unwanted issue in what may be a tough re-election battle for her next year.

Whatever the reason, Leland Yee, a liberal Democrat from San Francisco, demanded that Florez consider amendments sought by the agricultural interests who would carry the financial burden of implementing the law. They wanted more lenient rules, and a complete exemption for dairies.

Florez, saying he had been negotiating with opponents for months, feared an underhanded move by Assembly insiders.

He insisted that the discussions be held in public. That's why reporters were allowed in.

The two sides agreed on ground rules that provided for six lobbyists from agriculture who were initially opposed to the bill and six from the environmental and health groups supporting the measure, although different people occupied the chairs at different times.

On the farmers' side of the long table, the heavyweight was George Soares. He is virtually unknown outside Sacramento but is retained by nearly every major agribusiness group in the state that doesn't have its own lobbying office.

Others included Cory; Gary Conover, representing Western United Dairyman; and Joe Lang, who also represents a number of farm groups.

On the other side of the table were lobbyists supporting the most stringent pollution controls they could negotiate. They included Barry Wallerstein, the executive officer of the giant air district for the Los Angeles basin; Barbara Lee, representing all the state's top air pollution control officers; John White of the Sierra Club and Brent Newell of the Center on Race, Poverty and the Environment.

The last two groups were among the plaintiffs in the successful lawsuit that is forcing the state to end agriculture's exemption from clean-air rules, with either the Florez bill or something else.

At times lobbyists from the United Farm Workers union and Fresno County health groups rotated in and out.

The talks continued off and on over four days, occasionally recessing while the ag representatives proposed new language for the bill that they said they could live with.

The talks got down to the real nitty-gritty details of the issue, tempers sometimes flaring over philosophical disagreements or perceived slights. The truth sometimes got stretched as one side or the other groped for a strategic advantage.

It was not the kind of debate that lends itself to the polite rules of a public hearing.

That's one reason they're held in secret.

On the other hand, what will likely result is a major new chapter of public policy.

Whether the interests of the public at large are properly represented in these crucial talks is often only a matter of accident.

If you're a farmer or dairyman, you're probably contributing to the hefty fees being charged by one or more of the agribusiness lobbyists.

The environmentalists and health officials were there to represent your right to breathe clean air in the valley. Their job is to get the most effective pollution controls they can negotiate. What those controls cost is often secondary.

But the people on both sides of that table represent extreme views -- farmers who want no more regulatory interference with their businesses and environmentalists who want clean air now.

Who represents you if you're an average valley resident who doesn't like the brown haze that obscures the mountains and gives kids asthma, but doesn't want to see the valley's major industry hobbled with so many regulatory costs it can't survive?

Whether your interests are reflected in the final legislative product probably depends partly on the give and take of the legislative process, whether there are enough lawmakers and lobbyists of different views to produce a balanced, rational policy.

The same process produced California's plan to deregulate the electric power industry, and we all know how that turned out.

It may also depend on whether individual sponsors of legislation, like Florez in this case, care enough to craft policy that will represent the best interests of the largest number of their constituents.

That's why it's important to pay attention and vote in every election.

## **Editorial: No one completely happy**

The Bakersfield Californian

Thursday September 11, 2003, 07:20:15 PM

In lawmaking particularly in the hectic final days of a legislative session compromise is the name of the political game.

And walking away with a cup at least half full is better than holding an empty one.

This is how both the agriculture industry and valley residents should view the battling and negotiations that resulted in Assembly passage of state Sen. Dean Florez's air cleanup bills.

With the vote split down party lines, the measures that target agriculture returned Thursday to the Senate for concurrence before being sent to Gov. Davis, who is urged to sign them.

Urban Democrats teamed up with Republicans last week to derail the bills in an Assembly committee. Only through marathon negotiations and last-minute amendments did Florez win the backing of sufficient holdouts to allow the following bills to clear the substantial Assembly hurdle:

SB 700 Ending agriculture's 63-year exemption from the Clean Air Act. After environmental groups sued, the federal Environmental Protection Agency ordered the state to end the exemption or face penalties.

SB 704 Providing \$6 million in incentives for biomass facilities to take in agricultural waste.

SB 705 Phasing out open-field burning of agricultural waste.

SB 709 Giving more authority to the San Joaquin Valley Air Pollution Control District.

SB 700 was the major battlefield, with agricultural interests arguing regulation of the industry will place an unnecessary and disproportionate burden on farmers for cleaning up the air.

