ENERGYCAP

Everything you need to know about CALIFORNIA'S climate laws

A comprehensive guide to S.B. 253 and S.B. 261 (and more) for energy leaders and companies

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Introduction

Large companies face continuous challenges in navigating the evolving landscape of environmental regulations and commitments, especially in the past few years. On August 16, 2022, President Biden signed the **Inflation Reduction Act** into law, the largest piece of climate regulation in American history. Against the backdrop of this historic federal climate action, California has passed their own environmental legislation that will affect large companies in the coming years.

The Golden State has long been a trailblazer amongst the 50 states in the fight against climate change and the promotion of sustainable practices, taking steps towards greenhouse gas emission reduction, a clean energy economy, and sustainable development. In alignment with this commitment, Governor Newsom **signed both S.B. 253 and S.B. 261 into law** on October 7, 2023.

- **S.B. 253, or The Climate Corporate Data Accountability Act**, mandates that all US-based companies doing business in California and generating revenues exceeding $1 billion in California measure, validate, and disclose their scopes 1, 2, and 3 emissions starting from 2026 (based on 2025 data).
- **S.B. 261, or The Climate-Related Financial Risk Act**, mandates that US companies doing business in California and generating revenues exceeding $500 million must publicly disclose their climate-related financial risks and the strategies they employ to address them biennially starting in 2026.

In this eBook we unpack the implications of California's S.B. 253 and S.B. 261 which are crucial to maintain compliance, foster sustainability, and facilitate readiness and strategic implementation.

Executive summary

With the passing of S.B. 253, The Climate Corporate Data Accountability Act, and S.B. 261, The Climate-Related Financial Risk Act, large US-based companies doing business in the state of California may face significant ramifications to the way they report climate data in the coming years. While these climate rulings are just within the state, they will affect MNCs around the world and do not stand isolated. They join a host of other global climate disclosure rulings, including the SEC Climate Disclosure Proposal, the European Sustainability Reporting Standards (ESRS), and the EU Non-Financial Reporting Directive (NFRD).

