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AB-197 State Air Resources Board: greenhouse gases: regulations. (2015-2016)

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Assembly Bill No. 197

CHAPTER 250

An act to add Article 7.6 (commencing with Section 9147.10) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, and to amend Sections 39510 and 39607 of, and to add Sections 38506, 38531, 38562.5, and 38562.7 to, the Health and Safety Code, relating to air resources.

[Approved by Governor September 08, 2016. Filed with Secretary of State September 08, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 197, Eduardo Garcia. State Air Resources Board: greenhouse gases: regulations.

(1) Existing law establishes the State Air Resources Board consisting of 14 members and vests the state board with regulatory jurisdiction over air quality issues.

This bill would add 2 Members of the Legislature to the state board as ex officio, nonvoting members. The bill would provide that the voting members of the state board are appointed for staggered 6-year terms and upon expiration of the term of office of a voting member, the appointing authority may reappoint that member to a new term of office, subject to specified requirements. The bill would require the state board to establish the initial staggered terms. The bill would create the Joint Legislative Committee on Climate Change Policies consisting of at least 3 Members of the Senate and at least 3 Members of the Assembly and would require the committee to ascertain facts and make recommendations to the Legislature and to the houses of the Legislature concerning the state's programs, policies, and investments related to climate change, as specified.

(2) Existing law requires the state board to inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants. The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with the act.

This bill would require the state board to make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for each facility that reports to the state board and air districts. The bill would require the state board, at least once a year at a hearing of the Joint Legislative Committee on Climate Change Policies, to present an informational report on the reported emissions of greenhouse gases, criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan, as specified.

This bill would require the state board to make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources and to at least a county level for mobile sources, as specified.

(3) The act requires the board to approve 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 prepare and approve a scoping plan for

achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions.

This bill would require the state board, when adopting rules and regulations to achieve greenhouse gas emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, to follow specified requirements, consider the social costs of the emissions of greenhouse gases, and prioritize specified emission reduction rules and regulations.

This bill would require the state board, when updating the scoping plan, to identify specified information for each emissions reduction measure, including each alternative compliance mechanism, market-based compliance mechanism, and potential monetary and nonmonetary incentive.

(4) This bill would become operative only if SB 32 of the 2015–16 Regular Session is enacted and becomes effective on or before January 1, 2017.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) authorizes the State Air Resources Board to adopt regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

(b) The California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) requires the State Air Resources Board to reduce statewide emissions of greenhouse gases to at least the 1990 emissions level by 2020 and to maintain and continue reductions thereafter.

(c) Continuing to reduce greenhouse gas emissions is critical for the protection of all areas of the state, but especially for the state's most disadvantaged communities, as those communities are affected first, and most frequently, by adverse impacts of climate change, including increased frequency of extreme weather events such as drought, heat, and flooding. The state's most disadvantaged communities are also disproportionately impacted by the deleterious effects of climate change on public health.

(d) The State Air Resources Board's actions to reduce greenhouse gas emissions must be done in a manner that is transparent and accountable to the public and the Legislature. To this end, the State Air Resources Board must enhance the accessibility of information used to inform and evaluate regulatory measures developed to reduce greenhouse gas emissions.

(e) Transparency and accountability also are essential to ensuring the state's actions are done in an equitable fashion that is protective and mindful of the effects on the state's most disadvantaged communities.

(f) In recognition of the need for ongoing, permanent oversight over the implementation of the state's climate policies, the Joint Legislative Committee on Climate Change Policies will be established. The committee will uniquely provide an oversight perspective that connects the jurisdictions of several legislative standing committees, including those that have the issues of air quality, transportation, energy, and local government within their jurisdiction, which is critical given that the state has integrated climate change policies throughout the activities of many state agencies in addition to the State Air Resources Board.

SEC. 2. Article 7.6 (commencing with Section 9147.10) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 7.6. Joint Legislative Committee on Climate Change Policies

9147.10. (a) The Joint Legislative Committee on Climate Change Policies is hereby created. The committee shall ascertain facts and make recommendations to the Legislature concerning the state's programs, policies, and investments related to climate change. Those recommendations shall be shared with other appropriate legislative standing committees, including the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review.

