

BILL NUMBER: AB 1532 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 1, 2012
AMENDED IN ASSEMBLY APRIL 17, 2012

INTRODUCED BY Assembly Member John A. Pérez
(Coauthors: Assembly Members
Chesbro, Dickinson, Monning, and
Skinner)

JANUARY 23, 2012

An act to add Part 8 (commencing with Section 38700) to Division 25.5 of the Health and Safety Code, relating to greenhouse gas emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as amended, John A. Pérez. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Account.

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. The act authorizes the state board to include use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

This bill would create the Greenhouse Gas Reduction Account within the Air Pollution Control Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism be deposited in this account. The bill also would require those moneys, upon appropriation by the Legislature, be used for specified purposes. The bill would require ~~the state board~~ *administering agencies, including the state board and any other state ~~agencies~~ agency identified by the Legislature, to ~~award~~ allocate* those moneys to measures and programs that meet specified criteria. The bill would require the state board to develop and adopt every 3 years, as specified, an investment plan that identifies the anticipated expenditures of moneys appropriated from the account to the budget committees of each house of the Legislature, as specified. The bill would require the state board to annually submit a report no later than December of each year to the appropriate committees of the Legislature on the status of projects and their outcomes and any changes the state board recommends need to be made to the investment plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Part 8 (commencing with Section 38700) is added to Division 25.5 of the Health and Safety Code, to read:

PART 8. GREENHOUSE GAS REDUCTION ACCOUNT

38700. For purposes of this part, the following terms have the following meanings:

(a) "Account" means the Greenhouse Gas Reduction Account.

(b) "Qualified recipients" means public agencies, businesses, nonprofit organizations, academic institutions, public-private partnerships, and workforce training partnerships.

38701. (a) The Greenhouse Gas Reduction Account is hereby created within the Air Pollution Control Fund.

(b) Notwithstanding Section 38597, all moneys, excluding penalties and fines, collected pursuant to Part 5 (commencing with Section 38570) shall be deposited in the Greenhouse Gas Reduction Account and shall be available, upon appropriation by the Legislature, to the state board or any state agency for purposes of carrying out this division.

~~38702. (a) The Legislature finds and declares any program that might be established by the state board pursuant to Part 5 (commencing with Section 38570) shall be a regulatory program and any moneys collected by that regulatory program are regulatory fees that shall conform to *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.~~

~~(b)~~

38702. (a) The state shall not approve funding for a measure or program using moneys appropriated from the account except after determining, based on the available evidence, that the use of moneys for that measure or program is consistent with the requirements for the use of moneys derived from valid regulatory fees, as established by the California Supreme Court in *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.

~~(c)~~

(b) It is the intent of the Legislature that funds shall be appropriated from the account only in a manner consistent with the requirements of this part.

~~(d)~~

(c) Moneys shall be used to facilitate the achievement of feasible and cost-effective reductions of greenhouse gas emissions *in this state* consistent with this division and, where applicable and to the extent feasible, do all of the following:

(1) Maximize economic, environmental, and public health benefits to the state.

(2) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.

(3) Complement efforts to improve air quality.

(4) Direct investment toward the most disadvantaged communities in the state.

(5) Provide opportunities for small businesses, schools, affordable housing associations, water agencies, local governments, and other community institutions to participate in and benefit from

statewide efforts to reduce greenhouse gas emissions.

~~(e)~~

(d) Funds appropriated from the account may be allocated, consistent with subdivision ~~(b)~~

(a) , for the purpose of reducing greenhouse gas emissions in this state through investments that may include, but are not limited to, any of the following:

(1) Investments in clean and efficient energy, including, but not limited to, any of the following:

(A) Industrial and manufacturing facilities to reduce greenhouse gas emissions by investment in energy efficiency, energy storage, and clean and renewable energy projects.

(B) Public universities, schools, water agencies, and other public facilities and fleets to reduce greenhouse gas emissions by investment in energy and water use efficiency, energy storage, and clean and renewable energy and fuel projects.

(C) Residential and commercial distributed generation and energy efficiency programs that serve to reduce greenhouse gas emissions, including, but not limited to, the federal Energy Efficiency and Conservation Block Grant Program, established pursuant to Section 542 of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17152), and the Weatherization Assistance Program.

(D) Waste reduction and low-carbon recycled-content processing and manufacturing that serve to reduce greenhouse gas emissions, including market development activities.

(2) Investments in low-carbon transportation and infrastructure, including, but not limited to, any of the following:

(A) Public transportation and sustainable transportation and infrastructure development.

(B) Programs for clean vehicles and the advancement of transportation technologies, including, but not limited to, the Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9 of Part 5 of Division 26) and the Air Quality Improvement Program (Article 3 (commencing with Section 44274) of Chapter 8.9 of Part 5 of Division 26).

(C) Advanced transportation and fueling infrastructure.

(D) Local and regional sustainable development efforts that are, to the extent applicable, consistent with the sustainable communities strategy or alternative planning strategy adopted and approved pursuant to Section 65080 of the Government Code.

(E) Low-carbon goods movement and freight vehicle technologies and infrastructure, including, but not limited to, locomotives and heavy-duty trucks.