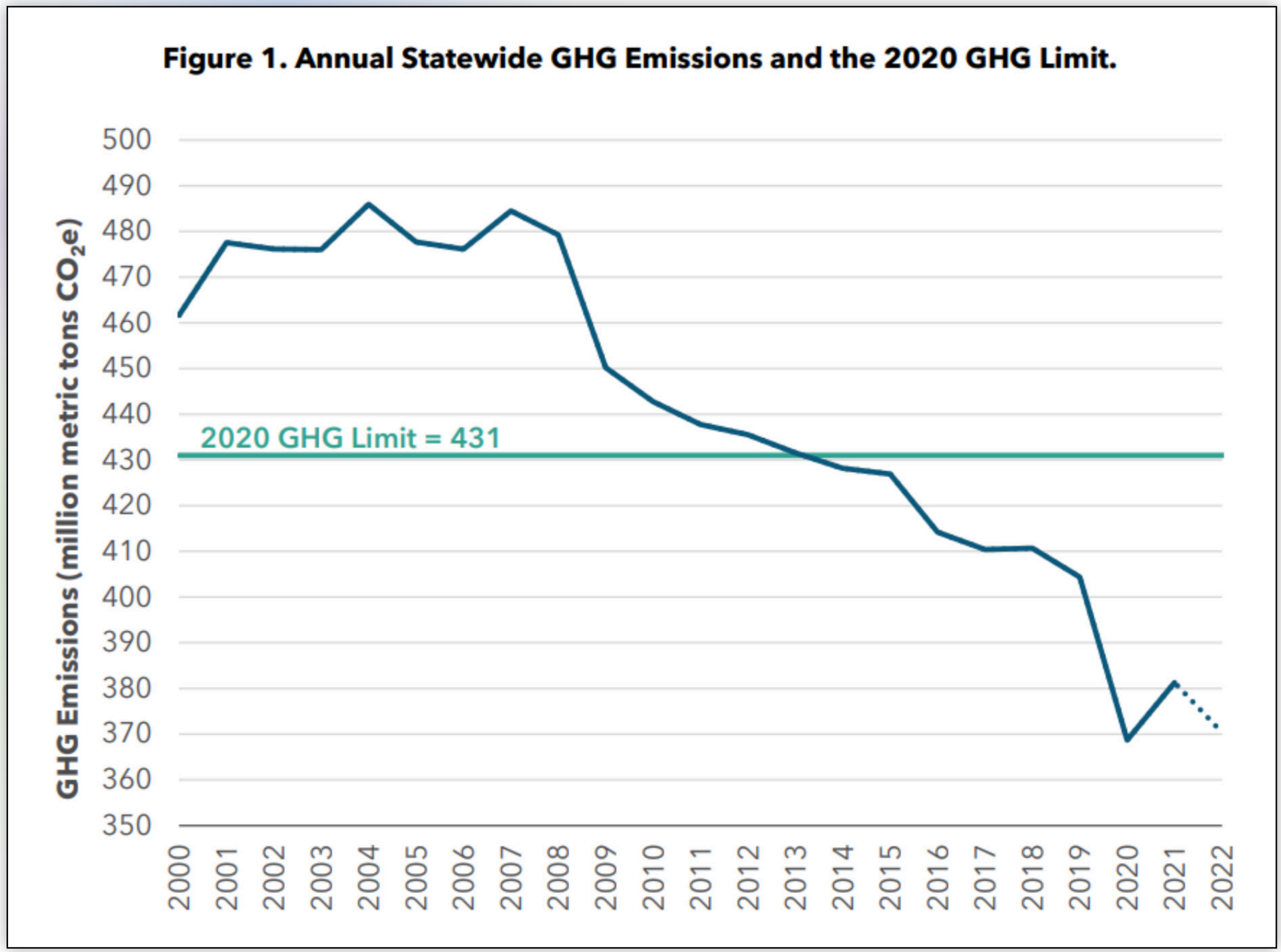
The movement towards more reporting and more climate data transparency has been steadily growing. While many companies currently report the information required by these rulings, they do so adhering to different equations and frameworks. Complying with emerging disclosures laws in the future may require changing where and how this information is reported.

California's climate legislation

California has been at the forefront of progressive climate legislation for decades, leading the way in the United States with a series of groundbreaking laws and initiatives aimed at combating climate change, reducing greenhouse gas emissions, and promoting sustainable energy practices. As **one of the world's largest economies**, California's actions and legislation often have ripple effects across the globe. With its long history of environmental advocacy and innovation, the state has consistently demonstrated a strong commitment to addressing the impacts of climate change and fostering a sustainable future for its residents and beyond.

Historical context of California's climate laws

The foundation for California's aggressive approach to climate legislation can be traced back to the early 2000s, when the state took pioneering steps towards establishing itself as a global leader in environmental policy. One pivotal moment in this trajectory was the passage of the **California Global Warming Solutions Act of 2006**, also known as Assembly Bill 32 (A.B. 32). This landmark legislation required the state to measure, report, and verify their carbon emissions and set ambitious targets for reducing greenhouse gas emissions, requiring the state to bring emissions back to 1990 levels by 2020. A.B. 32 also introduced a comprehensive cap-and-trade program, cementing California as a trailblazer in carbon market initiatives.



California's annual GHG emissions from 2000 to 2021 in relation to the 2020 GHG limit established by AB 32 (431 MMTCO2e)

Each year the California Air Resources Board (CARB) produces a statewide Greenhouse Gas Emissions Inventory tracking progress on the state's GHG targets. **Figure 1** shows California's annual GHG emissions from 2000 to 2021 in relation to the 2020 GHG limit established by AB 32 (431 MMTCO2e). California's GHG emissions dropped below this 2020 GHG Limit in 2014 (428.2 MMTCO2e) and have remained below this level since that time.

