AMENDED IN SENATE MAY 18, 2023

SENATE BILL No. 253

Introduced by Senators Wiener, Gonzalez, and Stern
(Principal coauthors: Assembly Members Kalra and Muratsuchi)
(~~Coauthor: Senator~~ *(Coauthors: Senators Min and* Skinner)
(Coauthors: Assembly Members *Boerner*, *Bryan*, Friedman, Haney, *Lee*, *Ting*, and Ward)

January 30, 2023

An act to add Section 38532 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as amended, Wiener. Climate Corporate Data Accountability Act.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with the act. The act requires the state board to make available, and update at least annually, on its internet website the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for each facility that reports to the state board, as provided.

This bill would require the state board, on or before January 1, 2025, to develop and adopt regulations requiring ~~United States~~ *specified* partnerships, corporations, limited liability companies, and other business entities with total annual revenues in excess of $1,000,000,000 and that do business in California, defined as "reporting entities," to publicly disclose to the emissions ~~registry,~~ *reporting organization*, as defined, and verify, starting in 2026 on a date to be determined by the state board, and annually thereafter, their greenhouse gas emissions,

categorized as scope 1, 2, and 3 emissions, as defined, from the ~~prior~~ *specified* calendar year, as provided. The bill would require the state board, on or before January 1, 2030, to review, and update as necessary, these deadlines to evaluate trends in scope 3 emissions reporting and to consider changes to the deadlines, as provided. The bill would require reporting entities to disclose their greenhouse gas emissions in a manner that is easily understandable and accessible to residents of the state. The bill would require reporting entities to ensure that their public disclosures have been independently verified by ~~the emissions registry or~~ a third-party ~~auditor,~~ *auditor* approved by the state ~~board, with expertise in greenhouse gas emissions accounting.~~ *board.* The bill would require the state board, in developing these regulations, to consult with the Attorney General, other government stakeholders, investors, stakeholders representing consumer and environmental justice interests, and reporting entities that have demonstrated leadership in full-scope greenhouse gas emissions accounting and public disclosure and greenhouse gas emissions reductions. The bill would also require the state board to ~~establish auditor qualifications and a process for approval of auditors that~~ *ensure that the verification process minimizes the need for reporting entities to engage multiple auditors and* ensures sufficient auditor capacity, as well as timely reporting implementation, as required. The bill would further require the state board to contract with an emissions ~~registry~~ *reporting organization* to develop a reporting ~~and registry~~ program to receive and make publicly available the required disclosures.

This bill would require the state board, on or before July 1, 2027, to 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 made by reporting entities to the emissions ~~registry.~~ *reporting organization.* The bill would require, in preparing the report, consideration to be given to, at a minimum, greenhouse *gas* emissions from reporting entities in the context of state greenhouse gas emissions reduction and climate goals. The bill would require the state board to provide the report to the emissions ~~registry~~ *reporting organization* to post on a digital platform that would be required to be created by the emissions ~~registry,~~ *reporting organization,* and publicly accessible, to house the state board's report and the reporting entities' public disclosures. The bill would require the emissions ~~registry~~ *reporting organization* to provide the state board's report to the relevant policy committees of the Legislature.

~~This bill would authorize the Attorney General to bring a civil action against a reporting entity, in the name of the people of the State of California, seeking civil penalties for violations of these provisions.~~

~~This bill would make implementation of these provisions contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for its purposes.~~

This bill would require reporting entities to pay an annual fee, not to exceed $1,000, for the reasonable regulatory costs of the state board for the administration and implementation of these provisions. The bill would require the state board to adopt regulations that authorize it to seek administrative penalties for violations of these provisions, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) California has demonstrated its leadership in the battle against climate change and the climate actions of the state have inspired and contributed to bold actions in other states and across the globe.

(b) Californians are already facing devastating wildfires, sea level rise, drought, and other impacts associated with climate change that threaten the health and safety of Californians, undermines the sustainability of our communities, particularly those communities most affected by the negative effects of climate change, and the economic well-being of the state and its residents, including threatening many of the state's largest industries.

(c) Climate change also poses a significant risk to companies' long-term economic success and disrupts the value chains on which they rely. Managing these risks requires investments in decarbonization strategies that unlock emissions reductions and provide economic benefits for Californians and the state economy.

(d) California has achieved record economic growth, is on track to be the fourth largest economy in the world, and is a highly desirable market for the globe's most profitable companies.

(e) California investors, consumers, and other stakeholders deserve transparency from companies regarding their greenhouse gas *(GHG)* emissions to inform their decisionmaking.

(f) United States companies that have access to California's tremendously valuable consumer market by virtue of exercising their corporate franchise in the state also share responsibility for disclosing their contributions to global ~~greenhouse gas~~ *GHG* emissions.

(g) Companies can increase the state's climate risk through emissions activities that include, but are not limited to, company operations, supply chain activities, employee and consumer transportation, goods production and movement, construction, land use, and natural resource extraction.

