

BILL ANALYSIS

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Date of Hearing: July 2, 2012

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Wesley Chesbro, Chair
SB 1572 (Pavley) - As Amended: June 25, 2012

SENATE VOTE : 23-13 (prior version)

SUBJECT : California Global Warming Solutions Act of 2006: AB 32 Investment Fund

SUMMARY : Specifies expenditures of up to \$250 million in the 2012-13 fiscal year derived from the auction of greenhouse gas (GHG) allowances pursuant to the cap-and-trade program adopted by ARB pursuant to AB 32.

EXISTING LAW :

- 1) Requires ARB, pursuant to AB 32, to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions.
- 2) Authorizes ARB to permit the use of market-based compliance mechanisms to comply with GHG reduction regulations, to be adopted by 2011 and operative by 2012, under limited circumstances once specified conditions are met.
- 3) Creates the Greenhouse Gas Reduction Fund and requires all moneys, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the Fund and available for appropriation by the Legislature.
- 4) Requires the Department of Finance (DOF) to submit proposed legislation, on or before January 10, 2013, that provides a detailed spending plan for moneys in the Fund, unless the Legislature passes a bill on or before August 31, 2012 that establishes a long-term spending strategy for moneys in the Fund. Requires any state agency, prior to expending any moneys appropriated from the Fund, to prepare a specified record.
- 5) Authorizes the DOF to allocate or otherwise use an amount of at least \$500 million from moneys deposited in the Fund, and

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make commensurate reductions to General Fund expenditure authority, to support the regulatory purposes of AB 32. Requires ARB and DOF, at least 60 days prior to allocating any funds to submit a plan for the expenditure or use of the funds to the chairpersons of the Senate and Assembly Appropriations Committees and the Chairperson of the Joint Legislative Budget Committee. Prohibits the use of funds for the purpose of developing a high-speed rail system for at least two years.

THIS BILL :

- 1) Creates the Greenhouse Gas Reduction Account and requires all revenues, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the Account and available, upon appropriation by the Legislature, for the purposes of this bill.
- 2) Requires, notwithstanding any other law, 50 percent of auction revenues collected in the 2012-13 fiscal year, or \$250 million, whichever is less, that are not used by DOF to offset General Fund expenditures pursuant to the Budget Act, to be available for priority projects listed in this bill.
- 3) Provides that any funds appropriated, but not allocated by the administering agency by the end of the 2012-13 fiscal year, revert back to the Account to be expended according to a long-term expenditure plan in accordance with subsequent legislation.
- 4) Provides that no funds will be expended pursuant to this bill if the total auction revenues in the 2012-13 fiscal year are less than \$550 million.
- 5) Requires projects funded by the bill to comply with the following criteria:

- a) Achieve greenhouse gas emissions reductions at a reasonable cost.
- b) Rapidly achieve budgetary savings for families, small businesses, schools, universities, companies regulated under the cap-and-trade program, community institutions, and state, local, and regional governments.

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- c) Advance the purposes of the cap-and-trade program, in particular the purpose of the auction to reduce the risk of market manipulation and windfall profits.
 - d) Protect existing jobs in the state by minimizing leakage.
 - e) Benefit the most adversely impacted and disadvantaged communities to the maximum extent feasible.
 - f) Provide opportunities, where appropriate, for small businesses, schools, local governments, not-for-profit entities, state and local certified conservation corps, state conservancies, and other community institutions to participate in and benefit from statewide and regional efforts to reduce greenhouse gas emissions.
- 6) Requires allocation of funds according to the following categories:
- a) K-12 energy projects - The greater of 35.6 percent or \$89 million to the Public School Energy Savings Account.
 - i) 56.25 percent shall be available as loans to public schools at a 2 percent interest rate and a 20-year term.
 - ii) 18.75 percent shall be available as loans at a 1 percent interest rate and a 20-year term to public schools with 35 percent or greater proportion of students with free and reduced lunches.
 - iii) 25 percent shall be available as grants to qualifying public schools, using an existing program within the jurisdiction of the California Energy Commission (CEC), including the Bright Schools Program, or in collaboration with the Office of Public School Construction, through either the new construction or modernization programs of the School Facility Program.
 - b) Public university projects - The greater of 8 percent or \$20 million to the Higher Education Climate Solutions Fund for allocation to public university governing boards for GHG reduction projects and activities at public universities regulated under the cap-and-trade program, including, but not limited to, the following projects and

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activities:

- i) Energy efficiency upgrades that reduce electricity and natural gas consumption at university-controlled facilities.
- ii) Procurement of biomethane or biogas that displaces natural gas usage at university facilities.
- iii) Procurement of carbon-neutral electricity that displaces conventional electricity generation at university facilities.
- iv) Administrative costs not to exceed 1 percent.

