

SB 253 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT



TO: Members, Senate Committee on Environmental Quality

**SUBJECT: SB 253 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT
HEARING SCHEDULED – MARCH 15, 2023
OPPOSE – AS INTRODUCED ON JANUARY 30, 2023**

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE SB 253 (Wiener)**, as introduced on January 30, 2023, which requires that the California Air Resources Board (CARB) adopt regulations requiring the reporting of greenhouse gas emission data throughout the entire supply chain regardless of location. We oppose for the following reasons:

SB 253 Will Have a Detrimental Impact on Small and Medium Businesses

At first glance, **SB 253** appears to limit its application to large companies and the fact sheet and rhetoric in announcements from the sponsors suggest that this is the intent. Unfortunately, the rhetoric does not match the reality because it is small and medium sized businesses here in California who will bear much of the cost burden from this proposal. While SB 253 does allow for the use of secondary data sources, consistent with GHG protocol, this proposal does not prevent or exempt them from needing to get data from smaller companies that are part of the downstream value chain and suppliers.

Although **SB 253** identifies a large threshold for applicability, the bill requires companies to track emissions not only for its California sites or products, but for worldwide operations. In the definitions, **SB 253** sets out three types of emissions: Scope 1, which is defined as direct emissions from sources owned, operated, or directly controlled by the company; Scope 2, which are indirect emissions from any electricity purchased by a company; and Scope 3, which is very broad and includes all “indirect [GHG] emissions, other than Scope 2 emissions, from activities that stem from sources that the covered entity does not own or directly control, and may include, but are not limited to emissions associated with the covered entity’s supply chain, business travel, employee commutes, procurement, waste, and water usage.”

Requiring reporting and limiting emissions associated with a company’s entire supply chain will necessarily require that large businesses stop doing business with small and medium businesses that will struggle to accurately measure their greenhouse gas emissions let alone meet ambitious carbon emission requirements, leaving these companies without the contracts that enable them to grow and employ more workers. Further, the inability to meet the emission objectives may fall outside of the sphere of influence of small and medium businesses as the technology to transition to carbon neutrality may not yet even exist for their line of business. Yet, they will be subject to increasing costs and the potential loss of market opportunity. Forcing companies to make these decisions would have the effect of consolidating market share in the largest of companies rather than fostering competition and growth of smaller industries.

A Model More Closely Aligned with Cap-and-Trade May Be Best Suited

If the intent of **SB 253** is to build upon the success of the progress made through cap-and-trade, then it is unfortunately lacking in some key details. Most notably, cap-and-trade includes economic protections, a glidepath which allows businesses to adapt, and is mindful of different market segments. Equally important is the incentive structure that rewards organizations that reach their emissions targets before the specified timeframe. The cumulative impact has made cap-and-trade a successful part of reaching our state climate goals. **SB 253** disposes of all of that nuance. As other states seek to take punitive action against entities that disclose their climate objectives it presents an opportunity for California to once again lead from the front by incenting climate disclosure rather than taking the same punitive actions that have been highlighted in press releases by other states. This measure would stand to benefit by taking a page from cap-and-trade and reward rather than punish entities that voluntarily disclose their emissions profile.

The Scope 3 Emissions Guidelines are a Moving Target

At this juncture, Scope 3 emissions reporting is more of an art than it is a science. Due to the likelihood of double counting, assessing Scope 3 emissions data with any degree of accuracy is not yet possible. For

example, the guidelines were updated last fall to focus on Scope 3 emissions associated with land use and biogenic carbon and thus will impact Scope 3 emissions data for any materials derived from bio-based sources such as food/agricultural derived materials, etc. These updates not only underscore that Scope 3 emissions data reporting is still in its infancy stage, but it also raises compliance issues in terms of what guidance reporting entities must follow in the event the guidance, or portions thereof, are in the process of being updated in the future. Further, the State of California itself via CalPERS has requested at the Securities and Exchange Commission's (SEC) ongoing rulemaking process related to climate related disclosures that the information disclosed should be "material" to a financial investment.

