

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 28, 2008

To: The Commission
(Meeting of April 10, 2008)

From: Bryan Crabb, Legislative Liaison
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1760 (Perata) – Greenhouse gas emissions.**
As introduced: February 22, 2008

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL:

SB 1760 would create and codify the “Climate Action Team” (CAT) consisting of the President of the California Public Utilities Commission (Commission) and other state department officials. The Climate Action Team would replace California Environmental Protection Agency (CalEPA) as the entity responsible for compiling an annual state agency greenhouse gas emission reduction “report card” which would be posted on the CAT’s website.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

SB 1760 creates a new committee that would be required to review and compile information related to greenhouse gas reduction plans which are currently conducted as part of the implementation of the Global Warming Solutions Act (AB 32, Nunez, Ch. 488, Statutes of 2006) including preparation report card, and recommendations regarding technologically feasible portions that require statutory or regulatory change.

AB 32 required before March 1, 2008, and then on January 1, 2009, and annually thereafter, the agency Climate Action Team shall compile and organize the information submitted pursuant to this section into a clear, standardized format, and shall provide that information on the agency’s Internet Web site in the form of a state agency greenhouse gas emission reduction report card.

The new requirement for reports called for in SB 1760 is a duplication of existing services. The California Air Resources Board (CARB) is compiling and publicly communicating for purpose of AB 32 implementation. CalEPA, CARB, and other state agencies in identifying greenhouse gas reduction strategies and provide regular internal, public, and legislatively mandated updates. In general, it is preferable to assign responsibility to one agency, in coordination with others, rather than vest responsibility in a committee of agencies. Since CalEPA is already serving this function, it is likely appropriate to leave the authority with CalEPA. Justification could also be made for requiring the responsibility to rest instead with CARB, since they are the responsible agency under AB 32. Either way, it does not make sense to codify the Climate Action Team as a responsible entity.

SB 1760 does not give authority to CAT to allocate funding or authorize new programs. However it requires that agencies represented on CAT expend their funds consistent with the RD&D plan. However, funds included are not specifically identified by statute or program but are referred to in general categories and could be interpreted to include most research, and potentially other more general, funds being administered by the representative agencies.

This bill would add a layer of new bureaucracy with no tangible benefit. Further, it lacks specificity in regarding the funds that would be affected. Such ambiguity could lead to dilution of key climate change and clean technology research projects already under way.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Energy Division):

- Beginning in 2010, the CAT would be responsible for submitting an annual research, development, and demonstration (RD&D) plan that establishes priorities and identifies key expenditures categories for those efforts for the following year in order to meet overall state policy objectives related to energy efficiency, environmental protection, greenhouse gas emission reduction, clean technology job creation, and climate change adaptation in the most efficient manner. A biennial climate change adaptation and protection plan produced by the group would also be required. All agencies represented on CAT would be required to expend their funds consistent with the RD&D plan.
- The President or his/her designee would be responsible, along with the other CAT members from CalEPA, Resources, ARB, Energy Commission, Food and Ag, and Business Transportation and Housing, for:
 - Compiling and organizing an annual “report card” of greenhouse gas reduction plans submitted by the named state agencies and for posting them on the CAT website. This work was previously overseen by CalEPA.

- Preparing and adopt an annual RD&D plan to the Legislature
- Preparing and adopt a biennial greenhouse gas adaptation plan to the Legislature
- The “report card” would additionally require the specified state agencies to submit information on other technologically feasible and cost-effective measures related to operations and programs managed by the state agencies that require statutory or regulatory changes for their adoption, and an estimate of potential GHG emission reductions from those measures.
- The annual RD&D plan is a new state requirement. The annual RD&D proposed in the bill would consist of strategic research, development, and demonstration plan that establishes priorities and identifies key expenditure categories, for RD&D funds to be expended by state agencies represented on the CAT for the following fiscal year. Categories include:
 - Assist in bringing CA clean technologies into the marketplace and provide quantifiable reductions
 - Encourage behavior changes or changes in consumer preferences
 - Identify impacts of climate change and methods to mitigate those impacts
- Even though the bill seeks to streamline and coordinate state efforts, this plan is unlikely or uncertain to achieve those goals. The plan would establish priorities and identify key expenditure categories but no authority is given to the group. Further, it is concerning that implementation of existing programs underway may be undermined or discouraged in this process.
- Further, the requirement that the expenditure of funds by a state agency that is represented on the CAT shall be consistent with the RD&D plan creates uncertainty around existing programs and creates a potentially political and contentious venue. It is unclear how to resolve cases where the Commission may not agree with the findings of the rest of the CAT or if the findings of the CAT undermine existing programmatic requirements or goals. Existing Commission programs that could be affected include energy efficiency, the California Solar Initiative (CSI), the renewable portfolio standard, and others. The language could be interpreted broadly to include funds related to general infrastructure or procurement policies as well.

