SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 260 (Wiener) - Climate Corporate Accountability Act

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Urgency: No
Hearing Date: May 17, 2021

Policy Vote: E.Q. 4 - 2, JUD. 8 - 2
Mandate: No
Consultant: Ashley Ames

Bill Summary: This bill would require U.S.-based companies that do business in California and with revenues in excess of $1 billion to annually report, by January 1, 2024, their direct and indirect greenhouse gas (GHG) emissions from their operations and supply chain to the California Air Resources Board (CARB), and for ARB to issue a report that estimates the emissions reductions necessary to maintain climate change below specified levels and make recommendations for how companies can achieve those reductions.

Fiscal Impact:
- CARB estimates ongoing costs of $4.5 million in 2022-23 and $7.8 million annually thereafter (General Fund) to develop a GHG inventory reporting regulation for specified corporations.

Background: In the last year, many companies have made or increased their commitments to climate action. Between December 2019 and September 2020, the number of corporations with net-zero emission goals tripled. The Climate Pledge, which calls for companies to commit to net zero carbon emissions by 2040 (ten years earlier than what the Intergovernmental Panel on Climate Change (IPCC) has called for), boasts 53 signatories as of March 2021. Activism from 350.org, among others, has led to widespread divestment of capital from highly-polluting businesses, driving climate action with financial incentives as well.

<u>Scope 1, 2, and 3 emissions.</u> 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.

Proposed Law: This bill would:

1. Establish the Climate Corporate Accountability Act.

2. Provide that, on or before January 1, 2023, CARB shall develop and adopt regulations to require a reporting entity to verify and annually report to CARB all of the reporting entity's scope 1, 2, and 3 GHG emissions. The regulations must include both of the following:
   a. That a reporting entity, starting in 2024 on a date to be determined by CARB, shall annually publicly disclose all of the entity's scope 1, 2, and 3 GHG emissions for the prior calendar year in a manner that is easily understandable and accessible to residents of the state. The public disclosure shall include the name of the reporting entity and any fictitious names, trade names, assumed names, and logos used by the entity.
   b. That a reporting entity's public disclosure is independently verified by a third-party auditor, approved by CARB, with expertise in GHG emissions accounting. The reporting entity shall ensure that a copy of the complete, audited GHG emissions inventory for the prior calendar year, including the name of the approved third-party auditor, is provided to CARB as part of, or in connection with, the entity's public disclosure.

3. Provide that, on or before July 1, 2025, CARB shall prepare a report on the GHG emissions of reporting entities. CARB must make the report publicly available on a digital platform, and submit the report to the relevant policy committees of the Legislature. The report must include, but is not limited to, the following:
   a. The best reasonable estimate of the required aggregated GHG emissions levels of reporting entities that would be necessary to maintain global temperatures within 1.5 degrees Celsius of preindustrial levels. As part of the estimate, ARB should consider the most current protocols and guidance of the Science Based Targets initiative (SBTi) as they pertain to required emissions reductions, and, where relevant, exclude avoided emissions and offsets as counting toward a reporting entity's emissions reduction's goals.
   b. The best reasonable estimate of the projected GHG emissions from reporting entities based on successful implementation of the state's existing GHG reduction, clean energy, and other similar regulations to which reporting entities are subject. This estimate shall, at a minimum, include an estimate of the projected GHG emissions from reporting entities for the calendar years 2030 and 2045.
   c. Recommendations, based on the information submitted by the reporting entities, that reporting entities may consider to effectively reduce their remaining emissions in line with what is recommended by the SBTi to maintain global temperatures within 1.5 degrees Celsius of preindustrial levels.

4. Require CARB to create a digital platform that will house all reports produced by CARB and submitted by reporting entities pursuant to this bill. The digital

platform shall be capable of featuring individual reporting entity reports and aggregated data in a manner that is easily understandable and accessible to residents of the state.

5. Require CARB, in developing the required regulations, to consult with a panel of experts, including experts in climate science and corporate carbon emissions accounting, implementing state agency representatives, stakeholders representing consumer and environmental justice interests, and reporting entities that are leaders in collecting, reporting, and setting targets for the reduction of their own carbon footprint, to develop standards and protocols for:
   a. Establishing that the required public disclosures are made in a manner that is easily understandable and accessible to state residents.
   b. Collecting data for all scope 1, 2, and 3 emissions by reporting entities.

6. Authorize CARB to adopt or update any other regulations that are necessary and appropriate to implement the bill.

7. Provide that the civil and criminal penalties for violations of the California Global Warming Solutions Act of 2006 (Health & Saf. Code, div. 25.5) set forth in Health & Safety Code section 38580 do not apply to violations of this section, and provide that CARB shall adopt regulations relating to the enforcement of the bill, including the imposition of administrative penalties for violations of the bill.

Related Legislation:

SB 449 (Stern, 2021) requires specified financial institutions to disclose climate-related financial risks, and establishes an advisory task force to assess climate-related financial risks facing the state.

AB 766 (Gabriel, 2021) in part requires covered corporations, as defined, to report on their potential financial impacts and risk exposure from climate change, as well as estimated total GHG emissions attributable to assets they own or manage.

AB 572 (Kalra, 2019) would have established the Deforestation-Free Procurement Act and required a contractor that is contracting with a state agency for the procurement of products comprised of forest-risk commodities to certify that the commodities were not grown, derived, harvested, reared, or produced on land where tropical deforestation occurred, as specified. AB 572 died in this committee.

SB 43 (Allen, 2018) would have evaluated replacing the state Sales and Use Tax with a revenue-neutral tax levied based on the carbon intensity of consumer goods. SB 43 died in the Assembly Revenue and Taxation Committee.

AB 262 (Bonta, Chapter 816, Statutes of 2017), as the Buy Clean California Act, requires the Department of General Services to establish standards used in the bid process related to GHG emissions when certain eligible materials are used in state public works projects.

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