

One addendum to my [post](#) on new developments and cap-and-trade. I should have mentioned that [Proposition 26](#) — which tightened the 2/3s vote requirement for taxes to include fees — may be the basis for another legal challenge to the cap-and-trade program.

California voters approved Prop 26 in 2010. Unless Prop 26 is found to be retroactive, which the Emmett Center has [previously concluded](#) it should not be, any lawsuit challenging cap-and-trade on the grounds that it raises fees that should be subject to a 2/3s vote of the Legislature rather than a mere majority should fail. But just because a lawsuit is likely to fail doesn't mean it won't be filed. We're likely to see whether a Prop 26 suit will be filed in the next couple of weeks once the auction is up and running. As always, stay tuned.