Following the success of A.B. 32, California continued to solidify its commitment to combating climate change with the passage of **Senate Bill 32 (S.B. 32)** in 2016. Building upon the foundation laid by A.B. 32, S.B. 32 strengthened California's climate goals by mandating a further reduction in greenhouse gas emissions to 40% below 1990 levels by 2030. This legislative move showcased California's enduring dedication to long-term sustainability and environmental stewardship.

In addition to these pivotal laws, California has implemented a suite of complementary measures and regulations aimed at **promoting renewable energy**, using **electric vehicles**, **reducing emissions**, and fostering the **widespread adoption of clean technologies**. These efforts, combined with stringent emissions standards and ongoing **investment in renewable energy infrastructure**, have firmly positioned California as a vanguard in the fight against climate change, serving as a model for other states and nations to emulate.

As California continues to navigate the complexities of climate change and environmental sustainability, the state's commitment to enacting bold climate legislation remains unwavering.

S.B. 253: The Climate Corporate Data Accountability Act

Overview

The **Climate Corporate Data Accountability Act**, also known as California Senate Bill 253 (S.B. 253), was introduced to address the increasing concerns surrounding corporate transparency and accountability in relation to climate-related risks and impacts. S.B. 253 mandates that all US-based companies, public or private, generating revenues exceeding $1 billion in California, disclose their emissions extensively, encompassing scopes 1, 2, and 3, starting from 2026 (based on 2025 data). The bill also necessitates third-party validation of their disclosures.

S.B. 253 was proposed by Senator Scott Wiener (D-San Francisco) in January 2023. The Governor signed it into law on October 7, 2023 and included a **signing message** with the bill. This message addressed the "likely infeasible" implementation deadlines, concern with reporting structure and protocol, and concern over the financial impact of the bill. The Governor's administration as well as the California Air Resources Board (CARB) are tasked with monitoring these potential issues and their impact.

S.B. 253 underscores the critical need for corporations to proactively communicate their climate-related role, strategies, and goals. The legislation seeks to promote transparency and provide shareholders, investors, and the public with comprehensive, standardized data on how companies are addressing and mitigating climate-related risks, as well as the impact of these risks on their long-term viability.

Additionally, S.B. 253 is designed to align with global efforts to enhance corporate climate disclosure standards, in accordance with initiatives such as the Task Force on Climate-related Financial Disclosures (TCFD) **framework**. By requiring corporations to furnish comprehensive climate-related data, the bill seeks to support the integration of climate risk assessment and management into corporate decision-making processes, fostering a more robust and sustainable approach to business operations and investment practices.

Objectives and goals of the law

The ultimate objective of the Climate Corporate Data Accountability Act is to facilitate a greater understanding of how climate-related factors may affect corporate performance, financial stability, and resilience. Through enhanced transparency and accountability, the legislation aims to empower investors, consumers, and other stakeholders to make more informed decisions, promote sustainable investment practices, and drive a transition towards a low-carbon economy.

Key provisions and requirements

All business entities with total annual revenues in excess of $1 billion and that do business in California are required to annually measure and publicly disclose:

- their scope 1 and scope 2 greenhouse gas emissions starting in 2026 (based on 2025 data)
- their scope 3 greenhouse gas emissions starting in 2027 (based on 2026 data)

These businesses need to obtain an assurance engagement, performed by an independent third-party assurance provider, of the entity’s public disclosure.

S.B. 261: The Climate-Related Financial Risk Act

Overview

The Climate-Related Financial Risk Act, also known as California Senate Bill 261 (S.B. 261), pertains to the disclosure of climate-related financial risks by large businesses operating in California. The bill aims to address the growing concerns regarding the impact of climate change on the financial landscape and to ensure that companies incorporate climate risk mitigation measures into their business strategies.

S.B. 261 was proposed by Senator Henry Stern (D-Los Angeles) in January 2023. The Governor signed it into law on October 7, 2023 and included a **signing message** with the bill. This message addressed how the implementation deadlines don't allow sufficient time for CARB to "carry out the requirements in this bill," as well as concern over the financial impact of the bill, which will be closely monitored by CARB.

