

AMENDED IN SENATE JUNE 18, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1532

Introduced by Assembly Member John A. Pérez
(Coauthors: Assembly Members *Blumenfield, Bonilla, Bradford,*
Butler, Carter, Chesbro, Dickinson, Roger Hernández, Hill, Bonnie
***Lowenthal, Monning and, Skinner, Wieckowski, and Yamada*)**

January 23, 2012

An act to add Part 8 (commencing with Section 38700) to Division 25.5 of the Health and Safety Code, relating to greenhouse gas emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as amended, John A. Pérez. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Account.

The

(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 emissions reductions. The act authorizes the state board to include 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 schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

This bill would create the Greenhouse Gas Reduction Account within the Air Pollution Control Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism *to be deposited in this account. The bill also would require those moneys, upon appropriation by the Legislature, to be used for specified purposes. The bill would require administering agencies, including the state board and any other state agency identified by the Legislature, to allocate those moneys to measures and programs that meet specified criteria. The bill would require the state board to develop and adopt every 3 years, as specified, an three investment plan plans that identifies identify the anticipated expenditures of moneys appropriated from the account, to submit each plan to the budget committees of each house of the Legislature, as specified, and to adopt each investment plan, as specified. The bill would require the Governor to submit a budget to the Legislature that includes specified appropriations consistent with each investment plan and would require the Legislature to consider these appropriations when adopting the Budget Act. The bill would require the state board to annually submit a report no later than December of each year to the appropriate committees of the Legislature on the status of projects and their outcomes and any changes the state board recommends need to be made to the investment plan.*

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare or cause to be prepared, and to certify the completion of, an environmental impact report (EIR) on a project it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds the project will not have that effect.

This bill would state that each investment plan adopted by the state board would be exempt from CEQA and would state that no individual project funded pursuant to the investment plan would be exempt from CEQA.

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. Part 8 (commencing with Section 38700) is added
2 to Division 25.5 of the Health and Safety Code, to read:

3
4 PART 8. GREENHOUSE GAS REDUCTION ACCOUNT
5

6 38700. For purposes of this part, the following terms have the
7 following meanings:

8 (a) "Account" means the Greenhouse Gas Reduction Account.

9 (b) "Qualified recipients" means public agencies, businesses,
10 nonprofit organizations, academic institutions, public-private
11 partnerships, and workforce training partnerships.

12 38701. (a) The Greenhouse Gas Reduction Account is hereby
13 created within the Air Pollution Control Fund.

14 (b) Notwithstanding Section 38597, all moneys, excluding
15 penalties and fines, collected pursuant to Part 5 (commencing with
16 Section 38570) shall be deposited in the Greenhouse Gas Reduction
17 Account and shall be available, upon appropriation by the
18 Legislature, to the state board or any state agency for purposes of
19 carrying out this division.

20 38702. (a) The state shall not approve funding for a measure
21 or program using moneys appropriated from the account except
22 after determining, based on the available evidence, that the use of
23 *those* moneys for that measure or program is consistent with the
24 requirements for the use of moneys derived from valid regulatory
25 fees, as established by the California Supreme Court in *Sinclair*
26 *Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.

27 (b) It is the intent of the Legislature that funds shall be
28 appropriated from the account only in a manner consistent with
29 the requirements of this part.

30 (c) Moneys shall be used to facilitate the achievement of feasible
31 and cost-effective reductions of greenhouse gas emissions in this
32 state consistent with this division and, where applicable and to the
33 extent feasible, do all of the following:

34 (1) Maximize economic, environmental, and public health
35 benefits to the state.

36 (2) Foster job creation by promoting in-state greenhouse gas
37 emissions reduction projects carried out by California workers and
38 businesses.

1 (3) Complement efforts to improve air quality.
 2 (4) Direct investment toward the most disadvantaged
 3 communities *and households* in the state.

4 (5) Provide opportunities for small businesses, schools,
 5 affordable housing ~~associations~~ *developers*, water agencies, local
 6 governments, and other community institutions to participate in
 7 and benefit from statewide efforts to reduce greenhouse gas
 8 emissions.

