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UNFINISHED BUSINESS

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Bill No: SB 260  
Author: Wiener (D) and Stern (D), et al.  
Amended: 8/15/22  
Vote: 21

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SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-2, 4/12/21  
AYES: Allen, Gonzalez, Skinner, Stern  
NOES: Bates, Dahle  
NO VOTE RECORDED: Wieckowski

SENATE JUDICIARY COMMITTEE: 8-2, 4/27/21  
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener  
NOES: Borgeas, Jones  
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 1/20/22  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Bates, Jones

SENATE FLOOR: 23-7, 1/26/22  
AYES: Allen, Archuleta, Atkins, Becker, Cortese, Durazo, Eggman, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Skinner, Stern, Umberg, Wieckowski, Wiener  
NOES: Borgeas, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk  
NO VOTE RECORDED: Bates, Bradford, Caballero, Dahle, Dodd, Glazer, Hertzberg, Min, Roth, Rubio

ASSEMBLY FLOOR: Not available

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**SUBJECT:** Climate Corporate Accountability Act

**SOURCE:** Author

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**DIGEST:** This bill requires the California Air Resources Board (ARB) to develop regulations to require a reporting entity—defined as a business entity with total annual revenues over one billion dollars that does business in California—to report to an emissions registry, as defined, their Scope 1, Scope 2, and Scope 3 emissions, as defined. This bill moreover requires ARB to prepare a report by January 1, 2026, on those disclosures, and it requires the emissions registry to establish a public data platform to view the disclosures.

*Assembly Amendments* shift obligations from the Secretary of State to an independent emissions registry, narrow the scope of the report required by ARB, and make implementation contingent on an appropriation from the Legislature.

**ANALYSIS:** Existing federal law gives Congress the authority to regulate commerce with foreign nations and between states, i.e. the commerce clause. (U.S. Const. art. I, § 8)

Existing state law:

- 1) Establishes the ARB as the air pollution control agency in California and requires ARB, among other things, to implement the California Global Warming Solutions Act of 2006 (also known as AB 32), and ensure that statewide greenhouse gas (GHG) emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and allows ARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (HSC §§ 38566, 38562)
- 2) Requires, under AB 32, the monitoring and annual reporting of GHG emissions from GHG emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions; and dictates that for the cap-and-trade program established pursuant to AB 32, entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and had developed a GHG emission reporting program, would not be required to significantly alter their reporting or verification program except as necessary for compliance. (HSC § 38530)
- 3) Requires ARB 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)

- 4) 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. (Revenue and Tax Code § 23101)
- 5) Requires corporations in California to report operating information to the Secretary of State. (California Corporations Code § 1502 et seq.)

This bill, the Climate Corporate Accountability Act:

- 1) Makes findings and declarations regarding California’s emission reductions, the state’s economy, the role businesses and consumer consumption plays in GHG emissions, the right of consumers to know businesses’ climate impacts, and the need for the proposed legislation.
- 2) Defines relevant terms, including:
  - a) “Reporting entity” to mean 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 (\$1,000,000,000) that does business in California;
  - b) “Scope 1, 2, and 3 emissions” in line with established standards, as specified; and
  - c) “Emissions registry” to mean a nonprofit emissions registry organization contracted by ARB that currently operates a voluntary GHG emission registry and has experience with voluntary GHG emission disclosures by entities operating in California.
- 3) Requires ARB to, on or before January 1, 2024, adopt regulations:
  - a) Requiring reporting entities to verify and annually report all scope 1, 2, and 3 emissions to the emissions registry, 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, under specified timelines;
  - b) After consulting with specified experts and stakeholders;
  - c) Allowing reporting entities to streamline reporting and ease of use as compared to other similar disclosure requirements, as specified; and

- d) Ensuring a reporting entity's public disclosure is independently verified by the emissions registry or a qualified third-party auditor, as specified.
- 4) Requires ARB to, on or before July 1, 2026, to contract with an academic institute to prepare a report, as specified, on the public disclosures made by reporting entities to the emissions registry.
- 5) Requires the emissions registry to create a public digital platform that will house all disclosures, as specified.
- 6) States that if the Attorney General finds that a reporting entity has violated this act or receives a complaint from ARB, the Attorney General may bring civil action against the reporting entity.

