

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

**SENATE BILL**

**No. 1572**

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**Introduced by Senator Pavley**

February 24, 2012

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An act to add ~~Section 38575 to the Health and Safety Code Article 2 (commencing with Section 16440) to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code~~, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1572, as amended, Pavley. California Global Warming Solutions Act of 2006: ~~Greenhouse Gas Reduction Account. AB 32 Investment Fund.~~

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 act requires 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 act authorizes the state board to include use of market-based compliance mechanisms. The state board has adopted by regulation a program pursuant to the act to cap greenhouse gas emissions and provide for market-based compliance mechanisms, including the auction of allowances (cap-and-trade program).* 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 Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism to be deposited in this fund. The bill also would require those moneys, upon appropriation by the Legislature, be used for purposes of carrying out the act.~~

*This bill, with certain exceptions, would require revenues collected by the state board and derived from the auction or sale of allowances to be deposited in the Greenhouse Gas Reduction Account which the bill would establish. Under the bill, a specified portion of the money in the fund would be available, subject to appropriation by the Legislature, to administering agencies to fund prescribed projects that meet certain goals relating to greenhouse gas emissions reductions. The bill would require administering agencies to prepare and submit to the Legislature quarterly reports on funded projects and activities. The bill would require the state board to publish information on projects on its Internet Web site.*

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 the following:*
- 2     (a) *In accordance with its discretionary authority to adopt*
- 3     *market-based compliance mechanisms pursuant to Part 5*
- 4     *(commencing with Section 38570) of Division 25.5 of the Health*
- 5     *and Safety Code, the State Air Resources Board adopted on*
- 6     *December 22, 2011, a final regulation order establishing the*
- 7     *cap-and-trade program, which took effect on January 1, 2012.*
- 8     (b) *California's cap-and-trade program is authorized by the*
- 9     *California Global Warming Solutions Act of 2006 (Division 25.5*
- 10    *(commencing with Section 38500) of the Health and Safety Code).*
- 11    (c) *To mitigate the risk of market manipulation and windfall*
- 12    *profits and to ensure the market price of a greenhouse gas*
- 13    *emissions allowance is transparent and publicly discoverable, the*
- 14    *State Air Resources Board will auction a limited number of*

1 allowances to qualifying market participants, though the majority  
2 of allowances will be freely allocated to covered entities.

3 (d) If the cap-and-trade regulation remains substantially  
4 unchanged, the State Air Resources Board will auction greenhouse  
5 gas emissions allowances beginning on November 14, 2012.

6 (e) Proceeds from the auction of allowances must be spent to  
7 further purposes of the California Global Warming Solutions Act  
8 of 2006, including the reduction of statewide greenhouse gas  
9 emissions to 1990 levels by 2020, and the maintenance of those  
10 levels beyond 2020.

11 (f) To further the purposes of the California Global Warming  
12 Solutions Act of 2006, and in light of current budgetary pressures  
13 facing families, small businesses, particularly those in  
14 disadvantaged communities, energy-intensive trade-exposed  
15 industries, as well as local and regional governmental entities  
16 throughout California, it is necessary and appropriate to  
17 immediately allocate a portion of auction proceeds anticipated to  
18 be generated in the 2012–13 fiscal year, excluding those  
19 allowances consigned to auction by investor-owned utilities, to be  
20 used to expeditiously alleviate budgetary pressure, create jobs in  
21 the near term, utilize existing programs with a proven track record  
22 of transparently and efficiently expending public funds to reduce  
23 greenhouse gas emissions and accelerate the achievement of the  
24 goals of the California Global Warming Solutions Act of 2006 in  
25 a manner that has a sustained positive impact on the state’s fiscal  
26 health and economic leadership in global clean technology  
27 markets.

