

AMENDED IN SENATE AUGUST 15, 2005
AMENDED IN ASSEMBLY MARCH 31, 2005
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 32

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Chan, Hancock, Koretz, and
Laird)
(Coauthor: Senator Simitian)

December 6, 2004

An act to amend Sections 42801 and 42823 of, *and to add Chapter 6.5 (commencing with Section 42875) to Part 4 of Division 26 of*, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as amended, Pavley. Greenhouse gas emissions: ~~California Climate Action Registry.~~

Existing law requires the Secretary of the Resources Agency to establish the California Climate Action Registry (hereafter registry) as a public benefit nonprofit corporation, and makes legislative findings and declarations relating to the registry. Existing law requires the registry to perform various functions, including, among other things, the adoption of procedures and protocols for the reporting and certification of greenhouse gas ~~emission~~ *emissions* reductions resulting from a project or an action of a participant in the registry.

This bill would revise the functions and duties of the registry by requiring the registry, in coordination with the California Environmental Protection Agency and the State Energy Resources Conservation and Development Commission, to adopt specified procedures and protocols for monitoring, estimating, calculating,

reporting, and certifying greenhouse gas emissions resulting from specified industrial sectors, as provided. This bill would require the registry to coordinate with state agencies to promote the development of harmonized reporting standards, as specified, and would require the registry, to the extent possible, to coordinate with other states and regions to ensure that businesses and organizations operating both in this state and out of state follow uniform protocols when reporting to multiple registries, states, or regions.

The bill would enact the California Climate Act of 2006 to require the Secretary of the California Environmental Protection Agency to institute a cap on greenhouse gas emissions from the electrical power, industrial, and commercial sectors of the economy, institute a schedule of emissions reductions for specified entities, develop an enforcement mechanism for reducing greenhouse gas emissions to the target level, and establish a program to track and report greenhouse gas emissions and to monitor and enforce compliance with the greenhouse gas emissions cap. The bill would require the secretary, on or before January 1, 2008, to submit a detailed plan to achieve the greenhouse gas emissions cap to the Governor and the Legislature, and to submit a report, on or before January 1, 2009, and annually thereafter, on the progress made toward meeting the greenhouse gas emissions cap. The bill would set standards for the schedule of greenhouse gas emissions reductions, and would require, by regulation, any entity subject to the greenhouse gas emissions cap to be prohibited from meeting those obligations using emissions reductions achieved outside the scope of the greenhouse gas emissions cap. This bill would also make legislative findings and declarations with regard to reducing greenhouse gas emissions associated with climate change.

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

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

- 1 SECTION 1. Section 42801 of the Health and Safety Code is
- 2 amended to read:
- 3 42801. The Legislature finds and declares all of the
- 4 following:
- 5 (a) It is in the best interest of the State of California, the
- 6 United States of America, and the earth as a whole, to encourage

1 voluntary actions to achieve all economically beneficial
2 reductions of greenhouse gas emissions from California sources.

3 (b) Mandatory greenhouse gas emissions reductions may be
4 imposed on California sources at some future point, and in view
5 of this, the state has a responsibility to use its best efforts to
6 ensure that organizations that voluntarily inventory their
7 emissions receive appropriate consideration for changes in
8 emissions quantities made prior to the implementation of any
9 mandatory programs.

10 (c) Past initiatives in the state that took early and responsible
11 action to reduce air pollution and ozone smog have demonstrated
12 political, economic, and technological leadership, and have
13 proven to benefit the state.

14 (d) The state's tradition of environmental leadership should be
15 recognized through the establishment of a registry to provide
16 documentation of greenhouse gas emissions levels voluntarily
17 achieved by sources in the state. The registry will provide
18 participants an opportunity to register greenhouse gas emissions
19 information in a consistent format using publicly reviewed and
20 adopted procedures and protocols.

21 (e) The state hereby commits to use its best efforts to ensure
22 that organizations that establish greenhouse gas emissions
23 baselines and register emissions results that are certified in
24 accordance with this chapter receive appropriate consideration
25 under any future international, federal, or state regulatory scheme
26 relating to greenhouse gas emissions. The state cannot guarantee
27 that any regulatory regime relating to greenhouse gas emissions
28 will recognize the baselines and annual results recorded in the
29 registry.

