

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 535

Introduced by Senator De León

February 17, 2011

An act to add Part 5 (commencing with Section 71420) to Division 34 of the Public Resources Code, relating to climate change.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, De León. ~~California Climate Change Community Benefits Fund~~. *Communities Healthy Air Revitalization Trust.*

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 California Communities Healthy Air Revitalization Trust in the State Treasury and would require a minimum

of 10% of specified revenues generated for the state each year from the act, to be deposited into that trust. The moneys in the trust would be used, upon appropriation by the Legislature, in the most impacted and disadvantaged communities, as defined, to fund programs or projects that reduce greenhouse gas emissions or mitigate direct health or environmental impacts of climate change through competitive grants, loans, or other funding mechanisms. The bill would require the Secretary for Environmental Protection to administer moneys appropriated from the trust, establish criteria and procedures, and meet other specified requirements in connection with implementation.

~~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.~~

~~This bill would state the intent of the Legislature to enact legislation to establish the California Climate Change Community Benefits Fund, and require a certain percentage of revenues generated for the state each year from the state sale of compliance instruments for market-based compliance mechanisms pursuant to the act to be deposited into that fund. The bill would also state the intent of the Legislature that moneys in the fund would be used, upon appropriation by the Legislature, in the most impacted and disadvantaged communities to fund programs or projects that reduce greenhouse gas emissions or mitigate direct health or environmental impacts of climate change through competitive grants, loans, or other funding mechanisms.~~

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

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

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

1 (a) California embraced the challenge posed by climate change
2 with the passage of the California Global Warming Solutions Act
3 in 2006, enacted as Chapter 488 of Statutes of 2006, (Assembly
4 Bill 32). Assembly Bill 32 recognizes the disproportionate impacts
5 climate change will have on disadvantaged and low-income
6 communities in California, which already face disproportionate
7 impacts from substandard air quality in the form of higher rates
8 of respiratory illness, hospitalizations, and premature death.

9 (b) Assembly Bill 32 recognizes the potential vulnerability of
10 California's low-income and disadvantaged population to efforts
11 to reduce greenhouse gas emissions and requires that activities
12 taken to comply with Assembly Bill 32 do not disproportionately
13 impact those communities.

14 (c) Assembly Bill 32 recognizes the public health impacts of
15 climate change and requires that activities taken to comply with
16 Assembly Bill 32 consider the localized and cumulative impacts
17 in communities that are already adversely impacted by air
18 pollution.

19 (d) Assembly Bill 32 requires that public and private investment
20 be directed toward the most disadvantaged communities in
21 California to provide an opportunity for small businesses, schools,
22 affordable housing associations, and other community institutions
23 to participate in and benefit from statewide efforts to reduce
24 greenhouse gas emissions.

25 (e) Assembly Bill 32 does not provide a definition, however, for
26 California's most impacted and disadvantaged communities, nor
27 direction on how the state will mitigate adverse impacts from
28 climate change in these communities, nor direction on how the
29 state will ensure these communities can participate in and receive
30 investments from activities taken pursuant to Assembly Bill 32 and
31 not experience disproportionate impacts.

32 (f) Since the passage of Assembly Bill 32, the State Air Resources
33 Board and other state agencies have adopted various regulatory
34 programs to enable California to achieve Assembly Bill 32's
35 greenhouse gas emissions reduction target. The people of
36 California voiced their strong support for continued
37 implementation of Assembly Bill 32 with the defeat of Proposition
38 23 in November 2010.

39 (g) It is the intent of the Legislature that this act continue
40 California's implementation of Assembly Bill 32 by directing

1 resources to the state's most impacted and disadvantaged
 2 communities to ensure activities taken pursuant to that authority
 3 will provide economic and health benefits to these communities
 4 as originally intended.

5 (h) It is the intent of the Legislature that funds collected pursuant
 6 to this act continue California's implementation of Assembly Bill
 7 32 by achieving additional emission reductions and mitigating
 8 direct health impacts on California's most impacted and
 9 disadvantaged communities.

10 SEC. 2. Part 5 (commencing with Section 71420) is added to
 11 Division 34 of the Public Resources Code, to read:

12

13 PART 5. CALIFORNIA COMMUNITIES HEALTHY AIR
 14 REVITALIZATION TRUST

15

16 71420. This part shall be known, and may be cited, as the
 17 California Communities Healthy Air Revitalization Trust (Cal
 18 CHART).

19 71421. As used in this part, the following terms have the
 20 following meanings:

21 (a) "Trust" means the California Communities Healthy Air
 22 Revitalization Trust.

