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AMENDED IN ASSEMBLY AUGUST 31, 2015

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AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE MARCH 16, 2015

SENATE BILL

No. 32

Introduced by Senator Pavley

(Coauthors: Senators Allen, Beall, Block, De León, Hancock, Hill, Jackson, Leno, Liu, McGuire, Mitchell, Monning, Wiecekowski, and Wolk)

(Coauthors: Assembly Members Bloom, *Chiu*, *Chu*, Cristina Garcia, *McCarty*, Quirk, Rendon, Mark Stone, Thurmond, Ting, Williams, and Wood)

December 1, 2014

An act to add Chapter 6 (commencing with Section 12897) to Part 2.5 of Division 3 of Title 2 of the Government Code, and to amend Sections 38505, 38550, 38551, and 38561 ~~of of, and to add Section 38566 to~~, the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 32, as amended, Pavley. California Global Warming Solutions Act of 2006.

(1) 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.

This bill would require the state board to approve statewide greenhouse gas emissions limits that are the equivalent to 40% below the 1990 level to be achieved by 2030 and 80% below the 1990 level to be achieved by 2050, as specified. The bill would authorize the state board to approve an interim greenhouse gas emissions level target to be achieved by 2040. The bill also would state the intent of the Legislature for the Legislature and appropriate agencies to adopt complementary policies that ensure the long-term emissions reductions advance specified criteria.

(2) The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years.

This bill would prohibit the state board from taking any action to implement the next update of the scoping plan until a draft of, and the final version of, the next update to the scoping plan have been submitted to the Joint Legislative Budget Committee and the appropriate policy committees of the Legislature, ~~at least one year and at least 60 days, respectively, as specified,~~ before adoption of the updated scoping plan and until the state board has conducted specified evaluations relating to reducing greenhouse gas emissions. The bill would require the Legislature to hold at least one oversight hearing to review that draft and one oversight hearing to review the final version. The bill would require the state board, on or before January 1, 2017, and each year thereafter, to prepare and submit to the Joint Legislative Budget Committee and appropriate policy committees a report relating to achieving the greenhouse gas emissions limits required by the California Global Warming Solutions Act of 2006. *The bill would require the Office of Environmental Health Hazard Assessment, on or before July 1, 2017, to prepare and make available to the public and the Legislature a report analyzing the impacts of the greenhouse gas emissions limits adopted by the state board on disadvantaged communities, as specified.*

(3) This bill would also make conforming ~~changes~~. *changes and would provide that its provisions are severable.*

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. *It is the intent of the Legislature that all relevant*
2 *provisions of Division 25.5 (commencing with Section 38500) of*
3 *the Health and Safety Code apply to the sections of this act*
4 *amending sections within Division 25.5 (commencing with Section*
5 *38500) of the Health and Safety Code.*

6 SECTION 1.

7 SEC. 2. Chapter 6 (commencing with Section 12897) is added
8 to Part 2.5 of Division 3 of Title 2 of the Government Code, to
9 read:

10
11 CHAPTER 6. LEGISLATIVE ACCOUNTABILITY AND OVERSIGHT
12 OF CALIFORNIA GREENHOUSE GAS EMISSIONS REDUCTION POLICIES
13

14 12897. (a) The Legislature finds and declares that developing
15 regulations and policies by the State Air Resources Board or other
16 state agencies for purposes of implementing Division 25.5
17 (commencing with Section 38500) of the Health and Safety Code
18 should be conducted transparently and in a timely manner to afford
19 the Legislature the opportunity to shape and oversee the
20 implementation of that division on an ongoing basis.

21 (b) The purpose of this ~~section~~ *chapter* is to establish new
22 legislative oversight and accountability over any regulations and
23 policies undertaken to implement Division 25.5 (commencing with
24 Section 38500) of the Health and Safety Code.

25 ~~(e)~~

26 12898. (a) The State Air Resources Board shall not take any
27 action to implement the next update of the scoping plan described
28 in Section 38561 of the Health and Safety Code unless all of the
29 following have occurred:

30 (1) The State Air Resources Board has conducted, with input
31 from an independent advisory committee, an evaluation of both
32 of the following:

33 (A) The current and projected actions other jurisdictions within
34 the United States and around the world are taking to reduce

1 greenhouse gas emissions and how those actions compare to and
2 complement California's efforts.

3 (B) The cost-effectiveness of the various emissions reduction
4 strategies the State Air Resources Board has undertaken to achieve
5 the 2020 statewide greenhouse gas emissions limit pursuant to
6 Section 38550 of the Health and Safety Code, which ~~may~~ shall
7 consider the marginal costs of the strategies and associated benefits
8 to the health, safety, and welfare of state residents, worker safety,
9 quality of life in the state, and the state's environment.