30 (f) The state hereby commits to review future international or
31 federal programs related to greenhouse gas emissions and to
32 make reasonable efforts to promote consistency between the state
33 program and these programs and to reduce the reporting burden
34 on participants, if changes to the state program are consistent
35 with the goals and intent of Section 42810.

36 (g) The state has supported developing standardized
37 greenhouse gas ~~emission~~ *emissions* accounting, reporting, and
38 certifying guidelines through the creation of the California
39 Climate Action Registry. Further industry-specific and project
40 greenhouse gas emissions reporting protocols are needed to

1 facilitate participation in the registry and to provide streamlined
2 guidance for certain sectors. To the extent feasible, the state
3 hereby commits to coordinate greenhouse gas emissions
4 programs with other states and regions, until a national program
5 is established to limit greenhouse gas emissions.

6 SEC. 2. Section 42823 of the Health and Safety Code is
7 amended to read:

8 42823. The registry shall perform all of the following
9 functions:

10 (a) Provide participants with referrals to approved providers
11 for technical assistance and advice, upon the request of a
12 participant, on any or all of the following:

13 (1) Designing programs to establish greenhouse gas emissions
14 baselines and to monitor, estimate, calculate, report, and certify
15 greenhouse gas emissions.

16 (2) Establishing emissions reduction goals based on
17 international or federal best practices for specific industries and
18 economic sectors.

19 (3) Designing and implementing organization-specific plans
20 that improve energy efficiency or utilize renewable energy, or
21 both, and that are capable of achieving ~~emission~~ *emissions*
22 reduction targets.

23 (4) Designing plans for the conservation and management of
24 native forest reservoirs as a means to assist participants in
25 attaining ~~emission~~ *emissions* reduction goals and reporting
26 annual emissions results.

27 (b) In coordination with the State Energy Resources
28 Conservation and Development Commission, the registry shall
29 adopt and periodically update a list of organizations recognized
30 by the state as qualified to provide the detailed technical
31 assistance and advice in subdivision (a) and assist participants in
32 identifying and selecting providers that have expertise applicable
33 to each participant's circumstances. The registry shall coordinate
34 with the Department of Forestry and Fire Protection and the State
35 Board of Forestry and Fire Protection to provide referrals to
36 providers for purposes of paragraph (4) of subdivision (a).

37 (c) The registry shall adopt procedures and protocols for the
38 reporting and certification of greenhouse gas ~~emission~~ *emissions*
39 reductions resulting from a project or an action of a participant.

1 A participant shall report ~~emission~~ *emissions* reductions as a
2 separate item in its annual emissions results.

3 (d) In coordination with the California Environmental
4 Protection Agency and the State Energy Resources Conservation
5 and Development Commission, the registry shall adopt
6 procedures and protocols for monitoring, estimating, calculating,
7 reporting, and certifying greenhouse gas emissions resulting from
8 all of the following industrial sectors:

9 (1) Oil and natural gas exploration, extraction, processing,
10 refining, transmission, and distribution.

11 (2) Cement production.

12 (3) Municipal solid waste and industrial waste hauling and
13 disposal.

14 (e) In coordination with the Resources Agency and consistent
15 with the data and information acquired and developed pursuant to
16 subdivision (b) of Section 25730 of the Public Resources Code,
17 the registry shall adopt procedures and protocols for the
18 monitoring, estimating, calculating, reporting, and certifying of
19 carbon stocks and carbon dioxide emissions resulting from the
20 conservation and conservation-based management, including
21 reforestation, of native forest reservoirs in California in order to
22 permit participants to include the results of those activities as a
23 participant's registered emissions results, or as a part thereof.
24 Procedures and protocols shall require, at a minimum, that those
25 forestry activities meet the following criteria in order to be
26 reported as a participant's emissions results, or as a part thereof:

27 (1) Forestry activities that are reported as a participant's
28 emissions results, or as a part thereof, shall be based on forest
29 management practices within a defined project area that exceed
30 applicable federal, state, and local land use laws and regulations,
31 including, but not limited to, the Z'berg-Nejedly Forest Practice
32 Act of 1973 (Chapter 8 (commencing with Section 4511) of Part
33 2 of Division 4 of the Public Resources Code). Applicable
34 federal, state, and local land use laws and regulations shall be
35 those in effect each time a participant registers a defined project
36 area in the registry.

