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## AB-1395 The California Climate Crisis Act. (2021-2022)

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Date Published: 09/04/2021 04:00 AM

AMENDED IN SENATE SEPTEMBER 03, 2021

AMENDED IN SENATE AUGUST 26, 2021

AMENDED IN SENATE JULY 13, 2021

AMENDED IN SENATE JUNE 28, 2021

AMENDED IN ASSEMBLY MAY 04, 2021

AMENDED IN ASSEMBLY APRIL 20, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

### ASSEMBLY BILL

**NO. 1395**

Introduced by Assembly Members Muratsuchi and Cristina Garcia  
(Principal coauthor: Assembly Member Luz Rivas)

(Principal coauthors: Senators Allen, Becker, Gonzalez, Laird, Leyva, Limón, *Skinner*, Stern,  
and Wiener)

(Coauthors: Assembly Members *Holden*, McCarty, Robert Rivas, and Stone)  
(~~Coauthor: Senator Skinner~~)

February 19, 2021

An act to add Section 38562.2 to the Health and Safety Code, relating to greenhouse gases.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1395, as amended, Muratsuchi. The California Climate Crisis Act.

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 approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by 2030. 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 and to update the scoping plan at least once every 5 years.

This bill, the California Climate Crisis Act, would declare the policy of the state both to achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 90% below the 1990 levels. The bill would require the state board to work with

relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and to identify a variety of policies and strategies that support carbon dioxide removal solutions, carbon capture and storage technologies, and nature-based climate solutions in California, as specified. The bill would require the state board to work with relevant agencies to establish criteria for the use of carbon dioxide removal technologies and carbon capture and storage technologies for purposes of achieving these policy goals. The bill would require the state board to identify interim 5-year greenhouse gas emission reduction goals that begin on January 1, 2025, and submit an annual report, as specified. The bill would impose other requirements on state agencies, as specified.

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

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

**SECTION 1.** This act shall be known, and may be cited, as the California Climate Crisis Act.

**SEC. 2.** The Legislature finds and declares the following:

(a) The State Air Resources Board commissioned an initial report that analyzed three scenarios to net zero greenhouse gas emissions in California. All three scenarios require direct greenhouse gas emission reductions, removal of carbon dioxide from the atmosphere, and almost complete transition away from fossil fuels.

(b) This report reflects findings from numerous studies recognizing the benefits, risks, and uncertainties around the use of carbon dioxide removal technologies and carbon capture and storage technologies.

(c) According to these studies, carbon dioxide removal technologies and carbon capture and storage technologies are currently available, but they do not negate the need to make drastic reductions in fossil fuel use.

(d) To achieve net zero greenhouse gas emissions in California, a broad suite of solutions will be needed, including substantial direct emission reductions, carbon capture and storage technologies, carbon dioxide removal technologies, and nature-based climate solutions.

(e) Millions of Californians breathe unhealthy air.

(f) Prioritizing direct emission reductions will help California to meet both its air quality standards and net zero greenhouse gas emissions.

(g) Models also suggest that the state's natural and working lands are at risk of becoming an increasing net source of greenhouse gas emissions due to fire and other disturbances.

(h) The state has an interest in ensuring that its natural and working lands function as healthy, long-term net sinks of carbon dioxide and avoid becoming an increasing net source of greenhouse gas emissions.

**SEC. 3.** Section 38562.2 is added to the Health and Safety Code, to read:

**38562.2.** (a) For purposes of this section, the following definitions apply:

(1) "Carbon capture and storage technologies" means technologies that prevent emissions of carbon dioxide by separating carbon dioxide from industrial and energy-related sources and putting it into long-term storage.

(2) "Carbon dioxide removal technologies" mean anthropogenic activities that use technology or engineered strategies to remove carbon dioxide from the atmosphere and put it into long-term storage.

(3) "Long-term storage" means either of the following:

(A) Storing carbon dioxide in a geological reservoir and permanently preventing it from being released into the atmosphere or ocean.

(B) Converting carbon dioxide into a chemically or physically stable permanent form, including mineralization.

(4) "Permanent" means a period of time sufficiently long enough to enable California to meet net zero greenhouse gas emissions and to safeguard public health, safety, and the environment.

(5) "Nature-based climate solutions" means activities, such as restoration, conservation, and land management actions, that increase net carbon sequestration or avoid greenhouse gas emissions in natural and working lands, as defined in Section 9001.5 of the Public Resources Code.

(6) "Net zero greenhouse gas emissions" means emissions of greenhouse gases, as defined in Section 38505, to the atmosphere are balanced by removals of greenhouse gas emissions over a period of time, as determined by the state board.

(b) It is the policy of the state to do both of the following:

(1) Achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative greenhouse gas emissions thereafter. This goal is in addition to, and does not replace or supersede, the statewide greenhouse gas emissions reduction targets in Section 38566.