PROGRAM BACKGROUND:

- The Commission currently participates in CalEPA's Climate Action Team coordination efforts. Although the CAT is not a statutorily required entity, it has been convening informally and formally since early 2005, and has taken comment on and published several public reports. It is unclear what benefit, if any, would result in formally mandating this organization especially for the sole purpose of requiring a duplicative report to be published on their webpage. In fact, CAT may be better

suited to consist of agencies that may or may not be named in this bill, and to retain the flexibility to modify its activities as needed.

- The requirement that funds be spent consistent with the RD&D plan could impact existing RD&D related efforts, as well as more general efforts related to infrastructure development, demand side management, and procurement policies.

LEGISLATIVE HISTORY:

SB 660 (Perata, 2006), vetoed by the Governor on October 14, 2007, was more specific and gave more power to the new entity that would have been created than what is recommended for the Climate Action Team. The bill would have required the participation of the President of the California Public Utilities Commission (Commission), along with other state department officials, on the Strategic Research Investment Council (SRIC) in order to coordinate the expenditure of various state research and development funds, with the focus on climate change. Specifically, the bill required the Council to prepare a “research, development and demonstration” (RD&D) plan by March 1, 2008 and annually thereafter for state agency expenditures for clean technology, environmental protection and public interest energy research.

The Governor’s veto message:

I am returning Senate Bill 660 without my signature.
I support efforts to increase the effectiveness of research, development and demonstration (RD&D) projects that will further the goals of the state in the area of climate change and green house gas emission reductions. However, I strongly believe that creating yet another substantial layer of administration, as this bill does, will hinder, rather than support, the current coordination that occurs within the Administration on climate change RD&D, as well as remove the necessary flexibility we need to continue to react to topical issues and rapidly changing technologies.

California's state agencies, outside research agencies and other key governmental entities are leading climate change research and actively supporting greenhouse gas reduction technologies, while working closely with each other on RD&D projects at the planning and implementation stages.

I believe that maintaining interagency and stakeholder coordination, communication and technology research at all points of the RD&D process is more efficient than creating yet another layer of administration and assigning it the difficult task of overseeing the planning and execution of all research activities being conducted by all of the entities within the Administration engaged as such.

FISCAL IMPACT:

Minor and absorbable.

STATUS:

SB 1760 is pending hearing in the Senate Committee on Environmental Quality.

SUPPORT/OPPOSITION:

None on file.

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Date: March 28, 2008

BILL LANGUAGE:

BILL NUMBER: SB 1760 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Perata

FEBRUARY 22, 2008

An act to amend Sections 12891 and 12892 of, and to add Section 14033 to, the Government Code, to amend Section 25620 of, and to add Part 5 (commencing with Section 71400) to Division 34 of, the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1760, as introduced, Perata. Energy: greenhouse gas emissions.

(1) The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to the statewide GHG emissions levels in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions. The act requires all state agencies to consider and implement strategies to reduce their GHG emissions.

This bill would create the Climate Action Team (CAT), consisting of representatives from specified state agencies, that would be responsible for coordinating the state's overall climate policy. The CAT, on or before January 1, 2010, and annually thereafter, would be required to prepare, adopt, and present to the Legislature, a strategic research, development, and demonstration plan (plan) that establishes priorities and identifies key expenditure categories for research, development, demonstration, and deployment funds to be expended by the state agencies represented on the CAT for the following fiscal year. The CAT, on or before January 1, 2010, and biennially thereafter, would be required to prepare and adopt a climate change impact adaptation and protection plan that includes specified information. The bill would require research, development, and demonstration funds that are administered by the Department of Transportation and are allocated for clean technology, environmental protection, and public interest energy research to be expended consistent with the plan.