9 (d) Funds appropriated from the account may be allocated,
 10 consistent with subdivision (a), for the purpose of reducing
 11 greenhouse gas emissions in this state through investments that
 12 may include, but are not limited to, any of the following:

13 (1) Investments in clean and efficient energy, including, but not
 14 limited to, any of the following:

15 (A) Industrial and manufacturing facilities to reduce greenhouse
 16 gas emissions by investment in energy efficiency, energy storage,
 17 and clean and renewable energy projects.

18 (B) Public universities, schools, water agencies, and other public
 19 facilities and fleets to reduce greenhouse gas emissions by
 20 investment in energy and water use efficiency, energy storage, and
 21 clean and renewable energy and fuel projects.

22 (C) ~~Residential~~ *Single-family and multifamily residential* and
 23 commercial distributed generation and energy efficiency programs
 24 that serve to reduce greenhouse gas emissions, including, but not
 25 limited to, the federal Energy Efficiency and Conservation Block
 26 Grant Program, established pursuant to Section 542 of the *federal*
 27 Energy Independence and Security Act of 2007 (42 U.S.C. Sec.
 28 17152), and the Weatherization Assistance Program.

29 (D) Waste reduction and low-carbon recycled-content processing
 30 and manufacturing that serve to reduce greenhouse gas emissions,
 31 including market development activities.

32 (2) Investments in low-carbon transportation and infrastructure,
 33 including, but not limited to, any of the following:

34 (A) Public transportation and sustainable transportation and
 35 infrastructure development.

36 (B) Programs for clean vehicles and the advancement of
 37 transportation technologies, including, but not limited to, the
 38 Alternative and Renewable Fuel and Vehicle Technology Program
 39 (Article 2 (commencing with Section 44272) of Chapter 8.9 of
 40 Part 5 of Division 26) and the Air Quality Improvement Program

1 (Article 3 (commencing with Section 44274) of Chapter 8.9 of
2 Part 5 of Division 26).

3 (C) Advanced transportation and fueling infrastructure.

4 (D) Local and regional sustainable development efforts that are,
5 to the extent applicable, consistent with the sustainable
6 communities strategy or alternative planning strategy adopted and
7 approved pursuant to Section 65080 of the Government Code.

8 (E) Low-carbon goods movement and freight vehicle
9 technologies and infrastructure, including, but not limited to,
10 locomotives and heavy-duty trucks.

11 (3) Investments in natural resource protection, including, but
12 not limited to, any of the following:

13 (A) Natural resource management programs and projects.

14 (B) Land conservation and restoration.

15 (C) Development and implementation of sustainable agriculture,
16 forestry, and related water, land, and resource management
17 practices.

18 (4) Investments in research, development, and deployment of
19 innovative technologies, measures, and practices related to
20 programs and projects funded pursuant to this part.

21 38703. (a) The state board and any other state agency identified
22 by the Legislature are the administering agencies for moneys
23 appropriated in accordance with this part.

24 (b) The administering agencies shall, upon appropriation by the
25 Legislature, carry out a program to allocate moneys appropriated
26 pursuant to this part through competitive grants, revolving loans,
27 loan guarantees, loans, *credit enhancements*, or other appropriate
28 funding measures to qualified recipients to reduce greenhouse gas
29 emissions consistent with subdivisions (c) and (d) of Section 38702.

30 (c) Prior to the initial allocation of moneys in accordance with
31 this part, the state board shall, pursuant to the Administrative
32 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
33 Part 1 of Division 3 of *Title 2 of the Government Code*), adopt
34 guidelines to provide state agencies guidance as well as guidance
35 to potential funding applicants and the public regarding the
36 allocation and allowable uses of moneys. The guidelines shall, at
37 a minimum, do all of the following:

38 (1) Establish minimum criteria for receiving funding and
39 additional criteria, including, but not limited to, those identified

1 in subdivision (c) of Section 38702, that the state agencies shall
2 take into account in establishing preferences for awarding moneys.

