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AMENDED IN SENATE JUNE 18, 2012

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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, 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.

~~(1) The~~

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~~ *Greenhouse Gas Reduction* 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, as specified, ~~three~~ 3 investment plans that ~~identify the anticipated expenditures of moneys appropriated from the account~~ *include specified analysis and information*, 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 1 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~~ *Greenhouse Gas Reduction*
14 *Fund*.

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

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

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

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

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

3 (2) Foster job creation by promoting in-state greenhouse gas
4 emissions reduction projects carried out by California workers and
5 businesses.

6 (3) Complement efforts to improve air quality.

7 (4) Direct investment toward the most disadvantaged
8 communities and households in the state.

9 (5) Provide opportunities for small businesses, schools,
10 affordable housing developers, water agencies, local governments,
11 and other community institutions to participate in and benefit from
12 statewide efforts to reduce greenhouse gas emissions.

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

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

19 (A) Industrial and manufacturing facilities to reduce greenhouse
20 gas emissions by investment in energy efficiency, energy storage,
21 and clean and renewable energy projects.

22 (B) Public universities, schools, water agencies, and other public
23 facilities and fleets to reduce greenhouse gas emissions by
24 investment in energy and water use efficiency, energy storage, and
25 clean and renewable energy and fuel projects.

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

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

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

38 (A) Public transportation and sustainable transportation and
39 infrastructure development.

1 (B) Programs for clean vehicles and the advancement of
2 transportation technologies, including, but not limited to, the
3 Alternative and Renewable Fuel and Vehicle Technology Program
4 (Article 2 (commencing with Section 44272) of Chapter 8.9 of
5 Part 5 of Division 26) and the Air Quality Improvement Program
6 (Article 3 (commencing with Section 44274) of Chapter 8.9 of
7 Part 5 of Division 26).

8 (C) Advanced transportation and fueling infrastructure.

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

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

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

18 (A) Natural resource management programs and projects.

19 (B) Land conservation and restoration.

20 (C) Development and implementation of sustainable agriculture,
21 forestry, and related water, land, and resource management
22 practices.

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

26 38703. (a) The state board and any other state agency identified
27 by the Legislature are the administering agencies for moneys
28 appropriated in accordance with this part.

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

35 (c) Prior to the initial allocation of moneys in accordance with
36 this part, the state board shall, pursuant to the Administrative
37 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
38 Part 1 of Division 3 of Title 2 of the Government Code), adopt
39 guidelines to provide state agencies guidance as well as guidance
40 to potential funding applicants and the public regarding the

1 allocation and allowable uses of moneys. The guidelines shall, at
2 a minimum, do all of the following:

3 (1) Establish minimum criteria for receiving funding and
4 additional criteria, including, but not limited to, those identified
5 in subdivision (c) of Section 38702, that the state agencies shall
6 take into account in establishing preferences for awarding moneys.

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

8 (3) Provide for the monitoring and, as deemed necessary, the
9 audit of expenditures ~~and outcomes~~.

10 (4) *Establish minimum criteria and provide for the tracking of*
11 *outcomes.*

12 (d) Any state agency that allocates moneys pursuant to
13 subdivision (b) shall adopt guidelines that ~~meet the requirements~~
14 ~~of~~ *are consistent with the guidelines adopted by the state board*
15 *pursuant to subdivision (c).*

16 38704. (a) (1) The state board shall develop and adopt,
17 beginning April 1, 2013, three investment plans for the following
18 time periods: 2013 to 2014, 2015 to 2017, and 2018 to 2020. Each
19 investment plan ~~shall identify, for the specified time period, the~~
20 ~~anticipated expenditures of moneys appropriated from the account~~
21 ~~in accordance with this part. Each investment plan shall, consistent~~
22 ~~with the requirements of Section 38702, establish priorities for the~~
23 ~~allocation of moneys, identify specific categories of programs and~~
24 ~~projects, identify proposed levels of expenditures for each category,~~
25 ~~and identify the state agencies best qualified to implement the~~
26 ~~programs pursuant to subdivision (b) of Section 38703., consistent~~
27 *with the requirements of Section 38702, shall do all of the*
28 *following:*

29 (A) *Analyze existing programs and requirements that reduce*
30 *greenhouse gas emissions and identify gaps in those programs*
31 *and requirements.*

32 (B) *Identify, for the specified time period, the anticipated*
33 *expenditures of moneys appropriated from the account in*
34 *accordance with this part.*

35 (C) *Establish priorities for the allocation of moneys.*

36 (D) *Identify specific categories of programs and projects.*

37 (E) *Identify proposed levels of expenditures for each category.*

38 (F) *Identify the state agencies best qualified to implement the*
39 *programs pursuant to subdivision (c) of Section 38703.*

1 (2) The Public Utilities Commission shall develop and send to
2 the state board an investment plan to be included in each
3 investment plan adopted by the state board pursuant to subdivision

4 (a). The Public Utilities Commission's investment plan shall
5 include its requirements on how investor-owned utilities may use
6 any allowance auction moneys the investor-owned utilities might
7 collect pursuant to a market-based compliance mechanism.