(b) The joint committee shall consist of at least three Members of the Senate and at least three Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The membership shall reflect the perspectives of multiple standing committees.

(c) The chair of the State Air Resources Board shall annually appear before the joint committee to present the state board's annual informational report on the reported emissions of greenhouse gases, criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan, as required pursuant to subdivision (b) of Section 38531 of the Health and Safety Code. This presentation may be done at a hearing that is held jointly with the relevant Assembly and Senate standing committees.

(d) In recognition of the technical complexity involved in reviewing the state's climate policies, the joint committee may establish a panel of experts to provide an independent analysis of the state's policies to better inform the joint committee's recommendations.

SEC. 3. Section 38506 is added to the Health and Safety Code, to read:

38506. For purposes of this division, "social costs" means an estimate of the economic damages, including, but not limited to, changes in net agricultural productivity; impacts to public health; climate adaptation impacts, such as property damages from increased flood risk; and changes in energy system costs, per metric ton of greenhouse gas emission per year.

SEC. 4. Section 38531 is added to the Health and Safety Code, to read:

38531. (a) (1) The state board shall make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases and criteria pollutants for each facility that reports to the state board pursuant to Section 38530. The data shall be displayed in a manner that illustrates the changes in emissions levels over time.

(2) No later than January 1, 2018, the state board shall add toxic air contaminant emissions to the information made available pursuant to paragraph (1).

(3) The criteria pollutant and toxic air contaminant emissions data for stationary sources shall be based on data provided to the state board by air pollution control and air quality management districts collected pursuant to Section 39607 and Chapter 3 (commencing with Section 44340) of Part 6 of Division 26.

(b) At least once a year at a hearing of the Joint Legislative Committee on Climate Change Policies, the state board shall present an informational report on the reported emissions of greenhouse gases, criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan prepared pursuant to Section 38561. The report shall evaluate emission trends and include a discussion of the regulatory requirements, initiatives, and other programs that may influence those trends. The report also may include recommendations from the state board for legislative action and consideration.

SEC. 5. Section 38562.5 is added to the Health and Safety Code, to read:

38562.5. When adopting rules and regulations pursuant to this division to achieve emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, the state board shall follow the requirements in subdivision (b) of Section 38562, consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

(a) Emission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.

(b) Emission reduction rules and regulations that result in direct emission reductions from sources other than those specified in subdivision (a).

SEC. 6. Section 38562.7 is added to the Health and Safety Code, to read:

38562.7. Each scoping plan update developed pursuant to Section 38561 shall identify for each emissions reduction measure, including each alternative compliance mechanism, market-based compliance mechanism, and potential monetary and nonmonetary incentive the following information:

(a) The range of projected greenhouse gas emissions reductions that result from the measure.

(b) The range of projected air pollution reductions that result from the measure.

(c) The cost-effectiveness, including avoided social costs, of the measure.

SEC. 7. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the California Environmental Protection Agency. The state board shall consist of 14 voting members.

(b) Twelve members shall be appointed by the Governor, with the consent of the Senate, on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems.

(c) Of the members appointed pursuant to subdivision (b), six members shall have the following qualifications:

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) Two members shall be public members.

(5) One member shall have the qualifications specified in paragraph (1), (2), or (3) or shall have experience in the field of air pollution control.

(d) Of the members appointed pursuant to subdivision (b), six members shall be board members from districts who shall reflect the qualitative requirements of subdivision (c) to the extent practicable. Of these members:

(1) One shall be a board member from the south coast district.

(2) One shall be a board member from the bay district.

(3) One shall be a board member from the San Joaquin Valley Unified Air Pollution Control District.

(4) One shall be a board member from the San Diego County Air Pollution Control District.

(5) One shall be a board member from the Sacramento district, the Placer County Air Pollution Control District, the Yolo-Solano Air Quality Management District, the Feather River Air Quality Management District, or the El Dorado County Air Pollution Control District.

(6) One shall be a board member of any other district.

(e) The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one member to the state board who shall be a person who works directly with communities in the state that are most significantly burdened by, and vulnerable to, high levels of pollution, including, but not limited to, communities with diverse racial and ethnic populations and communities with low-income populations.

