



The Honorable Gavin Newsom  
 Governor, State of California  
 State Capitol  
 Sacramento, CA 95814

**SUBJECT: SB 253 (WIENER): REQUEST FOR MODIFIED IMPLEMENTATION**

Dear Governor Newsom,

As you consider funding priorities for Fiscal Year (FY) 2025-26, and ongoing spending priorities, we ask you to take into consideration the impact that costly reporting requirements imposed by **SB 253** will have on the business community; particularly smaller businesses based here in California. We have consistently raised concerns that implementation of the current version of **SB 253** will detract from investment and cost millions of dollars for the state at a time when we're facing a multi-billion-dollar budget deficit.

We agree with the very important caveat you made last year in your signing message that “the implementation deadlines in this bill are likely infeasible, and the reporting protocol specified could result in inconsistent reporting across businesses subject to the measure.” A lot has changed in the climate

reporting space since SB 253 was signed into law last year. Most notably, the U.S. Securities and Exchange Commission (SEC) decided in their March rulemaking to exclude mandating Scope 3, because it could not be accurately measured. The challenges of reporting Scope 3 emissions were further highlighted when the California State Teachers Retirement System (CalSTRS), reported earlier this month that they would have to delay reporting their emissions data because they found a “colossal data error” in their existing reporting<sup>1</sup>. They added that value chain emissions data “would likely not be reliable or useful for decision making.” Finally, the sponsor of SB 253 has said publicly that other states should pause on pursuing similar legislation.

Many of the undersigned organizations have served as consistent partners in supporting California’s commitment to addressing climate change. However, the reporting requirements as prescribed in **SB 253** will **add substantial cost to doing business here in California and will do nothing to reduce emissions**. As discussions regarding the implementation and funding of this measure are considered, we would like to offer several recommendations that we believe both meet the intent of the measure by adding more transparency to emissions reporting from certain parties, while also minimizing the financial impact on the State and the business community and providing more latitude on reporting requirements.

First and foremost, there are significant costs associated with reporting Scope 3 emissions. We have the benefit of understanding the fiscal impacts of Scope 3 reporting from the SEC’s rulemaking associated with the disclosure of emissions for publicly traded companies. According to the SEC, the costs for the first year of implementation are estimated to be \$640,000, and ongoing costs are estimated to be \$530,000<sup>2</sup>. To best ameliorate concerns associated with the financial impacts associated with this measure, leadership should consider advancing a prior proposal which struck Scope 3 from reporting<sup>3</sup>. The state itself, will also incur significant costs associated with this measure; with estimates totaling upwards of \$13 million annually. This calls into question the prioritization of a reporting measure while the state is attempting to reconcile a significant budget deficit. Please note that the program is unlikely to fund itself and that potentially millions of General Fund dollars would be needed to support ongoing demands for this program.<sup>4</sup> Its inclusion was premised on the SEC adopting a requirement for Scope 3 reporting, which did not materialize, as proponents suggested this would have created a degree of interoperability. **SB 253**, as currently drafted, will directly impose these costs on reporting entities and, while it doesn’t conflict with SEC reporting requirements, it does directly add costs beyond those contemplated in the SEC rulemaking.

Beyond simply the aspect of cost, there are also concerns associated with the veracity of the data itself. The difficulty in calculating upstream and downstream emissions was further underscored earlier this month by the CalSTRS report, which noted in the agenda made available as part of its May Investment Committee Meeting that the calculation of Scopes 1 (direct) and 2 (indirect) are appropriate choices and that “*the current market consensus is that the methods of accounting for scope 3 emissions are still under debate... and any emissions data produced would likely not be reliable or useful for decision making*”<sup>5</sup> Simply put, Scope 3 emissions data has not proven to be reliable or useful for decision making. The question remains as to whether the time and resources required to capture this data are best invested in

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<sup>1</sup> Wolman, Jordan. “Why CALSTRS can’t count”. Politico, 7 May, 2024  
<https://www.politico.com/newsletters/the-long-game/2024/05/07/theres-a-climate-accounting-problem-00156501> 't count - POLITICO

<sup>2</sup> See, Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors pg. 373  
<https://www.sec.gov/files/rules/proposed/2022/33-11042.pdf>

<sup>3</sup> Wolman, Jordan. “There’s Something about Scope 3.” Politico, 3 Apr. 2024.  
[politico.com/f/?id=0000018e-9c9b-d3a4-a7be-bddf65f60000](https://politico.com/f/?id=0000018e-9c9b-d3a4-a7be-bddf65f60000)

<sup>4</sup> <https://esd.dof.ca.gov/LegAnalysis/getPdf/1FE6DD64-C83A-EE11-A824-00224843A957>

<sup>5</sup> See Attachment 1: Public Markets Emissions Measurement Process  
<https://www.calstrs.com/files/b476b1c46/INV+052024+Item+07.01+-+Public+Market+Emissions+Measurement+Process+-+Attachment+1.pdf>

a reporting requirement, or rather focused on real, tangible emissions reductions that could otherwise be occurring, as both time and capital are finite resources. Additionally in a 2022 letter to the SEC, the California Public Employees Retirement System (CALPERS) said that “there is uncertainty in determining Scope 3 emissions”<sup>6</sup>.

