

AMENDED IN SENATE MAY 31, 2011  
AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 535**

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**Introduced by Senator De León**

February 17, 2011

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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 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~~ *State Air Resources Board* to administer moneys appropriated from the trust, establish criteria and procedures, and meet other specified requirements in connection with implementation.

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. The Legislature finds and declares all of the  
2 following:
- 3 (a) California embraced the challenge posed by climate change  
4 with the passage of the California Global Warming Solutions Act  
5 in 2006, enacted as Chapter 488 of *the Statutes of 2006*; (Assembly  
6 Bill 32). Assembly Bill 32 recognizes the disproportionate impacts  
7 climate change will have on disadvantaged and low-income  
8 communities in California, which already face disproportionate  
9 impacts from substandard air quality in the form of higher rates  
10 of respiratory illness, hospitalizations, and premature death.
- 11 (b) Assembly Bill 32 recognizes the potential vulnerability of  
12 California's low-income and disadvantaged population to efforts  
13 to reduce greenhouse gas emissions and requires that activities  
14 taken to comply with Assembly Bill 32 do not disproportionately  
15 impact those communities.
- 16 (c) Assembly Bill 32 recognizes the public health impacts of  
17 climate change and requires that activities taken to comply with  
18 Assembly Bill 32 consider the localized and cumulative impacts  
19 in communities that are already adversely impacted by air pollution.
- 20 (d) Assembly Bill 32 requires that public and private investment  
21 be directed toward the most disadvantaged communities in  
22 California to provide an opportunity for small businesses, schools,  
23 affordable housing associations, and other community institutions

1 to participate in and benefit from statewide efforts to reduce  
2 greenhouse gas emissions.

3 (e) Assembly Bill 32 does not provide a definition, however,  
4 for California’s most impacted and disadvantaged communities,  
5 nor direction on how the state will mitigate adverse impacts from  
6 climate change in these communities, nor direction on how the  
7 state will ensure these communities can participate in and receive  
8 investments from activities taken pursuant to Assembly Bill 32  
9 and not experience disproportionate impacts.

10 (f) Since the passage of Assembly Bill 32, the State Air  
11 Resources Board and other state agencies have adopted various  
12 regulatory programs to enable California to achieve Assembly Bill  
13 32’s greenhouse gas emissions reduction target. The people of  
14 California voiced their strong support for continued implementation  
15 of Assembly Bill 32 with the defeat of Proposition 23 in November  
16 2010.

17 (g) It is the intent of the Legislature that this act continue  
18 California’s implementation of Assembly Bill 32 by directing  
19 resources to the state’s most impacted and disadvantaged  
20 communities to ensure activities taken pursuant to that authority  
21 will provide economic and health benefits to these communities  
22 as originally intended.

23 (h) It is the intent of the Legislature that funds collected pursuant  
24 to this act continue California’s implementation of Assembly Bill  
25 32 by achieving additional emission reductions and mitigating  
26 direct health impacts on California’s most impacted and  
27 disadvantaged communities.

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

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31 PART 5. CALIFORNIA COMMUNITIES HEALTHY AIR  
32 REVITALIZATION TRUST

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34 71420. This part shall be known, and may be cited, as the  
35 California Communities Healthy Air Revitalization Trust (Cal  
36 CHART).

37 71421. As used in this part, the following terms have the  
38 following meanings:

39 (a) “Trust” means the California Communities Healthy Air  
40 Revitalization Trust.

1 (b) (1) “Most impacted and disadvantaged communities” means  
2 either those areas having the highest 10 percent air pollution  
3 exposure and socioeconomic vulnerability within an air basin that  
4 does not meet one or more national or state ambient air quality  
5 standards, or those areas having the highest 10 percent  
6 socioeconomic vulnerability to direct health or environmental  
7 impacts of climate change.

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

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

15 71422. (a) The California Communities Healthy Air  
16 Revitalization Trust is established in the State Treasury. ~~Not less  
17 than 10 percent of the revenues deposited in the Air Pollution  
18 Control Fund pursuant to the California Global Warming Solutions  
19 Act of 2006 (Division 25.5 (commencing with Section 38500) of  
20 the Health and Safety Code), other than revenues collected for  
21 administrative purposes pursuant to Section 38597 of the Health  
22 and Safety Code, shall be allocated to the trust and used, upon  
23 appropriation by the Legislature, for the purposes described in this  
24 part. These revenues shall include, but are not limited to, revenues  
25 from the state of compliance instruments pursuant to Part 5  
26 (commencing with Section 38570) of Division 25.5 of the Health  
27 and Safety Code, penalties collected pursuant to Part 6  
28 (commencing with Section 38580) of Division 25.5 of the Health  
29 and Safety Code, or generated by any future carbon pricing  
30 mechanism adopted pursuant to Division 25.5 (commencing with  
31 Section 38500) of the Health and Safety Code. *Moneys in the trust  
32 are available, upon appropriation by the Legislature for the  
33 purposes described in this part.*~~

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

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

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

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

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

11 ~~71423. (a) The secretary in consultation with the Climate~~  
12 ~~Action Team~~ *State Air Resources Board* shall administer moneys  
13 appropriated from the trust and shall establish criteria and  
14 procedures for the implementation of this part. ~~The secretary shall~~  
15 ~~implement~~ *State Air Resources Board shall begin implementation*  
16 *of the program created pursuant to this part before January 1, 2013*  
17 *within 90 days of finding that more than five million dollars*  
18 *(\$5,000,000) has been deposited in the trust.*

19 (b) ~~The secretary~~ *State Air Resources Board*, following an open  
20 and public process, shall develop and adopt a report that describes  
21 the support structure and framework for the implementation of  
22 this part, ~~the list of the most impacted and disadvantaged~~  
23 ~~communities in California that shall be updated every three years,~~  
24 the types of programs and projects to be funded under this part,  
25 the selection and oversight process for the programs and projects  
26 to be funded, and the eligibility criteria. The report shall be made  
27 available to the public on the ~~California Environmental Protection~~  
28 ~~Agency's~~ *State Air Resources Board's* Internet Web site.

29 (c) ~~By July 1, 2012, and every three years~~ *Upon implementation*  
30 *of the program, and by every third January 1* thereafter, the  
31 ~~secretary~~ *State Air Resources Board*, in consultation with the  
32 Climate Action Team, in an open process, shall develop and adopt  
33 *the list of the most impacted and disadvantaged communities in*  
34 *California and triennial plans describing the specific type of*  
35 programs and projects to be solicited for funding during the  
36 ~~three-year period, the plans period.~~ *The plans and lists shall be*  
37 made public on the ~~California Environmental Protection Agency's~~  
38 *State Air Resources Board* Internet Web site.

39 ~~71424. (a) Except as otherwise provided in subdivision (b),~~  
40 ~~the State Air Resources Board shall only approve a program or~~

1 *project for funding after determining, based on the available*  
2 *evidence, that the use of moneys for that program or project is*  
3 *consistent with the requirements for the use of moneys derived*  
4 *from valid regulatory fees, as established by the California*  
5 *Supreme Court in Sinclair Paint Co. v. State Bd. of Equalization*  
6 *(1997) 15 Cal.4th 866 and reaffirmed in California Farm Bureau*  
7 *Federation v. State Water Resources Control Bd. (2011) 51 Cal.4th*  
8 *421.*

9 *(b) The requirements of subdivision (a) do not apply to the use*  
10 *of penalty moneys, if those moneys are segregated from fee moneys.*  
11 ~~71424.~~

12 71425. 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.

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