

Air district spends big to upgrade toll-free line

Callers overwhelm old system in search of information on valley fireplace restrictions

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A flood of public inquiries on new fireplace burning rules has forced valley smog officials to spend \$20,000 upgrading their voicemail system.

The expense was approved at last week's meeting of the San Joaquin Valley Air Pollution Control District governing board.

The new fireplace rule bans residential woodburning when air pollution reaches a level of 150 or higher on the air quality index, considered unhealthy for everyone. Residents are urged to call 1-800-SMOG-INFO to find out if burning is restricted on any given night.

But so many people have been calling the toll-free line that it became overwhelmed, leaving callers with a busy signal and no way to leave a message or get information.

So the air district had to spend \$20,000 to add additional voicemail capacity to its phone system. This allows up to eight callers to obtain information on the line simultaneously.

"We kind of got surprised by the call volume amounts," said Ken Pretzer, the air district's director of information services. "I am happy to report those eight (voicemail) ports did the job."

Board member Judith Case, a Fresno County supervisor, questioned how the upgrade could cost so much.

"I've never heard of eight voicemails costing \$20,000," she said.

But Pretzer explained that the money paid for phone system hardware that allows up to eight callers to access the district's phone system at the same time. The district did not have that capacity before.

In addition to the wood-burning status, the toll-free line (1-800-766-4463) also allows callers to get information on the daily agricultural burn status, to report gross-polluting vehicles, to leave messages for district staff and get the day's air quality forecast. All this information can also be obtained on the district's Web site, www.valleyair.org.

The fireplace rule was approved in July to control winter episodes of high particulate pollution. Tiny particles of soot in wood smoke cause a host of breathing problems, including asthma and emphysema, and may lead to heart disease.

The new rule also restricts the installation of fireplaces in new housing subdivisions and requires older woodstoves to be removed or disabled when existing homes are sold.

Fresno loses fight over Crippen costs

City failed to warn in writing of fire hazard, ruling says.

By Russell Clemings

The Fresno Bee

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Fresno city officials have lost their bid to recover more than \$600,000 in firefighting costs from Archie Crippen, whose 5-acre pile of construction debris caught fire and burned for a month last winter, filling the city's skies with smoke for days at a time.

Hearing officer James Thaxter, a retired state appellate justice, ruled Friday that the city could not recover firefighting costs because it had not previously notified Crippen in writing that his towering debris pile posed a fire hazard, a step that he determined was required by the Fresno Municipal Code.

Thaxter ruled in the city's favor on another point, allowing it to collect almost \$27,000 in attorney fees and other costs stemming from its revocation, three months after the fire, of the land-use permits for Crippen's business, at Marks and Nielsen avenues in southwest Fresno.

But on balance, said Charles Doerksen, Crippen's lawyer, the decisions are good news for the excavation contractor, who still faces similar cost-recovery actions by the state Integrated Waste Management Board and San Joaquin Valley Air Pollution Control District.

"It's obviously a tremendous victory for Archie," Doerksen said. "The thing that jumps out to me is that the city didn't do its homework before bringing this action."

Officials in Fresno's City Attorney's Office did not respond Monday to requests to comment on the ruling.

In a two-day hearing in October, city officials argued that they could recover firefighting costs under a Municipal Code section governing public nuisance abatement.

But Doerksen argued successfully that, under a different code section covering firefighting costs specifically, the city couldn't recover costs unless it had previously warned Crippen in writing that there was a fire hazard on his property.

In fact, Thaxter said in his decision, not only did the city fail to issue such a warning, it did essentially the opposite in 2001, when, he noted, city inspectors visited the Archie Crippen Excavation site, including the debris pile, and reported no violations.

"If the city's interpretation were accepted," Thaxter wrote, "the city could recover its fire suppression costs, with or without prior written notice to the property owner, as it fancied."

The decision holds Crippen responsible for paying most of the costs incurred by the city in revoking two permits that allowed him to operate his recycling business and a public truck scale.

But Thaxter reduced the city's \$38,000 request by almost one-third, saying that some of its records were unclear and some of its attorneys' time was spent educating themselves on the law governing such revocations.

The city may eventually end up owing Crippen money because Thaxter awarded attorney fees to Crippen for the city's unsuccessful fire-suppression cost recovery effort.

The exact amount of the fees will be determined later, but Doerksen estimated them at \$50,000.

Besides the two remaining cost-recovery actions against him, Crippen is pursuing a civil rights case against the city in U.S. District Court in Fresno.

Crippen alleges that city officials violated the 14th Amendment's equal-protection clause by singling him out for harsh treatment.

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Debates go on as new laws kick in

Winners included air, water, health coverage.

