

AMENDED IN ASSEMBLY SEPTEMBER 10, 2015

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

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AMENDED IN SENATE JUNE 1, 2015

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AMENDED IN SENATE MARCH 16, 2015

**SENATE BILL**

**No. 32**

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**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

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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

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 *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.~~ *2030*. 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.

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

9

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

12

13 12897. (a) The Legislature finds and declares that developing  
14 regulations and policies by the State Air Resources Board or other  
15 state agencies for purposes of implementing Division 25.5  
16 (commencing with Section 38500) of the Health and Safety Code  
17 should be conducted transparently and in a timely manner to afford  
18 the Legislature the opportunity to shape and oversee the  
19 implementation of that division on an ongoing basis.

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

24 12898. (a) The State Air Resources Board shall not take any  
25 action to implement the next update of the scoping plan described  
26 in Section 38561 of the Health and Safety Code unless all of the  
27 following have occurred:

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

31 (A) The current and projected actions other jurisdictions within  
32 the United States and around the world are taking to reduce  
33 greenhouse gas emissions and how those actions compare to and  
34 complement California's efforts.

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

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

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

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

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

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

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

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

34 (e) On or before July 1, 2017, the Office of Environmental  
35 Health Hazard Assessment shall prepare a report analyzing the  
36 impacts of the greenhouse gas emissions limits adopted by the  
37 State Air Resources Board pursuant to Division 25.5 (commencing  
38 with Section 38500) of the Health and Safety Code on  
39 disadvantaged communities and make the report available to the

1 public and the Legislature. The report shall include, but shall not  
2 be limited to, all of the following:

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

6 (2) California Global Warming Solutions Act of 2006 (Division  
7 25.5 (commencing with Section 38500) of the Health and Safety  
8 Code) compliance strategies used for greenhouse gas emissions  
9 sources in disadvantaged communities.

10 (3) Analysis of public health and other relevant environmental  
11 health exposure indicators related to air pollutants in disadvantaged  
12 communities.

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

16 (g) Nothing in this section affects in any manner the authority  
17 or responsibility of the State Air Resources Board or a district, as  
18 defined in Section 39025 of the Health and Safety Code, under the  
19 federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), under Division  
20 26 (commencing with Section 39000) of the Health and Safety  
21 Code, or to implement regulations or other measures adopted prior  
22 to the approval of the next update to the scoping plan.

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

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

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

32 38505. For purposes of this division, the following terms have  
33 the following meanings:

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

36 (b) "Alternative compliance mechanism" means an action  
37 undertaken by a greenhouse gas emission source that achieves the  
38 equivalent reduction of greenhouse gas emissions over the same  
39 time period as a direct emission reduction, and that is approved  
40 by the state board. "Alternative compliance mechanism" includes,

1 but is not limited to, a flexible compliance schedule, alternative  
2 control technology, a process change, or a product substitution.

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

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

11 (e) “Direct emission reduction” means a greenhouse gas  
12 emission reduction action made by a greenhouse gas emission  
13 source at that source.

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

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

20 (1) Carbon dioxide.

21 (2) Methane.

22 (3) Nitrous oxide.

23 (4) Hydrofluorocarbons.

24 (5) Perfluorocarbons.

25 (6) Sulfur hexafluoride.

26 (7) Nitrogen trifluoride.

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

31 (i) “Greenhouse gas emission source” or “source” means any  
32 source, or category of sources, of greenhouse gas emissions whose  
33 emissions are at a level of significance, as determined by the state  
34 board, that its participation in the program established under this  
35 division will enable the state board to effectively reduce greenhouse  
36 gas emissions and monitor compliance with the statewide  
37 greenhouse gas emissions limit.