To the extent that your administration believes that upstream and downstream emissions must be reported, we have prepared several suggested amendments that will streamline and add consistency to reporting while minimizing the fiscal impacts that would be passed on to the small business community.

### ***Revise the definition of Scope 1 and Scope 2 emissions to better align with current emissions reporting requirements***

A cornerstone of California’s Cap and Trade program is the direct monitoring and regulation of in-state emissions under the Mandatory Reporting for Greenhouse Gas Emissions (MRR) requirements. By simply striking the phrase “regardless of location” in both definitions, the reporting requirements of **SB 253** would better align with current reporting requirements and offer ease of reporting for many organizations that would be reporting and are currently considered as obligated parties under California’s Cap and Trade. To be clear, the number of entities reporting direct and indirect emissions would expand by roughly ten times. This would represent a much greater degree of transparency, per **SB 253**’s intent, while also minimizing costs associated with reporting that extend beyond gathering upstream and downstream emissions data.

### ***Recast the requirement that the state board develop and adopt regulations that reporting entities annually disclose all Scope 3 emissions and instead base reporting on materiality or obtainability***

As noted above, accurately tabulating all upstream and downstream emissions has proven to be an impossible task. We would concur with CalSTRS that the data is likely not to be reliable or useful for any decision-making purposes. If Scope 3 must be included, it should be done so on a narrow basis. Focusing on relevant upstream and downstream emissions would be a much more reasonable approach, particularly in light of the SEC’s decision to forgo reporting on Scope 3 emissions. In fact, proponents of **SB 253** have reported their Scope 3 emissions based on relevance<sup>7</sup>. Further, proponents of added emissions reporting in California have alternatively argued for reporting before the SEC based on materiality, noting in particular that reporting of Scope 3 emissions should be limited to those that are material<sup>8</sup>. Obtainable is another metric that would suffice rather than basing it on materiality. Again, this represents a step toward greater transparency and offers reasonable accommodation to reporting entities. The broad sweeping nature of **SB 253**, which is agnostic to industry, doesn’t even offer CARB the authority to take a more nuanced approach and phase in reporting by particular industries. **SB 253** very clearly requires reporting on all categories of Scope 3 emissions, and at this juncture that seems premature. This is further underscored by a recent study<sup>9</sup> that showed that a majority of companies listed on the German stock exchange are failing to report on more than 25 percent of their Scope 3 emissions, and the accuracy of the reported information has been called into question.

### ***Incorporate a Parent-Subsidiary Reporting Provision***

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<sup>6</sup> See, CalPERS Release Nos. 33-11042; 34-94478; File No. S&-10-22; The Enhancement and Standardization of Climate-Related Disclosures for Investors, June 15, 2022  
<https://www.federalregister.gov/d/2022-06342>

<sup>7</sup> See, 2020 Annual Progress Report for Patagonia  
[https://outdoorindustry.org/wp-content/uploads/2015/03/2020\\_OIA-Climate-Action-Corps-Annual-Progress-Report\\_Patagonia.pdf](https://outdoorindustry.org/wp-content/uploads/2015/03/2020_OIA-Climate-Action-Corps-Annual-Progress-Report_Patagonia.pdf)

<sup>8</sup> See, CalPERS Release Nos. 33-11042; 34-94478; File No. S&-10-22; The Enhancement and Standardization of Climate-Related Disclosures for Investors, June 15, 2022  
<https://www.federalregister.gov/d/2022-06342>

<sup>9</sup> [https://www.scopegroup.com/dam/jcr:dce7326e-3d2d-410a-b6f5-259ca5861dfa/Scope%20ESG\\_Dax\\_40\\_GHG\\_emissions\\_August%202022.pdf](https://www.scopegroup.com/dam/jcr:dce7326e-3d2d-410a-b6f5-259ca5861dfa/Scope%20ESG_Dax_40_GHG_emissions_August%202022.pdf)

Unlike SB 261, **SB 253** lacks any relief for a company with multiple subsidiaries. While the revenue threshold is higher in **SB 253**, there are still organizations that might have multiple subsidiaries which meet the reporting requirements of this measure. Reporting should be permitted to be provided at the parent company level rather than requiring it to be done multiple times at the subsidiary level, which is inefficient and will simply add cost with no added value. Including a provision that allows for reporting at the parent level of a company is reasonable and removes onerous reporting requirements. **SB 253** also should make clear that a subsidiary reporting entity that is in-scope for purposes of **SB 253** should be allowed to rely on the emissions reporting of its parent company regardless whether the parent company is itself subject to **SB 253**, provided that such reporting otherwise satisfies the requirements of **SB 253**. Incorporating the requested flexibility into **SB 253** could be easily accomplished with the following suggested changes:

