

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1405**

---

---

**Introduced by Assembly Members De Leon and V. Manuel Perez**

February 27, 2009

---

---

An act to ~~amend Section 38597 of~~ *add Section 38597.4* to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1405, as amended, De Leon. California Global Warming Solutions Act of 2006: Community Benefits Fund.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act.

This bill would establish the Community Benefits Fund, and would require an unspecified percentage of revenues generated pursuant to the act, including the fee discussed above, to be deposited into that fund. The moneys in the fund would be used, upon appropriation by the Legislature, for the Community Benefits Program, which the bill would create. ~~The program would be implemented by the Community Benefits Fund Review Panel, which the bill would create within the California Environmental Protection Agency, with 9 members to be appointed by the Governor, Speaker of the Assembly, and the Senate Committee on Rules, as provided. The panel would be required to ensure that the funds appropriated to it are used in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions and mitigate direct health impacts of climate change in those communities. The state board would be required to develop and recommend a methodology to the panel to identify the most impacted and disadvantaged communities. The state board, the State Energy Resources Conservation and Development Commission, and the State Department of Public Health would be required to jointly develop and recommend semiannual plans for the use of funds under the program.~~

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 38597.4 is added to the Health and Safety  
 2     Code, to read:  
 3     38597.4. (a) There is hereby established in the State Treasury  
 4     the Community Benefits Fund. \_\_\_\_ percent of the total revenues  
 5     generated each year pursuant to this division, including, but not  
 6     limited to, Section 38597, shall be deposited by the state board  
 7     into the Community Benefits Fund. The moneys in the fund shall  
 8     be used, upon appropriation by the Legislature, for the purposes  
 9     described in subdivision (b).  
 10    (b) (1) Funds appropriated by the Legislature from the  
 11    Community Benefits Fund shall be used solely in the most impacted  
 12    and disadvantaged communities in California to accelerate  
 13    greenhouse gas emission reductions and mitigate direct health  
 14    impacts of climate change in those communities. The Community  
 15    Benefits Fund shall be used to provide competitive grants for

1 *projects, including, but not limited to, any projects that do any of*  
2 *the following:*

3 *(A) Reduce greenhouse gas emissions, while achieving*  
4 *cobenefits such as reductions in other air pollutants and energy*  
5 *efficiency.*

6 *(B) Minimize health impacts caused by global warming.*

7 *(C) Assist small businesses to reduce their greenhouse gas*  
8 *emissions.*

9 *(D) Install or replace equipment that reduces greenhouse gas*  
10 *emissions.*

11 *(E) Improvements to mass transit that reduce greenhouse gas*  
12 *emissions, including, but not limited to, subsidies to commuters.*

13 *(F) Clean distributed electricity generation systems that reduce*  
14 *greenhouse gas emissions.*

15 *(G) Energy efficiency upgrades for schools, senior centers, or*  
16 *low-income housing that reduce greenhouse gas emissions.*

17 *(H) Emergency preparedness for extreme weather events caused*  
18 *by global warming.*

19 *(2) The state board shall develop a methodology to identify the*  
20 *most impacted and disadvantaged communities.*

21 *(3) The state board, the State Energy Resources Conservation*  
22 *and Development Commission, and the State Department of Public*  
23 *Health shall jointly develop semiannual plans for the use of funds*  
24 *under this section.*

25 *(4) Notwithstanding any other provision of this section, projects*  
26 *shall only be funded if the state board determines, based on the*  
27 *facts available to it, that the use of moneys for that project would*  
28 *be consistent with Article XIII A of the California Constitution and*  
29 *case law construing that provision. The state board shall ensure*  
30 *in this regard that no feepayer pays for a disproportionate share*  
31 *of the global warming harm addressed by this section.*

32 ~~SECTION 1. Section 38597 of the Health and Safety Code is~~  
33 ~~amended to read:~~

34 ~~38597. (a) The state board may adopt by regulation, after a~~  
35 ~~public workshop, a schedule of fees to be paid by the sources of~~  
36 ~~greenhouse gas emissions regulated pursuant to this division,~~  
37 ~~consistent with Section 57001. The revenues collected pursuant~~  
38 ~~to this section, except as provided in subdivision (b), shall be~~  
39 ~~deposited into the Air Pollution Control Fund and are available,~~

1 upon appropriation by the Legislature, for purposes of carrying  
2 out this division.