Under S.B. 261, major US businesses with annual revenues exceeding $500 million that operate in California are required to biennially disclose climate-related financial risks and their corresponding mitigation strategies to the public. The legislation seeks to enhance transparency and accountability, enabling stakeholders, investors, and the public to gain insight into how climate-related risks may affect the financial well-being and long-term viability of these businesses.

By mandating the disclosure of climate-related financial risks, S.B. 261 aims to encourage companies to proactively assess and address the potential impacts of climate change on their operations, supply chains, and financial performance. This includes evaluating risks stemming from physical climate hazards, as well as risks associated with the transition to a low-carbon economy, such as regulatory changes, market shifts, and technological advancements.

Objectives and goals of the law

Through the disclosure of climate-related financial risks and mitigation strategies, S.B. 261 seeks to foster more robust and sustainable business practices, integrate climate considerations into corporate decision-making, and promote investment in climate-resilient strategies. The public availability of this information allows investors and stakeholders to make informed decisions and encourages companies to adopt measures that enhance their resilience to climate-related challenges.

S.B. 261 underscores California's commitment to addressing climate change as a financial risk and the state's proactive efforts to align its financial sector with climate goals. By integrating climate risk assessment and disclosure into business operations, S.B. 261 aims to facilitate a more comprehensive understanding of climate risks and encourage businesses to implement strategies that contribute to a more resilient and sustainable economy.

Key provisions and requirements

All business entities with total annual revenues in excess of $500 million and that do business in California are required to biennially prepare a climate-related financial risk report starting in 2026 disclosing the following:

- their climate-related financial risk, in accordance with the recommended framework and disclosures contained in the **Final Report of Recommendations** of the Task Force on Climate-related Financial Disclosures (June 2017)
- their measures adopted to reduce and adapt to climate-related financial risk

S.B. 261 vs. S.B. 253: What's the difference?

S.B. 253 and S.B. 261 go hand-in-hand. Both these climate rulings were signed into law on the same day in 2023, and both affect large US-based companies doing business in California and require the reporting of climate data starting in 2026. However, there are a few key differences in these laws.

- S.B. 261 affects companies generating revenues exceeding $500 million, while the cutoff for S.B. 253 is $1 billion. This means that **S.B. 261 will affect more companies.**
- While S.B. 261 will be more far-reaching, reporting on climate-related financial risks and the strategies they employ to address them biennially will be **far easier** for companies to do than complying with S.B. 253, which requires the measurement, validation, and disclosure of their scopes 1, 2, and 3 emissions—no easy task for companies of that size.

Impact analysis

The current legislative landscape

S.B. 253 and S.B. 261 come amidst a time of global climate disclosure laws.

SEC Climate Disclosure Rule

The US Securities and Exchange Commission (SEC) has proposed a landmark **climate disclosure rule** intended to enhance transparency and ensure that companies disclose material climate-related information to investors. The proposed rule seeks to establish consistent and comprehensive reporting requirements for climate-related risks and impacts, reflecting the growing recognition of climate change as a critical factor influencing business operations and financial performance. This regulation would standardize climate-related disclosures across all public companies in the US (not just those in California exceeding $1 billion or $500 million in revenue), enabling investors to make more informed decisions and fostering greater accountability in addressing climate risks.

This climate disclosure rule is poised to have a significant impact on companies across various sectors. It would require businesses to disclose their direct and indirect greenhouse gas emissions, as well as provide insights into their climate-related risks and strategies for mitigating these risks - essentially what S.B. 253 and S.B. 261 aim to address, although there are more requirements in the SEC Rules. Also similar to S.B. 253 and S.B. 261 is the alignment with TCFD framework reporting.

