

THE TRUTH ABOUT PROPOSITION 23: IS IT A "CALIFORNIA JOBS INITIATIVE" OR A "DIRTY ENERGY PROPOSITION"...OR NEITHER?

By [Greg Woodard](#) and [Jim Pugh](#) - September 23, 2010

On November 2, 2010, Californians will cast a vote on Proposition 23 (the "California Jobs Initiative") and decide whether or not to suspend AB 32, also known as the "Global Warming Solutions Act of 2006." The legislature enacted AB 32 with the intention of establishing California as a national leader in the climate change and clean technology arena. The stagnating economy has provided AB 32 opponents with a platform to propose suspending AB 32 until unemployment in California falls below 5.5%, a proposition both advocates and detractors of Prop 23 admit will not likely happen for several years. Prop 23 supporters claim that AB 32 is a job-killer that will increase Californians' energy bills. Opponents counter that AB 32 provides jobs for California's burgeoning clean tech industry and suspension of AB 32 will threaten not only that industry, but all but end California's attempt to drastically curb greenhouse gas emissions (GHGs) in the state. Amid the flurry, the truth about Prop 23 is likely somewhere in the middle. Below, we provide the backdrop for Prop 23 and objectively summarize the arguments for and against it.[\[1\]](#)

History of AB 32

In 2006, the state enacted AB 32 to reduce greenhouse gas emissions to 1990 levels by the year 2020. AB 32 tasked the California Air Resources Board ("CARB") with creating rules and regulations aimed at reducing GHGs from virtually all economic sectors, including industry, transportation, utilities, development, and agriculture. From 2006 to 2010, CARB successfully reached several AB 32 goals, including adopting early action measures in 2007, creating

an inventory of California's GHGs in 2008, publishing a comprehensive GHG-reduction scoping plan in 2009, and drafting emissions reduction regulations in 2010. Pursuant to AB 32's implementation timeline, CARB is scheduled to adopt final regulations in January 2011 and begin enforcing the same in January 2012. The continued regulatory rollout of AB 32, however, would likely be suspended if voters pass Prop 23.

AB 32 contains a provision that allows the governor to suspend portions of the law for up to one year in the case of an emergency or significant economic harm.[2] Despite the lagging economy, Governor Schwarzenegger has resisted calls to suspend AB 32. The two candidates for this November's election to replace Schwarzenegger as Governor have differing views on the use of that power. Meg Whitman has indicated that, if elected, she would immediately suspend AB 32.[3] Jerry Brown has supported AB 32's goals and vigorously opposes Prop 23, leading some to believe that he would not enforce a one year moratorium on AB 32's implementation.[4]

History of Proposition 23

Prop 23 was born from the collision of dismal economic conditions, high unemployment rates, and looming GHG regulations. On November 25, 2009, the group People's Advocate, Inc. filed a request with the Office of the California Attorney General for an official ballot title and summary for an initiative titled the "California Jobs Initiative." On December 22, 2009, an election law attorney also submitted letters to the Attorney General's Office requesting the suspension of AB 32 until California's unemployment rate receded from its current high of approximately 12 percent. As a basis for the proposed proposition, the letters asserted that skyrocketing unemployment and the exorbitant "passed-on" costs of new GHG regulations were simply unaffordable for struggling California families.[5]

To qualify Prop 23 for the ballot, supporters needed to provide qualifying signatures to California's fifty-eight county election clerks. In March 2010, a petition drive seeking at least 433,971 valid signatures was launched to qualify

the measure for the ballot. Only three months later, organizers submitted more than 800,000 qualifying signatures, which was nearly twice the amount of signatures needed to place the initiative on the ballot. [6]

Controversy has accompanied Prop 23 from the start. Governor Schwarzenegger criticized the largely oil-industry-funded petition drive as being the "... work of greedy oil companies who want to keep polluting our state and making profits," [7] On the other hand, Anita Mangels, communications director for the initiative, said that it was unfair to portray the measure as funded or supported largely by oil companies because the "...coalition includes business, taxpayer and other organizations that represent literally hundreds of California employers, millions of California jobs and billions in revenues." [8] The war of words will undoubtedly continue until election day.

The requisite number of signatures were confirmed and Prop 23 is set for the November ballot as a measure that "[s]uspends implementation of air pollution control law (AB 32) requiring major sources of emissions to report and reduce greenhouse gas emissions that cause global warming until unemployment drops to 5.5 percent or less for a full year." The full title and text of Prop 23 can be located on the California Secretary of State voter guide website. [9] Now, it is up to voters to decide whether California should roll out AB 32 or roll it back. One thing is for certain, in the coming weeks, Prop 23's supporters and opponents will continue to bombard voters with conflicting messages about the future and costs of California's climate change regulations.

