SENATE THIRD READING
SB 260 (Wiener and Stern)
As Amended August 15, 2022
Majority vote

SUMMARY

Requires United States-based businesses with annual revenues in excess of one billion dollars to annually report, to a nonprofit emissions registry selected by the Air Resources Board (ARB), the full range of greenhouse gas (GHG) emissions attributable to the business, including direct emissions, electricity use, and indirect emissions from the business' supply chain and other sources.

Major Provisions

1) Makes findings and declarations regarding California's emission reductions, the state's economy, the roles businesses and consumer consumption play in GHG emissions, the right of consumers to know businesses' climate impacts, and the need for the proposed legislation.

2) Defines "reporting entity" as a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, the laws of any other state of the United State or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of one billion dollars that does business in California; and "scope 1, 2, and 3 emissions" in line with established standards, as specified.

3) Defines "emissions registry" as an existing nonprofit emissions registry organization contracted by ARB to develop a reporting and registry program to receive and publish GHG emissions disclosures for purposes of this bill.

4) Requires ARB to, on or before January 1, 2024, adopt regulations requiring reporting entities to verify and annually report all scope 1, 2, and 3 emissions to SOS in an easily understandable and accessible manner, using GHG Protocol standards and guidance developed by the World Resources Institute and the World Business Council for Sustainable Development, including potential modeling and statistical analysis, as specified.

5) Requires ARB, in developing the above regulations or others deemed necessary to implement this bill, to consult with specified experts and stakeholders.

6) Authorizes the Attorney General to bring a civil action against a reporting entity, seeking civil penalties for violations of this bill.

7) Provides that the provisions of this bill are severable.

8) Provides that implementation of this bill is contingent upon an appropriation by the Legislature.

COMMENTS

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, such as purchased goods and services, business travel, employee commuting, waste disposal, use of sold products, transportation and distribution (up- and downstream), investments, and leased assets and franchises.

Recent research from CDP (formerly the Carbon Disclosure Project) found that scope 3 supply chain emissions are on average 11.4 times higher than operational (scope 1 and 2) emissions, which is more than double the previous estimate.

Worldwide, the vast majority of GHG emissions can be attributed as the scope 1, 2, or 3 emissions of a business. One frequently cited statistic from CDP states that 71% of all GHG emissions worldwide since 1988 are the result of a mere 100 companies. All 100 of those companies are fossil fuel producers. Since scope 3 emissions include "subsequent use of sold products," any use of fossil fuels by downstream businesses or individuals counts towards that producer's scope 3 total. This illustrates how complicated, but also how expansive, a complete accounting of some businesses' total GHG emissions can be.

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.

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.

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 260 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.

Arguments in Support
According to a coalition of environmental groups:

> SB 260 will require the most profitable US-based corporations with annual gross revenues of $1 billion USD or greater that do business in California to publicly disclose their full GHG emissions footprint in a manner easily understandable and accessible to the people of California…(W)e know that 100 active fossil fuel producers are linked to 71% of global industrial GHG emissions since 1988. But 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. By requiring reporting of both direct emissions from these corporations, and any emissions produced from their supply chains and other indirect emissions, SB 260 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
The California Chamber of Commerce and other business groups oppose this bill for a variety of reasons, primarily focused on the challenges of accurately reporting scope 3 emissions. According to the Chamber:

> Because there is no objective criteria for assessing Scope 3 emissions data, two companies with similar actual Scope 3 emissions may report significantly different data depending on the company and/or methodology used…SB 260 requires ARB to "verify" reporting entities' emissions data. While this may be achievable for Scope 1 and Scope 2 data (which despite being duplicative to what ARB currently requires, are nonetheless within the reporting entities' control), it will be nearly impossible for ARB to "verify" emissions data that is, by its very nature, subjective, inaccurate, and often incomplete…California is not in the business of regulating out of state emissions, nor should it be. California should continue to implement and build upon existing programs and policies to regulate in-state emissions rather than seek to obtain emissions data throughout the international supply chain, especially seeing how it would have no authority to regulate emissions beyond the California border…

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Cost pressures to ARB of approximately $3 million in fiscal year (FY) 2022-23, $6.3 million in FY 2023-24, and $5.4 million in FY 2024-25 and ongoing (General Fund) in staffing and contracting costs, should the Legislature appropriate funding for this purpose.

2) Department of Justice (DOJ) estimates ongoing cost pressures (beginning July 1, 2025) of approximately $800,000 (General Fund) for the Environment Section within DOJ's Public Rights Division to enforce violations of this bill under the AG's independent authority. Additionally, the Natural Resources Law Section within DOJ's Public Rights Division anticipates the potential for increased litigation referrals from ARB for legal challenges arising from this bill. According to DOJ, the fiscal impact of this potential litigation is unquantifiable but potentially significant. This would have an impact on the Legal Services Revolving Fund; however, costs will be reimbursable through direct billings to the client agency (ARB).

VOTES

SENATE FLOOR: 23-7-10
YES: Allen, Archuleta, Atkins, Becker, Cortese, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Borgeas, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
ABS, ABST OR NV: Bates, Bradford, Caballero, Dahle, Dodd, Glazer, Hertzberg, Min, Roth, Rubio

ASM NATURAL RESOURCES: 7-2-2
YES: Luz Rivas, Friedman, Cristina Garcia, Muratsuchi, Stone, Wood, Boerner Horvath
NO: Mathis, Seyarto
ABS, ABST OR NV: Flora, McCarty

ASM JUDICIARY: 6-3-1
YES: Stone, Bloom, Haney, Kalra, Reyes, Robert Rivas
NO: Cunningham, Davies, Kiley
ABS, ABST OR NV: Maienschein

ASM APPROPRIATIONS: 12-4-0
YES: Holden, Bryan, Calderon, Arambula, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty
NO: Bigelow, Megan Dahle, Davies, Fong

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