Additionally, companies will need to disclose how climate considerations factor into their long-term business and financial planning. The rule is expected to prompt companies to conduct more thorough assessments of their climate-related risks, leading to a heightened focus on incorporating climate considerations into their strategic decision-making processes. It is also likely to propel businesses to adopt stronger climate-related policies and demonstrate a commitment to sustainability. A timeline for this rule has not been announced yet, but it is expected to go into effect in 2025.

European Sustainability Reporting Standards (ESRS)

The European Union (EU) announced in 2023 the finalization of the **European Sustainability Reporting Standards (ESRS),** marking a significant milestone in corporate sustainability reporting. The ESRS framework seeks to provide a comprehensive and standardized set of reporting requirements for companies operating within the EU, with the aim of enhancing the transparency and comparability of sustainability-related disclosures. By detailing specific guidelines and metrics for reporting ESG factors, the ESRS is poised to play a pivotal role in reshaping the landscape of corporate sustainability reporting in the EU.

The implementation of the ESRS will impact all companies subject to the 2021 **Corporate Sustainability Reporting Directive (CSRD)**, requiring them to adhere to more stringent and harmonized reporting standards. With the framework's emphasis on uniform sustainability reporting, companies will be obligated to disclose a wide array of ESG information, including carbon emissions, diversity and inclusion metrics, supply chain sustainability, and other indicators.

Approximately **11,700 large companies and groups across the EU** are subject to this ruling, which covers large public-interest companies with more than 500 employees. However, “certain types of companies and certain disclosure requirements are subject to phase-in periods before reporting becomes mandatory,” and several disclosure requirements are voluntary. These exceptions are currently extended to companies with fewer than 750 employees, and allow them to omit Scope 3 emissions data for the first year, and omit certain disclosures related to biodiversity, value chain workers, communities, and consumers for the first 2 years. The same companies affected by S.B. 253 and S.B. 261 may or may not already be subject to CSRD and reporting to ESRS standards depending on whether they do business in California and have revenue in excess of $500 million.

The ESRS is expected to drive a cultural shift within organizations, compelling them to adopt more robust sustainability practices and integrate ESG considerations into their strategic decision-making processes. By providing a consistent and structured framework for reporting, the ESRS aims to bolster the reliability and comparability of sustainability disclosures, enabling investors to make more informed decisions and fostering greater trust and accountability within the corporate sector. Companies will need to proactively assess their sustainability practices, invest in improved data collection and reporting mechanisms, and align their strategies with the ESRS to navigate the new reporting landscape effectively. With 2024 data at the center of 2025 reporting, companies need to start preparations for compliance immediately if they have not already done so.

EU Non-Financial Reporting Directive (NFRD)

The CSRD expanded upon the **Non-Financial Reporting Directive (NFRD)**, a significant regulatory framework that aimed to enhance transparency and accountability within European businesses by mandating the disclosure of non-financial information related to environmental, social, and employee matters, respect for human rights, anti-corruption, and bribery issues. Enacted by the EU, the NFRD required certain large companies with over 500 employees to annually report on their non-financial performance. The directive also provided guidelines for the reporting methodology, ensuring a consistent and comparable approach to non-financial reporting across different companies.

Until CSRD regulations take effect, qualifying organizations must continue to follow the rules introduced by the NFRD. This means that NFRD regulations continue to be the guiding factor for ESG and non-financial reporting in the near future. The directive encouraged companies to integrate non-financial factors into their strategic decision-making and risk management processes, strengthening their overall sustainability and responsible business practices.

The current company landscape

There is a legislative precedent set to address climate risks in businesses and enhance and standardize reporting. Currently, the EU's NFRD is the only large-scale mandatory climate reporting. While the NFRD has helped shape the way companies report, there is still no one ideal standard, and this only applies to large public companies in the EU. The ESRS and SEC Climate Disclosure Rule will further standardize climate reporting, and companies need to start now to comply with these new laws. However, neither require compliance and disclosure this year.