10 (2) A draft of the next update to the scoping plan has been
11 submitted to the Joint Legislative Budget Committee and the
12 appropriate policy committees of the Legislature ~~at least one year~~
13 ~~before adoption of the updated scoping plan.~~

14 (3) The final version of the update to the scoping plan has been
15 submitted to the Joint Legislative Budget Committee and the
16 appropriate policy committees of the Legislature at least 60 days
17 before ~~adoption~~ approval of the updated scoping plan.

18 (d)

19 (b) The Legislature shall hold at least one oversight hearing to
20 review the draft of the next update to the scoping plan and at least
21 one oversight hearing to review the final version of the update to
22 the scoping plan before ~~adoption~~ approval.

23 (e)

24 (c) After holding the oversight hearings required pursuant to
25 subdivision (d), (b), the Legislature may act to modify, reject, or
26 delay some or all of the scoping plan before its ~~adoption~~ approval.

27 (f)

28 (d) On or before January 1, 2017, and each year thereafter, the
29 State Air Resources Board shall prepare and submit to the Joint
30 Legislative Budget Committee and appropriate policy committees
31 a report that contains both of the following:

32 (1) A *detailed* list of regulatory policies that have been adopted
33 and implemented by a state agency in furtherance of achieving the
34 greenhouse gas emissions limits adopted by the State Air Resources
35 Board pursuant to Division 25.5 (commencing with Section 38500)
36 of the Health and Safety Code.

37 (2) The amounts, sources, and locations of greenhouse gas
38 emissions reductions achieved toward the statewide emissions
39 limit, as defined in Section 38505 of the Health and Safety Code.

1 (e) On or before July 1, 2017, the Office of Environmental
2 Health Hazard Assessment shall prepare a report analyzing the
3 impacts of the greenhouse gas emissions limits adopted by the
4 State Air Resources Board pursuant to Division 25.5 (commencing
5 with Section 38500) of the Health and Safety Code on
6 disadvantaged communities and make the report available to the
7 public and the Legislature. The report shall include, but shall not
8 be limited to, all of the following:

9 (1) Tracking and analysis of greenhouse gas emissions, criteria
10 air pollutants, and other pollutant emission levels in disadvantaged
11 communities.

12 (2) California Global Warming Solutions Act of 2006 (Division
13 25.5 (commencing with Section 38500) of the Health and Safety
14 Code) compliance strategies used for greenhouse gas emissions
15 sources in disadvantaged communities.

16 (3) Analysis of public health and other relevant environmental
17 health exposure indicators related to air pollutants in
18 disadvantaged communities.

19 ~~(g)~~

20 (f) The State Air Resources Board may include relevant reports
21 required pursuant to Section 12894 within the report required
22 pursuant to subdivision ~~(f)~~: (d).

23 (g) Nothing in this section affects in any manner the authority
24 or responsibility of the State Air Resources Board or a district, as
25 defined in Section 39025 of the Health and Safety Code, under the
26 federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), under Division
27 26 (commencing with Section 39000) of the Health and Safety
28 Code, or to implement regulations or other measures adopted
29 prior to the approval of the next update to the scoping plan.

30 (h) It is the intent of the Legislature that this chapter be
31 interpreted in a manner that does not violate Section 8 of Article
32 IV of the California Constitution.

33 (i) The provisions of this chapter are severable. If any provision
34 of this chapter or its application is held invalid, that invalidity
35 shall not affect other provisions or applications that can be given
36 effect without the invalid provision or application.

37 ~~SEC. 2.~~

38 SEC. 3. Section 38505 of the Health and Safety Code is
39 amended to read:

1 38505. For purposes of this division, the following terms have
2 the following meanings:

3 (a) “Allowance” means an authorization to emit, during a
4 specified year, up to one ton of carbon dioxide equivalent.

5 (b) “Alternative compliance mechanism” means an action
6 undertaken by a greenhouse gas emission source that achieves the
7 equivalent reduction of greenhouse gas emissions over the same
8 time period as a direct emission reduction, and that is approved
9 by the state board. “Alternative compliance mechanism” includes,
10 but is not limited to, a flexible compliance schedule, alternative
11 control technology, a process change, or a product substitution.

12 (c) “Carbon dioxide equivalent” means the amount of carbon
13 dioxide by weight that would produce the same global warming
14 impact as a given weight of another greenhouse gas, based on the
15 best available science, including from the Intergovernmental Panel
16 on Climate Change.

17 (d) “Cost-effective” or “cost-effectiveness” means the cost per
18 unit of reduced emissions of greenhouse gases adjusted for its
19 global warming potential.

20 (e) “Direct emission reduction” means a greenhouse gas
21 emission reduction action made by a greenhouse gas emission
22 source at that source.

23 (f) “Emissions reduction measure” means programs, measures,
24 standards, and alternative compliance mechanisms authorized
25 pursuant to this division, applicable to sources or categories of
26 sources, that are designed to reduce emissions of greenhouse gases.