## 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, 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.

- 2) *Emissions from businesses.* 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.

## Comments

- 1) *Purpose of Bill.* 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.”

- 2) *Transparency guides action.* In the last few years, 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 more than 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), boasted 53 signatories as of March 2021, when this bill was first heard in the Environmental Quality Committee. That number has grown to 217 signatories as of January 2022.

These companies are taking responsibility for some of the monumental work that needs to be done to bring about what IPCC has referred to as, “[required] rapid and far-reaching transitions in energy, land, urban and infrastructure, and industrial systems... unprecedented in terms of scale,” to maintain global warming of only 1.5 degrees Celsius. For reference, best estimates of current global temperature show the planet is already at least 1.1 degrees warmer.

All corporate climate commitments and actions, whether initiated by activists, board members, or investors, depends on transparency. Without an accurate accounting of a business’s real emissions, it is impossible to target meaningful climate action. Scope 1, scope 2, and scope 3 emissions are all required for this transparency. For example, 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.

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

According to the Assembly Appropriations Committee:

- 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.

- 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).

**SUPPORT:** (Verified 8/31/22)

1000 Grandmothers for Future Generation  
350 Bay Area Action  
350 Conejo / San Fernando Valley  
350 Humboldt: Grass Roots Climate Action  
350 Sacramento  
350 Silicon Valley  
350 South Bay Los Angeles  
350 Southland Legislative Alliance  
5 Gyres Institute, the  
Alameda County Democratic Party  
Alliance of Nurses for Healthy Environments  
As You Sow  
Atmos Financial, PBC  
Audubon California  
Avocado Green Brands  
Ban Sup  
Bluegreen Alliance  
Breathe California  
California Alliance for Retired Americans  
California Environmental Justice League  
California Environmental Voters  
California Interfaith Power & Light  
California League of Conservation Voters  
California Nurses for Environmental Health and Justice  
California State Council of Service Employees International Union  
California State PTA  
Carbon Accountable  
Center for Oceanic Awareness, Research, & Education

Change Begins With Me  
Citizens' Climate Lobby Santa Cruz  
City of Berkeley  
City of Los Angeles  
Clean Water Action  
Cleaneearth4kids.org  
Climate Action Campaign  
Climate Equity Policy Center  
Climate Hawks Vote  
Climate Health Now  
Climate Reality Project, California Coalition  
Climate Reality Project, Los Angeles Chapter  
Climate Reality San Francisco Bay Area Chapter  
Climate Resolve  
Cloverdale Indivisible  
Coalition for A California Green New Deal  
Coalition for Clean Air  
Community Water Center  
Conejo Climate Coalition  
Courage California  
Culver City Democratic Club  
Dayenu: a Jewish Call to Climate Action  
Defenders of Wildlife  
Democratic Party of The San Fernando Valley  
Dignity Health  
E2 (environmental Entrepreneurs)  
Elders Climate Action Nor Cal and SoCal Chapters  
Environmental Defense Fund  
Everlane  
Feminists in Action  
Fossil Free California  
Friends Committee on Legislation of California  
Friends of Harbors, Beaches and Parks  
Friends of Public Banking Santa Rosa  
Friends of the Earth U.S.  
Fund Her  
Green New Deal At UC San Diego  
Greenbelt Alliance  
Grove Collaborative  
Idle No More Sf Bay



