Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 253 (Wiener) – As Amended July 12, 2023

Policy Committee: Natural Resources Vote: 8 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY**:

This bill requires any U.S.-based business with annual revenues in excess of $1 billion and that does business in California to annually report the full range of greenhouse gas (GHG) emissions attributable to the business. This bill also specifies procedures for implementation and enforcement by the Air Resources Board (ARB).

Specifically, this bill, among other things:

1) Requires ARB, on or before January 1, 2025, to adopt regulations requiring, among other things, a reporting entity to verify and annually disclose to the emissions reporting organization all of the reporting entity's scope one, scope two, and scope three emissions, in accordance with specified timelines, procedures, third-party verification, and other requirements.

2) Requires the reporting entity, upon filing its disclosure, to pay an annual fee of no more than $1,000 and that may not exceed the reasonable regulatory costs of ARB for the administration and implementation of this bill. Requires the proceeds of the fees to be deposited in the Climate Accountability and Emissions Disclosure Fund, which this bill creates in the State Treasury, and requires the money in the fund to be continuously appropriated to ARB for the costs of administering and implementing this bill.

3) Requires ARB to contract with an emissions reporting organization to develop a reporting program to receive and make publicly available disclosures.

4) Authorizes ARB to adopt or update any other regulations it deems necessary and appropriate to implement this bill and to consult with specified entities in developing the regulations.

5) Requires ARB, on or before July 1, 2027, to contract with an academic institution to prepare and submit a report on the public disclosures made by reporting entities and the regulations adopted by ARB, as specified.

6) Requires the emissions reporting organization, on or before a date determined by ARB, to create a digital platform, as specified, which shall be accessible to the public and that will feature the emissions data of reporting entities in conformance with the regulations adopted by ARB and the report prepared for ARB. Requires the emissions reporting organization to make the reporting entities' disclosures and ARB's report available on the digital platform within 30 days of receipt.

7) Requires the emissions reporting organization to submit, within 30 days of receipt, the report prepared for ARB to the relevant policy committees of the Legislature.

8) Provides that ARB's enforcement of compliance with AB 32 (Núñez), Chapter 488, Statutes of 2006, does not apply to a violation of this bill.

9) Requires ARB to adopt regulations that authorize it to seek administrative penalties for nonfiling, late filing, or other failure to meet the requirements of this bill, and requires the penalties to be imposed and recovered by ARB in administrative hearings, as specified. Prohibits the administrative penalties imposed on a reporting entity from exceeding $500,000 in a reporting year.

10) Provides that a reporting entity shall not be subject to an administrative penalty for any misstatements with regard to scope three emissions disclosures made with a reasonable basis and disclosed in good faith.

**FISCAL EFFECT**:

1) ARB estimates costs of approximately $3 million in fiscal year (FY) 2023-24, $7.7 million in FY 2024-25, and $6.9 million in FY 2025-26 and ongoing (Climate Accountability and Emissions Disclosure Fund) in staffing and contracting costs. This bill requires each reporting entity subject to the bill's requirements to pay an annual fee of up to $1,000 to cover ARB's administrative and regulatory costs. It is not clear if these fees will be sufficient to cover the entirety of ARB's estimated annual implementation costs. If the fees are insufficient, ARB will likely need to request additional funding (General Fund or special fund).
2) Unknown, but potentially significant, costs (Legal Services Revolving Fund) to the Department of Justice (DOJ). The Natural Resources Law Section within DOJ's Public Rights Division anticipates the potential for increased litigation referrals from its client, ARB, for legal challenges arising from this bill. DOJ notes the increased costs associated with this potential litigation are unquantifiable but potentially significant; however, DOJ will bill ARB for these costs, which ARB will reimburse fully.
3) To the extent ARB successfully seeks and recovers administrative penalties from a covered entity in violation of this bill, this bill could result in a potential increase in General Fund revenue of an unknown amount. This bill provides that administrative penalties imposed on a reporting entity shall not exceed $500,000 in a reporting year and that in imposing penalties, ARB shall consider relevant circumstances, such as the violator's past and present compliance with this bill and whether the violator took good faith measures to comply with this bill and when those measures were taken.