3 (2) Provide a process to verify the qualifications of recipients.

4 (3) Provide for the monitoring and, as deemed necessary, the
5 audit of expenditures and outcomes.

6 (d) Any state agency that ~~administers~~ *allocates* moneys pursuant
7 to subdivision (b) shall adopt guidelines that meet the requirements
8 of subdivision (c).

9 38704. (a) (1) The state board shall develop and ~~adopt every~~
10 ~~three years, consistent with the schedule described in Section~~
11 ~~38705, an adopt, beginning April 1, 2013, three investment plans~~
12 ~~for the following time periods: 2013 to 2014, 2015 to 2017, and~~
13 ~~2018 to 2020. Each investment plan that identifies shall identify,~~
14 ~~for the specified time period, the anticipated expenditures of~~
15 ~~moneys appropriated from the account in accordance with this~~
16 ~~part.—The~~ *Each* investment plan shall, consistent with the
17 requirements of Section 38702, establish priorities for the
18 ~~expenditure allocation~~ of moneys, identify specific categories of
19 programs and projects, identify proposed levels of expenditures
20 for each category, and identify the state agencies best qualified to
21 implement the programs pursuant to subdivision (b) of Section
22 38703.

23 (2) The Public Utilities Commission shall develop and send to
24 the state board an investment plan to be included in ~~the each~~
25 investment plan ~~prepared~~ *adopted* by the state board pursuant to
26 subdivision (a). The Public Utilities Commission's investment
27 plan shall include its requirements on how investor-owned utilities
28 may use any allowance auction moneys the investor-owned utilities
29 might collect pursuant to a market-based compliance mechanism.

30 (b) The state board shall, ~~in developing an~~ *prior to adopting*
31 *each* investment plan, consult with the Public Utilities Commission
32 to ensure the investment plan is coordinated with, and does not
33 conflict with or unduly overlap with, any expenditure plan the
34 Public Utilities Commission might adopt pursuant to Part 5
35 (commencing with Section 38570).

36 (c) The state board shall receive input from an advisory body
37 that shall provide information and oversight to the state board to
38 assist in its ~~development~~ *adoption* of each investment plan. The
39 advisory body shall include the secretaries for the Natural
40 Resources Agency, the California Environmental Protection

1 Agency, the Department of Food and Agriculture, and the Business,
2 Transportation and Housing Agency. The *state board shall hold*
3 *at least two public workshops in different regions of the state and*
4 *one public hearing prior to adopting any investment plan. The*
5 *advisory body shall participate in each public workshop on the*
6 ~~*draft an investment plans plan*~~ *and provide testimony to the state*
7 ~~*board and Legislature on the proposed and draft each investment*~~
8 ~~*plans plan.*~~

9 ~~(d) If, pursuant to subdivision (b) of Section 38705, the budget~~
10 ~~committees of each house of the Legislature with jurisdiction over~~
11 ~~the State Budget adopt changes to the final investment plan or the~~
12 ~~state board presents any proposed significant modifications to the~~
13 ~~advisory body prior to the adoption of the final investment plan,~~
14 ~~the state board shall hold at least two public workshops in different~~
15 ~~regions of the state and one public hearing prior to adopting each~~
16 ~~final investment plan.~~

17 *(d) The state board shall submit to the relevant committee of*
18 *each house of the Legislature with jurisdiction over the state budget*
19 *each of the following within the specified time period:*

20 *(1) Thirty days prior to adoption, each investment plan proposed*
21 *to be adopted pursuant to subdivision (a).*

22 *(2) Thirty days prior to adoption, any amendment to an*
23 *investment plan adopted pursuant to subdivision (a) that would,*
24 *in the aggregate, modify the adopted investment plan by five million*
25 *dollars (\$5,000,000) or more.*

26 *(3) Thirty days prior to adoption, any significant amendment*
27 *to an investment plan adopted pursuant to subdivision (a) that*
28 *would augment or reduce an allocation specified in the adopted*
29 *investment plan by 50 percent of the specified value of the*
30 *allocation or by at least 2 million dollars (\$2,000,000).*

