

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2563

Introduced by Assembly Member Smyth

February 24, 2012

An act to add Part 8 (commencing with Section 38600) to Division 25.5 of the Health and Safety Code, relating to climate change, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2563, as amended, Smyth. California Global Warming Solutions Act of 2006: offsets.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms.

This bill ~~would~~, if the state board uses its authority to include the use of market-based compliance mechanisms, *would* require the state board, *on or before January 1, 2013*, to adopt a specified process for the review and consideration of new offset protocols and, commencing in 2012

and continuing annually thereafter, use that process to review and consider new offset protocols. ~~The bill would require the state board, no later than July 1, 2013, to present at a state board meeting an economic assessment of the role of offsets in reducing the cost of complying with the act for the state's economy and a report considering the advantages and disadvantages of an expanded supply of offsets.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 (Division 25.5 (commencing with Section 38500) of the Health
- 5 and Safety Code) requires the state to reduce greenhouse gas
- 6 emissions to 1990 levels by 2020.
- 7 (b) On October 20, 2011, the State Air Resources Board adopted
- 8 the final cap-and-trade regulation pursuant to the act, to become
- 9 effective January 1, 2012, as required by that act, and also adopted
- 10 Resolution 11-32 to require that its executive officer develop
- 11 implementation documents laying out the process for the review
- 12 and consideration of new offset protocols.
- 13 (c) The cap-and-trade regulation is part of the state's global
- 14 warming scoping plan and is intended to provide covered entities
- 15 under the act the flexibility to seek out and implement the
- 16 lowest-cost options to reduce greenhouse gas emissions and will
- 17 provide an estimated 20 percent of the emission reductions required
- 18 to achieve 1990 emission levels by 2020, as required by the act.
- 19 (d) The cap-and-trade regulation allows offset credits to be used
- 20 as a means by which parties subject to the regulation can lower
- 21 their cost to comply with the regulation while still ensuring a
- 22 reduction of greenhouse gas emissions and caps the use of offset
- 23 credits at no more than 8 percent of a covered entity's compliance
- 24 obligation ~~within each compliance period~~.
- 25 (e) The State Air Resources Board has adopted four compliance
- 26 offset protocols for use in the United States *that can be used to*
- 27 *certify high-quality offset credits that are additional, real,*

1 *measurable, and verifiable as required by the California Global*
2 *Warming Solutions Act of 2006 (Division 25.5 (commencing with*
3 *Section 38500) of the Health and Safety Code): Livestock Manure*
4 *projects, Urban Forests projects, Ozone Depleting Substances*
5 *Destruction projects, and Forests projects.*

6 (f) The four adopted protocols, as currently written, are not
7 expected to ~~supply the number of offsets necessary to allow~~
8 ~~companies to fully utilize the carbon dioxide offset provisions~~
9 ~~within the State Air Resources Board's cap-and-trade regulation's~~
10 ~~first of three compliance years between 2013 through 2015. More~~
11 ~~protocols will need to be approved to supply real, measurable,~~
12 ~~additional, and verifiable offsets in additional categories related~~
13 ~~to, for example, landfill gas reductions, coal mine gas reductions,~~
14 ~~improved or maintained agriculture yields with less greenhouse~~
15 ~~gas emissions, recycling, and others generate the volume of offset~~
16 ~~credits necessary to supply the full amount of useable credits under~~
17 ~~the cap-and-trade regulation between 2013 and 2020. More~~
18 ~~protocols will need to be approved to supply real, measurable,~~
19 ~~additional, and verifiable offsets in additional categories of~~
20 ~~uncapped emissions, including, for example, improved or~~
21 ~~maintained agriculture yields with less greenhouse gas emissions,~~
22 ~~recycling, organic composting, landfill gas reductions, coal mine~~
23 ~~gas reductions, and others for both Phases I and II.~~