In order to be eligible for funds from the Higher Education Climate Solutions Fund, a public university shall:

- i) Agree to make an additional investment in GHG abatement projects and activities, equal in value to 25 percent of the funds it receives.
- ii) Submit to the Legislature a five-year investment plan detailing the projects and activities to be funded with an anticipated allocation.

- iii) Submit an annual report to the Legislature describing the disposition of funds received in the previous calendar year and the planned expenditures for allowance revenue in the coming calendar year.
- c) Rapid transition assistance for industrial facilities - The greater of 12 percent, or \$30 million to the Public Utilities Commission (PUC) to carry out the self-generation incentive program, subject to the following limitations:
 - i) Incentives shall only be available to covered entities under the cap-and-trade program.
 - ii) The PUC shall not award incentives for emissions reduction measures that are otherwise specifically required by statute, regulation, or court order.
- d) Residential energy efficiency - The greater of 4 percent or \$10 million to the Department of Community Services and

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Development for expenditure pursuant to the Weatherization Assistance Program. The Department shall expend at least 50 percent within multi-family rental housing developments subject to specified affordability restrictions.

- e) Energy in agriculture priority projects - The greater of 1.6 percent or \$4 million to the CEC for expenditure in accordance with the Agricultural Industry Energy Program, including the adoption of renewable energy and energy-efficient technologies and management practices that reduce GHG emissions, energy and water use, production costs, and minimize negative environmental impacts while improving economic sustainability.
- f) Sustainable land use and transportation - The greater of 20 percent or \$30 million to the Strategic Growth Council (SGC) for allocation to metropolitan planning organizations, or, within the Southern California Association of Governments region, to a county transportation commission, or to other local governmental entities in regions not within a metropolitan planning organization, that further the purposes of specified regional planning processes.
 - i) Project funding determinations shall be made at the regional level in accordance with statewide criteria developed by the SGC that prioritize investments in projects that:
 - (1) Cost-effectively reduce GHG emissions and provide other co-benefits.
 - (2) Integrate transportation, land use, and water and other resource conservation strategies.
 - (3) Occur in regions with sustainable community strategies that meet GHG emission reduction targets, or in other regions, for equivalent blueprint plans or other regional plans.
 - ii) Funds allocated by the SGC may be used for integrated infrastructure development, design, construction, or planning, including modeling and verification systems that impose GHG emission reduction performance measurement tools for local and regional

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actions, and operation and maintenance of transportation infrastructure, provided that the integrated infrastructure development, design, construction, or planning or operation and maintenance measures are part of a comprehensive regional or local plan that directly results in overall GHG emission reduction and co-benefits.

- iii) Of funds available to the SGC, 40 percent shall be available to the Department of Housing and Community Development to be expended for loans for specified affordable transit-oriented housing.

- g) Goods movement - The greater of 4.8 percent or \$12 million to ARB for goods movement consistent with the goods movement efficiency measures included in the AB 32 Scoping Plan.
 - h) Lower-Emission School Bus Program - The greater of 2 percent or \$5 million to ARB for the Lower-Emission School Bus Program.
 - i) Clean Vehicle Rebate Project - The greater of 12 percent or \$30 million dollars to ARB for the Clean Vehicle Rebate Project. Rebates shall only be available to households with a combined gross annual income of less than \$80,000 per year, and only one rebate shall be available per qualifying household.
- 7) Requires agencies awarding funds to find that the project or activity reduces GHG emissions in furtherance of AB 32 and to submit quarterly reports to the Legislature with specified information about funded projects and activities.
- 8) Provides that the provisions of the bill are severable.
- 9) Establishes related findings regarding ARB's cap-and-trade program.

FISCAL EFFECT : Unknown

COMMENTS :

1) Background on cap-and-trade. The AB 32 Scoping Plan is a description of the specific measures ARB and others must take

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to meet the objective of AB 32: Reduce statewide GHG emissions to 1990 levels by 2020. The reduction measures identified in the Scoping Plan must be proposed, reviewed, and adopted as individual regulations by January 1, 2011, to become operative beginning on January 1, 2012.

