

The 2010 AB32 Ballot Proposition
The Market Effects of Overturning California's Climate & Energy Laws

Rolling Back AB 32: California's Climate Change & Clean Energy Law

Investors, entrepreneurs, workers, and communities are doing their part to build the clean energy economy, but this progress is at risk both in California and nationally because of a November 2010 statewide ballot initiative that will indefinitely suspend AB 32, California's Global Warming Solutions Act. When originally passed in 2006, AB 32 set the bar high for American innovation in clean energy technology and created market forces that have directed billions of dollars into new research, new companies, and new jobs. Early polling suggests Californians are closely divided on this November ballot proposition, threatening all of the work and money that has gone into clean tech thus far. ⁱ

At Risk: Billions of Dollars of Public & Private Clean Tech Investment

- \$9 billion cumulative VC investment in California clean tech firms (2005-09), \$2.1 billion in the past year. ⁱⁱ
- Billions of dollars of direct investment in clean tech by California state and local government, funded through the California Air Resources Board and California Energy Commission.
- \$67 billion dollars of total federal stimulus investment (ARRA) in energy and clean tech. ⁱⁱⁱ

At Risk: Patents, Companies, and Jobs

- California has registered more than 1,200 clean tech patents, more than any other state (2002-2008). ^{iv}
- Over 12,000 clean tech companies in California^v, 40 public clean tech companies (7 in CA), 9 companies in IPO planning or registration (6 in CA). ^{vi}
- Over 600 US investment firms providing \$10MM+ in clean tech capital. ^{vii}
- California has over 125,000 people directly employed in clean tech sector. ^{viii}

At Risk: Policy Predictability / 72 Existing or Planned State Policies Threatened

- The text of the initiative states that "no state agency shall propose, promulgate, or adopt any regulation implementing AB32 and *any regulation adopted prior to the effective date of this measure shall be void and unenforceable* until such time as the suspension is lifted". ^{ix}
- At a minimum, the ballot initiative would overturn California's cap on carbon emissions.
- There is a very strong argument that all measures in the AB 32 Scoping Plan [see table below] are "implementing" AB 32 and would therefore be suspended -- even if separate legislative or agency authority exists. This could include California's renewable energy standard, vehicle and fuel standards, distributed solar incentives, and green building standards. Even if this is ultimately judged not to be the case, clean tech competitors and ideological opponents would argue the point through lengthy lawsuits that would create business delays and massive market uncertainty for years to come.

Sector	Policy
Economy-wide	<ul style="list-style-type: none"> • Cap and Trade • Regional GHG Reduction
Electricity	<ul style="list-style-type: none"> • Targets Renewable Electricity Standard (RES/RPS) • Million Solar Roofs Incentives
Efficiency	<ul style="list-style-type: none"> • Solar Water Heating Incentives • Appliance Early Retirement Incentives

Efficiency	<ul style="list-style-type: none"> • Green Building Policies including Government, Commercial, Residential, and Public Schools • Combined Heat and Power Incentives and Standards • Methane Reduction
Transportation	<ul style="list-style-type: none"> • Low Carbon Fuel Standards • Light-Duty Vehicle Standards • Heavy-Duty Vehicle Standards • Heavy-Duty Vehicle Cash Incentive Programs

The Threat: Market Hesitation, Fear, and Instability

Capital Flight: Private capital will flow from California companies to other areas around the world where clear price signals and predictable policies create more stable and robust markets. Public investment, too, will be threatened as there will be less impetus for government to offer grants, loans, and consumer incentive programs will exist.

IPOs & Other Investment Strategies Damaged: Approximately a nine clean tech companies are in the IPO process while the exit strategies of hundreds of venture-stage companies are affected by the policies under the AB 32 umbrella.

Market Contraction: Thousands of suppliers and customers of clean energy firms could see their potential markets reduced or delayed, changing the schedules for expected revenues and profits.

Supply Chain Problems: Suspension of near-term RPS, efficiency standards, and vehicle standards would hamper investment, production, and job creation throughout supply chain.

No Safe Harbor: Threatens Federal Legislation & Policies in Other States

- Federal climate & energy legislation has already been delayed for more than a year.
- The specifics of the new federal law are still in flux with key provisions under intense negotiation.
- Momentum before this November's vote or success in overturning AB 32 would give opponents of new federal laws a tremendous advantage in the Washington debate and could stop progress in every other state.
- Even if a new national climate & energy law includes a preemption of California's cap and trade law, the preemption it is unlikely to affect the State's nearly 70 other policies that are included in the AB 32 Scoping Plan.
- In short, the AB 32 fight is not an either-or proposition as it relates to the congressional effort. Simultaneous strategic approaches at both the state and federal level are absolutely necessary.

Their Commitment: Dirty Energy is Well-Funded and Loathes Competition

- Fossil fuel companies spent a record \$154 million on federal lobbying in 2009.^x
- The fossil fuel industry has a history of spending on California ballot initiatives, contributing \$93.8 million of the \$94.4 million spent to defeat Prop 87 in 2006 (the tax on oil production in Calif. to generate \$4 billion for alternative energy programs).^{xi}

The Solution: You & An Aggressive Campaign to Stop the 2010 Ballot Proposition

"As goes California, so goes the nation." Just as the Golden State has led the nation to higher fuel efficiency and other climate standards, and as it continues to dominate venture capital and start-up creation, a rejection of AB 32 this November would give new momentum to opponents of federal energy and climate legislation and would stall work in all other states.

"Since the passage of that bill, California has pulled far ahead of the rest of the country, on a percentage basis, in the number of new energy innovation and conservation jobs created. So this AB 32 campaign is a cynical effort by out-of-state oil companies to try to defer indefinitely the implementation of a market-based system that was advocated by a Republican governor and overwhelmingly passed by a bipartisan group of the California Legislature. I think it would be a terrible idea if they succeed in putting this off, not only for our own economy, not only for climate, but for the signal it sends to the rest of the country." – **John Doerr, Partner, Kleiner Perkins Caufield Byers**

"A rollback doesn't solve anything and, in fact, hurts a huge number of stakeholders," said **Josh Green**, a general partner with **Mohr Davidow Ventures** in Menlo Park, CA. "Delays in this transition will have a disproportionate negative impact on the start-ups that are developing the technologies to meet the standard because they do not have the balance sheets to weather through a delay. This scenario will undermine our ability to meet the standard at all, as promising companies will either move elsewhere or fail for lack of market traction."

"The reason we are here in California is because the policy conditions have created a strong solar market, and we have a bright future," said **David Hochschild, CEO of Solaria**, a company that sells solar modules to utility companies for large installations.

ⁱ Next 10 – 3/18/10 Poll

ⁱⁱ Cleantech Group, LLC

ⁱⁱⁱ American Recovery and Reinvestment Act 2009

^{iv} California Green Innovation Index 2009, Next 10

^v Next 10 – Many Shades of Green 2009

^{vi} Bloomberg New Energy Finance

^{vii} Bloomberg New Energy Finance

^{viii} California Green Innovation Index 2009, Next 10

^{ix} <http://ag.ca.gov/>

^x E&E Daily

^{xi} Ballotpedia.org