28 SEC. 2. Article 2 (commencing with Section 16440) is added  
29 to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government  
30 Code, to read:

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Article 2. AB 32 Investment Fund

34 16440. As used in this article:

35 (a) “Act” means the California Global Warming Solutions Act  
36 of 2006 (Division 25.5 (commencing with Section 38500) of the  
37 Health and Safety Code).

38 (b) “Cap-and-trade program” means any program adopted by  
39 regulation of the State Air Resources Board pursuant to Division  
40 25.5 (commencing with Section 38500) of the Health and Safety

1 *Code to cap greenhouse gas emissions and provide for*  
2 *market-based compliance mechanisms.*

3 (c) *“Energy Commission” means the State Energy Resources*  
4 *Conservation and Development Commission.*

5 (d) *“Fund” means the Greenhouse Gas Reduction Account*  
6 *established in Section 16441.*

7 (e) *“State board” means the State Air Resources Board.*

8 16441. (a) *The Greenhouse Gas Reduction Account is hereby*  
9 *established as a special fund in the State Treasury.*

10 (b) *All revenues collected by the state board and derived from*  
11 *any auction or sale of allowances pursuant to a market-based*  
12 *compliance mechanism authorized by the act and established by*  
13 *regulations adopted by the state board, excluding fines, penalties,*  
14 *or moneys collected from the auction or sale of allowances*  
15 *consigned to the state board by investor-owned utilities, shall be*  
16 *deposited in the fund and shall be available, upon appropriation*  
17 *by the Legislature, for the purposes of this article.*

18 16442. (a) (1) *Notwithstanding any other law, one-half of the*  
19 *revenues collected in the 2012–13 fiscal year, or two hundred fifty*  
20 *million dollars (\$250,000,000), whichever amount is less, from*  
21 *the auction or sale of greenhouse gas emissions allowances, that*  
22 *are not allocated or otherwise used by the Director of Finance to*  
23 *make commensurate reductions to General Fund expenditure*  
24 *authority, as authorized by Section 15.11 of the Budget Act of*  
25 *2012, shall be available, upon appropriation by the Legislature,*  
26 *to be expended for priority projects in accordance with this article.*

27 (2) *All funds appropriated by the Legislature that are not*  
28 *allocated by the administering agency by the end of the 2012–13*  
29 *fiscal year shall revert back to the fund to be expended according*  
30 *to a long-term expenditure plan, in accordance with subsequent*  
31 *legislation.*

32 (3) *If revenues of less than five hundred fifty million dollars*  
33 *(\$550,000,000) are derived from the auction or sale of greenhouse*  
34 *gas emissions allowances in the 2012–13 fiscal year, excluding*  
35 *those allowances consigned by investor-owned utilities to the state*  
36 *board, no money shall be expended in accordance with this article.*

37 (b) *Priority projects funded in accordance with Section 16443*  
38 *shall comply with the following:*

39 (1) *Achieve greenhouse gas emissions reductions at a reasonable*  
40 *cost.*

1 (2) Rapidly achieve budgetary savings for families, small  
2 businesses, schools, universities, companies regulated under the  
3 cap-and-trade program, community institutions, and state, local,  
4 and regional governments.

5 (3) Advance the purposes of the cap-and-trade program, in  
6 particular the purpose of the auction to reduce the risk of market  
7 manipulation and windfall profits.

8 (4) Protect existing jobs in the state by minimizing leakage, as  
9 defined in Section 38505 of the Health and Safety Code.

10 (5) Benefit the most adversely impacted and disadvantaged  
11 communities to the maximum extent feasible.

12 (6) Provide opportunities, where appropriate, for small  
13 businesses, schools, local governments, not-for-profit entities, state  
14 and local certified conservation corps, state conservancies, and  
15 other community institutions to participate in and benefit from  
16 statewide and regional efforts to reduce greenhouse gas emissions.