Supporters & Their Arguments for Proposition 23

Prop 23 is supported by businesses, union groups, the trucking industry, the California Republican Party, local chambers of commerce, and taxpayer groups. [10] Its top funding sources are oil companies such as Valero Energy Corporation, Tesoro Corporation, and Koch Industries, which have contributed the majority of Prop 23's approximately \$8.2 million funding to date. [11] Other major oil companies, such as Chevron Corporation, Exxon Mobil, and Conoco Phillips have remained neutral on the issue.

Prop 23 supporters vigorously defend their position that the measure will: (1) increase family and business costs; (2) result in massive blue-collar job loss; (3) decrease tax revenues; (4) decrease California's economic productivity; and (5) result in significantly higher energy taxes and costs. [12]

These arguments rely primarily on two studies commissioned by a California small business advocate group and prepared by Dr. Varsheney and Dr. Tootelian from California State University, Sacramento. [13] The studies predicted that AB 32 would cost each California household approximately \$3,857 per year based on increased housing, transportation, utility, and food spending. For businesses, the study found an increase of \$49,691 in costs based on lost business taxes, lost labor income, and approximately one-third of a job lost per small business. The study also concluded that nearly 1.1 million jobs could be lost due to decreased state-wide economic output and increased consumer costs.

In addition to the studies, the report from the Legislative Analyst's Office (LAO), the State's official legislative analysis, forecasts some adverse consequences of AB 32 implementation, concluding that ". . . economic activity in the state would likely be modestly higher if this proposition were enacted than otherwise." Therefore, it appears that Prop 23's supporters have valid grounds to claim that implementation of AB 32 would slightly reduce California's overall economic activity. As discussed below, however, that claim is strongly rebutted by Prop 23 opponents.

Further support for Prop 23 stems from the fact that California is currently the only state having a climate change law that mandates GHG reductions by virtually all commercial and industrial sectors to a very low level. Since there is presently no federal law at such a low level (and likely will not be for some time), coupled with the fact that many Western Climate Initiative (WCI) members are backing out themselves (discussed further below), California would essentially be "going it alone" on the GHG-reduction front. However, GHGs are global in nature. If California is alone in mandating GHG reductions, the beneficial impact on the environment would be little to non-existent.

Opponents & Their Arguments Against Prop 23

Opponents of Prop 23 (who have labeled Prop 23 the "Dirty Energy Proposition") come from an equally diverse group of organizations, including businesses, unions, environmental, clean technology, and health organizations. Individual opponents of Prop 23 include Governor Schwarzenegger, Senator Dianne Feinstein, and Democratic state lawmakers. Opponents claim that Prop 23 is funded primarily by two Texas oil companies to kill California's clean energy and air pollution control standards required by Prop 23. [14]

Opponents contend that AB 32 has put California at the forefront of the clean technology industry, and passage of Prop 23 will circumvent California's clean energy policies, threaten investment in clean technology, and kill thousands of jobs in the clean technology industry. Moreover, they argue that suspending AB 32 would let polluters off the hook and increase air pollution and public health risks. Opponents also argue that Prop 23 would continue California's reliance on foreign oil and increase electricity costs by 33%, resulting in \$80 billion in damage to California's economy and loss of 500,000 jobs by 2020. [15]

Opponents of Prop 23 also point to government analyses to support their claims that AB 32's implementation will not detrimentally effect California's economy. Earlier this year CARB released an economic-impact analysis of AB 32. [16] The report contends that there will be minimal negative impacts to California's economy by the end of 2020, and have a positive impact on clean technology jobs. [17]

In addition, with the United States Senate's decision earlier this year to abandon efforts to pass climate change legislation, opponents of Prop 23 stress that the absence of federal legislation makes AB 32 even more important. In a report recently released by the Clean Economy Network (CEN), the group's board chair said, "[w]e've already had a major setback at the federal level. If we cannot hold the ground here in California, literally the stakes are for the rest of the U.S." [18]

It is in the face of these charges from both those supporting and opposing Prop 23 that voters must decide in November.

What if Prop 23 fails?

If Prop 23 fails in the November election, AB 32 implementation actions will proceed as scheduled. CARB's adoption of GHG emissions limits and emission reduction measures should go forward as planned in early 2011, to then take effect January 1, 2012. CARB also may adopt a market-based cap-and-trade system that limits GHG emissions from various industries and provides economic incentives for achieving reductions in the emissions.

Supporters of AB 32 may also take the failure of Prop 23 as an indication that a majority of Californians support the law, and provide fuel to promote further regulations on GHG emissions.