37 (2) Forestry activities that are reported as a participant's
38 emissions results, or a part thereof, shall occur on forest land that
39 is permanently dedicated to forest use through a restriction,
40 granted in perpetuity, on the use that may be made of real

1 property that is consistent with the conservation purposes listed
2 in Section 170(h)(4)(A)(ii) and (iii) of Title 26 of the United
3 States Code.

4 (3) Forestry activities reported as emissions results, or as a
5 part thereof, shall reflect the amount of time that net carbon gains
6 are stored.

7 (4) Forestry activities maintain and promote native forest
8 types.

9 (5) If emissions results are derived from forest lands
10 undergoing harvest and regeneration, those results are derived
11 from natural forest management practices.

12 (f) Adopt procedures and protocols for certification of reported
13 baseline emissions and emissions results. When adopting
14 procedures and protocols for the certification, the registry shall
15 consider the availability and suitability of simplified techniques
16 and tools.

17 (g) Qualify third-party organizations that have the capability to
18 certify reported baseline emissions and emissions results, and
19 that are capable of certifying the participant-reported results as
20 provided in this chapter.

21 (h) Adopt procedures and protocols, including a uniform
22 format for reporting emissions baselines and emissions results to
23 facilitate their recognition in any future regulatory regime.

24 (i) Maintain a record of all certified greenhouse gas emissions
25 baselines and emissions results. Separate records shall be kept for
26 direct and indirect emissions results. The public shall have access
27 to this record, except for any portion of the data or information
28 that is exempt from disclosure pursuant to the California Public
29 Records Act (Chapter 3.5 (commencing with Section 6250) of
30 Division 7 of Title 1 of the Government Code).

31 (j) Coordinate with state agencies to promote the development
32 of harmonized reporting standards for measuring, accounting,
33 reporting, and certifying greenhouse gas emissions. The registry
34 shall also encourage organizations from various sectors of the
35 state's economy, and those from various geographic regions of
36 the state, to report emissions, establish baselines and reduction
37 targets, and implement efficiency improvement and renewable
38 energy programs to achieve those targets, and, to the extent
39 possible, coordinate its policies and programs with policies and
40 programs in other states and regions to ensure that businesses and

1 organizations operating both in this state and out of state follow
2 uniform and consistent protocols when reporting to multiple
3 registries, states, or regions.

4 (k) Recognize, publicize, and promote participants.

5 (l) In coordination with the State Energy Resources
6 Conservation and Development Commission and the state board,
7 adopt industry-specific reporting metrics at one or more public
8 meetings.

9 (m) In consultation with the state board, adopt procedures and
10 protocols for the reporting and certification of reductions in
11 emissions of greenhouse gases, to the extent permitted by state
12 and federal law, for those reductions achieved prior to the
13 operative date of the regulations adopted pursuant to subdivision
14 (a) of Section 43018.5.

15 *SEC. 3. Chapter 6.5 (commencing with Section 42875) is*
16 *added to Part 4 of Division 26 of the Health and Safety Code, to*
17 *read:*

18

19 *CHAPTER 6.5. CALIFORNIA CLIMATE ACT OF 2006*

20

21 *42875. This chapter shall be known, and may be cited, as the*
22 *California Climate Act of 2006.*

23 *42876. The Legislature hereby finds and declares all of the*
24 *following:*

25 (a) *The world's leading scientists, including the National*
26 *Academy of Sciences from 11 nations, have definitively*
27 *established that human activity in the form of greenhouse gas*
28 *emissions is changing the global climate, with consensus*
29 *estimates of an average increase in temperature between 2 and*
30 *10 degrees by the end of the century.*

