

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 726

Introduced by Senator Lara

February 22, 2013

An act to amend Section ~~10610.2~~ of the ~~Water~~ 12894 of the Government Code, relating to ~~water~~ greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as amended, Lara. ~~Urban water management planning. California Global Warming Solutions Act of 2006: Western Climate Initiative, Incorporated.~~

(1) *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. Existing law also imposes conditions on the Western Climate Initiative, Incorporated, a nongovernmental entity created to assist the state board in the implementation of the act. Existing law specifies who may serve as part of the California membership of the board of directors of the Western Climate Initiative, Incorporated.*

This bill, commencing January 1, 2014, would require the Western Climate Initiative, Incorporated, to cease all work on behalf of the state until the non-ex officio California membership of the board of directors of the Western Climate Initiative, Incorporated, is confirmed by the Senate. The bill, commencing January 1, 2014, would require the state

board to include information on all proposed expenditures and allocations of moneys to the Western Climate Initiative, Incorporated, in the Governor's budget. The bill would require the Western Climate Initiative, Incorporated, to annually submit a specified report to the Governor and the Legislature.

(2) The Bagley-Keene Open Meeting Act generally requires that all meetings of a state body be open and public. Existing law exempts the Western Climate Initiative, Incorporated, and its appointees from the Bagley-Keene Open Meeting Act when performing their duties.

This bill would repeal that exemption and instead subject the Western Climate Initiative, Incorporated, and its appointees to the Bagley-Keene Open Meeting Act when performing their duties.

(3) The California Public Records Act requires state and local agencies to make public records available for inspection by the public, subject to specified criteria, and with specified exceptions.

This bill would require the Western Climate Initiative, Incorporated, and its appointees to be subject to the California Public Records Act when performing their duties.

~~Existing law declares that certain provisions relating to urban water management planning are intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water. Existing law makes related legislative findings and declarations.~~

~~This bill would make a technical, nonsubstantive change in those findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12894 of the Government Code is
- 2 amended to read:
- 3 12894. (a) (1) The Legislature finds and declares that the
- 4 establishment of nongovernmental entities, such as the Western
- 5 Climate Initiative, Incorporated, and linkages with other states and
- 6 countries by the State Air Resources Board or other state agencies
- 7 for the purposes of implementing Division 25.5 (commencing with
- 8 Section 38500) of the Health and Safety Code, should be done

1 transparently and should be independently reviewed by the
2 Attorney General for consistency with all applicable laws.

3 (2) The purpose of this section is to establish new oversight and
4 transparency over any such linkages and related activities
5 undertaken in relation to Division 25.5 (commencing with Section
6 38500) of the Health and Safety Code by the executive agencies
7 in order to ensure consistency with applicable laws.

8 (b) (1) The California membership of the board of directors of
9 the Western Climate Initiative, Incorporated, shall be modified as
10 follows:

11 (A) One appointee or his or her designee who shall serve as an
12 ex officio nonvoting member shall be appointed by the Senate
13 Committee on Rules.

14 (B) One appointee or his or her designee who shall serve as an
15 ex officio nonvoting member shall be appointed by the Speaker
16 of the Assembly.

17 (C) The Chairperson of the State Air Resources Board or her
18 or his designee.

19 (D) The Secretary for Environmental Protection or his or her
20 designee.

21 ~~(2) Sections 11120 through 11132 do not apply to the Western
22 Climate Initiative, Incorporated, or to appointees specified in
23 subparagraphs (C) and (D) of paragraph (1) when performing their
24 duties under this section.~~

25 *(2) Commencing January 1, 2014, the Western Climate
26 Initiative, Incorporated, shall cease all work on behalf of the state
27 until the non-ex officio California membership of the board of
28 directors of the Western Climate Initiative, Incorporated, is
29 confirmed by the Senate.*

30 (c) The State Air Resources Board shall provide notice to the
31 Joint Legislative Budget Committee, consistent with that required
32 for Department of Finance augmentation or reduction
33 authorizations pursuant to subdivision (e) of Section 28.00 of the
34 annual Budget Act, of any funds over one hundred fifty thousand
35 dollars (\$150,000) provided to the Western Climate Initiative,
36 Incorporated, or its derivatives or subcontractors no later than 30
37 days prior to transfer or expenditure of these funds.

38 (d) (1) The Chairperson of the State Air Resources Board and
39 the Secretary for Environmental Protection, as the California voting
40 representatives on the Western Climate Initiative, Incorporated,

1 shall report every six months to the Joint Legislative Budget
2 Committee on any actions proposed by the Western Climate
3 Initiative, Incorporated, that affect California state government or
4 entities located within the state.

5 (2) *The Western Climate Initiative, Incorporated, shall annually*
6 *submit a report to the Governor and the appropriate committees*
7 *of the Legislature that includes all of the following:*

8 (A) *Emissions reductions achieved pursuant to the Western*
9 *Climate Initiative.*

10 (B) *General plans to foster relationships with other localities,*
11 *states, and nations in order to reduce greenhouse gas emissions*
12 *in California.*

13 (3) *A report submitted pursuant to this subdivision shall be*
14 *submitted in compliance with Section 9795 of the Government*
15 *Code.*

16 (e) For purposes of this section, “link,” “linkage,” or “linking”
17 means an action taken by the State Air Resources Board or any
18 other state agency that will result in acceptance by the State of
19 California of compliance instruments issued by any other
20 governmental agency, including any state, province, or country,
21 for purposes of demonstrating compliance with the market-based
22 compliance mechanism established pursuant to Division 25.5
23 (commencing with Section 38500) of the Health and Safety Code
24 and specified in Sections 95801 to 96022, inclusive, of Title 17 of
25 the California Code of Regulations.

