

As [Ann](#) and [Ethan](#) both noted, two major pieces of climate legislation were passed by the California legislature this week, and Governor Brown has promised to sign both bills. Overall, the legislation extends the state's greenhouse gas reduction goals (which were originally to reach 1990 levels of emissions by 2020) out to a [40% reduction from 1990 levels by 2030](#). The companion piece of legislation (as [Ann noted](#)) imposes greater legislative oversight on the California Air Resources Board's implementation of the legislation, and prioritizes direct regulation of greenhouse gas emissions from large sources in the achievement of the greenhouse gas reduction goals.

The legislation is a big deal – even though it does [leave out the question](#) of whether the state's cap-and-trade program to reduce greenhouse gas emissions [needs to be and should be extended beyond 2020](#). What I want to highlight here is the politics of the legislation, and build on a point that Ethan made in [his post](#).

First, the fight over enacting this legislation was a knock-down, drag-out fight between many of the major interest groups in the state. Environmental groups and clean tech industry leaders were involved; the state's (large) oil and gas industry was involved; the California Chamber of Commerce was involved; as were environmental justice and other advocates for poor and minority communities. Efforts to enact similar legislation [died at the end of the last legislative session in 2015](#). One of the interesting developments in the fight in that last legislative session was at least a tacit alliance between the oil and gas industry and the [Chamber of Commerce](#), and [some Democratic state legislators representing predominantly poor communities with high African-American and Latino populations](#). The main arguments by critics of the proposed legislation were that the state's climate policy was unfairly tilted towards the rich (e.g., [subsidies for electric vehicle purchases](#)), wasn't providing enough direct air quality benefits towards those living in some of the dirtiest air quality in the country (e.g., many communities in the Central Valley), and tight environmental regulations would harm job creation and economic development in the communities that need them most. (For an example of such arguments, [see this op-ed in the Wall Street Journal](#).)

This alliance had a range of repercussions – [one of the African-American lawmakers who did not support the legislation in the last session is now facing a primary challenge funded in part by environmental groups](#), for instance. For a while, it seemed like the oil and gas industry had found helpful allies in an increasingly liberal, blue state like California. Further benefitting the industry was the impact of the changes to California's electoral system, which advances the top two

candidates from the primary election in June to the November general election, even if they are from the same party – many observers [have credited this change with increasing the number of moderate Democrats in the legislature](#), moderate Democrats who were sympathetic to the oil and gas industry’s arguments here.

I think it’s fair to say that, in retrospect, the oil and gas industry’s strategy has backfired spectacularly. (And don’t just believe me – the quote from the Republican legislator representing Bakersfield, the center of the oil and gas industry, is that “[My sky is falling.](#)”) They now have the worst of all possible worlds – a regulatory system that not only has ambitious targets for reductions of greenhouse gases, but a system that emphasizes regulatory tools that might increase compliance costs relative to the cap-and-trade program that industry fought tooth and nail (and is [currently litigating in court](#), arguing that it is an unconstitutional tax.) As Ethan [notes](#), that does create an incentive for industry to try and push for a cap-and-trade program in the next legislative session. But I think the odds of industry getting such a program are lower now than they were before the bills passed this week.

Environmental justice advocates are rightly going to defend a hard-fought victory, and have demonstrated how much sway they have in the legislature. It’s hard to see what the industry can give environmental groups and other climate policy advocates that they didn’t otherwise win in this session – unless it’s a two-thirds vote in the legislature extending the cap-and-trade program and mooting any claims that it is an unconstitutional tax. But to do that, industry will have to backtrack on its “sky is falling” arguments about climate policy in general. Moreover, industry will also have to get votes from both Republicans and moderate Democrats to get over the two-thirds hurdle. State Republicans [have been adamant in opposing almost any tax increase](#), so they’ll be a tough sell. But even harder will be the moderate Democrats from poor and minority districts – they are the ones who made a big deal about the regressive impacts of cap-and-trade programs. Getting them to switch that position and support cap-and-trade, without having them look like they’re just doing industry’s bidding, will be tricky. Perhaps that can be obtained through promises of spending many of the auction proceeds on environmental and energy projects that benefit their districts.

Full disclosure: I am the attorney representing a group of leading environmental economists that submitted an amicus brief in support of the state’s cap-and-trade program, and in opposition to the California Chamber of Commerce in its lawsuit arguing that the cap-and-trade program is an unconstitutional tax.