31 (b) *The impacts of climate change include the likelihood of a*
32 *rise in sea level that could displace tens of thousands of coastal*
33 *residents, changes in weather patterns that could negatively*
34 *affect water supplies and food production, increases in disease*
35 *outbreaks and heat-related deaths in some areas, and*
36 *degradation of air quality, among other worldwide impacts.*

37 (c) *A study by the Union of Concerned Scientists in 2004*
38 *indicated that, without controls on greenhouse gas emissions,*
39 *California's summer temperatures could increase by as much as*
40 *10 degrees annually in some parts of the state by 2100, resulting*

1 *in increased mortality among the elderly and other vulnerable*
2 *populations, increased respiratory illness, a profound*
3 *transformation of the landscape, including the potential wipeout*
4 *of several animal species, increased disease and death from*
5 *insect-borne illnesses, loss of the annual Sierra snowpack and*
6 *related water supply problems, rising sea levels that could*
7 *impact coastal cities, towns, and valuable coastal wetlands,*
8 *changes in agricultural production, and a dramatic increase in*
9 *state energy needs to keep parts of the state habitable in the*
10 *summer.*

11 *(d) The Kyoto Protocol, which has been ratified by 140*
12 *countries, went into effect on February 16, 2005, requiring*
13 *reductions in greenhouse gas emissions on the part of signatories*
14 *that include many countries that emit a smaller quantity of*
15 *greenhouse gases than California.*

16 *(e) Over 170 mayors of cities around the country have made a*
17 *commitment to reduce greenhouse gas emissions to meet targets*
18 *consistent with the Kyoto Protocol.*

19 *(f) California has led the United States in taking action to*
20 *reduce greenhouse gas emissions by enacting legislation in 2002*
21 *to reduce vehicular emissions of greenhouse gases, and by the*
22 *subsequent adoption of regulations to reduce greenhouse gases*
23 *from cars and light trucks beginning in 2009.*

24 *(g) California is also taking a leadership role in promoting the*
25 *use of clean renewable energy, including solar and wind power,*
26 *and noncarbon transportation fuels, including hydrogen.*

27 *(h) To protect the environment, public health, and quality of*
28 *life, California should take aggressive steps to further reduce*
29 *greenhouse gas emissions in order to help lessen the negative*
30 *impacts of global climate change.*

31 *(i) Global warming will have serious adverse consequences on*
32 *the economy, health, and environment of California.*

33 *(j) The control and reduction of emissions of greenhouse gas*
34 *pollutants are critical to slow the effects of global warming.*

35 *(k) Many California businesses face multiple financial risks*
36 *based on their emissions of greenhouse gases, and businesses*
37 *that substantially reduce emissions will reduce these risks and*
38 *may gain a competitive advantage. Decisions about new*
39 *commitments to carbon-emitting resources should take into*

1 *account potential exposures of California consumers to future*
2 *pollution-control costs.*

3 *(l) California, when compared against countries around the*
4 *globe, is the 10th largest emitter of carbon dioxide pollution in*
5 *the world.*

6 *(m) California's consumption of imported electricity is*
7 *responsible for carbon dioxide pollution emitted from*
8 *powerplants in other parts of the western United States.*

9 *(n) Addressing global warming early and aggressively may*
10 *result in substantial economic benefits. California and the region*
11 *are rich in renewable energy resources and advanced energy*
12 *efficiency technologies that will create new jobs, make California*
13 *a global leader, and provide a hedge against the economic*
14 *impact of price spikes for natural gas and oil.*

15 *(o) Climate change prevention strategies will have numerous*
16 *public health and environmental benefits by reducing the*
17 *pollutants that cause smog, soot, haze, and toxic air pollution,*
18 *and will also help to ensure adequate water supplies, preserve*
19 *farm and forest land uses, and reduce traffic congestion.*

20 *(p) A set of representative low-carbon policies analyzed for*
21 *the West Coast Governors' Global Warming Initiative estimates*
22 *that the west coast region would save a net cumulative total of*
23 *almost forty billion dollars (\$40,000,000,000) by 2020.*

24 *(q) Current state and federal policies alone will not lead to a*
25 *reduction in current greenhouse gas emissions levels associated*
26 *with global warming.*

