

LEGAL TEXT OF PROPOSITION I

[Healthy Air Enforcement Act of 2004.]

Ordinance adding a new Section 410 of the Environment Code to require that the Municipal Railway replace all pre-1991 diesel buses on or before January 1, 2007, setting annual deadlines for the retirement of outmoded buses, and allowing the San Francisco County Transportation Authority to extend these annual deadlines under certain circumstances.

Note: Additions are single-underline italics Times New Roman; deletions are ~~strikethrough italics Times New Roman~~. Board amendment additions are double underlined. Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

SECTION 1. Title

This measure shall be known and may be cited as the "Healthy Air Enforcement Act of 2004."

SECTION 2. Findings and Declarations

The people of the City and County of San Francisco find and declare all of the following:

The San Francisco Municipal Railway (hereinafter referred to as "Muni")'s operation of very old (pre-1995), highly polluting diesel buses poses a serious health risk to San Franciscans.

In 1998, the California Air Resources Board (CARB) identified diesel particulate matter (diesel PM) as a toxic air contaminant based on its potential to cause cancer and other adverse health effects. In addition to PM, CARB has determined that emissions from diesel-fueled engines include over 40 other cancer causing substances. According to the CARB, emissions from diesel engines are responsible for the majority of the potential air-borne cancer risk in California.

The people of the City and County of San Francisco are committed to reducing air pollution emissions.

Numerous clean bus technologies have been certified by the California Air Resources Board (CARB) and are available for purchase by MUNI. These technologies can significantly reduce air pollution in the City.

Muni is California's third largest public transit district, serves California's second largest metropolitan area, and is therefore ideally positioned to be a leader among transit operators in the implementation of a cleaner bus technology. At least 30 of California's transit districts have already eliminated conventional diesel buses because of the health risks they pose.

It is time for Muni to phase out highly

polluting diesel buses and to acquire CARB-certified buses to replace them.

SECTION 3. Purpose and Intent

The people of the City and County of San Francisco declare their purpose and intent in enacting the "Healthy Air Enforcement Act of 2004" to be as follows:

To recognize that Muni's operation of very old, highly polluting diesel buses poses a serious health risk to San Franciscans.

To take action to fulfill the commitment of the people of the City and County of San Francisco to reduce air pollution emissions.

To recognize that the highly polluting buses used by Muni emit harmful particles and smog forming emissions and that the use of CARB-certified buses will significantly reduce air pollution in the City.

To make Muni a leader among transit operators in the implementation of cleaner bus technology by eliminating polluting diesel buses because of the health risk they pose.

To require that Muni phase out the highly polluting diesel buses and acquire CARB-approved buses to replace them.

SECTION 4. Chapter 4 of the San Francisco Environment Code is hereby amended by adding new Section 410 to read as follows:

SEC. 410. SAN FRANCISCO MUNICIPAL RAILWAY BUSES

Acquisition of Clean Muni Buses. Muni shall replace all pre-1991 diesel buses on or before January 1, 2007.

Phase Out of Highly Polluting Muni Diesel Buses. Muni shall remove from active or reserve service and shall no longer operate any diesel bus that exceeds its 12 year useful life based on the following schedule:

(1) All diesel buses that were purchased on or before December 31, 1988 shall be removed from active or reserve service on or before December 31, 2004;

(2) All diesel buses that were purchased on or before December 31, 1989 shall be removed from active or reserve service on or before December 31, 2005;

(3) All diesel buses that were purchased on or before December 31, 1990 shall be removed from active or reserve service on or before December 31, 2006.

Extensions. If replacement buses are not commercially available or unforeseen circumstances prevent Muni from procuring new buses on a timely basis, Muni may seek a one-time extension of up to twelve months from the San Francisco Transportation Authority (TA) for any of the aforementioned deadlines. Approval for such extensions shall require eight or more votes by the Transportation Authority Board of Commissioners. Extension

requests shall be submitted in writing at least sixty days prior to the deadline and shall include a detailed accounting of why Muni is unable to meet its obligations under this measure. Extension requests shall also include a list of specific actions that Muni will undertake to offset the emission reductions that would have resulted if no extension were granted. Proposed emission reductions should benefit Muni passengers or residents living near diesel bus routes or diesel bus yards. All extension requests shall be evaluated by the Department of the Environment to determine the validity of proposed emission reductions. The Department of the Environment shall report its findings to the Board of Commissioners at least one week prior to the extension request hearing date.

Notwithstanding Section 406.(e)(2), the provisions of Section 406 shall apply to the acquisition of buses by Muni for its fleet.

SECTION 5. Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this act are severable.