(2) (A) Ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 90 percent below the statewide greenhouse gas emissions limit established pursuant to Section 38550.

(B) Carbon capture and storage technologies that prevent the emission of greenhouse gases to the atmosphere and comply with the criteria adopted by the state board pursuant to subdivision (f) shall be considered an emission reduction for the purposes of this paragraph.

(c) The state board shall work with relevant state agencies to do all of the following:

(1) Ensure that updates to the scoping plan required pursuant to Section 38561 identify and recommend measures to achieve the policy goals stated in subdivision (b).

(2) Identify a variety of policies and strategies that support carbon dioxide removal solutions and carbon capture and storage technologies in California to complement emissions reductions and nature-based climate solutions and achieve durable greenhouse gas emissions reductions or carbon removals.

(3) Identify a variety of policies and strategies that support nature-based climate solutions in California so its natural and working lands can be a healthy net sink of carbon dioxide and achieve durable greenhouse gas emissions reductions or carbon removals.

(d) (1) The state board shall identify interim five-year greenhouse gas emission reduction goals that begin on January 1, 2025, to achieve the policy goals stated in subdivision (b).

(2) By December 31, 2035, the state board shall evaluate the feasibility and tradeoffs of achieving the policy goal stated in paragraph (2) of subdivision (b) relative to alternative scenarios that achieve the policy goals stated in paragraph (1) of subdivision (b), and report its findings and recommendations to the Legislature.

(3) The state board shall report to the Joint Legislative Committee on Climate Change Policies annually on progress toward the goals identified in paragraph (1) and in subdivision (b).

(4) The Legislative Analyst's Office shall conduct independent analyses of the state board's progress toward the interim goals identified in paragraph (1) and goals stated in subdivision (b) every two years and shall prepare a report detailing its review, including any recommendations for improvements, including, but not limited to, shortfalls in direct emission reductions, barriers to carbon dioxide removal deployment, and potential changes to the state board's evaluation and reporting practices that will advance transparency and accountability. The report shall be made available to the public.

(e) (1) The state board shall work with the Natural Resources Agency, the Department of Food and Agriculture, and other relevant state agencies, to establish criteria for the use of nature-based climate solutions for the purposes of achieving the policy goals stated in subdivision (b).

(2) In establishing the criteria pursuant to paragraph (1), the state board shall consider the benefits, risks, and uncertainties associated with the use of nature-based climate solutions.

(f) (1) The state board shall work with relevant agencies to establish criteria for the use of carbon dioxide removal technologies and carbon capture and storage technologies in any policy or program adopted by a state agency for purposes of achieving the policy goals stated in subdivision (b).

(2) In establishing the criteria pursuant to paragraph (1), the state board shall, at a minimum, do all of the following:

(A) Consider the benefits, risks, and uncertainties associated with the use of carbon dioxide removal technologies and carbon capture and storage technologies, including, but not limited to, requirements for long-term financial assurances to mitigate for those risks and uncertainties.

(B) Ensure that the use of carbon dioxide removal technologies and carbon capture and storage technologies does not have an adverse impact on local air quality and public health, particularly in low-income and disadvantaged communities.

(C) Exclude the counting of captured carbon dioxide that is later injected into underground wells for the purpose of fossil fuel extraction, including, but not limited to, enhanced oil recovery, as a removal or reduction for the purposes of achieving the policy goals stated in subdivision (b).

(3) The criteria established pursuant to paragraph (1) shall include safeguards that, at a minimum, do all of the following:

(A) Ensure greenhouse gas emissions reductions and carbon removals are permanent and quantifiable by accounting for risk factors and contingencies in the event of a release or reversal to ensure accurate accounting of net greenhouse gas emissions from the use of carbon dioxide removal technologies and carbon capture and storage technologies.

(B) ~~Prevent~~*In tracking progress toward the state's climate targets, prevent* the double counting of emissions reductions associated with utilizing carbon dioxide that is captured or removed from the atmosphere.

(C) Include robust monitoring, accounting, and annual reporting to the state board by the project owner. Reports shall describe environmental safeguards, account for uncertainty in any measurements, be verified by a state board-approved third-party verifier, and be made publicly available.

(D) Ensure compliance with all applicable local, regional, state, and national requirements on environmental impact assessments or reports and all applicable local, regional, state, and national environmental health and safety laws and regulations, including any requirements regarding transparent documentation with verification and grievance mechanism processes.

(E) Ensure the criteria are enforceable.

(g) In working toward the policy goals stated in subdivision (b), state agencies shall do all of the following:

(1) Engage the support, participation, and partnership of researchers, businesses, investors, and communities, as appropriate.

(2) Seek to support the health and economic resiliency of urban and rural communities, particularly low-income and disadvantaged communities.

(3) Support climate adaptation and biodiversity, including by protecting the state's water supply, water quality, and native plants and animals.