(h) Accurate, verified, and comprehensive data is required to determine a company's direct and indirect GHG emissions, also known as its carbon footprint, and to effectively identify the sources of the emissions and develop means to reduce the same.

(i) The current approach for disclosure of climate emissions from public and private corporate enterprises relies largely on voluntary reporting of GHG inventories, goals, commitments, and agreements, and lacks the full transparency and consistency needed by residents and financial markets to fully understand these climate risks.

(j) The people, communities, and other stakeholders in California, facing the existential threat of climate change, have a right to know about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of those companies benefiting from doing business in the state, in order to make informed decisions.

(k) The Greenhouse Gas Protocol—the globally recognized GHG emissions accounting standard developed and updated by the World Resources Institute and the World Business Council for Sustainable Development—provides the framework for corporate GHG emissions accounting and reporting. The framework defines and categorizes emissions as scopes 1, 2, and 3 emissions. Many companies already partially or fully disclose their emissions data.

(*l*) Mandating annual, full-scope GHG emissions data reporting to the emissions ~~registry~~ *reporting organization* for all United States companies with total annual revenues in excess of $1,000,000,000 that do business in California, as well as ensuring

public access to the data in a manner that is easily understandable and accessible, will inform investors, empower consumers, and activate companies to improve risk management in order to move towards a net-zero carbon economy and is a critical next step that California must take to protect the state and its residents.

SEC. 2. Section 38532 is added to the Health and Safety Code, to read:

38532. (a) This section shall be known, and may be cited, as the Climate Corporate Data Accountability Act.

(b) For purposes of this section, the following terms have the following definitions:

(1) "Emissions ~~registry"~~ *reporting organization"* means a nonprofit emissions ~~registry~~ *reporting* organization contracted by the state board pursuant to paragraph (2) of subdivision (c) ~~that:~~ *that both:*

(A) Currently operates a ~~voluntary~~ greenhouse gas emission ~~registry~~ *reporting organization* for organizations operating in the United States.

(B) Has experience with ~~voluntary~~ greenhouse gas emissions disclosure by entities operating in California.

(2) "Reporting entity" means 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 States 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) and that does business in California.

(3) "Scope 1 emissions" means all direct greenhouse gas emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

(4) "Scope 2 emissions" means indirect greenhouse gas emissions from electricity purchased and used by a reporting entity, regardless of location.

(5) "Scope 3 emissions" means indirect greenhouse gas 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.

(c) (1) On or before January 1, 2025, the state board shall develop and adopt regulations to require a reporting entity to annually disclose to the emissions ~~registry,~~ *reporting organization*, and verify, all of the reporting entity's scope 1 emissions, scope 2 emissions, and scope 3 emissions. The state board shall ensure that the regulations adopted pursuant to this subdivision require, at a minimum, all of the following:

(A) (i) That a reporting entity, starting in 2026 on or by a date to be determined by the state board, and annually thereafter on or by that date, publicly disclose to the emissions ~~registry~~ *reporting organization* all of the reporting entity's scope 1 emissions and scope 2 emissions for the prior calendar year, and its scope 3 emissions for that same calendar year no later than 180 days after that date, using the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, 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.

(ii) On or before January 1, 2030, the state board shall review, and update as necessary, the public disclosure deadlines established pursuant to clause (i) to evaluate trends in scope 3 emissions reporting and consider changes to the disclosure deadlines to ensure that scope 3 emissions data is disclosed to the emissions ~~registry~~ *reporting organization* as close in time as practicable to the deadline for reporting entities to disclose scope 1 emissions and scope 2 emissions data.

(iii) The reporting timelines shall consider industry stakeholder input and shall take into account the timelines by which reporting entities typically receive scope 1, scope 2, and scope 3 emissions data, as well as the capacity for independent verification to be performed by a third-party auditor, as approved by the state board.

(B) That a reporting entity's public disclosure is made in a manner that is easily understandable and accessible to residents, investors, and other stakeholders of the state.

(C) That a reporting entity's public disclosure includes the name of the reporting entity and any fictitious names, trade names, assumed names, and logos used by the reporting entity.

(D) That a reporting entity's public disclosure *minimizes duplication of effort and* is structured in ways that streamline and maximize reporting entities' ability to use reports used in meeting the requirements of other leading climate disclosure ~~programs and standards.~~ *programs*. The state board shall determine leading program standards based on industry stakeholder and disclosure expert input.

(E) (i) That a reporting entity's public disclosure is independently verified by ~~the emissions registry or~~ a third-party ~~auditor,~~ *auditor* approved by the state ~~board, with expertise in greenhouse gas emissions accounting.~~ *board*. The reporting entity shall ensure that a copy of the complete, audited greenhouse gas emissions inventory, including the name of the approved third-party auditor, is provided to the emissions ~~registry~~ *reporting organization* as part of or in connection with the reporting entity's public disclosure.

