

Climate offset proposal returns in California, with opponents taking notice

By Eric He

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A first-in-the-nation effort in California to regulate the voluntary carbon offset industry sailed through the Legislature last year with no opposition — only to be vetoed by Gov. [Gavin Newsom](#). Now, a second attempt by Sen. [Monique Limón](#) (D-Santa Barbara) is drawing scores of pushback amid what she says are rapid changes happening in the climate space.

Limón's [SB 1036](#) would subject voluntary carbon offsets — which allow companies to balance out their emissions by purchasing credits toward projects that seek to reduce greenhouse gasses from the atmosphere — to the state's False Advertising Law.

It would also prohibit transactions or marketing of voluntary carbon offsets if a person knows, or reasonably should know, that the offset is not quantifiable, real or would have happened anyways without the purchase of the credit. While the bill would not criminalize violations, it would open up liability.

[SB 390](#), Limón's identical bill last year, received no formal opposition and no dissenting votes in the Legislature before Newsom's veto. But this year, the Chamber of Commerce and a number of business interests are [fighting the bill](#), along with companies that develop carbon offsets.

Limón said the bill aims to clamp down on “junk offsets.” A 2023 study of 18 carbon-offset projects in Peru, Colombia, Cambodia, Tanzania and the Democratic Republic of Congo [found only a fraction](#) of nearly 90 million credits actually resulted in additional reductions through preserved forests, and a [Guardian investigation](#) deemed more than 90 percent of rainforest offset credits by the world's largest credit certifier “worthless.”

“In the past year there has been a lot more attention paid across the country to the issue of carbon offsets,” Limón [told POLITICO](#). “Consumers want to know that when we say something is ‘green’ that it actually means something.”

WHAT'S IN THE BILL?

This Pro Bill Analysis is based on the [text of the bill](#) as introduced on Feb. 6.

The bill would apply [California's False Advertising law](#) to voluntary carbon offsets, adding an article to the law with specific regulations. It would also define 26 terms related to carbon offsets, which the Senate Committee on Environmental Quality [committee analysis](#) described as “generally in line with existing definitions for compliance offset protocols” (Sec. 1).

The measure would make it unlawful for a person to verify, certify, issue, maintain on a registry or market a voluntary carbon offset if they know, or should know, that the project contains greenhouse gas reductions or removal enhancements that are “unlikely to be quantifiable, real and additional.”

Additionally, a person would be unable to market or sell a voluntary carbon offset if they know, or should know, that the durability or the atmospheric lifetime of the offset's greenhouse gas reduction or removal enhancement is less than the atmospheric lifetime of carbon dioxide emissions. However, there would be an exception if the offset is specifically marketed as not equivalent to the climate impact of carbon dioxide emissions.

A greenhouse gas reduction would be defined as a calculated decrease in emissions compared to a project baseline over a specific period of time, and a greenhouse gas removal enhancement would be defined as an increased effort to remove a specific amount of gasses from the atmosphere over a set amount of time.

The measure would define the boundaries of an offset project — which a company can use as a tradeable instrument in exchange for achieving the equivalent of greenhouse gas reduction or removal enhancement of a specific amount of carbon dioxide — as any impact of equipment, materials, items or actions related to the project on greenhouse gas reductions, emissions or removal enhancements.

A project would be considered quantifiable if the greenhouse gas reductions or removal enhancements can be accurately measured in a reliable and replicable manner.

The measurement would be compared to a baseline of a conservative estimate defined as a “business-as-usual scenario” — or the conditions that would be reasonably expected to occur without the financial incentives from the company being able to trade in the voluntary carbon offsets. The scenario would need to take into account current economic and technological developments.

The measurement would further take into consideration an increase in emissions or decrease in greenhouse gas removals due to activity from the project or the project’s impact on the market.

The bill would define a “carbon dioxide equivalent” measurement as the number of metric tons of carbon dioxide emissions that have the same global warming potential as a metric ton of another greenhouse gas.

The project would be “real” if the reductions in greenhouse gasses are quantified using proven methodologies, and it would be “additional” if the reductions would not have otherwise occurred in a “business-as-usual scenario.”

The “durability” of a project would be defined as the time commitment that a company agrees to maintain reductions.

The penalty would not be a crime, unless there is a violation of the [general false advertising law](#). The regulations would not apply to the state’s [cap-and-trade program](#).

The greenhouse gasses applicable to the bill, per the [Health and Safety Code](#), would be (Sec. 1):

- Carbon dioxide
- Methane
- Nitrous oxide
- Hydrofluorocarbons
- Perfluorocarbons
- Sulfur hexafluoride
- Nitrogen trifluoride

WHO ARE THE POWER PLAYERS?

Sen. [Monique Limón](#) (D-Santa Barbara) introduced the bill in February for the second straight year, with the **California Environmental Voters** sponsoring the bill again. **Melissa Romero**, the group’s deputy legislative director, said at a March 20 hearing before the Senate Committee on Environmental Quality that the bill would ensure the “integrity of the voluntary carbon offsets market” while “holding corporations accountable for their environmental commitments.”