23 (b) (1) "Most impacted and disadvantaged communities" means
 24 either those areas having the highest 10 percent air pollution
 25 exposure and socioeconomic vulnerability within an air basin that
 26 does not meet one or more national or state ambient air quality
 27 standards, or those areas having the highest 10 percent
 28 socioeconomic vulnerability to direct health or environmental
 29 impacts of climate change.

30 (2) The evaluation criteria for air pollution exposure shall
 31 include, at a minimum, criteria and toxic air pollution levels,
 32 proximity to sources of air pollution, and sensitive populations.

33 (3) The evaluation criteria for socioeconomic vulnerability shall
 34 include, to the extent feasible, multiple indicators, including, but
 35 not limited to, poverty level, percent home ownership,
 36 unemployment level, and educational attainment.

37 71422. (a) The California Communities Healthy Air
 38 Revitalization Trust is established in the State Treasury. Not less
 39 than 10 percent of the revenues deposited in the Air Pollution
 40 Control Fund pursuant to the California Global Warming Solutions

1 Act of 2006 (Division 25.5 (commencing with Section 38500) of
2 the Health and Safety Code), other than revenues collected for
3 administrative purposes pursuant to Section 38597 of the Health
4 and Safety Code, shall be allocated to the trust and used, upon
5 appropriation by the Legislature, for the purposes described in
6 this part. These revenues shall include, but are not limited to,
7 revenues from the state of compliance instruments pursuant to
8 Part 5 (commencing with Section 38570) of Division 25.5 of the
9 Health and Safety Code, penalties collected pursuant to Part 6
10 (commencing with Section 38580) of Division 25.5 of the Health
11 and Safety Code, or generated by any future carbon pricing
12 mechanism adopted pursuant to Division 25.5 (commencing with
13 Section 38500) of the Health and Safety Code.

14 (b) (1) Moneys allocated to the trust shall be used solely in the
15 most impacted and disadvantaged communities in California.

16 (2) Moneys allocated to the trust shall be used to fund programs
17 or projects that reduce greenhouse gas emissions or mitigate direct
18 health impacts of climate change, through competitive grants,
19 loans, or other funding mechanisms.

20 (3) To the extent allowed by law, and consistent with paragraph
21 (2), moneys allocated to the trust may be appropriated for green
22 collar employment or training opportunities for the most impacted
23 and disadvantaged communities.

24 (4) Up to 5 percent of the moneys allocated to the trust may be
25 used for purposes of administering this part, upon appropriation
26 by the Legislature.

27 (c) To the extent that funds allocated to the trust are provided
28 to existing programs, those funds shall be used to supplement, not
29 supplant, those programs to meet the goals of this part.

30 71423. (a) The secretary in consultation with the Climate
31 Action Team shall administer moneys appropriated from the trust
32 and shall establish criteria and procedures for the implementation
33 of this part. The secretary shall implement the program created
34 pursuant to this part before January 1, 2013.

35 (b) The secretary, following an open and public process, shall
36 develop and adopt a report that describes the support structure
37 and framework for the implementation of this part, the list of the
38 most impacted and disadvantaged communities in California that
39 shall be updated every three years, the types of programs and
40 projects to be funded under this part, the selection and oversight

1 process for the programs and projects to be funded, and the
2 eligibility criteria. The report shall be made available to the public
3 on the California Environmental Protection Agency's Internet
4 Web site.

5 (c) By July 1, 2012, and every three years thereafter, the
6 secretary, in consultation with the Climate Action Team, in an
7 open process, shall develop and adopt triennial plans describing
8 the specific type of programs and projects to be solicited for
9 funding during the three-year period, the plans shall be made
10 public on the California Environmental Protection Agency's
11 Internet Web site.

12 71424. Nothing in this part shall be construed as resulting in
13 any taxpayer paying a higher tax within the meaning of Section 3
14 of Article XIII A of the California Constitution.

15 ~~SECTION 1. It is the intent of the Legislature to enact~~
16 ~~legislation to do all the following:~~

17 ~~(a) Establish in the State Treasury the California Climate Change~~
18 ~~Community Benefits Fund.~~

19 ~~(b) Require a certain percentage of revenues generated for the~~
20 ~~state each year from the state sale of compliance instruments for~~
21 ~~market-based compliance mechanisms pursuant to Section 38570~~
22 ~~of the Health and Safety Code to be deposited into the fund.~~

23 ~~(c) Require moneys in the fund to be used, upon appropriation~~
24 ~~by the Legislature, solely in the most impacted and disadvantaged~~
25 ~~communities to fund programs or projects that reduce greenhouse~~
26 ~~gas emissions or mitigate direct health or environmental impacts~~
27 ~~of climate change through competitive grants, loans, or other~~
28 ~~funding mechanisms.~~