17 16443. The following are priority projects:

18 (a) K–12 energy projects:

19 (1) The greater of 35.6 percent of funds deposited in the fund  
20 in the 2012–13 fiscal year, or eighty-nine million dollars  
21 (\$89,000,000), shall be deposited in the Public School Energy  
22 Savings Account, which is hereby established as a subaccount  
23 within the Energy Conservation Assistance Account. The funds in  
24 the Public School Energy Savings Account shall be available to  
25 the Energy Commission for allocation to qualified projects at  
26 public schools for kindergarten and grades 1 to 12, inclusive, in  
27 accordance with the Energy Conservation Assistance Act of 1979  
28 (Chapter 5.2 (commencing with Section 25410) of Division 15 of  
29 the Public Resources Code), as follows:

30 (A) Of the funds deposited in the Public Schools Energy Savings  
31 Account, 56.25 percent shall be available as loans pursuant to  
32 existing guidelines and regulations established by the Energy  
33 Commission, with the following exceptions:

34 (i) Loans shall have a 2 percent interest rate and a 20-year  
35 term.

36 (ii) Only public schools will be eligible for loans from the Public  
37 Schools Energy Savings Account.

38 (B) Of the funds deposited in the Public Schools Energy Savings  
39 Account, 18.75 percent shall be available as loans pursuant to

1 existing guidelines and regulations established by the Energy  
2 Commission, with the following exceptions:

3 (i) Loans shall have a 1 percent interest rate and a 20-year  
4 term.

5 (ii) Only public schools with 35 percent or greater proportion  
6 of students with free and reduced lunches shall be eligible for these  
7 loans.

8 (C) Of the funds deposited in the Public Schools Energy Savings  
9 Account, 25 percent shall be available as grants to qualifying  
10 public schools, using an existing program within the jurisdiction  
11 of the Energy Commission, including, but not limited to, the Bright  
12 Schools Program, or in collaboration with the Office of Public  
13 School Construction, through either the new construction or  
14 modernization programs of the School Facility Program  
15 implemented pursuant to regulation, if the Energy Commission  
16 determines that adequate energy audit, measurement, and  
17 verification procedures are employed to ensure greenhouse gas  
18 emission reductions occur in compliance with the act.

19 (b) Public university projects:

20 (1) Of funds deposited in the fund in the 2012–13 fiscal year, 8  
21 percent, or twenty million dollars (\$20,000,000), whichever amount  
22 is greater, shall be deposited in the Higher Education Climate  
23 Solutions Fund, which is hereby established as a subaccount of  
24 the fund, to be available for allocation to public university  
25 governing boards for projects and activities that are determined,  
26 based on the best available evidence, to reduce greenhouse gas  
27 emissions associated with public universities that are covered  
28 entities for purposes of any cap-and-trade program, including,  
29 but not limited to, the following projects and activities:

30 (A) Energy efficiency upgrades that reduce electricity and  
31 natural gas consumption at university-controlled facilities.

32 (B) Procurement of biomethane or biogas that displaces natural  
33 gas usage at university facilities.

34 (C) Procurement of carbon-neutral electricity that displaces  
35 conventional electricity generation at university facilities.

36 (D) Administrative costs to directly support any of the activities  
37 listed in subparagraphs (A), (B), and (C), not in excess of 1 percent  
38 of total funds deposited in the Higher Education Climate Solutions  
39 Fund.

1 (2) *In order to be eligible for funds from the Higher Education*  
2 *Climate Solutions Fund, a public university applying for funds*  
3 *shall do the following:*

4 (A) *Agree to make an additional investment in greenhouse gas*  
5 *abatement projects and activities, equal in value to 25 percent of*  
6 *the funds it receives.*

7 (B) *Submit to the Legislature a five-year investment plan*  
8 *detailing the projects and activities to be funded with an anticipated*  
9 *allocation.*

10 (3) *At the end of the calendar year, each public university that*  
11 *receives funding from the Higher Education Climate Solutions*  
12 *Fund shall submit a report to the Legislature describing the*  
13 *disposition of funds received in the previous calendar year and*  
14 *the planned expenditures for allowance revenue in the coming*  
15 *calendar year.*