“Those offsets do not live up to their promises,” Romero said of “junk” offsets. “Not only do they deceive consumers, but they undermine our climate goals and divert funding from even more effective projects. Relying on offsets that later prove to be ineffective only perpetuates rising emissions.”

[SB 390](#), last year’s bill, saw no resistance in the Legislature, but Gov. [Gavin Newsom](#) vetoed it nonetheless. In [his explanation](#), Newsom said that while he supported Limón’s intent to bring greater transparency to the market, he was concerned about allowing legal action against violators of the measure. Newsom wrote that the proposal could create “significant turmoil” in the market by hamstringing “well-intentioned sellers and verifiers of voluntary offsets.”

“I encourage the author to consider an alternative approach to ensuring voluntary carbon offset quality that avoids these unintended consequences,” Newsom said.

The **California Chamber of Commerce**, taking the lead on an [April 1 opposition letter](#) alongside other industry groups, echoed the governor’s concerns that “a large number of good actors could face severe consequences.” The letter argued that the broad nature of the liability imposed would prevent potential offset developers and traders from finding someone willing to verify the offset.

“No one will personally assume the risk to offer any degree of assurance for an offset based on this language,” the letter stated. “It is likely for this reason that a nearly identical measure was vetoed.”

Other groups that signed onto the letter include the **California Forest Carbon Coalition**, **Civil Justice Association of California** and the **California Bankers Association**.

Companies that develop, verify and purchase voluntary carbon offsets joined in opposition this year, as well — including **A-Gas**, **Rubicon Carbon** and **ClimeCo LLC**, which [wrote that](#) the proposal may “seem viable on the surface,” but called the scope of the bill too large and in conflict with other current or pending regulations.

Jessica Bede, managing director with the **American Carbon Registry**, said at the April 9 Senate Judiciary Committee hearing that SB 1036 would “crater the carbon markets by introducing unworkable provisions and unnecessarily increasing liability for good actors,” claiming that it would lead to many lawsuits by those opposed to offsets.

Key environmental groups like the **Nature Conservancy** and the **Environmental Defense Fund** declined to support the bill unless it is amended, with both suggesting changes to committees. The Environmental Defense Fund [proposed changing](#) the definition of “durability” and making liability subject to “actual knowledge.” It also sought to make an exception for violators who had a “good faith misunderstanding of the law” and to include a public engagement process prior to penalties.

Limón, in response to the opposition expressed at the hearing, said that the definitions used in the bill are taken from the California Air Resources Board — adding that the proposals from opponents so far seek to undermine both SB 1036 and existing laws.

“That is a real big concern to us that they just want to be exempted altogether from existing law, independent of this,” Limón said.

WHAT’S HAPPENED SO FAR?

No existing state or federal laws specifically regulate voluntary offsets, which have faced [growing criticism](#) in recent years for often [not representing](#) real emissions reductions or being too difficult to verify. Efforts are underway [by the industry and regulators to establish guidelines](#) for offsets, and the FTC has proposed to update its Green Guides to [include advice](#) on marketers’ claims about carbon offsets.

[Another carbon offset bill](#) that passed last year and was signed by Newsom, [AB 1305](#), will require companies in California to publish the number and type of voluntary carbon offsets they buy and sell, and disclose whether offsets are being used to meet corporate net-zero commitments. The law establishes potential fines for noncompliance and inaccurate information but does not take effect [until 2025](#) and the date is nonbinding.

Limón took inspiration from Sen. [Ben Allen](#)’s (D-Santa Monica) [SB 343](#) in 2021, which also amended the state’s false advertising law to define “environmental marketing claims” to regulate the use of the recycling symbol.

Last year, the two biggest climate bills of the legislative session — [SB 253](#) and [SB 261](#) — attempted to force companies to disclose their emissions and financial risks from climate change. Industry groups fought hard against both bills, which Newsom signed into law, but [may be further impacted](#) by clean-up legislation and lawsuits.

Now, corporations are turning to Limón’s proposal.

“Going from a year of this conversation happening without any opposition to a year where now you have a lot of the offset market and the Chamber and oil companies now opposed is probably telling of the changes that are happening globally in this space,” Limón [told POLITICO](#).

WHAT’S NEXT?

The measure is currently awaiting the suspense file in the Senate Appropriations Committee after passing both the Senate Environmental Quality Committee and Senate Judiciary Committees. It is unclear if Newsom would veto the bill if it reaches his desk again, since Limón did not put forth an alternative proposal as he suggested.

The bill would have impacts outside the state, as many actors in the offset space are engaged with companies in California. Although the bill text is the same as last year, the number of industry stakeholders opposing the measure likely sets it up for a more protracted fight than the easy passage it saw in 2023.

Katelyn Roedner Sutter, California state director at the Environmental Defense Fund, told POLITICO that the proposal last year was not even on the organization's radar until near the end of session, partially because "there was a lot of energy" spent on the [two climate disclosure bills](#).

"After the governor vetoed this, suddenly a lot of people were like, 'Oh, what did he veto?'" Sutter said.

WHAT ARE SOME STORIES ON THE BILL?

[Read POLITICO news on SB 1036.](#)

Blanca Begert contributed to this report.