(2) Existing law requires specified state agencies to prepare and submit to the Secretary for Environmental Protection, in a standardized format as determined by the California Environmental Protection Agency, specified information relating to the state agency's GHG emissions, including a list of measures adopted and implemented by the agency to meet GHG emission reduction targets, as defined,

and a status report on GHG emissions reduced as a result of these measures. The California Environmental Protection Agency, on or before March 1, 2008 and January 1, annually thereafter, is required to provide that information on its Internet Web site in the form of a state agency greenhouse gas emission reduction report card.

This bill would, instead, require the specified state agencies to prepare and submit to the CAT, the information in a standardized format as determined by the Secretary for Environmental Protection. The CAT would compile and organize the information submitted. The bill would additionally require the specified state agencies to submit information on other technologically feasible and cost-effective measures related to operations and programs managed by the state agencies that require statutory or regulatory changes for their adoption, and an estimate of potential GHG emission reductions from those measures.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Section 12891 of the Government Code is amended to read:

12891. For the purposes of this chapter, the following terms have the following meanings:

(a) "Agency" means the California Environmental Protection Agency.

(b) *"Climate Action Team" means the Climate Action Team established pursuant to Section 71401 of the Public Resources Code.*

~~—(b)—~~

(c) "Climate Action Team Report" means the report prepared pursuant to Executive Order S-3-05 and submitted to the Governor and the Legislature in March 2006.

~~—(c)—~~

(d) "GHG" means greenhouse gas as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

~~—(d)—~~

(e) "GHG emission reduction target" means a target established for a state agency in the Climate Action Team Report, or a requirement made applicable to that state agency by an action taken by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

~~—(e)—~~

(f) "Secretary" means the Secretary for Environmental Protection.

~~—(f)—~~

(g) "State agency" means a state agency listed in the Climate Action Team Report, a state office, department, division, bureau, board, or commission whose operations or programs result in greenhouse gas emissions that are subject to Division 25.5 (commencing with Section 38500) of the Health and Safety Code, and any other state agency listed in Section 12800, as determined by the

secretary.

SEC. 2. Section 12892 of the Government Code is amended to read:

12892. (a) On or before January 1, 2008, then on October 1, 2008, and annually thereafter, each state agency shall prepare and submit to the ~~secretary~~ Climate Action Team in a standardized format as determined by the ~~agency both~~ secretary all of the following:

(1) A list of those measures that have been adopted and implemented by the state agency to meet GHG emission reduction targets and a status report on actual GHG emissions reduced as a result of these measures.

(2) A list and timetable for adoption of any additional measures needed to meet GHG emission reduction targets.

(3) *A list of other technologically feasible and cost-effective measures related to the operations or programs managed by the state agency that require statutory or regulatory changes for their adoption, and an estimate of potential GHG emission reductions from those measures.*

(b) In order to reduce paperwork and workload, information required to be submitted pursuant to this section may be submitted in a standardized electronic format as determined by the agency.

(c) On or before March 1, 2008, and then on January 1, 2009, and annually thereafter, the ~~agency~~ Climate Action Team shall compile and organize the information submitted pursuant to this section into a clear, standardized format, and shall provide that information on the agency's Internet Web site in the form of a state agency greenhouse gas emission reduction report card.

(d) The report card shall compare the actions taken and proposed to be taken by individual state agencies and their projected annual GHG emission reductions against the state agency GHG emission reduction targets and statewide GHG emission reduction limits.

(e) Where appropriate, the report card shall include a statement regarding the independent audits required by Section 12893.

SEC. 3. Section 14033 is added to the Government Code, to read:

14033. The research, development, and demonstration funds allocated for clean technology, environmental protection, and public interest energy research administered by the department shall be expended in accordance with the plan adopted pursuant to Section 71403 of the Public Resources Code.

SEC. 4. Section 25620 of the Public Resources Code is amended to read:

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of this chapter.

(d) Public interest energy research, demonstration, and development projects should be coordinated with other related state programs and research needs to meet overall state policy objectives related to energy efficiency, environmental protection, greenhouse gas emission reduction, clean technology job creation, and climate change adaptation in the most efficient manner possible.

SEC. 5. Part 5 (commencing with Section 71400) is added to Division 34 of the Public Resources Code, to read:

PART 5. Climate Research, Adaptation, and Economic Leadership
Act of 2008

71400. The Legislature finds and declares all of the following:

(a) California is a world leader in efforts to reduce greenhouse gases, to assess and mitigate the effects of climate change, and to promote clean alternative technologies to improve the state's economy and the protection of public health and the environment.

