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Brown's cap-and-trade bill exposes fault lines of state politics

By [David R. Baker](#)

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Gov. Jerry Brown's bid to extend the state's cap-and-trade system for fighting climate change illuminates some of the fault lines running through the Legislature — and through the governor's own party.

The bill Brown [announced Monday evening](#) to extend cap and trade through 2030 contains elements designed to appeal to the oil industry and its allies, including moderate Democrats.

Notably the bill, AB398, would prevent local air regulators from placing their own limits on greenhouse gas emissions from refineries and other industrial facilities. The Bay Area Air Quality Management District [has been contemplating](#) just such a move, despite stiff opposition from oil companies. The facilities are already covered by the cap-and-trade system.

Cap and trade works by setting an annual limit, or cap, on the state's greenhouse gas emissions and forcing businesses to buy an allowance for every ton of heat-trapping gases they emit. The number of allowances available in any given year matches the cap. Both shrink year by year, slowly lowering emissions.

Businesses can buy the allowances through quarterly auctions run by the state or from each other.

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The bill would limit the future price of cap-and-trade allowances. That gives businesses covered by the cap-and-trade system assurance that they won't get socked by spiraling allowance prices as the state attempts deep cuts to its greenhouse gas emissions in the coming decades. California law requires the state to slash emissions more than 40 percent by 2030.

At the same time, the bill tells the entire business community — as well as government officials in other states and countries — that California's cap-and-trade system won't go away.

The system is a centerpiece of the state's climate fight. California has for years tried to entice other governments to join, although so far, only the Canadian province of Quebec has.

“There's some stuff in there for everybody, without jeopardizing the state's goals,” said Mike Mielke, senior vice president for energy and the environment at the Silicon Valley Leadership Group, a business alliance that backs the bill. “It provides the market that regulatory certainty. And it maintains that environmental integrity, in terms of the cap.”

Many environmentalists, however, wanted a higher floor for allowance prices — not a ceiling.

Environmental justice advocates, who focus on the impact of pollution on low-income and minority communities, have shown growing clout in Sacramento in recent years. They consider the cap-and-trade extension bill a step backward, for both the state's climate efforts and the people who live near refineries and other big polluters.

And they noted it comes while Brown is trying to position California as the bastion of climate action within the United States, now that President Trump is dismantling federal global warming efforts.

“It’s California climate policy that’s been written by big oil,” said Amy Vanderwarker, co-director of the California Environmental Justice Alliance. “At a time when all eyes are on California, we have to stand strong and say this is not something we can support.”

The Bay Area Air Quality Management District’s board of directors last month [delayed imposing emission caps](#) on the Bay Area’s five refineries despite fears from some directors that Brown could preempt them.

“It was very clear the governor was going to get involved in some kind of deal with the refineries,” said Director Shirlee Zane, who had urged her colleagues to vote on the caps. “Clearly, the postponing is now going to be a sad, moot point for our air district.”

Zane urged state legislators to amend the bill and “allow the air districts to do our jobs.”

Representatives of the Western States Petroleum Association, the oil industry’s main lobbying group in Sacramento, did not respond to requests for comment Tuesday.

Brown — who has spent months negotiating with legislators, industry representatives and environmentalists — clearly anticipated some of the criticism.

He announced AB398 Monday night along with a companion bill, AB617, that would increase air pollution monitoring around industrial facilities, toughen penalties for polluters and force many factories and

refineries to upgrade old equipment. In addition, AB398 specifies that money the state raises from selling cap-and-trade allowances goes first to projects fighting conventional air pollutants such as lead and soot particles.

“With its strong air quality provisions, this agreement ensures that Californians in underserved communities — and communities most impacted by air pollution — will receive the greatest benefit,” said Assembly Speaker Anthony Rendon, in a statement released Monday night along with the governor.

Brown tried and failed last year to pass a bill extending the cap-and-trade system, meeting resistance both from business-friendly Democrats and some environmentalists who consider the system a license to pollute. He even threatened to [sponsor a ballot measure](#) reauthorizing cap and trade if the Legislature didn’t act.

Viewed as a possible model for the nation when it launched in late 2012, California’s cap-and-trade system has recently been plagued with uncertainty.

The California Legislative Analyst’s Office warned that a landmark 2006 state climate law authorized the cap-and-trade system to run only through 2020, although the state officials in charge of the system disagreed. And a long-running lawsuit from the California Chamber of Commerce argued that the allowances amounted to an illegal tax on business, since they were not approved by a two-thirds vote of the Legislature, as is required for tax increases.

The California Supreme Court [declined to hear the suit](#) last month — but Brown still wants his legislation to extend cap and trade to win the

support of two-thirds of legislators, as insurance against future challenges.

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