AMENDED IN ASSEMBLY SEPTEMBER 10, 2015
AMENDED IN ASSEMBLY SEPTEMBER 4, 2015
AMENDED IN ASSEMBLY AUGUST 31, 2015
AMENDED IN SENATE JUNE 1, 2015
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, Wieckowski, and Wolk)
(Coauthors: Assembly Members Bloom, Chau, 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, and to add Section 38566 to, of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL’S DIGEST

(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 a statewide greenhouse gas emissions limits that are the limit that is 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, 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 and would provide that its provisions are severable.
The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that all relevant provisions of Division 25.5 (commencing with Section 38500) of the Health and Safety Code apply to the sections of this act amending sections within Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

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


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

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

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

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

(A) The current and projected actions other jurisdictions within the United States and around the world are taking to reduce greenhouse gas emissions and how those actions compare to and complement California’s efforts.
(B) The cost-effectiveness of the various emissions reduction strategies the State Air Resources Board has undertaken to achieve the 2020 statewide greenhouse gas emissions limit pursuant to Section 38550 of the Health and Safety Code, which shall consider the marginal costs of the strategies and associated benefits to the health, safety, and welfare of state residents, worker safety, quality of life in the state, and the state’s environment.

(2) A draft of the next update to the scoping plan has been submitted to the Joint Legislative Budget Committee and the appropriate policy committees of the Legislature.

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

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

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

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

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

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

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

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


3. Analysis of public health and other relevant environmental health exposure indicators related to air pollutants in disadvantaged communities.

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

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

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

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

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

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

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

(b) “Alternative compliance mechanism” means an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emission reduction, and that is approved by the state board. “Alternative compliance mechanism” includes,
but is not limited to, a flexible compliance schedule, alternative
control technology, a process change, or a product substitution.
(c) “Carbon dioxide equivalent” means the amount of carbon
dioxide by weight that would produce the same global warming
impact as a given weight of another greenhouse gas, based on the
best available science, including from the Intergovernmental Panel
on Climate Change.
(d) “Cost-effective” or “cost-effectiveness” means the cost per
unit of reduced emissions of greenhouse gases adjusted for its
global warming potential.
(e) “Direct emission reduction” means a greenhouse gas
emission reduction action made by a greenhouse gas emission
source at that source.
(f) “Emissions reduction measure” means programs, measures,
standards, and alternative compliance mechanisms authorized
pursuant to this division, applicable to sources or categories of
sources, that are designed to reduce emissions of greenhouse gases.
(g) “Greenhouse gas” or “greenhouse gases” includes all of the
following gases:
(1) Carbon dioxide.
(2) Methane.
(3) Nitrous oxide.
(4) Hydrofluorocarbons.
(5) Perfluorocarbons.
(6) Sulfur hexafluoride.
(7) Nitrogen trifluoride.
(h) “Greenhouse gas emissions limit” means an authorization,
during a specified year, to emit up to a level of greenhouse gases
specified by the state board, expressed in tons of carbon dioxide
equivalents.
(i) “Greenhouse gas emission source” or “source” means any
source, or category of sources, of greenhouse gas emissions whose
emissions are at a level of significance, as determined by the state
board, that its participation in the program established under this
division will enable the state board to effectively reduce greenhouse
gas emissions and monitor compliance with the statewide
greenhouse gas emissions limit.
(j) “Leakage” means a reduction in emissions of greenhouse
gases within the state that is offset by an increase in emissions of
greenhouse gases outside the state.
(k) “Market-based compliance mechanism” means either of the following:

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

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

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

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

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

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

38550. (a) By January 1, 2008, the state board shall, after one or more public workshops, with public notice, and an opportunity for all interested parties to comment, determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020. In order to ensure the most accurate determination feasible, the state board shall evaluate the best available scientific, technological, and economic information on greenhouse gas emissions to determine the 1990 level of greenhouse gas emissions.

(b) (1) (A) Notwithstanding subdivision (a), the state board shall approve in a public hearing, based on the best available scientific, technological, and economic assessments, all of the following assessments, a statewide greenhouse gas emissions limit that is equivalent to 40 percent below the 1990 level, as
determined pursuant to subdivision (a) or Section 39730, to be achieved by 2030.

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

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

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

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

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

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

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

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

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

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

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

(2) Public health benefits for California residents, particularly in disadvantaged communities, that result from direct onsite reductions of greenhouse gas emissions.
Innovation in technology and energy, water, and resource management practices.

Regional and international collaboration to adopt similar greenhouse gas emissions reduction policies.

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

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

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

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

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

(d) The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California’s economy, environment, and public health, using the best available economic models, emission estimation techniques, and other scientific methods.
(e) In developing its plan, the state board shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and shall recommend a de minimis threshold of greenhouse gas emissions below which emissions reduction requirements will not apply.

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

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

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

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

38566. (a) For purposes of this section, “appropriate public entities” includes metropolitan planning organizations, districts, as defined in Section 39025, the League of California Cities, the California State Association of Counties, local transportation agencies, and members of the public, including home builders, environmental organizations, including environmental justice organizations, planning organizations, affordable housing organizations, and others.

(b) The state board, in consultation with appropriate public entities, shall ensure that the 2050 greenhouse gas emissions limit required pursuant to clause (ii) of subparagraph (A) of paragraph (1) of subdivision (b) of Section 38550 is achieved without imposing disproportionate greenhouse gas emissions reduction requirements on land use and permitting decisions made by lead agencies, as defined in Section 21067 of the Public Resources Code.
SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.