16 (c) *Rapid transition assistance for industrial facilities:*

17 *Of funds deposited in the fund in the 2012–13 fiscal year, 12*  
18 *percent, or thirty million dollars (\$30,000,000), whichever amount*  
19 *is greater, shall be available for appropriation to the Public*  
20 *Utilities Commission to carry out the self-generation incentive*  
21 *program in accordance with Section 379.6 of the Public Utilities*  
22 *Code, subject to the following limitations:*

23 (1) *Incentives shall only be available to covered entities subject*  
24 *to allowance surrender requirements under any cap-and-trade*  
25 *program, excluding electrical corporations that receive all of their*  
26 *allowances for free, and including, but not limited to, food*  
27 *processors, manufacturers of glass, cement, and other industrial*  
28 *products, oil and gas production facilities and refineries, and*  
29 *thermal energy suppliers.*

30 (2) *The Public Utilities Commission shall not award incentives*  
31 *under the self-generation incentive program funded pursuant to*  
32 *this article for emissions reduction measures that are otherwise*  
33 *specifically required by statute, regulation, or court order.*

34 (d) *Residential energy efficiency:*

35 (1) *Of funds deposited in the fund in the 2012–13 fiscal year, 4*  
36 *percent, or ten million dollars (\$10,000,000), whichever amount*  
37 *is greater, shall be available for appropriation to the Department*  
38 *of Community Services and Development for expenditure pursuant*  
39 *to the Weatherization Assistance Program administered by that*  
40 *department.*

1 (2) *The Department of Community Services and Development*  
2 *shall expend at least 50 percent of the funds it receives pursuant*  
3 *to this section for eligible energy efficiency improvements within*  
4 *multifamily rental housing developments subject to affordability*  
5 *restrictions meeting the Department of Housing and Community*  
6 *Developments standards with remaining terms of at least 10 years.*

7 (e) *Energy in agriculture priority projects:*

8 *Of funds deposited in the fund in the 2012–13 fiscal year, 1.6*  
9 *percent, or four million dollars (\$4,000,000), whichever amount*  
10 *is greater, shall be available for appropriation to the Energy*  
11 *Commission for expenditure in accordance with the Agricultural*  
12 *Industry Energy Program established pursuant to Section 25650*  
13 *of the Public Utilities Code, for projects that meet the criteria*  
14 *established for that program. Projects may include the adoption*  
15 *of renewable energy and energy-efficient technologies and*  
16 *management practices that reduce greenhouse gas emissions,*  
17 *energy and water use, production costs, and minimize negative*  
18 *environmental impacts while improving economic sustainability.*

19 (f) *Sustainable land use and transportation:*

20 (1) *Of funds deposited in the fund in the 2012–13 fiscal year,*  
21 *20 percent, or thirty million dollars (\$30,000,000), whichever*  
22 *amount is greater, shall be available for appropriation to the*  
23 *Strategic Growth Council established in Section 75121 of the*  
24 *Public Resources Code, for allocation to metropolitan planning*  
25 *organizations, or, within the Southern California Association of*  
26 *Governments region, to a county transportation commission, or*  
27 *to other local governmental entities in regions not within a*  
28 *metropolitan planning organization, that further the purposes of*  
29 *Chapter 728 of the Statutes of 2008 or Chapter 729 of the Statutes*  
30 *of 2008, the California Regional Blueprint Planning Program, or*  
31 *other regional planning processes.*

32 (A) *Project funding determinations shall be made at the regional*  
33 *level in accordance with statewide criteria developed by the*  
34 *Strategic Growth Council that prioritize investments in projects*  
35 *that do the following:*

36 (i) *Cost-effectively reduce greenhouse gas emissions and provide*  
37 *other cobenefits as defined by the act.*

38 (ii) *Integrate transportation, land use, and water and other*  
39 *resource conservation strategies.*

1 (iii) Occur in regions with sustainable community strategies  
2 that meet greenhouse gas emission reduction targets, or in other  
3 regions, for equivalent blueprint plans or other regional plans.