Upon Assembly approval of the measure Wednesday, Republican Assemblyman Bill Maze of Visalia told *The Californian*, "One of the catastrophes that's going to come out of this is (the impression) that agriculture appears to be 100 percent responsible for air pollution in the valley. ... That is not the case."

The martyr argument doesn't work.

No one has said agriculture is 100 percent to blame for the valley's dirty air. But some estimate that it contributes about 25 percent from such sources as methane produced by dairies, dust from soil tilling and after-harvest burning of fields.

The valley has the second worst air quality in the nation and its asthma rates are at three times the national average. Agriculture is the only industry in California exempted from air pollution control laws.

Republican lawmakers dubbed Florez's legislation "environmental imperialism" and predicted it would have disastrous effects on California's \$27 billion agriculture industry.

Their cries are reminiscent of the cries preceding increased regulation of Kern's oil industry in the 1980s. Wells would shut down and jobs would disappear if controls were imposed.

Over the years, the industry has installed billions of dollars in cleanup equipment and shut down polluting operations. The air quality has improved, the wells are still pumping and the industry remains the lifeblood of the region.

No one agriculture, environmentalists and lawmakers is completely happy with the final form of Florez's air cleanup bills. That is how it should be after bruising negotiations. But passage marks a major step in the long battle to clean up the valley's air.

Maze is right. Don't blame agriculture for all of the valley's air pollution problem. But if it contributes to the pollution, it has to be part of the solution.

[Merced Sun-Star editorial, September 12, 2003:](#)

## **Strict local fireplace rules near**

Valley pollution problems have local residents already seeing red, but starting this fall orange and red are two colors they'll have in mind for another reason as well.

New wood-burning and fireplace restrictions approved by the San Joaquin Valley Air Pollution Control District this summer feature orange and red as part of the air quality index, a measure of contaminants in the air. The colors will be used to show when Valley residents shouldn't burn wood.

Adopted July 17, the new rule goes into effect Nov. 1. District officials are starting their public awareness campaign early.

Wood-burning produces tiny particles that contribute to the Valley's air pollution problems. That pollution has been linked to heart attacks and asthma.

On the air quality index, orange represents the range that is unhealthy for sensitive groups, while red indicates that the air is unhealthy for the general population - and Valley residents shouldn't burn wood.

"We do have days when the air pollution is unhealthy," said Anthony Presto, an air district spokesman. "We don't see it as often as they do in Fresno and Bakersfield, but Merced sees it more than Stanislaus or San Joaquin (counties)."

A meeting will be held for businesses to discuss the rules on Sept. 26. It will be held at 1 p.m. by video teleconferencing at each of the air district's offices. The northern region office is located at 4230 Kiernan Ave., Suite 130, in Modesto.

The air district's new wood-burning rule is the first regulation that affects the general public, Presto said. Previous rules have mainly focused on industry.

A voluntary program not to have fires on bad air days had been in place. But the U.S. Environmental Protection Agency in February 2002 determined that the program didn't comply with the federal Clean Air Act and said it should be strengthened.

"San Joaquin (Air Pollution Control District) has a serious particulate matter pollution problem," said Andy Steckel, rulemaking office chief for EPA's Pacific Southwest office.

"We gave them some flexibility as to how they could address (the problem), and what they have done seems reasonable to us," he added.

Natural gas is exempt from the rule. Other exemptions include people who live 3,000 feet or higher, or if burning wood is their sole source of heat.

The orange range will alert the public that any wood-burning is discouraged - but if Valley residents do want to burn wood, Presto urged them to use an EPA Phase-2 certified heater, a manual fire log or seasoned wood, which burn more cleanly.

If Valley residents don't burn cleanly, the district may choose a higher level - red.

"Basically, if people do cooperate a lot in the first level we may have less instances where we have to go to the mandatory level," Presto said.

The red phase would prohibit any wood-burning, and those Valley residents found in violation of the rule could be fined an undetermined amount.

But, "No one is going to be knocking on anyone's doors to look at their fireplaces," Presto said. "The complaint part is what we expect to be the driving force."

Complaints can be called into any of the air district's offices or to the smog information line at 1-800-SMOG-INFO.

The new program begins just as the air district's "Spare the Air" campaign draws to a close on Sept. 30, according to Presto.

The northern region, which includes San Joaquin, Stanislaus and Merced counties, has had a total of 28 Spare the Air days so far this year, including today.

In comparison, the southern region, which includes Tulare and Kern counties, had at least 29 Spare the Air days, he said.