24 (g) ~~To encourage the types of additional, real, measurable, and~~
25 ~~verifiable carbon dioxide reductions required by the act, it is~~
26 ~~imperative that the State Air Resources Board develop a new~~
27 ~~protocol review process that can provide market certainty for~~
28 ~~project developers and regulated entities on offsets, which will~~
29 ~~help provide additional cost-containment benefits to the state's~~
30 ~~residents and ensure investors are focused on projects with the~~
31 ~~highest environmental integrity facilitate the future adoption of~~
32 ~~offset protocols that achieve additional, real, measurable, and~~
33 ~~verifiable carbon dioxide reductions, as required by the California~~
34 ~~Global Warming Solutions Act of 2006 (Division 25.5 (commencing~~
35 ~~with Section 38500) of the Health and Safety Code), and to provide~~
36 ~~offset market certainty for project developers and regulated~~
37 ~~entities, an offset protocol review and approval process should be~~
38 ~~adopted by the State Air Resources Board.~~

39 (h) ~~A~~ While a state comprehensive offset protocol review process
40 would provide more certainty for carbon dioxide offset suppliers

1 and purchasers to invest in environmentally worthwhile projects
2 that meet certain criteria under the ~~act~~ *California Global Warming*
3 *Solutions Act of 2006 (Division 25.5 (commencing with Section*
4 *38500) of the Health and Safety Code)*, it is the intent of the
5 Legislature that only high-quality offset credits that represent
6 rigorously evaluated offset protocols and that meet the statutory
7 requirements of the *California Global Warming Solutions Act of*
8 *2006 (Division 25.5 (commencing with Section 38500) of the*
9 *Health and Safety Code)* be allowed for compliance with the
10 cap-and-trade regulation.

11 SEC. 2. Part 8 (commencing with Section 38600) is added to
12 Division 25.5 of the Health and Safety Code, to read:

13
14 PART 8. OFFSETS
15

16 38600. (a) On or before ~~September 1, 2012, January 1, 2013,~~
17 if the state board has exercised its authority pursuant to subdivision
18 (a) of Section 38570, the state board shall, in accordance with
19 Section 38571, adopt a process for the review and consideration
20 of new offset protocols. The process shall include, but not be
21 limited to, all of the following:

22 (1) A schedule, to be posted online, that depicts the timeline ~~the~~
23 ~~members of the state board will rely on in 2012, and annually~~
24 ~~thereafter, to review and consider the adoption of new offset~~
25 ~~protocols submitted to the state board for review and consideration~~
26 ~~of adoption of new offset protocols submitted to the state board.~~
27 *This schedule shall be updated annually.*

28 (2) An online tracking system that will allow the public to track
29 the progress of new offset protocols submitted to the state board
30 for review and consideration.

31 (3) A point of contact at the state board for entities that have
32 submitted new offset protocols to the state board for review and
33 consideration.

34 (4) An explanation of how the review and consideration process
35 will accommodate public review and comments on new offset
36 protocols under consideration.

37 ~~(5) The criteria for how new offset protocols are accepted,~~
38 ~~rejected, or delayed regarding social, environmental, and financial~~
39 ~~impacts.~~

1 (5) *An explanation of the criteria used for consideration of new*
2 *offset protocols, including, but not limited to, a description of the*
3 *standards for protocol approval, rejection, and delay. This*
4 *description also shall include, to the extent feasible, a description*
5 *of the social, environmental, and financial impacts analysis used*
6 *in making offset protocol decisions as well as a forecast of potential*
7 *supply and expected development costs.*

8 (b) Commencing in 2012, and continuing annually thereafter,
9 if the state board has exercised its authority pursuant to subdivision
10 (a) of Section 38570, the state board shall use the process adopted
11 pursuant to subdivision (a) to review and consider new offset
12 protocols.

13 ~~(c) No later than July 1, 2013, the state board shall present at a~~
14 ~~state board meeting an economic assessment of the role of offsets~~
15 ~~in reducing the cost of complying with this division for the state's~~
16 ~~economy and a report considering the advantages and~~
17 ~~disadvantages of an expanded supply of offsets.~~

18 SEC. 3. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the Constitution and shall go into
21 immediate effect. The facts constituting the necessity are:

22 In order to obtain additional flexibility, certainty, and
23 accountability with regard to the implementation of compliance
24 offset protocols by the State Air Resources Board under the
25 California Global Warming Solutions Act of 2006, it is necessary
26 for this act to take effect immediately.