By Jennifer M. Fitzenberger, Bee Capitol Bureau

The Fresno Bee

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SACRAMENTO -- Legislation to help clean the Valley's dirty air, require water meters on most Fresno homes and continue public access to a sex-offender database triumphed in 2003 -- but not without a fight.

Sen. Dean Florez negotiated for days with agriculture leaders on a series of bills aimed at reducing air pollution, and a bill by Assembly Member Nicole Parra to extend Megan's Law -- which at first died because of partisan politics -- was reason to call the Legislature back from recess for approval.

Controversy spiced a year that produced few new mandates for immediate, monumental change. Facing a multibillion-dollar budget deficit, lawmakers carried bills that had little fiscal impact for the state or had costs that could be passed on.

"This year, with the lack of money coming into the state, more [new laws] are regulations or cleanups of bills," said Assembly Member Sarah Reyes, D- Fresno. "I don't think there is any overwhelming, sweeping change."

But debate there was.

Take, for example, Senate Bill 2, which will expand health-care coverage to about 1 million uninsured Californians.

Under the new law, businesses with 200 or more employees must provide health coverage for workers and their families beginning in 2006 or pay into a state fund. In 2007, the program will expand to companies with 50 to 199 employees.

Medical advocates cheered, but business leaders condemned the measure, calling it a "job killer" that will dump more costs on companies already struggling financially.

New laws that will reform the state's broken workers' compensation system also prompted widespread argument, leaving many hoping for further fixes in 2004.

Then-Gov. Gray Davis' administration said the laws promise employers annual savings of as much as \$5.7 billion, but a study by the industry-backed Workers' Compensation Insurance Rating Bureau put the figure at \$4.1 billion.

Gov. Schwarzenegger and Sen. Chuck Poochigian, R-Fresno, next year hope to stretch the savings to \$11 billion.

"There was an effort to deal with some elements of the workers' compensation problem late this last session," Poochigian said. "While a step in the right direction, it didn't do the job."

Also in 2003, Davis signed a law that requires businesses with state contracts to offer the same benefits to domestic partners as married couples. California is the first state to approve such a law. It will take effect in 2007.

A bill that would have allowed undocumented immigrants drivers licenses was signed by Davis and then revoked through legislative action and Schwarzenegger's signature. The move angered proponents who argued that licenses for all would make roads safer.

Schwarzenegger, who ousted Davis in a recall election Oct. 7, campaigned against the drivers license bill. He wants a law with more security measures and has agreed to consider legislation in 2004.

Reyes sponsored a law that will hold charter schools more fiscally and academically accountable. Opponents say it will create unnecessary paperwork and bureaucracy.

Less controversial -- but notable -- are laws that ban the ephedra diet supplement, expand the smoking ban to 20 feet instead of 5 feet from the entrance to public buildings and allow the state to issue identification cards to medical marijuana users.

A law Reyes sponsored bans the use of video and television screens in the front seats of automobiles and says the devices can be used only in back seats.

Two new laws address the upkeep of school restrooms.

One requires most public and private schools to have open restrooms during school hours and, at all times, keep them working, clean and stocked with soap and paper supplies. If a school district doesn't do its duty, it can lose state maintenance funds.

The other law requires districts to make restrooms a priority when spending those state funds.

New laws closely affecting the central San Joaquin Valley include:

Clean air

Florez, D-Shafter, and farmers butted heads for weeks over a clean-air legislative package that will become law.

Agriculture leaders opposed most of the bills, saying they put too many restrictions on farming and unfairly single out the industry. Farmers argued that too-tight regulations would be costly and, in some cases, jeopardize their businesses.

The most fought-over measure was SB 700 to repeal the agriculture industry's exemption from air-operating permits. The bill brings agriculture under the same pollution-control requirements guiding other industries in California.

The bills passed through the Senate but languished in the Assembly. Florez accused a group of urban Democrats of stalling his bills to keep Parra, D-Hanford, from having to vote on them. Parra is thought by observers to be vulnerable in the next election.

After several long days negotiating with farm officials, the bills cleared the Assembly and landed Davis' signature.

In addition to SB 700, four other Florez air bills became law. They create incentives for biomass plants to take in agriculture waste, slowly phase out open-field agricultural burning, increase the penalty for driving gross-polluting vehicles and expand the San Joaquin Valley Air Pollution Control District's authority.

Water meters

A new law requires water meters on nearly all Fresno homes and nonagricultural businesses by 2013.

Fresno officials expect water meters will be installed on about 80,000 Fresno homes in the next five to 10 years. They say meters will keep secure about 40% of Fresno's water supply and, in the long run, save residents money.

Before the city starts installing meters -- a process that is three or four years away -- officials first will do a rate analysis and draw up a funding plan.

Martin McIntyre, Fresno's public utilities director, said a few residents have asked about meters since Davis signed the legislation: "It is really hard to hold people's interest when you say D-Day isn't for another 10 years."

