

AMENDED IN ASSEMBLY AUGUST 22, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

SENATE BILL

No. 1572

Introduced by Senator Pavley

February 24, 2012

An act to add 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: 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 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. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.~~

This bill, with certain exceptions, would *in addition* require *the same* 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
- 15 allowances to qualifying market participants, though the majority
- 16 of allowances will be freely allocated to covered entities.

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

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

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

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

28
29 Article 2. AB 32 Investment Fund
30

31 16440. As used in this article:

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

35 (b) “Cap-and-trade program” means any program adopted by
36 regulation of the State Air Resources Board pursuant to Division
37 25.5 (commencing with Section 38500) of the Health and Safety
38 Code to cap greenhouse gas emissions and provide for
39 market-based compliance mechanisms.

1 (c) “Energy Commission” means the State Energy Resources
2 Conservation and Development Commission.

3 (d) “Fund” means the Greenhouse Gas Reduction Account
4 established in Section 16441.

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

6 16441. (a) The Greenhouse Gas Reduction Account is hereby
7 established as a special fund in the State Treasury.

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

16 16442. (a) (1) Notwithstanding any other law, one-half of the
17 revenues collected in the 2012–13 fiscal year, or ~~two hundred fifty~~
18 ~~million dollars (\$250,000,000)~~ *one hundred sixty-one million*
19 *dollars (\$161,000,000)*, whichever amount is less, from the auction
20 or sale of greenhouse gas emissions allowances, that are not
21 allocated or otherwise used by the Director of Finance to make
22 commensurate reductions to General Fund expenditure authority,
23 as authorized by Section 15.11 of the Budget Act of 2012, shall
24 be available, upon appropriation by the Legislature, to be expended
25 for priority projects in accordance with this article.

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

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

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

38 (1) Achieve greenhouse gas emissions reductions at a reasonable
39 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~~
24 ~~in the Public School Energy Savings Account shall be available~~
25 ~~to 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 term.~~

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

37 ~~(B) Of the funds deposited in the Public Schools Energy Savings~~
38 ~~Account, 18.75 percent shall be available as loans pursuant to~~
39 ~~existing guidelines and regulations established by the Energy~~
40 ~~Commission, with the following exceptions:~~

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

2 (ii) ~~Only public schools with 35 percent or greater proportion~~
3 ~~of students with free and reduced lunches shall be eligible for these~~
4 ~~loans.~~

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

16 (b)

17 (a) Public university projects:

18 (1) Of funds deposited in the fund in the 2012–13 fiscal year,
19 ~~8 12.5 percent, or twenty million dollars (\$20,000,000) twenty~~
20 ~~million nine hundred thousand dollars (\$20,900,000), whichever~~
21 ~~amount is greater, shall be deposited in the Higher Education~~
22 ~~Climate Solutions Fund, which is hereby established as a~~
23 ~~subaccount of the fund, to be available for allocation to public~~
24 ~~university governing boards for projects and activities that are~~
25 ~~determined, based on the best available evidence, to reduce~~
26 ~~greenhouse gas emissions associated with public universities that~~
27 ~~are covered entities for purposes of any cap-and-trade program,~~
28 ~~including, but not limited to, the following projects and activities:~~

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

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

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

35 (D) Administrative costs to directly support any of the activities
36 listed in subparagraphs (A), (B), and (C), not in excess of 1 percent
37 of total funds deposited in the Higher Education Climate Solutions
38 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 the
14 planned expenditures for allowance revenue in the coming calendar
15 year.

16 (e)

17 (b) Rapid transition assistance for industrial facilities:

18 Of funds deposited in the fund in the 2012–13 fiscal year, ~~12~~
19 ~~16.5 percent, or thirty million dollars (\$30,000,000)~~ *thirty-one*
20 *million three hundred thousand dollars (\$31,300,000)*, whichever
21 amount is greater, shall be available for appropriation to the Public
22 Utilities Commission to carry out the self-generation incentive
23 program in accordance with Section 379.6 of the Public Utilities
24 Code, subject to the following limitations:

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

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

36 (d)

37 (c) Residential energy efficiency:

38 (1) Of funds deposited in the fund in the 2012–13 fiscal year,
39 ~~4~~ *8.5 percent, or ten million dollars (\$10,000,000)* *ten million four*
40 *hundred thousand dollars (\$10,400,000)*, whichever amount is

1 greater, shall be available for appropriation to the Department of
 2 Community Services and Development for expenditure pursuant
 3 to the Weatherization Assistance Program administered by that
 4 department.

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

11 (e)

12 (d) Energy in agriculture priority projects:

13 Of funds deposited in the fund in the 2012–13 fiscal year, ~~1.6~~
 14 ~~6.1 percent, or four million dollars (\$4,000,000)~~ *four million two*
 15 *hundred thousand dollars (\$4,200,000)*, whichever amount is
 16 greater, shall be available for appropriation to the Energy
 17 Commission for expenditure in accordance with the Agricultural
 18 Industry Energy Program established pursuant to Section 25650
 19 of the Public Utilities Code, for projects that meet the criteria
 20 established for that program. Projects may include the adoption
 21 of renewable energy and energy-efficient technologies and
 22 management practices that reduce greenhouse gas emissions,
 23 energy and water use, production costs, and minimize negative
 24 environmental impacts while improving economic sustainability.

