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SACRAMENTO**[Núñez slams governor on emission law](#)**- [Mark Martin, Chronicle Sacramento Bureau](#)

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(10-17) 04:00 PDT Sacramento -- Assembly Speaker Fabian Núñez and some

environmental groups charged Monday that an executive order Gov. Arnold Schwarzenegger plans to sign today undermines an agreement the governor struck with Democrats on the state's landmark global warming law.

Schwarzenegger will sign an order giving the secretary of the Environmental Protection Agency the duty of overseeing parts of the law's implementation and emphasizes the development of a new market allowing companies to buy and sell greenhouse gas emissions credits.

Núñez said that the executive order gives more power to the executive branch than the law calls for and that the governor's emphasis on a market-based approach to lowering greenhouse gas emissions ignored other aspects of the law. He suggested the governor was reinterpreting the law based on proposals he had suggested to lawmakers during negotiations over the legislation this year but that had been rejected by the Legislature.

"You can't rewrite a law through executive order," said Núñez, D-Los Angeles, who carried the bill. "This is totally inconsistent with the intent of the law and with the way that it is written."

Schwarzenegger spent Monday in New York, where he met with Gov. George Pataki and announced his intent to set up programs with Northeastern states and the European Union that would allow California companies to trade emissions credits with companies in Europe and the Northeast.

The governor also was in New York for a campaign fundraiser hosted by New York Mayor Michael Bloomberg.

Administration officials said the executive order, which the governor announced Monday but can't sign until today, when he returns to California, was intended to clarify the legislation, AB32. Linda Adams, Schwarzenegger's secretary of the EPA, said she would be coordinating many aspects of the new law but that the state's Air Resources Board would ultimately adopt rules governing the state's target of reducing greenhouse gas emissions by 25 percent by 2020.

"It's critical that I continue to play that oversight role and coordinating role," Adams said.

At issue are two sticking points from negotiations earlier this year between Democratic lawmakers and Schwarzenegger.

The governor had proposed that a group of Cabinet secretaries oversee the development of programs aimed at reducing greenhouse gases, but lawmakers insisted that the Air Resources Board have the power to set regulations requiring industries to lower emissions.

Schwarzenegger also insisted that the legislation require that a market-based trading system be implemented to help companies reduce emissions. The final version of the bill does not require the system, however, instead requiring the Air Resources Board to consider it as one way to meet the new greenhouse gas caps.

Schwarzenegger signed the legislation in August during lavish ceremonies in San Francisco and Santa Monica, and is using the global warming fight as a centerpiece of his re-election agenda.

The executive order Schwarzenegger announced Monday directs Adams to create a committee of experts to make recommendations on how to implement an emissions market, and gives her authority to develop an economic analysis regarding various efforts to reduce greenhouse gases.

Some environmentalists noted that the law gives that authority to the Air Resources Board.

"He's trying to get back by executive order what he failed to get in negotiations with the Legislature," said Bill Magavern, a lobbyist with the Sierra Club. The Sierra Club supported the legislation but has backed Schwarzenegger's opponent in the governor's race, state Treasurer Phil Angelides.

And environmentalists had argued during negotiations that the board, which has implemented most of the state's key environmental protections during the past decades, was the appropriate group to set greenhouse gas rules. While the board is made up of gubernatorial appointees -- just as the Cabinet is -- it typically acts independently of the governor.

Adams said her role was to help the board develop rules, saying "AB32 left some questions unanswered."

Núñez, however, said the role of the board was very clearly defined in the bill.

"He's injecting a new agency into this that was never agreed to in the legislation," said the speaker, who said he would call Schwarzenegger today to discuss the executive order.

Many environmental groups are skeptical of an emissions trading system, saying past efforts to use markets to reduce pollution haven't always worked well.

Jane Williams, director of the group California Communities Against Toxics, argued that a trading system could result in continued pollution in some areas. Companies operating high-polluting power plants, for example, could buy credits from another company and continue running the plant, which emits both carbon dioxide and other gases that contribute to localized air pollution.

That is why her group fought hard during negotiations to make sure a trading system was not

mandated.

She said Monday she was concerned that Schwarzenegger was trying to ensure that an emissions trading system was implemented, instead of allowing it to be one option the board considers.

Other options include requiring better energy efficiency in buildings or enforcing laws that require automakers to build cleaner-burning cars and electric utilities to increase their use of renewable power.

"We are very disappointed in the governor's actions," Williams said.

The executive order was applauded by one business group that opposed the legislation.

"The governor has taken important first steps to help lessen the burden of California's new global warming law," said Jack Stewart, president of the California Manufacturers and Technology Association. "He has ordered market mechanisms to be developed concurrently with regulatory measures so that industry can comply with reduction mandates in the most cost-effective manner."

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