Presto estimated that Merced, Stanislaus and San Joaquin counties could see from between three to six red-level days this fall.

"Generally, we don't have as many days that air quality reaches unhealthy levels in the northern part of the Valley than in the southern," Presto said.

To see the new rules or for more information, visit the air district's Web site at

[www.valleyair.org](http://www.valleyair.org) <<http://www.valleyair.org>>.

## **Senate approves 5-bill package to ease air pollution in valley**

THE ASSOCIATED PRESS

The Modesto Bee, Sept. 12, 2003

SACRAMENTO -- A five-bill package to ease worsening air pollution in the San Joaquin Valley, home to 3.3 million people and hundreds of farms, is on its way to Gov. Davis, following easy approval Thursday in the state Senate.

The bills target what backers call the nation's second dirtiest air, which accounts for skyrocketing asthma rates among children while scaring away business. Three of the valley's cities rank among the four smoggiest metropolitan areas in the United States.

The bills primarily target the region's largest industry, agriculture, ending its longtime exemption from the federal Clean Air Act and phasing out its practice of burning waste in open air fires. They also provide

\$6 million for the valley's waste-to-energy biomass plants for encouragement to burn more agriculture waste, such as trees and plant matter. Finally, it gives law enforcement new authority

to stop and ticket "gross-polluting" cars, and gives air pollution officials more power to rein in pollution from cars and trucks.

One senator called the bill to end agriculture's exemption from clean air standards, carried by Sen. Dean Florez, D-Shafter, one of the most important of the year's legislative session.

"It brings agriculture under the rules of every other business in the state," said Sen. Byron Sher, D-Stanford.

But Republican lawmakers from the eight-county region ringed by mountains and containing some of the nation's most productive farmland, said the bills hurt agriculture when it's already reeling from an economic slump.

"In better times, this might be acceptable," said Sen. Chuck Poochigian, R-Fresno, whose district extends north into the Northern San Joaquin Valley. "Some of the ideas here might make some sense and be worthy of acceptance. But not now."

Sen. Jeff Denham, R-Salinas, whose district includes much of the Modesto and Merced areas, said the bills unfairly target agriculture, which occupied the valley long before cities began expanding.

"Air pollution in the valley is going up while the amount of farmland is decreasing," said Denham. "How can we say agriculture is the problem?"

## **ENVIRONMENT**

Modesto Bee, Sept. 12, 2003

### **Spare the air today**

The San Joaquin Valley Air Pollution Control District has declared today a "Spare the Air" day in Stanislaus, San Joaquin and Merced counties. Officials urge children and adults with breathing problems to limit the amount of time they spend outdoors. People can help reduce pollution by carpooling to work, not using gasoline-powered yard and lawn equipment and forgoing lighter fluid for barbecues.

## **Ethanol project moves forward**

Thursday, September 11, 2003

By Milagros Delgado - Staff Writer

The Madera Tribune

Pacific Ethanol, Inc. has announced Nov. 3 as the date the company plans to break ground for an ethanol plant in Madera, according to Chief Operating Officer Ryan Turner.

Pacific Ethanol purchased the Coast Grain Facility out of bankruptcy for the Madera ethanol plant site.

"Pacific Ethanol closed escrow on June 20," Turner said. "We are now operating a feed facility and we are moving toward funding and building an ethanol plant on the site."

Former Secretary of State Bill Jones and Pacific Ethanol's chairman of the board said ethanol plants would widely contribute to the state of California. The Madera site is one of two that are expected to boost the California economy. Pacific Ethanol, Inc. is also expected to construct another ethanol facility in Visalia, scheduled to break ground in April 2004.

In a previous interview Jones said the facilities will begin as corn based. He said the company

intends to acquire 20 percent or so of the corn from California. He also said this percentage may increase through time. The other 80 percent of corn will be shipped in from the Midwest.

"We are committed to the farming economy and the valley, not just for economic development, but for the farming aspect as well," said Jones.

MTBE, methyl tertiary-butyl ether, is a chemical compound containing oxygen which is added to gasoline to boost its octane to meet clean fuel requirements, according to a website by the United States Environmental Protection Agency.

According to the California Energy Commission, Gov. Gray Davis ordered the removal of the additive MTBE from California gasoline in 1999. The order stated the earliest possible date would be no later than Dec. 31, 2002. In March 2002, Davis extended the deadline to December 2003. Since then, there have been no other extensions so MTBE will be phased out by the end of the year.