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

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

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

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

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

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

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

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

26 38550. (a) By January 1, 2008, the state board shall, after one  
27 or more public workshops, with public notice, and an opportunity  
28 for all interested parties to comment, determine what the statewide  
29 greenhouse gas emissions level was in 1990, and approve in a  
30 public hearing, a statewide greenhouse gas emissions limit that is  
31 equivalent to that level, to be achieved by 2020. In order to ensure  
32 the most accurate determination feasible, the state board shall  
33 evaluate the best available scientific, technological, and economic  
34 information on greenhouse gas emissions to determine the 1990  
35 level of greenhouse gas emissions.

36 (b) (1) ~~(A)~~ Notwithstanding subdivision (a), the state board  
37 shall approve in a public hearing, based on the best available  
38 scientific, technological, and economic ~~assessments, all of the~~  
39 ~~following~~ *assessments, a statewide greenhouse gas emissions*  
40 *limit that is equivalent to 40 percent below the 1990 level, as*

1 *determined pursuant to subdivision (a) or Section 39730, to be*  
2 *achieved by 2030.*

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

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

9 ~~(B)~~

10 (2) For the purposes of this ~~paragraph, subdivision~~, a greenhouse  
11 gas emissions limit shall include short-lived climate pollutants, as  
12 defined in Chapter 4.2 (commencing with Section 39730) of Part  
13 2 of Division 26.

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

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

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

23 38551. (a) Each of the statewide greenhouse gas emissions  
24 limits shall remain in effect unless otherwise amended or repealed.

25 (b) It is the intent of the Legislature that the statewide  
26 greenhouse gas emissions limits established pursuant to Section  
27 38550 continue in existence and be used to maintain and continue  
28 reductions in emissions of greenhouse gases.

29 (c) The state board shall make recommendations to the Governor  
30 and the Legislature on how to continue reductions of greenhouse  
31 gas emissions beyond ~~2050. 2030.~~

32 (d) In implementing subdivision (b) of Section 38550, it is the  
33 intent of the Legislature for the Legislature and appropriate  
34 agencies to adopt complementary policies that ensure the long-term  
35 emissions reductions adopted pursuant to subdivision (b) of Section  
36 38550 advance all of the following:

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

38 (2) Public health benefits for California residents, particularly  
39 in disadvantaged communities, that result from direct onsite  
40 reductions of greenhouse gas emissions.

1 (3) Innovation in technology and energy, water, and resource  
2 management practices.

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

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

7 38561. (a) (1) On or before January 1, 2009, the state board  
8 shall prepare and approve a scoping plan, as that term is understood  
9 by the state board, for achieving the maximum technologically  
10 feasible and cost-effective reductions in greenhouse gas emissions  
11 from sources or categories of sources of greenhouse gases under  
12 this division.

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

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

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

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

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

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

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

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

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

24 ~~38566. (a) For purposes of this section, “appropriate public~~  
25 ~~entities” includes metropolitan planning organizations, districts,~~  
26 ~~as defined in Section 39025, the League of California Cities, the~~  
27 ~~California State Association of Counties, local transportation~~  
28 ~~agencies, and members of the public, including homebuilders,~~  
29 ~~environmental organizations, including environmental justice~~  
30 ~~organizations, planning organizations, affordable housing~~  
31 ~~organizations, and others.~~

32 ~~(b) The state board, in consultation with appropriate public~~  
33 ~~entities, shall ensure that the 2050 greenhouse gas emissions limit~~  
34 ~~required pursuant to clause (ii) of subparagraph (A) of paragraph~~  
35 ~~(1) of subdivision (b) of Section 38550 is achieved without~~  
36 ~~imposing disproportionate greenhouse gas emissions reduction~~  
37 ~~requirements on land use and permitting decisions made by lead~~  
38 ~~agencies, as defined in Section 21067 of the Public Resources~~  
39 ~~Code.~~

1     ~~SEC. 8.~~

2     *SEC. 7.* The provisions of this act are severable. If any  
3 provision of this act or its application is held invalid, that invalidity  
4 shall not affect other provisions or applications that can be given  
5 effect without the invalid provision or application.

O