8 (b) The state board shall, prior to adopting each investment plan,
9 consult with the Public Utilities Commission to ensure the
10 investment plan is coordinated with, and does not conflict with or
11 unduly overlap with, any expenditure plan the Public Utilities
12 Commission might adopt pursuant to Part 5 (commencing with
13 Section 38570).

14 (c) The state board shall receive input from an advisory body
15 that shall provide information and oversight to the state board to
16 assist in its adoption of each investment plan. The advisory body
17 shall include the secretaries for the Natural Resources Agency, the
18 California Environmental Protection Agency, the Department of
19 Food and Agriculture, and the Business, Transportation and
20 Housing Agency. The state board shall hold at least two public
21 workshops in different regions of the state and one public hearing
22 prior to adopting any investment plan. The advisory body shall
23 participate in each public workshop on an investment plan and
24 provide testimony to the state board on each investment plan.

25 (d) The state board shall submit to the relevant committee of
26 each house of the Legislature with jurisdiction over the state budget
27 ~~each of the following within the specified time period:~~ *30 days*
28 *prior to adoption, each investment plan proposed to be adopted*
29 *pursuant to subdivision (a) or any amendment to an investment*
30 *plan adopted pursuant to subdivision (a).*

31 ~~(1) Thirty days prior to adoption, each investment plan proposed~~
32 ~~to be adopted pursuant to subdivision (a).~~

33 ~~(2) Thirty days prior to adoption, any amendment to an~~
34 ~~investment plan adopted pursuant to subdivision (a) that would,~~
35 ~~in the aggregate, modify the adopted investment plan by five~~
36 ~~million dollars (\$5,000,000) or more.~~

37 ~~(3) Thirty days prior to adoption, any significant amendment~~
38 ~~to an investment plan adopted pursuant to subdivision (a) that~~
39 ~~would augment or reduce an allocation specified in the adopted~~

1 investment plan by 50 percent of the specified value of the
 2 allocation or by at least 2 million dollars (\$2,000,000).

3 ~~(4) Ninety days prior to adoption, any minor or technical~~
 4 ~~amendment to an investment plan adopted pursuant to subdivision~~
 5 ~~(a).~~

6 ~~(e) An investment plan adopted pursuant to this section shall~~
 7 ~~be exempt from the requirements of Division 13 (commencing~~
 8 ~~with Section 21000) of the Public Resources Code. This section~~
 9 ~~does not exempt any individual project funded consistent with the~~
 10 ~~investment plan from the requirements of Division 13 (commencing~~
 11 ~~with Section 21000) of the Public Resources Code.~~

12 38705. (a) ~~(1)~~The state board shall annually provide to the
 13 Governor, concurrent with the submission required pursuant to
 14 Section 13320 of the Government Code, a plan consistent with the
 15 relevant investment plan adopted pursuant to Section 38704,
 16 detailing proposed appropriations from the ~~Greenhouse Gas~~
 17 ~~Reduction Account~~ *account*.

18 (b) As part of the Governor’s annual budget submission to the
 19 Legislature pursuant to subdivision (a) of Section 12 of Article IV
 20 of the Constitution, the Governor shall include proposed
 21 appropriations consistent with the plan submitted pursuant to
 22 ~~paragraph (1)~~ *subdivision (a)*.

23 (c) The Legislature shall consider adopting the appropriations
 24 submitted by the Governor pursuant to ~~paragraph (2)~~ of subdivision
 25 (b) as part of the annual Budget Act.

26 38706. (a) Notwithstanding Section 10231.5 of the
 27 Government Code, the state board shall submit ~~an annual report~~
 28 ~~no later than a report on or before December 1 of each year~~ to the
 29 appropriate committees of the Legislature on the status of projects
 30 and their outcomes and any changes the state board recommends
 31 to the investment plan completed pursuant to Section 38705. It is
 32 the intent of the Legislature that the appropriations required for
 33 the implementation of these changes to the three-year investment
 34 plan shall be included in the annual Budget Act for the subsequent
 35 fiscal year.

36 (b) A report submitted pursuant to subdivision (a) shall be
 37 submitted in compliance with Section 9795 of the Government
 38 Code.

O