27 (g) “Greenhouse gas” or “greenhouse gases” includes all of the
28 following gases:

29 (1) Carbon dioxide.

30 (2) Methane.

31 (3) Nitrous oxide.

32 (4) Hydrofluorocarbons.

33 (5) Perfluorocarbons.

34 (6) Sulfur hexafluoride.

35 (7) Nitrogen trifluoride.

36 (h) “Greenhouse gas emissions limit” means an authorization,
37 during a specified year, to emit up to a level of greenhouse gases
38 specified by the state board, expressed in tons of carbon dioxide
39 equivalents.

1 (i) “Greenhouse gas emission source” or “source” means any
2 source, or category of sources, of greenhouse gas emissions whose
3 emissions are at a level of significance, as determined by the state
4 board, that its participation in the program established under this
5 division will enable the state board to effectively reduce greenhouse
6 gas emissions and monitor compliance with the statewide
7 greenhouse gas emissions limit.

8 (j) “Leakage” means a reduction in emissions of greenhouse
9 gases within the state that is offset by an increase in emissions of
10 greenhouse gases outside the state.

11 (k) “Market-based compliance mechanism” means either of the
12 following:

13 (1) A system of market-based declining annual aggregate
14 emissions limitations for sources or categories of sources that emit
15 greenhouse gases.

16 (2) Greenhouse gas emissions exchanges, banking, credits, and
17 other transactions, governed by rules and protocols established by
18 the state board, that result in the same greenhouse gas emission
19 reduction, over the same time period, as direct compliance with a
20 greenhouse gas emission limit or emissions reduction measure
21 adopted by the state board pursuant to this division.

22 (l) “State board” means the State Air Resources Board.

23 (m) “Statewide greenhouse gas emissions” means the total
24 annual emissions of greenhouse gases in the state, including all
25 emissions of greenhouse gases from the generation of electricity
26 delivered to and consumed in California, accounting for
27 transmission and distribution line losses, whether the electricity
28 is generated in state or imported. Statewide emissions shall be
29 expressed in tons of carbon dioxide equivalents.

30 (n) “Statewide greenhouse gas emissions limit” or “statewide
31 emissions limit” means the maximum allowable level of statewide
32 greenhouse gas emissions, as determined by the state board
33 pursuant to Part 3 (commencing with Section 38550).

34 ~~SEC. 3.~~

35 *SEC. 4.* Section 38550 of the Health and Safety Code is
36 amended to read:

37 38550. (a) By January 1, 2008, the state board shall, after one
38 or more public workshops, with public notice, and an opportunity
39 for all interested parties to comment, determine what the statewide
40 greenhouse gas emissions level was in 1990, and approve in a

1 public hearing, a statewide greenhouse gas emissions limit that is
2 equivalent to that level, to be achieved by 2020. In order to ensure
3 the most accurate determination feasible, the state board shall
4 evaluate the best available scientific, technological, and economic
5 information on greenhouse gas emissions to determine the 1990
6 level of greenhouse gas emissions.

7 (b) (1) (A) Notwithstanding subdivision (a), the state board
8 shall approve in a public hearing, based on the best available
9 scientific, technological, and economic assessments, all of the
10 following:

11 (i) A statewide greenhouse gas emissions limit that is equivalent
12 to 40 percent below the 1990 level, as determined pursuant to
13 subdivision (a) or Section 39730, to be achieved by 2030.

14 (ii) A statewide greenhouse gas emissions limit that is equivalent
15 to 80 percent below the 1990 level, as determined pursuant to
16 subdivision (a) or Section 39730, to be achieved by 2050.

17 (B) For the purposes of this paragraph, a greenhouse gas
18 emissions limit shall include short-lived climate pollutants, as
19 defined in Chapter 4.2 (commencing with Section 39730) of Part
20 2 of Division 26.

21 (2) The state board also may approve an interim greenhouse
22 gas emissions level target to be achieved by 2040 consistent with
23 paragraph (1).

24 (c) In furtherance of subdivision (b), the state board shall
25 consider historic efforts to reduce greenhouse gas emissions and
26 objectively seek, and account for, cost-effective actions to reduce
27 greenhouse gas emissions across all sectors.

28 ~~SEC. 4.~~

29 *SEC. 5.* Section 38551 of the Health and Safety Code is
30 amended to read:

31 38551. (a) Each of the statewide greenhouse gas emissions
32 limits shall remain in effect unless otherwise amended or repealed.

33 (b) It is the intent of the Legislature that the statewide
34 greenhouse gas emissions limits established pursuant to Section
35 38550 continue in existence and be used to maintain and continue
36 reductions in emissions of greenhouse gases.