Almost all large public companies release annual ESG reports, with reporting increasing tremendously over the last decade. These ESG reports for the most part address companies' greenhouse gas emissions and climate-related financial risks and the strategies required by S.B. 253 and S.B. 261, respectively. There are a number of sustainability reporting frameworks used to structure this information, including the Global Reporting Initiative (GRI), the Sustainability Accounting Standards Board (SASB), and the Carbon Disclosure Project (CDP).

Compliance and implementation

Companies, especially public U.S.-based companies, report on many ESG disclosures and follow many different formats or combinations of frameworks. There is no standardization to reporting yet, which makes it difficult for investors and stakeholders to compare the non-financial information disclosed by different companies. Even though ESG reporting has become the standard, some companies publish this information in different places too. For example, some companies release impact reports that may have a larger focus on their social impact and giving, some companies release sustainability reports with a larger emphasis on environmental sustainability, and others release DEI reports which separate out DEI initiatives and human capital information.

There is a growing movement toward more reporting and more transparency, standardization, and consistency in reporting. The CSRD and accompanying ESRS as well as the SEC Climate Disclosure Rule are making this movement law. Companies must comply with EU reporting as laid out in the ESRS and continue to assess developing regulations from the SEC.

On top of this, many companies will also need to comply with S.B. 253 and S.B. 261. These laws were recently passed, and so disclosures are not required until 2026. However, this requires collecting data throughout 2025 using methods decided on in 2024. On top of this, there will likely be reporting standards and requirements to adhere to that have yet to be announced. While the scope of S.B. 253 and S.B. 261 are much smaller than the CSRD and the SEC Climate Disclosure Rule, companies will still need to monitor the rulemaking process for disclosure and any accompanying standards.

Thankfully it seems that reporting will align with the TCFD framework, which is the same framework that will likely be used by the SEC. Compliance with S.B. 253 and S.B. 261 will likely be straightforward for any company that has already invested in ESG reporting, with the exception of Scope 3 emissions.

Reporting of Scope 3 emissions as required by S.B. 253 will perhaps be the most difficult to comply with. Scope 3 emissions refer to indirect emissions originating from business operations by sources that are not directly owned or controlled by an organization, such as supply chain, transportation, product usage, or disposal. While calculations laid out by **GHG Protocol** are most widely used, mapping out and calculating emissions for large companies with revenues exceeding $1 billion should not be underestimated.

Resources for further learning

Learn more about Scope 1, 2, and 3 reporting

- Carbon Accounting 101 eBook
- Carbon Accounting 101 Webinar Recording
- Mastering Carbon Accounting Webinar Recording

Unpacking European Climate Regulations

- Read webinar Transcript
- Watch webinar Recording

Reduce emissions (and cost) with real-time data webinar recording

Optimizing Operational Efficiency with Energy Monitoring

Optimizing Operations for Net Zero Buildings

Is Your Energy and Sustainability Data Financial Grade?

Utility Data: The Foundation for Sustainability Reporting

About the author

Neesha Basnyat is a freelance science and sustainability writer, researcher, and editor with a background in Biology and the Environmental Sciences. Some of her favorite things to write about include environmental policy, reducing waste, ecology research, green technology, and outdoor recreation. In her free time, she loves traveling, spending time outdoors, and rock climbing. Her portfolio can be **viewed here**.

Neesha was contracted by **EnergyCAP** to write this article.

About EnergyCAP

EnergyCAP is the leading Energy and Sustainability ERP, empowering customers with full control and understanding of their energy and sustainability data to reduce their carbon footprint and drive savings. For over forty years, thousands of public and private institutions have been using EnergyCAP to streamline accounting processes, reduce resource consumption, and identify opportunities for sustainable operations. EnergyCAP helps customers who are drowning in paper bills, manual processes, and cumbersome spreadsheets and enables them to execute, analyze, and report on the energy and decarbonization projects needed to create a more sustainable world.

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ENERGYCAP UtilityManagement™

Portfolio-level energy and sustainability reporting

Get accurate and reliable energy and utility data across your entire portfolio and streamline energy and accounting workflows.

