SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 253
Author: Wiener (D), Gonzalez (D) and Stern (D), et al.
Amended: 5/18/23
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-2, 3/15/23
AYES: Allen, Gonzalez, Menjivar, Skinner
NOES: Dahle, Nguyen
NO VOTE RECORDED: Hurtado

SENATE JUDICIARY COMMITTEE: 8-1, 4/18/23
AYES: Umberg, Allen, Ashby, Durazo, Laird, McGuire, Min, Wiener
NOES: Niello
NO VOTE RECORDED: Wilk, Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Climate Corporate Data Accountability Act

SOURCE: Carbon Accountable
California EnviroVoters
Ceres
Sunrise Bay Area
Greenlining Institute

DIGEST: This bill requires any partnership, corporation, limited liability company, or other U.S. business entity with total annual revenues in excess of one billion dollars and that does business in California to publicly report their annual greenhouse gas (GHG) emissions, as specified by the California Air Resources Board (CARB).

ANALYSIS:

Existing law:

1) Requires, under AB 32, the monitoring and annual reporting of GHG emissions from specified sources that contribute the most to statewide emissions. (Health and Safety Code (HSC) § 38530)

2) Requires the CARB to make available, and update annually, the emissions of GHGs, criteria pollutants, and toxic air contaminants from each facility that reports to the statute pursuant to AB 32. (HSC § 38531)

3) Defines "doing business" in California as engaging in any transaction for the purpose of financial gain within California, being organized or commercially domiciled in California, or having California sales, property or payroll exceed specified amounts: as of 2020 being $610,395, $61,040, and $61,040, respectively. (Revenue and Tax Code (RTC) § 23101)

This bill, the Climate Corporate Data Accountability Act:

1) Makes findings and declarations regarding, among other things, the impacts of climate change, the strength of California's economy, and the importance of accurate emissions data in informing investors, consumers, and companies.

2) Defines the following terms:

    a) "Emissions reporting organization" to mean a nonprofit emissions reporting organization, as specified, contracted by CARB;

    b) "Reporting entity" to mean a partnership, corporation, limited liability company, or other U.S. business entity with total annual revenues in excess of one billion dollars and that does business in California;

    c) "Scope 1 emissions" to mean all direct GHG emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities;

    d) "Scope 2 emissions" to mean indirect GHG emissions from electricity purchased and used by a reporting entity, regardless of location; and

   e) "Scope 3 emissions" to mean indirect GHG emissions, other than scope 2 emissions, from activities of a reporting entity that stem from sources that the reporting entity does not own or directly control and may include, but are not limited to, emissions associated with the reporting entity's supply chain, business travel, employee commutes, procurement, waste, and water usage, regardless of location.

3) Requires CARB to, on or before January 1, 2025, develop and adopt regulations to require a reporting entity to annually disclose to the emissions reporting organization, and verify, all of the reporting entity's scope 1 emissions, scope 2 emissions, and scope 3 emissions. And further requires CARB to ensure:

   a) That a reporting entity, starting in 2026 or a date determined by CARB, publicly disclose their scope 1, 2, and 3 emissions annually, as specified;

   b) That specified scope 3 guidance documents are incorporated, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data, and other generic data in its scope 3 emissions calculations;

   c) The collected data is appropriately understandable, complete, and minimizes redundant reporting, as specified;

   d) That specified stakeholders are engaged in the rulemaking process;

   e) That a reporting entity's public disclosure is independently verified by a third-part auditor, as specified; and

   f) That a reporting entity shall pay an annual fee, as specified and not to exceed $1,000, that shall be available to cover the costs to CARB for administering and implementing this act.

4) Requires CARB to, on or before January 1, 2027, contract with the University of California, the California State University, a national laboratory, or another equivalent academic institution to prepare a report on the public disclosures the emissions reporting organization has received, as specified.

5) Requires the emissions reporting organization to create a digital platform to house the public disclosures it receives, as specified.

6) Authorizes CARB to seek administrative penalties—not exceeding $500,000 and potentially reduced in consideration of all relevant circumstances—through administrative hearings for violations of this act.

Background

1) *Scope 1, 2, and 3 emissions*. The "scope" framework was introduced in 2001 by the World Resources Institute (WRI) and World Business Council for Sustainable Development as part of their Greenhouse Gas Protocol Corporate Accounting and Reporting Standard. The goal was to create a universal method for companies to measure and report the emissions associated with their business. The three scopes allow companies to differentiate between the emissions they emit directly into the air, which they have the most control over, and the emissions they contribute to indirectly.

   Scope 1 covers direct emissions from owned or controlled sources, such as fuel combustion, company vehicles, or fugitive emissions. Scope 2 covers indirect emissions from the generation of purchased electricity, steam, heating and cooling consumed by the reporting company. Scope 3 includes all other indirect emissions that occur in a company's value chain. Recent research from CDP (formerly the Carbon Disclosure Project) found that among full-scope (i.e. 1, 2, and 3) reports, scope 3 supply chain emissions are on average 11.4 times higher than combined scope 1 and 2 emissions.