On a regional level, Prop 23's defeat could bolster support for the WCI, a coalition of seven Western states and three Canadian provinces. The WCI's goal is for the group to cut GHG emissions in the next 10 years to levels 15% below those in 2005. The primary means of meeting the goal would be through a cap-and-trade system that would go into effect in 2012. While there are questions as to whether the entire WCI group will be ready to launch on the scheduled timetable, Prop 23's defeat would eliminate a significant hurdle to the group and confirm California's desire to lead the regional GHG-reduction effort.

What if Prop 23 passes?

Prop 23's approval would immediately place California's effort to lead the region and country in the reduction of GHG emissions on hold. The LAO has stated that California's historical unemployment trends indicate that AB 32 would be suspended for many years, effectively ending AB 32's goals of establishing significant GHG emissions by 2020. The LAO believes that passage of Prop 23 would suspend the following GHG-reduction measures: (1) the proposed cap-and-trade regulation, the "low carbon fuel standard" regulation

that requires refiners and importers to change the mix of fuels to lower GHG emissions; (2) the proposed ARB regulation requiring electricity providers to obtain at least one-third of their supply from renewable sources (e.g. wind and solar) by 2020; and (3) the fee to recover the state's costs in administering AB 32. The LAO believes that passage of Prop 23 will not suspend new car and small truck vehicle emissions standards, a residential solar incentive program, land-use policies like SB 375 that promote less reliance on vehicle use, and building and appliance energy efficiency requirements. The LAO contends these measures are independent of AB 32's programs promoting GHG-reductions.

Prop 23's passage also may have effects outside of California by jeopardizing the WCI. Supporters of both the WCI and AB 32 concede that Prop 23's passage would threaten the coalition as California accounts for a large percentage of GHG emissions among coalition members.

Conclusion

The battle over Prop 23 is a tale of two entrenched camps. Proponents claim that if AB 32 is implemented, it will ultimately cost the state over a million jobs and cut the state's GDP by over \$180 billion, as well as drastically increase consumers' energy costs. Opponents say passage of Prop 23 will destroy the state's budding green technology industry, threaten California's lead role internationally in the arena of GHG emissions reductions, and cost the economy 500,000 jobs and \$80 billion.

Ironically, both sides say that whether or not Prop 23 passes, jobs will be lost and California's economy will suffer. On November 2, 2010, the voters get to decide who is right.

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[1] See the official arguments both for and against Prop 23 at
<http://www.voterguide.sos.ca.gov/pdf/english/23-arg-rebuttals.pdf>

[2] <http://gov.ca.gov/press-release/4111/>

[3] http://www.sfgate.com/cgi-bin/blogs/nov05election/detail?entry_id=47872

[4] <http://www.greengov2010.org/you-report/2010/05/whats-jerry-browns-position-ab-32>; <http://www.jerrybrown.org/brown-blasts-proposition-23-questions-whitmans-commitment-californias-green-economy>

[5] http://ag.ca.gov/cms_attachments/initiatives/pdfs/i902_initiative_09-0104.pdf

[6] <http://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures.htm>

[7] Dan Whitcomb, "California May Vote to Freeze Landmark Climate Law"
<http://www.reuters.com/article/idUSTRE64303220100504?type=politicsNews>

[8] *Id.*

[9] <http://www.voterguide.sos.ca.gov/pdf/english/23-title-sum-analysis.pdf>

[10] <http://www.yeson23.com/wp-content/uploads/CA-Jobs-Initiative-Coalition-List-9.15.10.pdf>

[11] <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1323890&session=2009&view=late1>

[12] <http://www.yeson23.com/>

[13] http://suspendab32.org/AB_32_Report071309.pdf and <http://sba.ca.gov/Cost%20of%20Regulation%20Study%20-%20Final.pdf>

[14] Opponents of Prop 23 have also been funded by out-of-state donations, including sizeable donations from investors in clean technology projects, as well as Democratic candidate supporters.

[15] <http://www.stopdirtyenergyprop.com/get-the-facts.php>.

[16] http://www.arb.ca.gov/cc/scopingplan/economics-sp/updated-analysis/updated_sp_analysis.pdf. A December 2009 study by the Brattle Group supports CARB's claims, finding that the overall impact of AB 32 on state small businesses would be negligible and very manageable.

(http://www.ucsus.org/assets/documents/global_warming/AB-32-and-CA-small-business-report.pdf.)

[17] The 2010 analysis was an update to a December 2008 CARB analysis that was criticized by several peer reviewers and independent organizations.

(<http://www.arb.ca.gov/cc/scopingplan/economics-sp/peer-review/peer-review.htm>.)

[18] The CEN styles itself as a "networking, educational, and advocacy organization shaping a new economy based on clean technology and innovation." (<http://cleaneconetwork.org/about-us>.)