37 (c) The state board shall make recommendations to the Governor
38 and the Legislature on how to continue reductions of greenhouse
39 gas emissions beyond 2050.

1 (d) In implementing subdivision (b) of Section 38550, it is the
2 intent of the Legislature for the Legislature and appropriate
3 agencies to adopt complementary policies that ensure the long-term
4 emissions reductions adopted pursuant to subdivision (b) of Section
5 38550 advance all of the following:

6 (1) Job growth and local economic benefits in California.

7 (2) Public health benefits for California residents, particularly
8 in disadvantaged ~~communities~~: *communities, that result from direct*
9 *onsite reductions of greenhouse gas emissions.*

10 (3) Innovation in technology and energy, water, and resource
11 management practices.

12 (4) Regional and international collaboration to adopt similar
13 greenhouse gas emissions reduction policies.

14 ~~SEC. 5.~~

15 *SEC. 6.* Section 38561 of the Health and Safety Code is
16 amended to read:

17 38561. (a) (1) On or before January 1, 2009, the state board
18 shall prepare and approve a scoping plan, as that term is understood
19 by the state board, for achieving the maximum technologically
20 feasible and cost-effective reductions in greenhouse gas emissions
21 from sources or categories of sources of greenhouse gases under
22 this division.

23 (2) The state board shall consult with all state agencies with
24 jurisdiction over sources of greenhouse gases, including the Public
25 Utilities Commission and the State Energy Resources Conservation
26 and Development Commission, on all elements of its plan that
27 pertain to energy-related matters including, but not limited to,
28 electrical generation, load-based standards or requirements, the
29 provision of reliable and affordable electrical service, petroleum
30 refining, and statewide fuel supplies to ensure the greenhouse gas
31 emissions reduction activities to be adopted and implemented by
32 the state board are complementary, nonduplicative, and can be
33 implemented in an efficient and cost-effective manner.

34 (b) The plan shall identify and make recommendations on direct
35 emissions reduction measures, alternative compliance mechanisms,
36 market-based compliance mechanisms, and potential monetary
37 and nonmonetary incentives for sources and categories of sources
38 that the state board finds are necessary or desirable to facilitate
39 the achievement of the maximum feasible and cost-effective
40 reductions of greenhouse gas emissions under this division.

1 (c) In making the determinations required by subdivision (b),
2 the state board shall consider all relevant information pertaining
3 to greenhouse gas emissions reduction programs in other states,
4 localities, and nations, including the northeastern states of the
5 United States, Canada, and the European Union.

6 (d) The state board shall evaluate the total potential costs and
7 total potential economic and noneconomic benefits of the plan for
8 reducing greenhouse gases to California's economy, environment,
9 and public health, using the best available economic models,
10 emission estimation techniques, and other scientific methods.

11 (e) In developing its plan, the state board shall take into account
12 the relative contribution of each source or source category to
13 statewide greenhouse gas emissions, and the potential for adverse
14 effects on small businesses, and shall recommend a de minimis
15 threshold of greenhouse gas emissions below which emissions
16 reduction requirements will not apply.

17 (f) In developing its plan, the state board shall identify
18 opportunities for emissions reduction measures from all verifiable
19 and enforceable voluntary actions, including, but not limited to,
20 carbon sequestration projects and best management practices.

21 (g) The state board shall conduct a series of public workshops
22 to give interested parties an opportunity to comment on the plan.
23 The state board shall conduct a portion of these workshops in
24 regions of the state that have the most significant exposure to air
25 pollutants, including, but not limited to, communities with minority
26 populations, communities with low-income populations, or both.

27 (h) The state board shall update its plan for achieving the
28 maximum technologically feasible and cost-effective reductions
29 of greenhouse gas emissions at least once every five years in
30 accordance with Chapter 6 (commencing with Section 12897) of
31 Part 2.5 of Division 3 of Title 2 of the Government Code.

32 *SEC. 7. Section 38566 is added to the Health and Safety Code,*
33 *to read:*

34 *38566. (a) For purposes of this section, "appropriate public*
35 *entities" includes metropolitan planning organizations, districts,*
36 *as defined in Section 39025, the League of California Cities, the*
37 *California State Association of Counties, local transportation*
38 *agencies, and members of the public, including homebuilders,*
39 *environmental organizations, including environmental justice*

1 organizations, planning organizations, affordable housing
2 organizations, and others.

3 (b) The state board, in consultation with appropriate public
4 entities, shall ensure that the 2050 greenhouse gas emissions limit
5 required pursuant to clause (ii) of subparagraph (A) of paragraph
6 (1) of subdivision (b) of Section 38550 is achieved without imposing
7 disproportionate greenhouse gas emissions reduction requirements
8 on land use and permitting decisions made by lead agencies, as
9 defined in Section 21067 of the Public Resources Code.

10 SEC. 8. The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

O