

**SENATE BILL**

**No. 49**

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**Introduced by Senators Dutton and Denham**

February 12, 2010

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An act to amend Section 38570 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as introduced, Dutton. California Global Warming Solutions Act of 2006: market-based compliance mechanisms.

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The state board is authorized to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations.

This bill would prohibit the state board from implementing a market-based compliance mechanism that includes caps on greenhouse gas emissions and trading among participants unless it is a part of a legally enforceable regional or federal program.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal

emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

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 38570 of the Health and Safety Code is  
2 amended to read:

3 38570. (a) The state board may include in the regulations  
4 adopted pursuant to Section 38562 the use of market-based  
5 compliance mechanisms to comply with the regulations. *The state*  
6 *board shall not implement a market-based compliance mechanism,*  
7 *that includes caps on greenhouse gas emissions and trading among*  
8 *participants, unless it is a part of a legally enforceable regional*  
9 *or federal program. A regional program shall include participation*  
10 *by all of the following states and provinces: Arizona, California,*  
11 *Montana, New Mexico, Oregon, Utah, Washington, Quebec,*  
12 *Ontario, Manitoba, and British Columbia.*

13 (b) Prior to the inclusion of any market-based compliance  
14 mechanism in the regulations, to the extent feasible and in  
15 furtherance of achieving the statewide greenhouse gas emissions  
16 limit, the state board shall do all of the following:

17 (1) Consider the potential for direct, indirect, and cumulative  
18 emission impacts from these mechanisms, including localized  
19 impacts in communities that are already adversely impacted by air  
20 pollution.

21 (2) Design any market-based compliance mechanism to prevent  
22 any increase in the emissions of toxic air contaminants or criteria  
23 air pollutants.

24 (3) Maximize additional environmental and economic benefits  
25 for California, as appropriate.

26 (c) The state board shall adopt regulations governing how  
27 market-based compliance mechanisms may be used by regulated  
28 entities subject to greenhouse gas emission limits and mandatory  
29 emission reporting requirements to achieve compliance with their  
30 greenhouse gas emissions limits.

1     SEC. 2. This act addresses the fiscal emergency declared by  
2 the Governor by proclamation on January 8, 2010, pursuant to  
3 subdivision (f) of Section 10 of Article IV of the California  
4 Constitution.

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