(ii) A third-party auditor shall be an expert in the emission of greenhouse gases because of significant experience in measuring, analyzing, reporting, or attesting to the emission of greenhouse gases. A third-party auditor shall have sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements and to enable the auditor to issue reports that are appropriate under the circumstances and independent with respect to the reporting entity, and any of the reporting entity's affiliates for which it is providing the verification report, during the verification and professional engagement period.

~~(ii)~~

(iii) The state board shall ~~establish auditor qualifications and a process for approval of auditors that~~ *ensure that the verification process minimizes the need for reporting entities to engage multiple auditors and* ensures sufficient auditor capacity, as well as timely reporting implementation as required under clause (i) of subparagraph (A).

(F) That a reporting entity, upon filing its disclosure, shall pay an annual fee that may not exceed the reasonable regulatory costs of the state board for the administration and implementation of

this section. The annual fee imposed on a reporting entity may not exceed one thousand dollars ($1,000). The proceeds of the fee shall be available, upon appropriation by the Legislature, for the costs of the state board for the administration and implementation of this section.

(2) The state board shall contract with an emissions ~~registry~~ *reporting organization* to develop a reporting ~~and registry~~ program to receive and make publicly available disclosures required by this section pursuant to paragraph (1).

(3) The state board may adopt or update any other regulations that it deems necessary and appropriate to implement this subdivision.

(4) In developing the regulations required pursuant to this subdivision, the state board shall consult with all of the following:

(A) The Attorney General.

(B) Other government stakeholders, including, but not limited to, experts in climate science and corporate carbon emissions accounting.

(C) Investors.

(D) Stakeholders representing consumer and environmental justice interests.

(E) Reporting entities that have demonstrated leadership in full-scope greenhouse gas emissions accounting and public disclosure and greenhouse gas emissions reductions.

(d) (1) On or before July 1, 2027, the state board shall 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 made by reporting entities to the emissions ~~registry~~ *reporting organization* pursuant to subdivision (c) and the regulations adopted by the state board pursuant to that subdivision. In preparing the report, consideration shall be given to, at a minimum, greenhouse gas emissions from reporting entities in the context of state greenhouse gas emissions reduction and climate goals. The entity preparing the report shall not require reporting entities to report any information beyond what is required pursuant to subdivision (c) or the regulations adopted by the state board pursuant to that subdivision.

(2) The state board shall submit the report required by this subdivision to the emissions ~~registry~~ *reporting organization* to be made publicly available on the digital platform required to be

created by the emissions ~~registry~~ *reporting organization* pursuant to subdivision (e).

(e) (1) (A) The emissions ~~registry,~~ *reporting organization,* on or before the date determined by the state board pursuant to clause (i) of subparagraph (A) of paragraph (1) of subdivision (c), shall create a digital platform, which shall be accessible to the public, that will house all disclosures submitted by reporting entities to the emissions ~~registry~~ *reporting organization* under the regulations adopted by the state board pursuant to subdivision (c) and the report prepared for the state board pursuant to subdivision (d). The emissions ~~registry~~ *reporting organization* shall make the reporting entities' disclosures and the state board's report available on the digital platform within 30 days of receipt.

(B) The digital platform shall be capable of featuring individual reporting entity disclosures, and shall allow consumers to view reported data elements aggregated in a variety of ways, including multiyear data, in a manner that is easily understandable and accessible to residents of the state. All data sets and customized views shall be available in electronic format for access and use by the public.

(2) The emissions ~~registry~~ *reporting organization* shall submit, within 30 days of receipt, the report prepared for the state board pursuant to subdivision (d) to the relevant policy committees of the Legislature.

(f) (1) Section 38580 does not apply to a violation of this section.

~~(2) If the Attorney General finds that a reporting entity has violated or is violating this section, or upon a complaint received from the state board, the Attorney General may bring a civil action against that reporting entity, in the name of the people of the State of California, seeking civil penalties for violations of this section.~~

(2) The state board shall adopt regulations that authorize it to seek administrative penalties for violations of this section. The administrative penalties authorized by this section shall be imposed and recovered by the state board in administrative hearings conducted pursuant to Article 3 (commencing with Section 60065.1) and Article 4 (commencing with Section 60075.1) of Subchapter 1.25 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations. The administrative penalties imposed on a reporting entity shall not exceed five hundred

thousand dollars ($500,000) in a reporting year. In imposing penalties for a violation of this section, the state board shall consider all relevant circumstances, including all of the following:

(A) The nature, circumstances, extent, and gravity of the violation.

(B) The violator's past and present compliance with this section.

(C) Whether the violator took good faith measures to comply with this section and when those measures were taken.

(D) Any other factor that justice may require.

(g) This section shall apply to the University of California only to the extent that the Regents of the University of California, by resolution, make any of these provisions applicable to the university.

~~(g)~~

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~(h) The implementation of this section is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for its purposes.~~

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