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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, *Eduardo 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 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~~. 2006: *emissions limit*.

~~(1) The~~

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 limit that is equivalent to 40% below the 1990 level to be achieved by 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

This bill also would 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 the California Global Warming Solutions~~
3 ~~Act of 2006 (Division 25.5 (commencing with Section 38500) of~~
4 ~~the Health and Safety Code Code)~~ apply to the sections of this act
5 amending sections within ~~Division the California Global Warming~~
6 ~~Solutions Act of 2006 (Division 25.5 (commencing with Section~~
7 ~~38500) of the Health and Safety Code. Code).~~

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

11
12 ~~CHAPTER 6. LEGISLATIVE ACCOUNTABILITY AND OVERSIGHT~~
13 ~~OF CALIFORNIA GREENHOUSE GAS EMISSIONS REDUCTION POLICIES~~
14

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

22 ~~(b) The purpose of this chapter is to establish new legislative~~
23 ~~oversight and accountability over any regulations and policies~~
24 ~~undertaken to implement Division 25.5 (commencing with Section~~
25 ~~38500) of the Health and Safety Code.~~

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:~~

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

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

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

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

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 approval.

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

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

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

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

38 (e) On or before July 1, 2017, the Office of Environmental
39 Health Hazard Assessment shall prepare a report analyzing the
40 impacts of the greenhouse gas emissions limits adopted by the

1 State Air Resources Board pursuant to Division 25.5 (commencing
2 with Section 38500) of the Health and Safety Code on
3 disadvantaged communities and make the report available to the
4 public and the Legislature. The report shall include, but shall not
5 be limited to, all of the following:

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

9 (2) California Global Warming Solutions Act of 2006 (Division
10 25.5 (commencing with Section 38500) of the Health and Safety
11 Code) compliance strategies used for greenhouse gas emissions
12 sources in disadvantaged communities.

13 (3) Analysis of public health and other relevant environmental
14 health exposure indicators related to air pollutants in disadvantaged
15 communities.

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

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

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

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

33 **SEC. 3.**

34 *SEC. 2.* Section 38505 of the Health and Safety Code is
35 amended to read:

36 38505. For purposes of this division, the following terms have
37 the following meanings:

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

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

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

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

16 (e) “Direct emission reduction” means a greenhouse gas
17 emission reduction action made by a greenhouse gas emission
18 source at that source.

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

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

- 25 (1) Carbon dioxide.
- 26 (2) Methane.
- 27 (3) Nitrous oxide.
- 28 (4) Hydrofluorocarbons.
- 29 (5) Perfluorocarbons.
- 30 (6) Sulfur hexafluoride.
- 31 (7) Nitrogen trifluoride.

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

36 (i) “Greenhouse gas emission source” or “source” means any
37 source, or category of sources, of greenhouse gas emissions whose
38 emissions are at a level of significance, as determined by the state
39 board, that its participation in the program established under this
40 division will enable the state board to effectively reduce greenhouse

1 gas emissions and monitor compliance with the statewide
2 greenhouse gas emissions limit.

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

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

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

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

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

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

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

29 ~~SEC. 4.~~

30 *SEC. 3.* Section 38550 of the Health and Safety Code is
31 amended to read:

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

1 information on greenhouse gas emissions to determine the 1990
2 level of greenhouse gas emissions.

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

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

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

17 ~~SEC. 5.~~

18 *SEC. 4.* Section 38551 of the Health and Safety Code is
19 amended to read:

20 38551. (a) Each of the statewide greenhouse gas emissions
21 limits shall remain in effect unless otherwise amended or repealed.

22 (b) It is the intent of the Legislature that the statewide
23 greenhouse gas emissions limits established pursuant to Section
24 38550 continue in existence and be used to maintain and continue
25 reductions in emissions of greenhouse gases.

26 (c) The state board shall make recommendations to the Governor
27 and the Legislature on how to continue reductions of greenhouse
28 gas emissions beyond 2030.

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

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

35 ~~(2) Public health benefits for California residents, particularly~~
36 ~~in disadvantaged communities, that result from direct onsite~~
37 ~~reductions of greenhouse gas emissions.~~

38 ~~(3) Innovation in technology and energy, water, and resource~~
39 ~~management practices.~~

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

3 ~~SEC. 6.~~

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

6 38561. (a) (1) On or before January 1, 2009, the state board
7 shall prepare and approve a scoping plan, as that term is understood
8 by the state board, for achieving the maximum technologically
9 feasible and cost-effective reductions in greenhouse gas emissions
10 from sources or categories of sources of greenhouse gases under
11 this division.

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

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

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

35 (d) The state board shall evaluate the total potential costs and
36 total potential economic and noneconomic benefits of the plan for
37 reducing greenhouse gases to California's economy, environment,
38 and public health, using the best available economic models,
39 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.~~ *years.*

22 ~~SEC. 7.~~

23 *SEC. 6.* The provisions of this act are severable. If any
24 provision of this act or its application is held invalid, that invalidity
25 shall not affect other provisions or applications that can be given
26 effect without the invalid provision or application.