According to ARB, a total reduction of 80 million metric tons (MMT), or 16 percent compared to business as usual, is necessary to achieve the 2020 limit. Approximately 78 percent of the reductions will be achieved through identified "regulatory" measures. ARB proposes to achieve the balance of reductions necessary to meet the 2020 limit (approximately 18 MMT) through a cap-and-trade program.

In a cap-and-trade program a limit, or cap, is put on the amount of pollutants (GHGs) that can be emitted. Each allowance equals one metric ton of carbon dioxide equivalent. The total number of allowances created is equal to the cap set for cumulative emissions from all the covered sectors. These allowances may be auctioned and/or freely given to regulated entities or other parties. In addition to allowances, emissions reductions from sources that are outside the cap coverage, called offsets, can be used to meet compliance obligations. After initial distribution of allowances-or in the use of offsets-compliance instruments may be traded among entities. At the end of each compliance period, covered entities are required to surrender enough compliance instruments to match their emissions during this time period. The cap-and-trade program adopted by ARB applies to an estimated 600 regulated entities. The first auction of allowances will take place on November 14, 2012, and the auctions will be held quarterly thereafter.

Electric utilities are given free allowances by ARB in order to lessen impacts of AB 32 implementation on electricity ratepayers. ARB requires investor-owned utilities (IOU) to offer their freely-allocated allowances for auction each year while publicly-owned utilities are permitted, but not required, to offer their allowances for auction. Revenue from the sale of utility allowances is to be used for the benefit of their ratepayers. The Public Utilities Commission has an ongoing proceeding that is examining the potential uses of the funds, although the recently-enacted Resources Trailer Bill (SB 1018) requires the revenues to be credited directly to residential, small business, and emissions-intensive

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trade-exposed IOU customers, except for 15 percent that may be

allocated for IOU-administered clean energy and energy efficiency projects.

1) Related budget actions and pending legislation. As noted above, the 2012-13 Budget Act (AB 1464) authorizes DOF to allocate at least \$500 million from cap-and-trade revenue, and make commensurate reductions to General Fund expenditure authority, to support the regulatory purposes of AB 32.

The Resources Budget Trailer Bill (SB 1018) creates the Greenhouse Gas Reduction Fund for cap-and-trade auction revenues and requires DOF to submit proposed legislation, on or before January 10, 2013, that provides a detailed spending plan for moneys in the Fund, unless the Legislature passes a bill on or before August 31, 2012 that establishes a long-term spending strategy for moneys in the Fund.

Finally, AB 1532 (John A. Pérez) creates the Greenhouse Gas Reduction Account for cap-and-trade auction revenues and establishes procedures for deposit and expenditure of funds pursuant to an investment plan. This bill conflicts with the budget actions and AB 1532 in that it creates a duplicative "Greenhouse Gas Reduction Account" which captures all cap-and-trade revenues for the purposes of the bill.

The author and the committee may wish to consider amending this bill to create a different account for the limited, short-term purposes of the bill.

2) Allocation funds may leave some priorities out. Though the very specific allocations in this bill suggest great precision, it is unclear how well the priorities embodied in this bill align with short-term GHG reductions, funding need, and the ability to spend the money effectively.

The feedback received by the committee in the short time the bill has been in print suggests there are many other programs to consider for funding. It is evident that a significant category in the discussion surrounding the budget and AB 1532, natural resource protection, has been left out entirely.

There are also programs of questionable need and /or merit that are included in the bill. For example, the PUC's self-generation incentive program is adequately funded by

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utility ratepayers, has a specific statutory funding cap and sunset, and does not have a record of producing verifiable GHG reductions.

The author and the committee may wish to consider whether the specific allocations in the bill are justified and whether there are other categories and programs that should be included.

REGISTERED SUPPORT / OPPOSITION :

Support

American Lung Association
California Energy Efficiency Industry Council
Coalition for Adequate School Housing
County School Facilities Consortium
Santa Clara County Open Space Authority
School Energy Coalition
University of California

Opposition

American Council of Engineering Companies
California Asian Pacific Chamber of Commerce
California Business Properties Association
California Chamber of Commerce
California Chapter of the American Fence Association
California Fence Contractors Association
California Grocers Association
California Independent Oil Marketers Association
California League of Food Processors
California Manufacturers & Technology Association
California Metals Coalition
California Retailers Association
California Taxpayers Association
Can Manufacturers Institute
Chemical Industry Council of California
Engineering Contractors' Association
Flasher/Barricade Association
Golden State Builders Exchanges
Marin Builders' Association
National Federation of Independent Business
United Contractors

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