It will cost about \$40 million to retrofit meters on Fresno homes. McIntyre said customer savings resulting from meters will offset the cost of installation.

Assembly Bill 514 by Assembly Member Christine Kehoe, D-San Diego, wasn't as hotly debated as some, but its few vocal opponents said it unfairly squashes voter opinion.

Fresno's charter prohibits water metering, and the public rejected an effort to change that in the early 1990s.

Charter schools

AB 1137 by Reyes set minimum academic standards for charter schools to keep their doors open. It also requires charters to disclose financial statements to their sponsors and rolls several monetary programs into one grant to provide more spending flexibility.

Supporters of the new law say it creates a long-needed system of checks and balances for charters, which usually are formed by parents as an alternative to public schools. Charters receive state funding but are not bound by many of the rules that govern traditional public schools.

Reyes said that, of her nine bills that will become law Thursday, the charter-school measure will have one of the most lasting impacts. Ultimately, it will result in a better education for children, she said.

Opponents argued the law will increase administrative duties, which could pull educators' focus from students. They also said charters catering to problem students will have difficulty achieving minimum academic standards, thus putting such schools in jeopardy.

The charter school measure was inspired by a 2002 state audit that said public school districts and state education officials were failing in their duties to monitor the academic success and financial health of charter schools.

Reyes requested the audit after Fresno Unified School District revoked the charter of Fresno-based GateWay Academy, which had accumulated \$1.3 million in debt, hired uncredentialed teachers and staffers who had not passed criminal background checks and operated as many as 14 campuses from Pomona to Oakland.

Megan's Law

The program that requires sex offender information be made available to the public at all 58 county sheriff's departments and all police departments serving more than 200,000 people was set to expire this week.

Fresno's database contains information on roughly 1,600 sex offenders who live in the city.

It was extended to 2007 only after Davis reconvened the Assembly for a one-day session Sept. 29. Parra's bill failed to win two-thirds support two weeks earlier because Republicans were angry that the Senate didn't approve budget extras agreed to in the Assembly. Republicans also said Parra's bill was too weak and didn't go far enough to protect children.

Republicans want to put the Megan's Law database on the Internet, provide offenders' home addresses and extend the law indefinitely. The Assembly Public Safety Committee will hash out an amended Senate bill when the Legislature reconvenes in January.

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Editorial

Seeing the Valley's bad air is a start

The Visalia Times-Delta

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U.S. Rep. Devin Nunes, R-Visalia, has apparently seen the light.

Or should we say the dark.

In a recent interview, Nunes acknowledged that air pollution is a problem for the San Joaquin Valley. Nunes came a little slowly to this recognition. Earlier this year he said the poor air quality of the Valley was exaggerated by the media and not a significant problem.

We're glad to see Nunes has recognized one of the region's most pressing problems. It's important that our elected federal official be a part of the solution.

Nunes professes still to have no solution to the area's poor air quality, but he is not alone there. Virtually all parties argue over the causes of Valley air pollution as well as the solutions. Even so, like Nunes, they all must take that first step, and that is to acknowledge there is a problem.

One of the reasons Nunes had been reluctant to identify air pollution as an issue is apparently he feared that agriculture would be portrayed as the chief polluter. Nunes said pollution from vehicles is more likely the source of the Valley's smog.

Determining responsibility for pollution continues to be a problem because valid scientific study has still not been completed across the board. There is a good chance it will never be. The Valley is a complex and sensitive ecosystem. Its air is affected by climatic changes, physical characteristics such as wind and terrain, natural agents such as dust and pollen, and human-created polluting factors of all kinds, both stationary and mobile. Breaking down all those elements and assigning a percentage of cause to each is impossible.

We have repeatedly noted that assigning blame is counterproductive. Accepting responsibility is productive. There is no magic bullet to suddenly make the air clean enough to see the mountains every day.

Meanwhile, we urge Nunes to explore all the avenues for improving air quality, not simply those in the volunteer, private sector either. Because a great deal of the Valley's pollution is from mobile sources, only the federal government has the clout to execute changes. The program must include technological innovation, changes in lifestyle, personal compliance as well as incentive and regulation.

For starters, everybody needs to be on the same page. Even congressmen.

[Letters to the Editor](#)

Get rid of the blame shifters

The Modesto Bee

Sunday, December 28

With 300,000 people already suffering from chronic lung problems due to the corrosive gas that travels through our blood every time we take a breath of foul air, the air authority's vote to downgrade the standards is unacceptable.

They claim that they only control a very small part of the air pollution through industry and that the automobiles are the No. 1 cause. Blame shifting does not cure our pollution. Blame shifters need to go, and the federal government needs to come in and clean the air before the valley air kills us all!

MIKE HUFFMAN
Modesto