

## CALIFORNIA:

### Senate leader promises 'concerted push' to cement GHG target

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SAN DIEGO -- California lawmakers hope to enshrine greenhouse gas policies through 2030, as renewed anxieties surface about the state's legal footing.

The head of the state Senate said last week that he would resume efforts to pass S.B. 32, a bill by state Sen. Fran Pavley (D) setting 2030 emissions targets that floundered at the end of last year on opposition from members of the State Assembly.



California Senate President Pro Tem Kevin de León (D). Photo courtesy of Wikipedia.

"There will be a concerted push," Senate President Pro Tem Kevin de León (D) told reporters on the sidelines of a carbon markets conference here. "We need all hands on deck to make sure this comes to fruition."

The bill is intended to make permanent an executive order that Gov. Jerry Brown (D) signed last year that set a target of 40 percent below 1990 emissions levels by 2030. Pavley's bill originally set a target through 2050, in line with an order from former Gov. Arnold Schwarzenegger (R), but she scaled it back last year to include just the 2030 goal ([ClimateWire](#), Sept. 11, 2015).

State regulators have been moving swiftly to implement Brown's order, writing regulations to achieve the 2030 goal by extending their current suite of programs, including an economywide cap-and-trade system. They are also embarking on a new effort to limit methane, black carbon and other short-lived climate-changing emissions from oil and gas operations, dairies and other sources ([ClimateWire](#), April 13).

But their course is not free of obstacles. Republican lawmakers commissioned an opinion from legislative counsel last month that found Brown's order may not be legally binding under the terms of the original target-setting law, 2006's A.B. 32 ([ClimateWire](#), April 25).

## Carbon traders worried

Another looming issue is whether the cap-and-trade auctions violate the state law Proposition 13, which requires a two-thirds legislative majority to approve taxes. A 2013 lawsuit from the California Chamber of Commerce arguing that the auctions are a tax has been on appeal since 2014 in the California Courts of Appeal.

The case received a shot of adrenaline last month when the court granted CalChamber and the National Association of Manufacturers' request to speed up the proceedings. The court also asked parties to answer a number of pointed questions, including how closely the auction revenue spending has to be linked to greenhouse gas reductions, whether participating in the auctions is truly voluntary, and what the remedy should be if the court decides the auctions are an illegal tax. Responses are due by May 23.

The movement of the case, coupled with the Supreme Court's stay in February of U.S. EPA's Clean Power Plan for existing power plants, is worrying participants in California's carbon market.

"We saw the calamity of the Clean Power Plan being stayed, and so that sent a nervous shock through the industry," said Sean Penrith, executive director of the Climate Trust, which finances carbon offset projects. "Now anything's possible."

De León said he was still thinking about whether to try for a two-thirds vote on extending the targets, which would insulate the cap-and-trade program from legal challenges under Proposition 13, as well as 2010's Proposition 26, which extended the supermajority requirement to fees as well as taxes.

"I'm currently exploring the best tactical options," he said. "We have to be one voice when we decide what that best option is."

He said he thought it would be possible to get a two-thirds vote, but that it might cost too much in concessions. Currently, the auction proceeds have to go to projects that reduce greenhouse gases, and at least 25 percent has to be spent on projects that benefit disadvantaged communities.

Presumably, those allocations would have to change in order to attract a wider swath of support. A two-thirds vote would qualify the program as a full-fledged tax and allow any program to vie for the cap-and-trade proceeds, which total \$4 billion through the most recent auction in February. Nearly \$1.6 billion has been handed out so far to high-speed rail, energy efficiency upgrades, housing near public transit and other projects that have a connection to reducing emissions.

"I think anyone can get a two-thirds vote. The question is, what do you give up?" de León asked. Brown has proposed spending \$100 million in cap-and-trade proceeds this year on "low-carbon roads," and lawmakers are also pushing several bills to use the revenue for highway improvements. "It could be filling the potholes with cap-and-trade dollars."

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