25 (f)

26 (e) Sustainable land use and transportation:

27 (1) Of funds deposited in the fund in the 2012–13 fiscal year,
 28 ~~20 24.5 percent, or thirty million dollars (\$30,000,000)~~ *thirty-one*
 29 *million three hundred thousand dollars (\$31,300,000)*, whichever
 30 amount is greater, shall be available for appropriation to the
 31 Strategic Growth Council established in Section 75121 of the
 32 Public Resources Code, for allocation to metropolitan planning
 33 organizations, or, within the Southern California Association of
 34 Governments region, to a county transportation commission, or to
 35 other local governmental entities in regions not within a
 36 metropolitan planning organization, that further the purposes of
 37 Chapter 728 of the Statutes of 2008 or Chapter 729 of the Statutes
 38 of 2008, the California Regional Blueprint Planning Program, or
 39 other regional planning processes.

1 (A) Project funding determinations shall be made at the regional
2 level in accordance with statewide criteria developed by the
3 Strategic Growth Council that prioritize investments in projects
4 that do the following:

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

7 (ii) Integrate transportation, land use, and water and other
8 resource conservation strategies.

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

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

25 (C) Of funds made available to the Strategic Growth Council
26 pursuant to this subdivision, 40 percent shall be available to the
27 Department of Housing and Community Development to be
28 expended for loans consistent with subdivision (b) of Section 53562
29 of the Health and Safety Code.

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

34 (ii) The Department of Housing and Community Development
35 shall not use project size as a scoring criterion but shall use density
36 as a scoring criterion.

37 (iii) The Department of Housing and Community Development
38 shall further give priority to developments that achieve additional
39 greenhouse gas emission reductions or energy conservation through

1 onsite renewable energy, discount transit passes, car sharing, or
2 other features.

3 (iv) Funds expended shall be coordinated with and complement,
4 and are encouraged to be combined with, funds ~~expended~~ *allocated*
5 by the Strategic Growth Council pursuant to *this* subdivision-~~(f)~~.

6 ~~(h)~~

7 (f) Goods movement:

8 Of funds deposited in the fund in the 2012–13 fiscal year, ~~4.8~~
9 ~~9.3 percent, or twelve million dollars (\$12,000,000)~~ *twelve million*
10 *five hundred thousand dollars (\$12,500,000)*, whichever amount
11 is greater, shall be available for appropriation to the state board to
12 be expended in a manner consistent with Section 39625.5 of the
13 Health and Safety Code. Funds expended pursuant to this section
14 shall be consistent with the goods movement efficiency measures
15 included in the Climate Change Scoping Plan adopted by the state
16 board pursuant to the act.

17 ~~(i)~~

18 (g) Lower-Emission School Bus Program:

19 Of funds deposited in the fund in the 2012–13 fiscal year, ~~2~~ *6.5*
20 ~~percent, or five million dollars (\$5,000,000)~~ *five million two*
21 *hundred thousand dollars (\$5,200,000)*, whichever amount is
22 greater, shall be available for appropriation to the state board to
23 fund qualifying applications for incentives through its
24 Lower-Emission School Bus Program.

25 ~~(j)~~

26 (h) Clean Vehicle Rebate Project:

27 Of the funds deposited in the fund in the 2012–13 fiscal year,
28 ~~12 16.5 percent, or thirty million dollars (\$30,000,000)~~ *thirty-one*
29 *million three hundred thousand dollars (\$31,300,000)*, whichever
30 is greater, shall be available for appropriation to the state board to
31 implement its Clean Vehicle Rebate Project, subject to the
32 following limitations:

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

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

37 16444. (a) To ensure funds are expended efficiently,
38 transparently, and in a manner that reduces greenhouse gas
39 emissions, administering agencies and recipients of funds pursuant
40 to this article shall comply with the following requirements:

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

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

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

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

12 (C) An evaluation of the completion status.

13 (b) The state board shall publish on its Internet Web site
14 information on projects funded pursuant to this article, including
15 the status, costs, benefits, location, and other information relating
16 to a project in a manner that is easily accessible and
17 comprehensible to the public, in order to understand the effects
18 the funded projects are having on California's environment and
19 economy.

20 (c) (1) The report to be submitted pursuant to paragraph (2) of
21 subdivision (a) shall be submitted in compliance with Section
22 9795.

23 (2) The requirement for submitting a report imposed under
24 paragraph (2) of subdivision (a) is inoperative on January 1, 2017,
25 pursuant to Section 10231.5.

26 16445. The provisions of this article are severable. If any
27 provision of this article or its application is held invalid, that
28 invalidity shall not affect other provisions or applications that can
29 be given effect without the invalid provision or application.