4 (B) Funds allocated by the Strategic Growth Council may be  
5 used for integrated infrastructure development, design,  
6 construction, or planning, including modeling and verification  
7 systems that impose greenhouse gas emission reduction  
8 performance measurement tools for local and regional actions,  
9 and operation and maintenance of transportation infrastructure,  
10 provided that the integrated infrastructure development, design,  
11 construction, or planning or operation and maintenance measures  
12 are part of a comprehensive regional or local plan that directly  
13 results in overall greenhouse gas emission reduction and provisions  
14 of cobenefits as defined by the act. Projects shall be selected based  
15 on the net greenhouse gas emissions reductions and cobenefits  
16 provided per dollar invested.

17 (C) Of funds made available to the Strategic Growth Council  
18 pursuant to this subdivision, 40 percent shall be available to the  
19 Department of Housing and Community Development to be  
20 expended for loans consistent with subdivision (b) of Section 53562  
21 of the Health and Safety Code.

22 (i) These funds shall finance only housing units that will be  
23 available at an affordable rent to persons of very low or low  
24 income for at least 55 years, although these units may be located  
25 in either all-affordable or mixed-income developments.

26 (ii) The Department of Housing and Community Development  
27 shall not use project size as a scoring criterion but shall use density  
28 as a scoring criterion.

29 (iii) The Department of Housing and Community Development  
30 shall further give priority to developments that achieve additional  
31 greenhouse gas emission reductions or energy conservation  
32 through onsite renewable energy, discount transit passes, car  
33 sharing, or other features.

34 (iv) Funds expended shall be coordinated with and complement,  
35 and are encouraged to be combined with, funds expended by the  
36 Strategic Growth Council pursuant to subdivision (f).

37 (h) Goods movement:

38 Of funds deposited in the fund in the 2012–13 fiscal year, 4.8  
39 percent, or twelve million dollars (\$12,000,000), whichever amount  
40 is greater, shall be available for appropriation to the state board

1 to be expended in a manner consistent with Section 39625.5 of the  
2 Health and Safety Code. Funds expended pursuant to this section  
3 shall be consistent with the goods movement efficiency measures  
4 included in the Climate Change Scoping Plan adopted by the state  
5 board pursuant to the act.

6 (i) Lower-Emission School Bus Program:

7 Of funds deposited in the fund in the 2012–13 fiscal year, 2  
8 percent, or five million dollars (\$5,000,000), whichever amount  
9 is greater, shall be available for appropriation to the state board  
10 to fund qualifying applications for incentives through its  
11 Lower-Emission School Bus Program.

12 (j) Clean Vehicle Rebate Project:

13 Of the funds deposited in the fund in the 2012–13 fiscal year,  
14 12 percent, or thirty million dollars (\$30,000,000), whichever is  
15 greater, shall be available for appropriation to the state board to  
16 implement its Clean Vehicle Rebate Project, subject to the  
17 following limitations:

18 (1) Rebates shall only be available for appropriation to  
19 households with a combined gross annual income of less than  
20 eighty thousand dollars (\$80,000) per year.

21 (2) Only one rebate shall be available per qualifying household.

22 16444. (a) To ensure funds are expended efficiently,  
23 transparently, and in a manner that reduces greenhouse gas  
24 emissions, administering agencies and recipients of funds pursuant  
25 to this article shall comply with the following requirements:

26 (1) An agency shall not award funds pursuant to this article  
27 unless it finds, based on available evidence, that the project or  
28 activity to be funded reduces greenhouse gas emissions in  
29 furtherance of the act.