   Scope 3 emissions are divided into fifteen categories: Purchased goods and services; capital goods; fuel-and energy-related activities; upstream transportation and distribution; waste generated in operations; business travel; employee commuting; upstream leased assets; downstream transportation and distribution; processing of sold products; end-of-life treatment of sold products; downstream leased assets; franchises; and investments.

   While the range of categories is daunting, the U.S. Environmental Protection Agency (EPA) provides an extensive list of accepted emission factor (EF) values for common items. For instance, a business would not need to measure and calculate the GHG emissions associated with each and every vehicle its employees used to calculate "employee commuting", they could instead determine the total vehicle-miles traveled by their employees via different modes, then multiply those miles by the provided EF to get an acceptable estimation of the CO_2 associated with that travel.

2) *Emissions from businesses*. It should come as no surprise that, when considering scope 1, 2, and 3 emissions, businesses are responsible for a large share of GHG emissions. One frequently cited statistic from CDP states that 71% of all GHG emissions worldwide since 1988 are the result of a mere 100 companies. Those 100 companies are all fossil fuel producers, and given that scope 3 emissions include subsequent use of sold products, it follows that they would have tremendous scope 3 emissions. The scope 3 emissions for one organization are often the scope 1 and scope 2 emissions of another. For example, the emissions created by burning natural gas in a power plant would be accounted for as scope 1 emissions for the power plant, as scope 3 emissions for the company responsible for initially extracting the natural gas from the earth, and as scope 2 emissions for any business who purchased the electricity made by that power plant.

3) *Transparency guides action*. Emission-reducing actions like shifting to cleaner power or greening supply chains—whether they are initiated by activists, board members, or investors—depend on transparency. Without an accurate accounting of a business's real emissions, it is nigh impossible to target meaningful climate action. Scope 1, scope 2, and scope 3 emissions are all required for this transparency. Even existing voluntary reporting frameworks like CDP are neither necessarily public nor independently audited. Reducing scope 1 and 2 emissions by outsourcing polluting processes does not lead to a real, global reduction of GHG emissions and underscores the need for scope 3 reporting to capture the climate impacts of a business's full supply chain.

Comments

1) *Purpose of bill.* According to the author, "California, like the rest of the world, is already deeply impacted by climate change, with worsening droughts, floods, and the unforgettable devastation brought on by an influx of massive wildfires – the top five largest wildfires in the state's history have all occurred in 2018 or later. We no longer have the time to rely on massive corporations to voluntarily report their emissions, and cannot afford any possibility that the emissions we are being told about have been altered or manipulated to ensure a positive public-facing appearance for a particular company. Rather, these corporations must be required to transparently report their activities and the emissions associated with them. Californians are watching their state get irrevocably harmed by climate change, and they have a right to know who is at the forefront of the pollution causing this. SB 253 would bolster California's

position as a leader on climate change, will allow for consumers to make informed decisions regarding their patronage of these corporations, and will give policymakers the specific data required to significantly decrease corporate emissions."

2) *Corporate Climate Accountability redux*. Two years ago, the Senate heard and passed SB 260 (Wiener, 2021), which had a nearly identical aim. That bill made it through the policy and fiscal committees of both houses (albeit after a six-month hold in the Senate Appropriations Committee), before ultimately falling several votes short of passage on the Assembly floor on the last night of session. SB 253 is a reintroduction of that bill, and the introduced language mirrored what was heard on the Assembly floor. However, that does still represent some significant changes

   In short, SB 260 was considerably narrowed and refined by subsequent policy and fiscal committees after its first hearing in this committee, and the bill before the committee today represents the result of those efforts. Compared to last session's effort, SB 253 eases the burden on reporting entities by permitting other specified data to be used in scope 3 emission reporting, and aids CARB in enforcing the provisions by requiring the billion-dollar companies reporting under the bill to also provide a filing fee to offset expenses.

3) *Scope 3 is still big*. Despite the changes described above, the fact remains that mandating scope 3 emissions reporting will make life harder for the affected billion-dollar companies. The ability to use certain generic data (such as the EF tables provided by the EPA described above in the background section) significantly simplifies the endeavor, but it is still not trivial.

   Some companies (both below and above the SB 253 threshold) already do voluntarily report full-scope emissions today, but it is a minority of the estimated 5,344 companies that would be required to report under this bill. There is value in applying the same requirements across all those companies though; it will result in a less-fragmented view of corporate emissions and enable more meaningful comparisons between companies.

   Ultimately, the Senate should consider the trade-offs involved in this bill. Greater transparency of full-scope emissions from billion-dollar companies will allow the public, stakeholders, and investors to understand and act upon a company's GHG emissions and trends. However, requiring full-scope emission reporting will incur additional costs for the reporting entities.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, unknown ongoing costs, likely in the millions of dollars annually (General Fund), for CARB to implement the provisions of this bill. These costs would be offset by revenues from an annual filing fee on reporting entities.