Customer Data Type	Persona
Utilities/bill/resources	Finance/energy

ENERGYCAP CarbonHub™

Financial-grade greenhouse gas accounting

An advanced, holistic view of financial-grade emissions data across your business with automatically applied factors to meet your ESG reporting needs.

Customer Data Type	Persona
GHG activities	Sustainability

ENERGYCAP SmartAnalytics™

Real-time energy and sustainability analytics

Dive deep into the real-time performanceof assets, devices, and sensors. Make quick, data-driven decisions for high-performance, net-zero buildings.

Customer Data Type	Persona
Time-series/Interval energy	Energy facilites

ENERGYCAP Bill CAPture™

CAPture Services: CAPture Services: Bill CAPture, Bill Processing/Managed Services

Appendix

Senate Bill No. 253
CHAPTER 382

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

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 253, 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 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 reporting organization, as defined, and obtain an assurance engagement on, starting in 2026 on a date to be determined by the state board, and annually thereafter, their scope 1 and scope 2 greenhouse gas emissions, as defined, and, starting in 2027 and annually thereafter, their scope 3 greenhouse gas emissions, as defined, from the reporting entity's prior fiscal year, as provided. The bill would require the state board to review during 2029, and update as necessary on or before January 1, 2030, these deadlines to evaluate trends in scope 3 emissions reporting and to consider changes to the deadlines, as provided. The bill would require a reporting entity to obtain an assurance engagement, performed by an independent third-party assurance provider, of the entity's public disclosure as provided. 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 ensure that the assurance process minimizes the need for reporting entities to engage multiple assurance providers and ensures sufficient assurance provider capacity, as well as timely reporting implementation, as required. The bill would further require the state board to contract with an emissions reporting organization to develop a reporting program to receive and make publicly available the required disclosures. The bill would authorize the state board, starting in 2033 and every 5 years thereafter, to assess the global greenhouse gas accounting and reporting standards and to adopt an alternative standard if it determines that using the alternative standard would more effectively further the goals of the bill.

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 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 reporting organization to post on a digital platform that would be required to be created by the emissions reporting organization, and publicly accessible, to house the state board's report and the reporting entities' public disclosures. The bill would require the emissions reporting organization to provide the state board's report to the relevant policy committees of the Legislature.

This bill would require a reporting entity, upon filing its disclosure, to pay to the state board an annual fee set by the state board, as provided. The bill would create the Climate Accountability and Emissions Disclosure Fund, require the proceeds of the fees to be deposited in the fund, and continuously appropriate the moneys in the fund to the state board for purposes of the bill. By creating a continuously appropriated fund, the bill would create an appropriation. The bill would require the state board to adopt regulations that authorize it to seek administrative penalties for violations of these provisions, as specified.

DIGEST KEY

Vote: majority   Appropriation: yes   Fiscal Committee: yes   Local Program: no

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BILL TEXT
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 decision making.

(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 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 and comprehensive data that is subject to an assurance engagement performed by an independent third-party assurance provider 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 is the globally recognized GHG emissions accounting and reporting standard developed and updated by the World Resources Institute and the World Business Council for Sustainable Development and 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 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.

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

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

(B) Has experience with 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. Applicability shall be determined based on the reporting entity’s revenue for the prior fiscal year.

(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 consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

(5) “Scope 3 emissions” means indirect upstream and downstream greenhouse gas emissions, other than scope 2 emissions, from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products.

(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 reporting organization, and obtain an assurance engagement performed by an independent third-party assurance provider on 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 all of the following:

(A) (i) (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 reporting organization all of the reporting entity’s scope 1 emissions and scope 2 emissions for the reporting entity’s prior fiscal year.

(II) That a reporting entity, starting in 2027 and annually thereafter, publicly disclose its scope 3 emissions no later than 180 days after its scope 1 emissions and scope 2 emissions are publicly disclosed to the emissions reporting organization for the prior fiscal year.

(ii) A reporting entity shall, beginning in 2026, measure and report its emissions of greenhouse gases in conformance with the Greenhouse Gas Protocol standards and guidance, including 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.