30 (2) An agency subject to the requirements of this article shall  
31 prepare and submit to the Legislature quarterly reports that  
32 include, but are not limited to, a detailed list of projects and  
33 activities for which funds were expended or obligated, including,  
34 but not limited to, the following information for each project or  
35 activity:

36 (A) The name of the project or activity.

37 (B) A description of the project or activity.

38 (C) An evaluation of the completion status.

39 (b) The state board shall publish on its Internet Web site  
40 information on projects funded pursuant to this article, including

1 *the status, costs, benefits, location, and other information relating*  
2 *to a project in a manner that is easily accessible and*  
3 *comprehensible to the public, in order to understand the effects*  
4 *the funded projects are having on California's environment and*  
5 *economy.*

6 *(c) (1) The report to be submitted pursuant to paragraph (2)*  
7 *of subdivision (a) shall be submitted in compliance with Section*  
8 *9795.*

9 *(2) The requirement for submitting a report imposed under*  
10 *paragraph (2) of subdivision (a) is inoperative on January 1, 2017,*  
11 *pursuant to Section 10231.5.*

12 *16445. The provisions of this article are severable. If any*  
13 *provision of this article or its application is held invalid, that*  
14 *invalidity shall not affect other provisions or applications that can*  
15 *be given effect without the invalid provision or application.*

16 ~~SECTION 1. The Legislature finds and declares all of the~~  
17 ~~following:~~

18 ~~(a) In accordance with its discretionary authority to adopt~~  
19 ~~market-based compliance mechanisms pursuant to Part 5~~  
20 ~~(commencing with Section 38570) of Division 25.5 of the Health~~  
21 ~~and Safety Code, the State Air Resources Board adopted on~~  
22 ~~December 22, 2011, a final regulation order establishing the~~  
23 ~~cap-and-trade program, which took effect on January 1, 2012.~~

24 ~~(b) California's cap-and-trade program is authorized by the~~  
25 ~~California Global Warming Solutions Act of 2006 (Division 25.5~~  
26 ~~(commencing with Section 38500) of the Health and Safety Code),~~  
27 ~~and the funds generated by the program are regulatory fees, the~~  
28 ~~use of which is required to conform with *Sinclair Paint Co. v. State*~~  
29 ~~*Bd. of Equalization* (1997) 15 Cal.4th 866.~~

30 ~~(c) Provided the cap-and-trade regulation remains substantially~~  
31 ~~unchanged, the state board will auction greenhouse gas emissions~~  
32 ~~allowances beginning in the 2012 calendar year.~~

33 ~~(d) Pursuant to the California Global Warming Solutions Act~~  
34 ~~of 2006 (Division 25.5 (commencing with Section 38500) of the~~  
35 ~~Health and Safety Code), proceeds from the auction of allowances~~  
36 ~~will be deposited in the Air Pollution Control Fund, and will only~~  
37 ~~be available, upon appropriation by the Legislature, for the~~  
38 ~~purposes designated in the act.~~

39 ~~(e) If the cap-and-trade regulation does not remain in effect, the~~  
40 ~~state board may consider alternate rules or regulations that would~~

1 ~~be adopted pursuant to the California Global Warming Solutions~~  
2 ~~Act of 2006 (Division 25.5 (commencing with Section 38500) of~~  
3 ~~the Health and Safety Code) in an open public process to ensure~~  
4 ~~that statewide greenhouse gas emissions are reduced to 1990 levels~~  
5 ~~by 2020.~~

6 ~~SEC. 2. Section 38575 is added to the Health and Safety Code,~~  
7 ~~to read:~~

8 ~~38575. (a) The Greenhouse Gas Reduction Fund is hereby~~  
9 ~~created.~~

10 ~~(b) Notwithstanding Section 38597, all moneys collected~~  
11 ~~pursuant to this part, excluding penalties and fines, shall be~~  
12 ~~deposited in the Greenhouse Gas Reduction Fund and shall be~~  
13 ~~available, upon appropriation by the Legislature, for purposes of~~  
14 ~~carrying out this division.~~