(b) The California Global Warming Solutions Act of 2006, Division 25.5 (commencing with Section 38500) of the Health and Safety Code, provides a process for the establishment of a statewide greenhouse gas emission limit and a process for the adoption of regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. That act also directs the Climate Action Team to coordinate the overall climate policy actions as provided in Executive Order S-3-05 and for all state agencies to consider and implement strategies to reduce their greenhouse gas emissions.

(c) California currently invests hundreds of millions of dollars in research funds for air quality, transportation, electricity, natural gas, water, and other types of research, development, and demonstration projects that could contribute to the achievement of statewide greenhouse gas emission reductions, or to the effective adaptation to unavoidable climate change.

(d) More effective coordination of existing programs and funding by the state can improve the achievement of statewide greenhouse gas emission reductions; the protection of the state's infrastructure, communities, and natural resources from the impacts of climate change; and provide economic and job growth through the development and support of a strong clean technology industry.

71401. The Climate Action Team is hereby established and shall consist of the following members:

(a) The Secretary for Environmental Protection.

(b) The Secretary of the Resources Agency.

(c) The Chairperson of the State Air Resources Board.

(d) The Chair of the State Energy Resources Conservation and Development Commission.

(e) The President of the Public Utilities Commission.

(f) The Secretary of Business, Transportation and Housing.

(g) The Secretary of Food and Agriculture.

71402. Consistent with the California Global Warming Solutions Act of 2006, Division 25.5 (commencing with Section 38500) of the Health and Safety Code, and Executive Order S-3-50, the Climate Action Team shall coordinate climate policy of the state to achieve all of the following goals:

(a) The maximum feasible and cost-effective reduction of greenhouse gas emissions through the implementation of the California

Global Warming Solutions Act of 2006, Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(b) The promotion of economic and job growth in California through the encouragement and support of clean technology development and deployment to meet the state's climate change goals.

(c) The identification of unavoidable climate change impacts to California's natural resources and infrastructure and the development and implementation of mitigation and adaptation plans to protect the resources and assets of California.

(d) The coordination and efficient use of existing state resources, programs, and funds to achieve the goals identified in this section.

71403. On or before January 1, 2010, and annually thereafter, the Climate Action Team shall prepare and adopt a strategic research, development, and demonstration plan that establishes priorities, and identifies key expenditure categories, for research, development, demonstration, and deployment funds to be expended by state agencies represented on the Climate Action Team for the following fiscal year. The plan shall identify all of the following categories:

(a) Funds that will be expended to assist in bringing California clean technologies into the marketplace and that provide quantifiable reductions in emissions of greenhouse gases in order to assist the state in meeting the state's climate change goals.

(b) Funds that will be expended to encourage behavior changes or changes in consumer preferences that assist the state in meeting the state's climate change goals.

(c) Funds that will be expended by state agencies to identify impacts of climate change and methods to mitigate those impacts consistent with Section 71407.

71404. The Climate Action Team shall hold duly noticed public meetings and workshops prior to adoption of the strategic research, development, and demonstration plan in order to solicit comments from the public on research priorities.

71405. The expenditure of funds by a state agency that is represented on the Climate Action Team shall be consistent with the strategic research, development, and demonstration plan adopted pursuant to Section 71403 and authorized or consistent with the annual Budget Act.

71406. The Climate Action Team shall present its annual strategic research, development, and demonstration plan to the appropriate policy and budget subcommittees of the Legislature.

71407. On or before January 1, 2010, and biennially thereafter, the Climate Action Team shall prepare and adopt a climate change impact adaptation and protection plan that includes all of the following:

(a) An assessment of the current state of climate change impact analysis and an identification of potential climate change impacts that should be included in decisionmaking related to the management of natural resources or investment in infrastructure including impacts on all of the following:

- (1) Water.
- (2) Wildlife.
- (3) Natural ecosystems, wildlife, and system function.
- (4) Public health.
- (5) Safety and emergency response.
- (6) Coastal resources.
- (7) Infrastructure.

(8) Other systems likely to be affected.

(b) A process for integrating climate change impact information into the planning and decision-making of state agencies as appropriate.

(c) The identification of additional research and research priorities that could assist and improve state decisionmaking in future years.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the state to take action in an expeditious manner to address greenhouse gas emissions and to meet the state's greenhouse gas emission reduction goals for the protection of the public health and the environment, it is necessary for the act to take effect immediately