(D) (i) That the emissions reporting requirement is structured in a way that minimizes duplication of effort on the part of reporting entities and their affiliated and other related entities and allows a reporting entity to submit to the emissions reporting organization reports prepared, either by a reporting entity or, in the case of a reporting entity that is a subsidiary, a parent company, to meet other national and international reporting requirements, including any reports required by filed with or otherwise submitted to the federal government in accordance with applicable law, as long as those reports satisfy all of the requirements of this section.

### ***Allow CARB to Survey and Assess Greenhouse Gas Reporting Standards at an Earlier Date***

The World Resources Institute's (WRI) GHG Protocol was developed at a high level and to date has been used to support voluntary actions by corporations. While the required reporting standards might be a best fit for some organizations, it will not work for others. Broadly imposing a reporting requirement and standard could lead to inaccurate information and may require repackaging information from an existing reporting standard to comply with California's GHG emissions reporting standard. Directing CARB to survey available reporting standards at an earlier date and allowing additional reporting standards to serve as a compliance mechanism would ease reporting requirements for many organizations. To be clear, we are simply seeking additional pathways to compliance rather than sole reliance on a reporting standard that might not be the best fit for a reporting entity.

### ***Delay Rulemaking and Implementation Timelines***

As currently written, the rulemaking process associated with emissions reporting at CARB is set to begin on January 1, 2025. This means that CARB will need to have the resources in place to support the rulemaking effort before that date, which is highly unlikely to happen. Given the delay in funding, it would seem reasonable to similarly delay the rulemaking process so as to allow CARB the time to align their resources with the requirements of this bill. This allows emissions reporting efforts to continue to mature as they are still quite nascent before the rulemaking process gets underway. Similarly, this allows for funding to support this effort over a two-year period, which will lessen the impact on the state's budget while it is still reeling from an economic downturn. The timelines included in the bill were aggressive to begin with and have only become more daunting as fiscal constraints are taken into consideration. To assure better planning horizons, we ask that the reporting timelines be pushed out one calendar year. This ensures that adequate resources can be set aside amongst each reporting entity in an effort to comply with the law.

We appreciate the collaborative approach that this Administration and the Legislature have taken to address our current fiscal dynamic, which is challenging. We agree with your signing message from last year and would urge caution in proceeding too quickly as it relates to the implementation of this measure, as the economic impacts will be felt immediately and will be ongoing.

Sincerely,



Brady Van Engelen, Policy Advocate  
California Chamber of Commerce

On behalf of the following organizations:

Associated General Contractors, California Chapters, Bret Gladfelty  
Associated General Contractors, San Diego Chapters, Bret Gladfelty  
Airlines for America, Sean Williams  
Alliance for Automotive Innovation, Curt Augustine  
American Chemistry Council, Tim Shestek  
American Composites Manufacturers Association, John Schweitzer  
American Property Casualty Insurance Association, Denneile Ritter  
BNSF Railway Company, Juan Acosta  
Chemical Industry Council of California (CICC), Lisa Johnson  
California Mortgage Bankers Association, Indira McDonald  
California Cattlemen's Association, Kirk Wilbur  
California Cement Manufacturers Environmental Coalition (CCMEC), Frank T. Sheets  
California Chamber of Commerce, Brady Van Engelen  
California Credit Union League, Robert D. Wilson  
California Cotton Ginners and Growers Association, Roger Isom  
California Fresh Fruit Association, Daniel Hartwig, President  
California Hospital Association, Vanessa Gonzalez  
California Manufacturers and Technology Association, Robert Spiegel  
California Rice Commission, Timothy A. Johnson  
California Strawberry Commission, Rick Tomlinson  
California Walnut Commission, Robert Verloop  
Dairy Institute of California, Katie Davey  
High Desert Chamber of Commerce, Mark Creffield  
Independent Energy Producers Association, Jan Smutney-Jones  
National Association of Mutual Insurance Companies, Christian Rataj  
Nisei Farmers League, Manuel Cunha, Jr., President  
North San Diego Business Chamber, Sophia Hernandez  
Oceanside Chamber, Scott Ashton  
Personal Insurance Federation of California, Seren Taylor  
Rancho Cordova Area Chamber, Diann Rogers  
Santa Barbara South Coast Chamber of Commerce, Kristen Miller  
Securities Industry and Financial Markets Association, Kim Chamberlain  
Truck and Engine Manufacturers Association, Timothy Blublaugh  
Wine Institute, Anna Ferrera  
Western Agricultural Processors Association, Roger Isom