3 (b) There is hereby established in the State Treasury the  
4 Community Benefits Fund. \_\_\_\_\_ percent of the total revenues  
5 generated each year pursuant to this division, including, but not  
6 limited to, subdivision (a), shall be deposited by the state board  
7 into the Community Benefits Fund. The moneys in the fund shall  
8 be used, upon appropriation by the Legislature for the Community  
9 Benefits Program described in subdivision (c).

10 (c) (1) The Community Benefits Fund Review Panel is hereby  
11 created as part of the California Environmental Protection Agency.  
12 The Assistant Secretary for Environmental Justice shall provide  
13 support to the panel. The panel shall implement the Community  
14 Benefits Program to ensure that funds appropriated to it by the  
15 Legislature are solely used in the most impacted and disadvantaged  
16 communities in California to accelerate greenhouse gas emission  
17 reductions and mitigate direct health impacts of climate change in  
18 those communities. The panel shall award competitive grants for  
19 projects, including, but not limited to, any projects that do any of  
20 the following:

21 (A) Reduce greenhouse gas emissions, while achieving  
22 cobenefits such as reductions in other air pollutants and energy  
23 efficiency.

24 (B) Minimize health impacts caused by global warming.

25 (C) Assist small businesses to reduce their greenhouse gas  
26 emissions.

27 (D) Install or replace equipment that reduces greenhouse gas  
28 emissions.

29 (E) Improvements to mass transit that reduce greenhouse gas  
30 emissions, including, but not limited to, subsidies to commuters.

31 (F) Clean distributed electricity generation systems that reduce  
32 greenhouse gas emissions.

33 (G) Energy efficiency upgrades for schools, senior centers, or  
34 low-income housing that reduce greenhouse gas emissions.

35 (H) Emergency preparedness for extreme weather events caused  
36 by global warming.

37 (2) (A) The panel shall have a total of nine members. The  
38 Governor, the Speaker of the Assembly, and the Senate Committee  
39 on Rules shall each appoint three members by \_\_\_\_\_. The members  
40 shall have demonstrated integrity in protecting community interests

1 in the area of environmental protection for at least 10 years, or  
2 have education and demonstrated expertise and at least 10 years  
3 of working experience in the areas of air pollution, public health,  
4 energy efficiency, economics, local government, or running a small  
5 business.

6 (B) The members of the panel shall serve for three-year terms  
7 and can be reappointed for no more than a second three-year term.  
8 For the initial appointments pursuant to subparagraph (A), the  
9 Governor, the Speaker of the Assembly, and the Senate Committee  
10 on Rules, shall each appoint one member to a one-year term, one  
11 member to a two-year term, and one member to a three-year term.

12 (3) The state board shall develop and recommend methodology  
13 to the panel to identify the most impacted and disadvantaged  
14 communities, that shall be reviewed and modified, if necessary,  
15 by the panel.

16 (4) The state board, the State Energy Resources Conservation  
17 and Development Commission, and the State Department of Public  
18 Health shall jointly develop and recommend semiannual plans for  
19 the use of funds under the program. These plans shall be presented  
20 to the panel for approval. The panel shall determine whether a  
21 project is approved or rejected for funding pursuant to the program.

22 (5) The panel shall ensure that all projects approved for funding  
23 have local community support, including, but not limited to, local  
24 public health and air quality support.

25 (6) Notwithstanding any other provision of this subdivision, the  
26 panel shall only approve a project if it determines, based on the  
27 facts available to it, that the use of moneys for that project would  
28 not be inconsistent with Article XIII A of the California  
29 Constitution and case law construing that provision. The panel  
30 shall ensure in this regard, in consultation with the state board,  
31 that no feepayer pays for a disproportionate share of the global  
32 warming harm addressed by the Community Benefits Program.