SUPPORT: (Verified 5/18/23)

California EnviroVoters (co-source)
Carbon Accountable (co-source)
Ceres (co-source)
Greenlining Institute (co-source)
Sunrise Bay Area (co-source)
1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Marin
350 Sacramento
Active San Gabriel Valley
Alameda County Democratic Party
Asian Pacific Environmental Network
Avocado Green Brands
Breathe California
California Interfaith Power & Light
California Nurses for Environmental Health and Justice
California Public Interest Research Group
California Reinvestment Coalition
Californians Against Waste
Californians for Energy Choice
Center for Biological Diversity
Center for Climate Change & Health
Citizens' Climate Lobby Santa Cruz
Cleanearth4kids.org
Climate Action California
Climate Action Campaign
Climate Center
Climate Equity Policy Center

Climate Hawks Vote
Climate Reality Project, San Fernando Valley
Climateplan
Dignity Health
Earthjustice
Elders Climate Action, NorCal and SoCal Chapters
Environmental Defense Fund
Environmental Working Group
Everlane
Fossil Free California
Friends Committee on Legislation of California
Friends of the Earth
Green New Deal at UC San Diego
Greenbelt Alliance
Grove Collaborative
Human Impact Partners
Ikea
Mono Lake Committee
Natural Resources Defense Council
Patagonia Inc.
Persefoni Ai, Inc.
Pesticide Action Network
Planning and Conservation League
Sacramento Area Congregations Together
San Diego 350
San Francisco Baykeeper
SEIU California
Sierra Club
Sierra Nevada Brewing Company
Sunflower Alliance
Sunrise Movement Bay Area
Sunrise Movement San Diego
Transformative Wealth Management LLC
University Professional and Technical Employees
Voices for Progress

OPPOSITION: (Verified 5/18/23)

Advanced Medical Technology Association
African American Farmers of California
Agricultural Energy Consumer Association

American Chemistry Council
American Composites Manufacturers Association
American Pistachio Growers
American Property Casualty Insurance Association
Antelope Valley Chambers of Commerce
B. Braun Medical Inc.
Building Owners and Managers Association
Calcima
California Apple Commission
California Blueberry Association
California Building Industry Association
California Business Properties Association
California Cattlemen's Association
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Cotton Ginners & Growers Association
California Date Commission
California Fresh Fruit Association
California Life Sciences
California Manufacturers & Technology Association
California Poultry Federation
California Taxpayers Association
California Trucking Association
California Walnut Commission
Carlsbad Chamber of Commerce
Chemical Industry Council of California
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Coalition for Renewable Natural Gas
Costa Mesa Chamber of Commerce
Danville Area Chamber of Commerce
Far West Equipment Dealers Association
Financial Services Institute
Greater High Desert Chamber of Commerce
LA Canada Flintridge Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
NAIOP of California
National Association of Mutual Insurance Companies
Nisei Farmers League

North San Diego Business Chamber
Oceanside Chamber of Commerce
Olive Growers Council of California
Orange County Business Council
Pacific Merchant Shipping Association
Palos Verdes Peninsula Chamber of Commerce
PCI West-chapter of The Precast/Prestressed Concrete Institute
Personal Insurance Federation of California
Plumbing Manufacturers International
Rancho Cordova Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santee Chamber of Commerce
Securities Industry and Financial Markets Association
Specialty Equipment Market Association
Technet
Tenaska
The Association of General Contractors of America
Torrance Area Chamber of Commerce
Walnut Creek Chamber of Commerce
West Ventura County Business Alliance
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to a coalition of groups in support, "By requiring reporting of both direct emissions from these corporations, and any emissions produced from their supply chains and other indirect emissions SB 253 creates the data infrastructure to drive down corporate carbon emissions. This mandate of comprehensive climate pollution transparency would be the first in the nation and would establish a public right to know which companies are polluting our environmental commons, how much they are emitting, and if they are decreasing - or increasing - their climate emissions, offering a transparent and public way of verifying corporate claims of climate leadership."

ARGUMENTS IN OPPOSITION: According to a coalition of groups in opposition, "Requiring reporting and limiting emissions associated with a company's entire supply chain will necessarily require that large businesses stop doing business with small and medium businesses that will struggle to accurately measure their greenhouse gas emissions let alone meet ambitious carbon emission requirements, leaving these companies without the contracts that enable them to grow and employ more workers. Further, the inability to meet the emission objectives may fall outside of the sphere of influence of small and medium businesses as the technology to transition to carbon neutrality may not yet even exist for their line of business. Yet, they will be subject to increasing costs and the potential loss of market opportunity. Forcing companies to make these decisions would have the effect of consolidating market share in the largest of companies rather than fostering competition and growth of smaller industries."

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5/23/23 12:00:15

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