

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 13, 2010

SENATE BILL

No. 1033

Introduced by Senator Wright

February 12, 2010

An act to amend Section 38570 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1033, as amended, Wright. California Global Warming Solutions Act of 2006: allowances.

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 emission reductions. The state board is authorized to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations. The state board is required, before including any market-based compliance mechanism, to maximize additional environmental and economic benefits for California, as appropriate.

This bill would require the state board, if market-based compliance mechanisms are adopted *that include the distribution of allowances, which are defined under existing law as authorizations to emit greenhouse gas emissions*, to sell or otherwise distribute an allowance; ~~defined as an authorization to emit greenhouse gas emissions~~, only to

a regulated entity, as defined, subject to the greenhouse gas emissions limit to which that allowance applies. The bill would authorize a regulated entity to sell or trade an allowance only to another regulated entity.

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 all of the
- 2 following:
- 3 (a) The California Global Warming Solutions Act of 2006
- 4 requires the state to reduce greenhouse gas emissions to 1990 levels
- 5 by 2020.
- 6 (b) The State Air Resources Board has proposed a
- 7 “cap-and-trade” regulation that would begin starting in 2012 with
- 8 approximately 600 of the state’s largest greenhouse gas emission
- 9 emitting stationary sources.
- 10 (c) Sources include numerous public entities, including, but not
- 11 limited to, public universities, local government facilities, and
- 12 municipal utilities.
- 13 (d) Under the cap-and-trade program, a limit or cap would be
- 14 placed on the amount of emissions that can be emitted and covered
- 15 sources must account for their emissions.
- 16 (e) Each year the cap will decline and fewer allowances would
- 17 be issued by the state board.
- 18 (f) At the end of the compliance period, each covered entity
- 19 would be required to surrender allowances equal to its total
- 20 greenhouse gas emissions during that compliance period, and
- 21 failure by a covered entity to surrender sufficient allowances to
- 22 match its emissions would result in significant penalties.
- 23 (g) The state board’s analysis indicates that the value of the
- 24 allowances to be created and distributed by the state board may
- 25 total one hundred forty-three billion dollars (\$143,000,000,000)
- 26 between 2012 and 2020.
- 27 (h) The state board has proposed that entities not subject to the
- 28 cap could purchase allowances from the state board and
- 29 subsequently sell them to compliance entities.
- 30 (i) Allowing noncompliance entities to receive, trade, and sell
- 31 allowances needed by the sources of emissions operating in

1 California may result in market manipulation, a dramatic increase
2 in the state's energy costs, unnecessary added costs to consumers
3 of services, and ultimately a failed program.

4 ~~(j) Other cap-and-trade programs have successfully achieved~~
5 ~~the emission reduction goals in a cost-effective manner, and the~~
6 ~~state board can achieve the required emission reductions with the~~
7 ~~least cost.~~

8 SEC. 2. Section 38570 of the Health and Safety Code is
9 amended to read:

10 38570. (a) The state board may include in the regulations
11 adopted pursuant to Section 38562 the use of market-based
12 compliance mechanisms to comply with the regulations.

13 (b) Prior to the inclusion of any market-based compliance
14 mechanism in the regulations, to the extent feasible and in
15 furtherance of achieving the statewide greenhouse gas emissions
16 limit, the state board shall do all of the following:

17 (1) Consider the potential for direct, indirect, and cumulative
18 emission impacts from these mechanisms, including localized
19 impacts in communities that are already adversely impacted by air
20 pollution.

21 (2) Design any market-based compliance mechanism to prevent
22 any increase in the emissions of toxic air contaminants or criteria
23 air pollutants.

24 (3) Maximize additional environmental and economic benefits
25 for California, as appropriate.

26 (c) The state board shall adopt regulations governing how
27 market-based compliance mechanisms may be used by regulated
28 entities subject to greenhouse gas emission limits and mandatory
29 emission reporting requirements to achieve compliance with their
30 greenhouse gas emissions limits.

31 (d) If the state board allows the use of market-based compliance
32 mechanisms pursuant to this section *that include the distribution*
33 *of allowances*, the state board shall sell or otherwise distribute an
34 allowance only to a regulated entity subject to the greenhouse gas
35 emissions limit to which that allowance applies. A regulated entity
36 may sell or trade allowances only to another regulated entity.

- 1 (e) For purposes of this section, “regulated entity” means an
- 2 entity that has an obligation to surrender allowances under the
- 3 regulations adopted pursuant to this section and Section 38562.

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