26 (f) A state agency, including, but not limited to, the State Air
27 Resources Board, shall not link a market-based compliance
28 mechanism established pursuant to Division 25.5 (commencing
29 with Section 38500) of the Health and Safety Code and specified
30 in Sections 95801 to 96022, inclusive, of Title 17 of the California
31 Code of Regulations with any other state, province, or country
32 unless the state agency notifies the Governor that the agency
33 intends to take such action and the Governor, acting in his or her
34 independent capacity, makes all of the following findings:

35 (1) The jurisdiction with which the state agency proposes to
36 link has adopted program requirements for greenhouse gas
37 reductions, including, but not limited to, requirements for offsets,
38 that are equivalent to or stricter than those required by Division
39 25.5 (commencing with Section 38500) of the Health and Safety
40 Code.

1 (2) Under the proposed linkage, the State of California is able
2 to enforce Division 25.5 (commencing with Section 38500) of the
3 Health and Safety Code and related statutes, against any entity
4 subject to regulation under those statutes, and against any entity
5 located within the linking jurisdiction to the maximum extent
6 permitted under the United States and California Constitutions.

7 (3) The proposed linkage provides for enforcement of applicable
8 laws by the state agency or by the linking jurisdiction of program
9 requirements that are equivalent to or stricter than those required
10 by Division 25.5 (commencing with Section 38500) of the Health
11 and Safety Code.

12 (4) The proposed linkage and any related participation of the
13 State of California in *the Western Climate Initiative, Incorporated*,
14 shall not impose any significant liability on the state or any state
15 agency for any failure associated with the linkage.

16 (g) The Governor shall issue findings pursuant to subdivision
17 (f) within 45 days of receiving a notice from a state agency, and
18 shall provide those findings to the Legislature. The findings shall
19 consider the advice of the Attorney General. The findings to be
20 submitted to the Legislature shall not be unreasonably withheld.
21 The findings shall not be subject to judicial review.

22 (h) *The Bagley-Keene Open Meeting Act (Article 9 (commencing*
23 *with Section 11120) of Chapter 1 of Part 1) and the California*
24 *Public Records Act (Chapter 3.5 (commencing with Section 6250)*
25 *of Division 7 of Title 1) shall apply to the Western Climate*
26 *Initiative, Incorporated, and to appointees specified in paragraph*
27 *(1) of subdivision (b) when performing their duties under this*
28 *section.*

29 (i) *Commencing January 1, 2014, the State Air Resources Board*
30 *shall include information on all proposed expenditures and*
31 *allocations of moneys to the Western Climate Initiative,*
32 *Incorporated, in the Governor's budget.*

33 ~~SECTION 1. Section 10610.2 of the Water Code is amended~~
34 ~~to read:~~

35 ~~10610.2. (a) The Legislature finds and declares all of the~~
36 ~~following:~~

37 ~~(1) The waters of the state are a limited and renewable resource~~
38 ~~subject to ever-increasing demands.~~

39 ~~(2) The conservation and efficient use of urban water supplies~~
40 ~~are of statewide concern; however, the planning for that use and~~

1 the implementation of those plans can best be accomplished at the
2 local level.

3 ~~(3) A long-term, reliable supply of water is essential to protect~~
4 ~~the productivity of California’s businesses and economic climate.~~

5 ~~(4) As part of its long-range planning activities, every urban~~
6 ~~water supplier should make every effort to ensure the appropriate~~
7 ~~level of reliability in its water service sufficient to meet the needs~~
8 ~~of its various categories of customers during normal, dry, and~~
9 ~~multiple dry water years.~~

10 ~~(5) Public health issues have been raised over a number of~~
11 ~~contaminants that have been identified in some local and imported~~
12 ~~water supplies.~~

13 ~~(6) Implementing effective water management strategies,~~
14 ~~including groundwater storage projects and recycled water projects,~~
15 ~~may require specific water quality and salinity targets for meeting~~
16 ~~groundwater basins water quality objectives and promoting~~
17 ~~beneficial use of recycled water.~~

18 ~~(7) Water quality regulations are becoming an increasingly~~
19 ~~important factor in water agencies’ selection of raw water sources,~~
20 ~~treatment alternatives, and modifications to existing treatment~~
21 ~~facilities.~~

22 ~~(8) Changes in drinking water quality standards may also impact~~
23 ~~the usefulness of water supplies and may ultimately impact supply~~
24 ~~reliability.~~

25 ~~(9) The quality of source supplies can have a significant impact~~
26 ~~on water management strategies and supply reliability.~~

27 ~~(b) This part is intended to provide assistance to water agencies~~
28 ~~in carrying out their long-term resource planning responsibilities~~
29 ~~to ensure adequate water supplies to meet existing and future~~
30 ~~demands for water.~~

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