27 *42877. (a) On or before January 1, 2008, the Secretary of*
28 *the California Environmental Protection Agency shall do all of*
29 *the following:*

30 *(1) Implement, by regulation and in an economically efficient*
31 *manner, a greenhouse gas emissions cap for the electrical power,*
32 *industrial, and commercial sectors of the California economy,*
33 *based on carbon dioxide equivalence, in consultation with the*
34 *Business, Transportation and Housing Agency, the Department*
35 *of Food and Agriculture, the Resources Agency, the state board,*
36 *the Energy Commission, and the Public Utilities Commission.*

37 *(2) Institute a schedule of greenhouse gas emissions*
38 *reductions by regulation for entities that own, control, or*
39 *contract for a source of greenhouse gas emissions in the*
40 *electrical power, industrial, or commercial sectors; refine or*

1 *import petroleum products for use in transportation; or produce*
2 *or import hydrofluorocarbons, perfluorocarbons, or sulfur*
3 *hexafluoride.*

4 *(3) Develop an enforcement mechanism for reducing*
5 *greenhouse gas emissions to the target level by regulation.*

6 *(4) Establish a program to track and report greenhouse gas*
7 *emissions from the electrical power, industrial, and commercial*
8 *sectors of the economy, and to monitor and enforce compliance*
9 *with the greenhouse gas emissions cap by regulation.*

10 *(b) Upon implementation of the greenhouse gas emissions*
11 *reduction cap, the Secretary of the California Environmental*
12 *Protection Agency shall consider the feasibility of expanding the*
13 *program to include trading with other emissions reduction*
14 *programs in other states, regions, or countries.*

15 *(c) The Secretary of the California Environmental Protection*
16 *Agency shall, at a minimum, set the greenhouse gas emissions*
17 *cap at a level that would ensure that entities in the electrical*
18 *power, industrial, and commercial sectors meet or exceed the*
19 *level set by the greenhouse gas emissions cap. Any emissions*
20 *allowances shall be determined by the annual limits on emissions*
21 *established to comply with the schedule of greenhouse gas*
22 *emissions reductions. In instituting the schedule of greenhouse*
23 *gas emissions reductions, the Secretary of the California*
24 *Environmental Protection Agency shall, at a minimum, comply*
25 *with all of the following requirements:*

26 *(1) The reduction schedule shall not create large windfall*
27 *profits for private businesses.*

28 *(2) The reduction schedule shall not penalize industries or*
29 *companies that have acted prior to the date of the enactment of*
30 *the act that adds this chapter to reduce greenhouse gas*
31 *emissions.*

32 *(3) The reduction schedule shall not result in disproportionate*
33 *impacts to consumers.*

34 *(4) The reduction schedule shall not place a disproportionate*
35 *burden on any geographic or socioeconomic group.*

36 *(5) The reduction schedule shall ensure that entities are*
37 *appropriately motivated to make investments that will reduce*
38 *emissions.*

39 *(6) The reduction schedule shall minimize the administrative*
40 *burden involved in implementation.*

1 *(d) Regulations developed and established pursuant to*
 2 *subdivision (a) shall prohibit entities subject to the greenhouse*
 3 *gas emissions cap from meeting obligations using emissions*
 4 *reductions achieved outside the scope of the greenhouse gas*
 5 *emissions cap.*

6 *42878. (a) On or before January 1, 2008, the Secretary of*
 7 *the California Environmental Protection Agency shall prepare*
 8 *and provide to the Governor and the Legislature a detailed plan*
 9 *for achieving the greenhouse gas emissions cap, with a full*
 10 *explanation of the methodology used to arrive at the cap level.*
 11 *The plan shall include recommendations to reduce greenhouse*
 12 *gas emissions in all sectors of the economy.*

13 *(b) On or before January 1, 2009, and annually thereafter, the*
 14 *Secretary of the California Environmental Protection Agency*
 15 *shall submit a report to the Governor and the Legislature on the*
 16 *progress made toward meeting the greenhouse gas emissions*
 17 *cap.*

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20 **CORRECTIONS:** _____

21 **Text — Pages 4, 5, 8, 9, and 10.**

22 _____