Ikea USA  
Indivisible Alta Pasadena  
Indivisible CA 37  
Indivisible CA-14  
Indivisible CA-39  
Indivisible CA-43  
Indivisible California  
Indivisible California Green Team  
Indivisible Claremont / Inland Valley  
Indivisible East Bay  
Indivisible Euclid  
Indivisible Marin  
Indivisible Ross Valley  
Indivisible San Francisco  
Indivisible San Jose  
Indivisible San Pedro  
Indivisible Santa Barbara  
Indivisible Ventura  
Indivisible Yolo  
Jobs With Justice San Francisco  
Lodi Green Schools Campaign  
Long Beach Alliance for Clean Energy  
Los Angeles County Democratic Party  
Mono Lake Committee  
Mothers Out Front California  
Mountain Progressive Frazier Park  
National Parks Conservation Association  
Natural Resources Defense Council  
Nature Conservancy; the  
Normal Heights Indivisible  
Northern California Recycling Association  
Patagonia  
Peninsula Interfaith Climate Action  
Persefoni AI, Inc.  
Physicians for Social Responsibility - San Francisco Bay Area Chapter  
Plastic Oceans International  
Plastic Pollution Coalition  
Plug in America  
Postcards for America, California  
Rising Sun Center for Opportunity

Romero Institute  
Rooted in Resistance  
Sacramento Area Congregations Together  
San Diego 350  
San Francisco Baykeeper  
Save Our Shores  
Save the Bay  
Sierra Club California  
Sierra Nevada Brewing Co.  
Silicon Valley Democratic Club  
Silicon Valley Youth Climate Action  
Sisters of St. Joseph of Carondelet Los Angeles  
Sunrise Bay Area  
Sunrise Berkeley High School  
Sunrise Chico  
Sunrise Claremont Colleges  
Sunrise Contra Costa  
Sunrise Glendale  
Sunrise Kern County  
Sunrise LA Crescenta  
Sunrise LA Youth  
Sunrise Los Angeles  
Sunrise Movement - Silicon Valley  
Sunrise Movement Bay Area  
Sunrise Orange County  
Sunrise Redding  
Sunrise Sacramento  
Sunrise San Francisco University High School  
Sunrise Santa Barbara  
Sunrise UC Berkeley  
Sunrise UC Irvine  
The Climate Center  
The Climate Reality Project San Diego Chapter  
The Climate Reality Project: Silicon Valley  
The Greenlining Institute  
The Nature Conservancy  
The Rainmakers  
Transformative Wealth Management LLC  
UC Green New Deal Coalition  
Union of Concerned Scientists

Upte-cwa  
Venice Resistance  
Wildfires to Wildflowers  
Wishtoyo Chumash Foundation

**OPPOSITION:** (Verified 8/31/22)

Agricultural Council of California  
Airlines for America  
Alliance for Automotive Innovation  
American Bankers Association  
American Forest & Paper Association  
American Property Casualty Insurance Association  
Brea Chamber of Commerce  
Building Owners and Managers Association of California  
California Apartment Association  
California Bankers Association  
California Building Industry Association  
California Business Properties Association  
California Cement Manufacturers Environmental Coalition  
California Chamber of Commerce  
California Chapter of The National Electrical Contractors Association  
California Construction and Industrial Materials Association  
California Independent Petroleum Association  
California League of Food Producers  
California Legislative Council of The Plumbing, Heating and Piping Industry  
California Manufacturers & Technology Association  
California Restaurant Association  
California Retailers Association  
Carlsbad Chamber of Commerce  
Chemical Industry Council of California  
County of Madera  
El Dorado Hills Chamber of Commerce  
EMA Truck & Engine Manufacturers Association  
Garden Grove Chamber of Commerce  
Harbor Association of Industry & Commerce  
Household and Commercial Products Association  
International Council of Shopping Centers  
Lodi Chamber of Commerce  
Long Beach Area Chamber of Commerce

NAIOP of California  
Orange County Business Council  
Oxnard Chamber of Commerce  
Personal Insurance Federation of California  
Pleasanton Chamber of Commerce  
Rancho Cordova Chamber of Commerce  
Redondo Beach Chamber of Commerce  
San Gabriel Valley Economic Partnership  
Silicon Valley Leadership Group  
South Bay Association of Chambers of Commerce  
Southwest California Legislative Council  
Tulare Chamber of Commerce  
United Contractors  
Western Independent Refiners Association  
Western Line Constructors  
Western States Petroleum Association  
Western Wood Preservers Institute

**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:** According to the California Chamber of Commerce and other business groups, “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...”

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8/31/22 23:05:50

\*\*\*\* **END** \*\*\*\*