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## **ICYMI: *Sacramento Bee*: Brown's ARB makes a sly and maybe risky move in carbon chess game**

(SACRAMENTO)—In today's *Sacramento Bee*, columnist Dan Walters wrote about the California Air Resources Board's (CARB) plan to extend the cap-and-trade program to 2030 despite knowing Legislative Counsel, the Legislature's lawyers, previously opined that CARB and the Brown administration have no authority to do so. According to Walters, this risky decision by CARB was made in hopes of bringing worth and revenue back to a failing auction program, which continues to be surrounded in legal uncertainty.

### ***Sacramento Bee*: Brown's ARB makes a sly and maybe risky move in carbon chess game**

Those who relish complex political gamesmanship will love this week's sly maneuver by Gov. Jerry Brown's administration on its contentious – and imperiled – carbon emission crusade.

Brown's Air Resources Board issued a very lengthy, highly technical draft of new rules purporting to extend its cap-and-trade program, which issues and markets emission allowances, beyond the 2020 date now set in law.

Its timing is unmistakable – two months after the last quarterly allowance auction generated almost no interest and two weeks before the Legislature reconvenes for the final month of its 2016 session.

However, the proposed extension to at least 2030 is legally suspect. It's based on one ambiguous sentence of the 2006 legislation that authorized cap-and-trade, and the Legislature's lawyer declares there's no authority in law for extending it.

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Brown's office says, "An extension will not only provide market certainty, but will ensure ongoing funding for clean energy programs, especially in vulnerable communities."

"Market certainty" is a key element in the new rules because May's auction failed due to a glut of previously purchased emission allowances.

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Thus, only a handful of state-owned allowances were purchased in May, punching a big hole in official expectations that auctions would generate about \$2.4 billion a year for a variety of purposes, including Brown's pet bullet train project.

By issuing the extension rules, which imply that future prices of allowances could be much higher but make current ones valid beyond 2020, the ARB is hoping to both stop the dumping and make bidding in pre-2020 auctions more lucrative to speculators and affected businesses.

However, that hope hinges on whether those in the multibillion-dollar carbon emission market believe that the program will, in fact, continue, either through the new ARB rules or legislation.

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The legal challenge, now pending in the state court of appeal, contends that cap-and-trade is a tax requiring a two-thirds legislative vote.

The questions posed by justices imply that they may uphold the challenge and were they to rule before the legislative session ends, that also would become a factor in what happens – or doesn't happen.

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