(3) Investments in natural resource protection, including, but not limited to, any of the following:

(A) Natural resource management programs and projects.

(B) Land conservation and restoration.

(C) Development and implementation of sustainable agriculture, forestry, and related water, land, and resource management practices.

(4) Investments in research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded pursuant to this part.

38703. (a) The state board and any other state agency identified by the Legislature are the administering agencies for moneys appropriated in accordance with this part.

(b) The administering agencies shall, upon appropriation by the Legislature, carry out a program to allocate moneys appropriated pursuant to this part through competitive grants, revolving loans,

loan guarantees, loans, or other appropriate funding measures to qualified recipients to reduce greenhouse gas emissions consistent with subdivisions ~~(d) and (e)~~ (c) and (d) of Section 38702.

(c) Prior to the initial allocation of moneys in accordance with this part, the state board shall, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), adopt guidelines to provide state agencies guidance as well as guidance to potential funding applicants and the public regarding the allocation and allowable uses of moneys. The guidelines shall, at a minimum, do all of the following:

(1) Establish minimum criteria for receiving funding and additional criteria, including, but not limited to, those identified in subdivision ~~(d)~~ (c) of Section 38702, that the state agencies shall take into account in establishing preferences for awarding moneys.

(2) Provide a process to verify the qualifications of recipients.

(3) Provide for the monitoring and, as deemed necessary, the audit of expenditures and outcomes.

(d) Any state agency that administers moneys pursuant to subdivision (b) shall adopt guidelines that meet the requirements of subdivision (c).

38704. (a) (1) The state board shall develop and adopt every three years, consistent with the schedule described in Section 38705, an investment plan that identifies the anticipated expenditures of moneys appropriated from the account in accordance with this part. The investment plan shall, consistent with the requirements of Section 38702, establish priorities for the expenditure of moneys, identify specific categories of programs and projects, identify proposed levels of expenditures for each category, and identify the state agencies best qualified to implement the programs pursuant to subdivision (b) of Section 38703.

(2) The Public Utilities Commission shall develop and send to the state board an investment plan to be included in the investment plan prepared by the state board pursuant to subdivision (a). The Public Utilities Commission's investment plan shall include its requirements on how investor-owned utilities may use any allowance auction moneys the investor-owned utilities might collect pursuant to a market-based compliance mechanism.

(b) The state board shall, in developing an investment plan, consult with the Public Utilities Commission to ensure the investment plan is coordinated with, and does not conflict with or unduly overlap with, any expenditure plan the Public Utilities Commission might adopt pursuant to Part 5 (commencing with Section 38570).

(c) The state board shall receive input from an advisory body that shall provide information and oversight to the state board to assist in its development of each investment plan. The advisory body shall include the secretaries for the Natural Resources Agency, the California Environmental Protection Agency, the Department of Food and Agriculture, and the Business, Transportation and Housing Agency. The advisory body shall participate in each public workshop on the draft investment plans and provide testimony to the state board and Legislature on the proposed and draft investment plans.

(d) If, pursuant to subdivision (b) of Section 38705, the budget committees of each house of the Legislature with jurisdiction over the State Budget adopt changes to the final investment plan or the state board presents any proposed significant modifications to the advisory body prior to the adoption of the final investment plan, the state board shall hold at least two public

workshops in different regions of the state and one public hearing prior to adopting each final investment plan.

38705. (a) Beginning April 1, 2013, and by January 10 every three years thereafter, concurrent with the submission of the Governor's Budget in 2016 and 2019, the state board shall submit a proposed investment plan, as developed pursuant to Section 38704, to the budget committees of each house of the Legislature with jurisdiction over the State Budget.

(b) The budget committees of each house of the Legislature with jurisdiction over the State Budget shall, in consultation with all relevant policy committees, adopt changes to the state board's proposed investment plan and transmit the changes to the state board. The state board shall then incorporate the changes into the investment plan and adopt a final investment plan at a public hearing.

(c) The Legislature shall include appropriations for the implementation of the final investment plan in the annual Budget Act for the subsequent fiscal year for each of the three years for each final investment plan.

(d) Subsequent to the adoption of each final investment plan, the state board may adopt minor modifications to the proposed investment plan, provided it notifies the Joint Legislative Budget Committee within 90 days, or within 30 days if the aggregate total of unreported modifications equals five million dollars (\$5,000,000) or more. If the state board adopts a significant modification to a final investment plan, it shall, within 30 days, notify the Joint Legislative Budget Committee. For purposes of this subdivision, "significant modification" means an augmentation or reduction, the value of which individually exceeds 50 percent of the previously adopted allocation to an investment plan subcategory or is at least two million dollars (\$2,000,000).

38706. (a) Notwithstanding Section 10231.5 of the Government Code, the state board shall annually submit a report no later than December of each year to the appropriate committees of the Legislature on the status of projects and their outcomes and any changes the state board recommends to the investment plan completed pursuant to Section 38705. It is the intent of the Legislature that the appropriations required for the implementation of these changes to the three-year investment plan shall be included in the annual Budget Act for the subsequent fiscal year.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.