**COMMENTS**:

1) **Purpose.** According to the author:

> California has been at the forefront of climate policy in recent decades, establishing a successful cap and trade program, committing to preserve 30% of California's lands in their natural state, and setting and achieving ambitious emission reduction targets. These reductions were partially met, and continue to be bolstered by the emission

> reporting requirements as laid out in the California Global Warming Solutions Act. These requirements, however, only apply to electricity generators, industrial facilities, fuel suppliers, and other major emitters, missing many sources of corporate pollution. Without the same requirements for these corporate entities, California is left without proper information and will not be able to accurately regulate and reduce these emissions. Filling this gap with detailed data regarding corporate activities is a crucial next step for the state to ensure that we continue to decrease the rampant GHGs that are destroying our planet.

2) **Background.** Under AB 32, the Mandatory Reporting of Greenhouse Gas Emissions regulation (MRR) requires hundreds of businesses, including electricity generators, industrial facilities, fuel suppliers, and electricity importers, to report GHGs to ARB. A summary of reported GHG emissions data reported under MRR is made public each year. ARB implements and oversees a third-party verification program to support mandatory GHG reporting. All GHG reports subject to the state's cap-and-trade program must be independently verified by ARB-accredited verification bodies and verifiers.

   On a global scale, the "scope" framework was introduced in 2001 by the World Resources Institute and the 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 businesses. 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 one covers all direct GHGs that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities. Scope two covers indirect GHGs from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location. Scope three includes all other indirect emissions that occur in a company's value chain, such as purchased goods and services, business travel, employee commuting, waste disposal, use of sold products, transportation and distribution, investments, and leased assets and franchises. For a more detailed discussion of some of the benefits of and challenges associated with reporting full-scope emissions as well as an overview of other national and international climate-related disclosure and emissions reporting standards currently in place, please see the Assembly Natural Resources Committee analysis of this bill.

3) **Support and Opposition.** A large coalition of environmental, environmental justice, and other organizations writes in support of the bill:

   > The full picture of corporate climate emissions remains fragmented, incomplete and unverified. When we do get corporate disclosures, they are often limited to a corporation's operations and other direct emissions, but supply chain emissions are now estimated to be 11.4 times more than a company's emissions from their direct operations on average. Without specific and comprehensive data detailing the sources and levels of corporate pollution, and whether emissions are

> increasing or decreasing, we will remain unable to effectively regulate, reduce, and restrict these sources of climate pollution that are threatening California and its residents.

A large coalition of business and other organizations writing in opposition contend, among other things, that this bill does not build on existing emissions reduction efforts, such as the direct monitoring and regulation of in-state emissions under the MRR requirements; assessing scope three emissions data with any degree of accuracy is not yet possible; and that this bill will have a detrimental impact on small- and medium-sized businesses that are under-resourced and likely to struggle to accurately measure their GHG emissions.

A number of companies, such as IKEA, Sierra Nevada, Seventh Generation, and Patagonia, are in support of the bill.

4) **Related Legislation.** SB 261 (Stern) requires companies that do business in California and have gross revenues exceeding $500 million annually, excluding insurance companies, to report on their climate-related financial risk, and requires ARB to contract with a qualified climate reporting organization to review and publish an analysis of those reports. SB 261 is pending in this committee.

5) **Previous Legislation.** SB 260 (Weiner), of the 2021-2022 Legislative Session, was substantially similar to this bill. SB 260 failed passage on the Assembly Floor.

   SB 449 (Stern), of the 2021-2022 Legislative Session, was substantially similar to SB 261. SB 449 was held on the Senate Appropriations Committee's suspense file.

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