

What tools will California regulators be able to use to reach the state's ambitious 2030 climate emissions goal? That commitment, enshrined into law last year, says that California will reduce its statewide greenhouse gas emissions by 40% in the ten years between 2020 and 2030, and forms the core of California's climate leadership. But important questions remain about how state regulators can and should achieve that goal. What role should direct regulation of facilities play? What role for more flexible programs like the low-carbon fuel standard? And, most prominently, will California continue to be able to use its homegrown cap-and-trade mechanism to ratchet down emissions?

As my colleague Sean Hecht [described in May](#), the future of the state's cap-and-trade program was uncertain after 2020, absent new legislative authority. Today, the California legislature extended the program through 2030. It was a bloody fight, one that split the mainstream environmental community from some more grassroots organizations and from environmental justice groups, which have long distrusted market-based regulations. Here's a quick recap of what the bill, [AB 398](#), achieves, adding to my fellow blogger Eric Biber's [thoughts last week](#):

- Most centrally, the bill secures a 2/3 supermajority for extending the cap-and-trade program through 2030. A supermajority endorsement was necessary in order to remove legal uncertainty from the program, because industry would surely have challenged the extended program as an illegal tax otherwise. While the state [successfully beat back](#) a similar litigation challenge to the current program, California state law [has changed](#) in recent years to expand the definition of a tax and to make such challenges harder to defend against. Though it's not clear how a challenge to cap and trade under the new tax definition would play out, it's far safer to avoid the uncertainty entirely with a 2/3 vote.
- To create the big tent necessary to hold a 2/3 supermajority, the bill contains a series of benefits and giveaways to various stakeholders. These include tax cuts for rural homeowners and some California manufacturers and other industry, totaling (according to Sen. De Leon in today's hearing) more than \$3.5 billion in tax cuts, to be backfilled from cap-and-trade auction proceeds. These tax cuts appear to have attracted at least one Senate Republican vote for the bill, Sen. Berryhill, and may have been key to its passage in the Assembly. The bill also continues to provide for free allowances for trade-exposed industries in California, sending a financial windfall to those industries (and, they assert, helping keep them located here in the state).
- The bill compromises on the question of offsets, which are emission reductions achieved by projects and facilities not covered by the cap (like forestry projects in other states) that may be used here to satisfy cap-and-trade requirements. Local

community advocates and some others in California dislike offsets because they would rather see emission reductions happen in-state, bringing more co-benefits here too.

Industry likes offsets because they tend to be much cheaper than in-state reductions.

And some environmental groups like offsets because they provide leverage to use California's climate program to achieve reductions in places, and in sectors, that might otherwise be left behind. The bill limits, but still allows, the use of offsets.

- The bill changes the shape of the regulatory program in other important ways too. It tells the Air Resources Board to set a price ceiling for allowance prices, giving industry and others some price certainty about program costs. The practical effect of this is to provide unlimited allowances at the ceiling price, if demand requires it—but this provision is paired with a creative requirement that ARB reduce emissions one-for-one to avoid busting through the cap, if the price ceiling is reached.
- Perhaps most controversially, the bill also preempts all regulation of carbon dioxide emissions by local air districts from stationary sources under the cap, prohibiting measures like one proposed by Bay Area regulators to force CO<sub>2</sub> reductions from particular facilities. Instead, the bill relies on the cap-and-trade program to do the regulatory work of achieving reductions from all capped facilities collectively. How big a loss is this preemption of local regulatory control over CO<sub>2</sub> at particular facilities? That depends on how effectively and aggressively you believe local districts would have used that authority; how much you believe that traditional air pollutants are likely to be controlled by other local regulations targeting those pollutants (see AB 617 below); and, of course, on whether you trust cap and trade to work.

The bill's passage was also made possible because of its pairing with a companion piece of legislation, [AB 617](#), which I won't discuss in any detail. That companion bill is aimed at controlling traditional air pollutants, like ozone and particulate matter, that have caused severe health problems in California communities for decades, despite existing state and federal laws aimed at reducing those pollutants. It says a lot about how much the California climate conversation has changed, for the better in my view, that the legislature wouldn't move forward on cap-and-trade without trying to clean up traditional pollution in fenceline communities, too. Whether this bill does enough to tackle traditional air pollution was hotly debated and remains to be seen.

A huge carrot attracting support for cap-and-trade has always been the billions of dollars in auction proceeds the program generates. Not surprisingly, then, a last-minute compromise to get the extension bill through the Legislature involved the use of that money.

Republicans insisted on [a provision](#) (formally a state constitutional amendment that will be voted on by the people next year, as I understand it) that will require a 2/3 vote of the

legislature to approve expenditure allocations from those proceeds, designed to give the minority party more say in those spending decisions.

On balance, I was a proponent of the cap-and-trade bill despite all of its compromises. The financial giveaways and especially their distributional effects are hard to swallow, but I believe the bill makes it easier to reach our climate goals than if cap-and-trade were not in our toolbox. State regulators continue to have a range of other tools available, too, including important ones like the low-carbon fuel standard and reduction measures for short-lived climate pollutants. It also would have been very hard to see a climate loss coming out of California at this historic moment, when so many around the country and the world are looking to our state for sorely-needed leadership. Not everyone agrees with me, I know. It has been wrenching to see the environmental community split on this issue.

Here's to working to ensure that the program succeeds, keeping our 2030 climate goals and our air quality goals firmly in mind. And [here's](#) a reminder of one of the many reasons why that work is critical.