(f) Any vacancy shall be filled by the appointing authority within 30 days of the date on which it occurs. If the Governor fails to make an appointment for any vacancy within the 30-day period, the Senate Committee on Rules may make the appointment to fill the vacancy in accordance with this section.

(g) While serving on the state board, all members shall exercise their independent judgment as officers of the state on behalf of the interests of the entire state in furthering the purposes of this division. A member of the state board shall not be precluded from voting or otherwise acting upon any matter solely because that member has voted or acted upon the matter in his or her capacity as a member of a district board, except that a member of the state board who is also a member of a district board shall not participate in any action regarding his or her district taken by the state board pursuant to Sections 41503 to 41505, inclusive.

(h) (1) Except for initial staggered terms that shall be established by the state board, the term of office for the voting members shall be six years. Upon expiration of the term of office of a voting member, the appointing authority may reappoint that member to a new term of office, subject to the requirement of subdivision (b), if applicable.

(2) Notwithstanding paragraph (1), a person who is a member of the state board pursuant to subdivision (d) shall not continue as a member if he or she ceases to hold the membership that qualifies that person to be appointed as a member of the state board. The membership on the state board held by that person shall terminate immediately upon ceasing to hold that qualifying membership.

(i) In addition to subdivision (a), two Members of the Legislature shall serve as ex officio, nonvoting members of the state board. One member shall be appointed by the Senate Committee on Rules. One member shall be appointed by the Speaker of the Assembly.

SEC. 8. Section 39607 of the Health and Safety Code is amended to read:

39607. The state board shall:

(a) Establish a program to secure data on air quality in each air basin established by the state board.

(b) (1) Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants, including, but not limited to, the contribution of natural sources, mobile sources, and area sources of emissions, including a separate identification of those sources not subject to district permit requirements, to the extent feasible and necessary to carry

out the purposes of this chapter. The state board shall use, to the fullest extent, the data of local agencies and other state and federal agencies in fulfilling this purpose.

(2) Make available on the state board's Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources and to at least a county level for mobile sources. The emissions reported shall include data on the emissions of criteria pollutants and toxic air contaminants emitted by stationary sources as provided to the state board by districts. The information shall be displayed graphically and updated at least once a year.

(c) Monitor air pollutants in cooperation with districts and with other agencies to fulfill the purpose of this division.

(d) Adopt test procedures to measure compliance with its nonvehicular emission standards and those of districts.

(e) Establish and periodically review criteria for designating an air basin attainment or nonattainment for any state ambient air quality standard set forth in Section 70200 of Title 17 of the California Code of Regulations. In developing and reviewing these criteria, the state board shall consider instances where there is poor or limited ambient air quality data, and shall consider highly irregular or infrequent violations. The state board shall provide an opportunity for public comment on the proposed criteria, and shall adopt the criteria after a public hearing.

(f) Evaluate, in consultation with the districts and other interested parties, air quality-related indicators that may be used to measure or estimate progress in the attainment of state standards and establish a list of approved indicators. On or before July 1, 1993, the state board shall identify one or more air quality indicators to be used by districts in assessing progress as required by subdivision (b) of Section 40924. The state board shall continue to evaluate the prospective application of air quality indicators and, upon a finding that adequate air quality modeling capability exists, shall identify one or more indicators that may be used by districts in lieu of the annual emission reductions mandated by subdivision (a) of Section 40914. In no case shall any indicator be less stringent or less protective, on the basis of overall health protection, than the annual emission reduction requirement in subdivision (a) of Section 40914.

(g) Establish, not later than July 1, 1996, a uniform methodology that may be used by districts in assessing population exposure, including, but not limited to, reduction in exposure of districtwide subpopulations, such as children, the elderly, and persons with respiratory disease, to ambient air pollutants at levels above the state ambient air quality standards, for estimating reductions in population exposure for the purposes of Sections 40913, 40924, and 41503, and for the establishment of the means by which reductions in population exposures may be achieved. The methodology adopted pursuant to this subdivision shall be consistent with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and with this division, including, but not limited to, Section 39610.

SEC. 9. This act shall become operative only if Senate Bill 32 of the 2015–16 Regular Session is enacted and becomes effective on or before January 1, 2017.