Jurisdictional Issues Will Mean the Burden of SB 253 Will Fall Predominantly on California Businesses

Finally, we are not aware of statutory authority that would provide the California Air Resources Board the authority to regulate foreign and out-of-state companies delivering goods to California. It seems likely that out-of-state or non-California companies would challenge such authority. Because of this uncertainty, the burden will fall on California-based companies, giving out-of-state and foreign companies a market advantage, driving production out-of-state and increasing the cost of goods for California residents. California has made great strides in reducing in-state greenhouse gas emissions through a variety of programs that regulate *California* emissions. While California laws and regulations have certainly served as models for other states and countries, 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

For these reasons and others, CalChamber and the organizations listed below must respectfully **OPPOSE SB 253 (Wiener)**.

Sincerely,



Brady Van Engelen
Policy Advocate
California Chamber of Commerce
On behalf of

Advanced Medical Technology Association, Bobby Patrick
African American Farmers of California, Will Scott, Jr.
American Chemistry Council, Tim Shestek
American Composites Manufacturers Association, Dan Leacox
American Pistachio Growers, Richard Matoian
American Property Casualty Insurance Association, Denni Ritter
Antelope Valley Chambers of Commerce, Vicky Ventura
Building Owners and Managers Association, Matthew Hargrove
California Apple Commission, Todd Sanders
California Blueberry Association, Todd Sanders
California Blueberry Commission, Todd Sanders
California Business Properties Association, Matthew Hargrove
California Building Industry Association, Nick Cammarota
California Cattlemen's Association, Kirk Wilbur
California Chamber of Commerce, Brady Van Engelen
California Cotton Ginners and Growers Association, Roger Isom
California Date Commission, Kristy Kneiding
California Fresh Fruit Association, Ian LeMay

California Life Sciences, Andrea Correia
California Manufacturers and Technology Association, Robert Spiegel
California Trucking Association, Chris Shimoda
California Walnut Commission, Robert Verloop
CalCIMA, Adam Harper
CalTax, Peter Blocker
Carlsbad Chamber of Commerce, Bret Schanzenbach
Chino Valley Chamber of Commerce, Zeb Welborn
Chemical Industry Council of California, Lisa Johnson
Citrus Heights Chamber, Diane Ebbitt
Costa Mesa Chamber of Commerce, David Haithcock
Danville Area Chamber of Commerce, Judy Lloyd
Far West Equipment Dealers Association, Joani Woelfel
La Cañada Flintridge Chamber of Commerce, Pat Anderson
Long Beach Area Chamber of Commerce, Alexandra Lakatos
Los Angeles Area Chamber of Commerce, Jacqueline Romero
North San Diego Chamber of Commerce, Sophia Hernandez
National Association of Mutual Insurance Companies, Seren Taylor
National Association of Industrial and Office Properties, Matthew Hargrove
Oceanside Chamber of Commerce, Scott Ashton
Nisei Farmers League, Manuel Cuncha, Jr.
Olive Growers Council of California, Todd Sanders
Orange County Business Council, Connor Medina
Pacific Merchant Shipping Association, Brian White
Palos Verdes Peninsula Chamber of Commerce, Marilyn Lyon
Personal Insurance Federation of California, Seren Taylor
Plumbing Manufacturers International, Jerry Desmond
Rancho Cordova Chamber of Commerce, Diann Rogers
Santa Barbara South Coast Chamber of Commerce, Dustin Hoiseth
Santee Chamber of Commerce, Kristen Dare
Torrance Area Chamber of Commerce, Donna Duperron
TechNet, Lia Nitake
Tenaska, Brian White
The Greater High Desert Chamber of Commerce, Mark Creffield
Walnut Creek Chamber, Bob Linscheid
West Precast Prestressed Concrete Institute, Dan Leacox
West Ventura County Business Alliance, Nancy Lindholm
Western Agricultural Processors Association, Roger Isom
Western Growers Association, Matthew Allen
Western Plant Health Association, Renee Pinel
Western States Petroleum Association, Shant Apekian

cc: Gabrielle Meindl, Senate Committee on Environmental Quality
Tate Hanna, Office of Senator Wiener
Legislative Affairs, Office of the Governor
Scott Seekatz, Senate Republican Caucus