31 *(4) Ninety days prior to adoption, any minor or technical*
32 *amendment to an investment plan adopted pursuant to subdivision*
33 *(a).*

34 *(e) An investment plan adopted pursuant to this section shall*
35 *be exempt from the requirements of Division 13 (commencing with*
36 *Section 21000) of the Public Resources Code. This section does*
37 *not exempt any individual project funded consistent with the*
38 *investment plan from the requirements of Division 13 (commencing*
39 *with Section 21000) of the Public Resources Code.*

1 ~~38705. (a) Beginning April 1, 2013, and by January 10 every~~
2 ~~three years thereafter, concurrent with the submission of the~~
3 ~~Governor’s Budget in 2016 and 2019, the state board shall submit~~
4 ~~a proposed investment plan, as developed pursuant to Section~~
5 ~~38704, to the budget committees of each house of the Legislature~~
6 ~~with jurisdiction over the State Budget.~~

7 ~~(b) The budget committees of each house of the Legislature~~
8 ~~with jurisdiction over the State Budget shall, in consultation with~~
9 ~~all relevant policy committees, adopt changes to the state board’s~~
10 ~~proposed investment plan and transmit the changes to the state~~
11 ~~board. The state board shall then incorporate the changes into the~~
12 ~~investment plan and adopt a final investment plan at a public~~
13 ~~hearing.~~

14 ~~(c) The Legislature shall include appropriations for the~~
15 ~~implementation of the final investment plan in the annual Budget~~
16 ~~Act for the subsequent fiscal year for each of the three years for~~
17 ~~each final investment plan.~~

18 ~~(d) Subsequent to the adoption of each final investment plan,~~
19 ~~the state board may adopt minor modifications to the proposed~~
20 ~~investment plan, provided it notifies the Joint Legislative Budget~~
21 ~~Committee within 90 days, or within 30 days if the aggregate total~~
22 ~~of unreported modifications equals five million dollars~~
23 ~~(\$5,000,000) or more. If the state board adopts a significant~~
24 ~~modification to a final investment plan, it shall, within 30 days,~~
25 ~~notify the Joint Legislative Budget Committee. For purposes of~~
26 ~~this subdivision, “significant modification” means an augmentation~~
27 ~~or reduction, the value of which individually exceeds 50 percent~~
28 ~~of the previously adopted allocation to an investment plan~~
29 ~~subcategory or is at least two million dollars (\$2,000,000).~~

30 ~~38705. (a) (1) The state board shall annually provide to the~~
31 ~~Governor, concurrent with the submission required pursuant to~~
32 ~~Section 13320 of the Government Code, a plan consistent with the~~
33 ~~relevant investment plan adopted pursuant to Section 38704,~~
34 ~~detailing proposed appropriations from the Greenhouse Gas~~
35 ~~Reduction Account.~~

36 ~~(b) As part of the Governor’s annual budget submission to the~~
37 ~~Legislature pursuant to subdivision (a) of Section 12 of Article IV~~
38 ~~of the Constitution, the Governor shall include proposed~~
39 ~~appropriations consistent with the plan submitted pursuant to~~
40 ~~paragraph (1).~~

1 (c) *The Legislature shall consider adopting the appropriations*
2 *submitted by the Governor pursuant to paragraph (2) of*
3 *subdivision (b) as part of the annual Budget Act.*

4 38706. (a) Notwithstanding Section 10231.5 of the
5 Government Code, the state board shall ~~annually submit a~~ *submit*
6 *an annual* report no later than December ~~of each year~~ to the
7 appropriate committees of the Legislature on the status of projects
8 and their outcomes and any changes the state board recommends
9 to the investment plan completed pursuant to Section 38705. It is
10 the intent of the Legislature that the appropriations required for
11 the implementation of these changes to the three-year investment
12 plan shall be included in the annual Budget Act for the subsequent
13 fiscal year.

14 (b) A report submitted pursuant to subdivision (a) shall be
15 submitted in compliance with Section 9795 of the Government
16 Code.

O