

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1532**

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**Introduced by Assembly Member John A. Pérez**  
*(Coauthors: Assembly Members Chesbro, Dickinson, Monning, and Skinner)*

January 23, 2012

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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:*

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

3  
4 PART 8. GREENHOUSE GAS REDUCTION ACCOUNT

5  
6 38700. For purposes of this part, the following terms have the  
7 following meanings:

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

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

12 38701. (a) The Greenhouse Gas Reduction Account is hereby  
13 created within the Air Pollution Control Fund.

14 (b) Notwithstanding Section 38597, all moneys, excluding  
15 penalties and fines, collected pursuant to Part 5 (commencing with  
16 Section 38570) shall be deposited in the Greenhouse Gas Reduction

1 Account and shall be available, upon appropriation by the  
2 Legislature, to the state board or any state agency for purposes of  
3 carrying out this division.

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

10 ~~(b)~~

11 ~~38702. (a) The state shall not approve funding for a measure  
12 or program using moneys appropriated from the account except  
13 after determining, based on the available evidence, that the use of  
14 moneys for that measure or program is consistent with the  
15 requirements for the use of moneys derived from valid regulatory  
16 fees, as established by the California Supreme Court in *Sinclair  
17 Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.~~

18 ~~(e)~~

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

22 ~~(d)~~

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

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

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

32 ~~(3) Complement efforts to improve air quality.~~

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

35 ~~(5) Provide opportunities for small businesses, schools,  
36 affordable housing associations, water agencies, local governments,  
37 and other community institutions to participate in and benefit from  
38 statewide efforts to reduce greenhouse gas emissions.~~

39 ~~(e)~~

1 (d) Funds appropriated from the account may be allocated,  
2 consistent with subdivision ~~(b)~~ (a), for the purpose of reducing  
3 greenhouse gas emissions *in this state* through investments that  
4 may include, but are not limited to, any of the following:

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

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

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

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

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

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

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

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

35 (C) Advanced transportation and fueling infrastructure.

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

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

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

6 (A) Natural resource management programs and projects.

7 (B) Land conservation and restoration.

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

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

14 38703. (a) The state board and any other state agency identified  
15 by the Legislature are the administering agencies for moneys  
16 appropriated in accordance with this part.

17 (b) The administering agencies shall, upon appropriation by the  
18 Legislature, carry out a program to allocate moneys appropriated  
19 pursuant to this part through competitive grants, revolving loans,  
20 loan guarantees, loans, or other appropriate funding measures to  
21 qualified recipients to reduce greenhouse gas emissions consistent  
22 with subdivisions ~~(d)~~ and ~~(e)~~ (c) and (d) of Section 38702.

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

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

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

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

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

1 38704. (a) (1) The state board shall develop and adopt every  
2 three years, consistent with the schedule described in Section  
3 38705, an investment plan that identifies the anticipated  
4 expenditures of moneys appropriated from the account in  
5 accordance with this part. The investment plan shall, consistent  
6 with the requirements of Section 38702, establish priorities for the  
7 expenditure of moneys, identify specific categories of programs  
8 and projects, identify proposed levels of expenditures for each  
9 category, and identify the state agencies best qualified to implement  
10 the programs pursuant to subdivision (b) of Section 38703.

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

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

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

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

1 regions of the state and one public hearing prior to adopting each  
2 final investment plan.

3 38705. (a) Beginning April 1, 2013, and by January 10 every  
4 three years thereafter, concurrent with the submission of the  
5 Governor’s Budget in 2016 and 2019, the state board shall submit  
6 a proposed investment plan, as developed pursuant to Section  
7 38704, to the budget committees of each house of the Legislature  
8 with jurisdiction over the State Budget.

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

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

20 (d) Subsequent to the adoption of each final investment plan,  
21 the state board may adopt minor modifications to the proposed  
22 investment plan, provided it notifies the Joint Legislative Budget  
23 Committee within 90 days, or within 30 days if the aggregate total  
24 of unreported modifications equals five million dollars  
25 (\$5,000,000) or more. If the state board adopts a significant  
26 modification to a final investment plan, it shall, within 30 days,  
27 notify the Joint Legislative Budget Committee. For purposes of  
28 this subdivision, “significant modification” means an augmentation  
29 or reduction, the value of which individually exceeds 50 percent  
30 of the previously adopted allocation to an investment plan  
31 subcategory or is at least two million dollars (\$2,000,000).

32 38706. (a) Notwithstanding Section 10231.5 of the  
33 Government Code, the state board shall annually submit a report  
34 no later than December of each year to the appropriate committees  
35 of the Legislature on the status of projects and their outcomes and  
36 any changes the state board recommends to the investment plan  
37 completed pursuant to Section 38705. It is the intent of the  
38 Legislature that the appropriations required for the implementation  
39 of these changes to the three-year investment plan shall be included  
40 in the annual Budget Act for the subsequent fiscal year.

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

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