(iii) (I) Starting in 2033 and every five years thereafter, the state board may survey and assess currently available greenhouse gas accounting and reporting standards. At the conclusion of this assessment the state board may adopt a globally recognized alternative accounting and reporting standard if it determines its use would more effectively further the goals of this section. This review process shall include consultation with the stakeholders identified in paragraph (4).

(II) If the state board adopts an alternative accounting and reporting standard, the state board shall develop and adopt new regulations, pursuant to paragraph (1), to ensure full conformance with the new standard and reporting of scopes 1, 2, and 3 emissions and other requirements of this section.

(iv) During 2029 the state board shall review, and on or before January 1, 2030, the state board shall 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 reporting organization as close in time as practicable to the deadline for reporting entities to disclose scope 1 emissions and scope 2 emissions data.

(v) 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 an independent assurance engagement to be performed by a third-party assurance provider.

(B) That a reporting entity's public disclosure maximizes access for consumers, investors, and other stakeholders to comprehensive and detailed greenhouse gas emissions data across scopes 1, 2, and 3 emissions, as defined by this section, and is made in a manner that is easily understandable and accessible.

(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) (i) That the emissions reporting is structured in a way that minimizes duplication of effort and allows a reporting entity to submit to the emissions reporting organization reports prepared to meet other national and international reporting requirements, including any reports required by the federal government, as long as those reports satisfy all of the requirements of this section.

(ii) Reporting entities that are required to report mandatory industrial emissions pursuant to regulations adopted pursuant to Section 38530 may provide that data with the disclosure required pursuant to this section.

(E) That a reporting entity's disclosure takes into account acquisitions, divestments, mergers, and other structural changes that can affect the greenhouse gas emissions reporting, and is disclosed in a manner consistent with the Greenhouse Gas Protocol standards and guidance or an alternative standard, if one is adopted after 2033.

(F) (i) That a reporting entity obtains an assurance engagement, performed by an independent third-party assurance provider, of their public disclosure. The reporting entity shall ensure that a copy of the complete assurance provider's report on the greenhouse gas emissions inventory, including the name of the third-party assurance provider, is provided to the emissions reporting organization as part of or in connection with the reporting entity's public disclosure.

(ii) The assurance engagement for scope 1 emissions and scope 2 emissions shall be performed at a limited assurance level beginning in 2026 and at a reasonable assurance level beginning in 2030.

(iii) During 2026, the state board shall review and evaluate trends in third-party assurance requirements for scope 3 emissions. On or before January 1, 2027, the state board may establish an assurance requirement for third-party assurance engagements of scope 3 emissions. The assurance engagement for scope 3 emissions shall be performed at a limited assurance level beginning in 2030.

(iv) A third-party assurance provider shall have significant experience in measuring, analyzing, reporting, or attesting to the emission of greenhouse gasses and sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements. The assurance provider shall be able 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 assurance report. During 2029 the state board shall review and, on or before January 1, 2030, shall update as necessary, the qualifications for third-party assurance providers based on an evaluation of trends in education relating to the emission of greenhouse gases and the qualifications of third-party assurance providers.

(v) The state board shall ensure that the assurance process minimizes the need for reporting entities to engage multiple assurance providers and ensures sufficient assurance provider capacity, as well as timely reporting implementation as required under clause (i) of subparagraph (A).

(G) (i) That a reporting entity, upon filing its disclosure, shall pay an annual fee to the state board for the administration and implementation of this section.

(ii) The state board shall set the fee established pursuant to clause (i) in an amount sufficient to cover the state board's full costs of administrating and implementing this section. The total amount of fees collected shall not exceed the state board's actual and reasonable costs to administer and implement this section.

(iii) The proceeds of the fees imposed pursuant to clause (i) shall be deposited in the Climate Accountability and Emissions Disclosure Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the state board and shall be expended by the state board for the state board's activities pursuant to this section and to reimburse any outstanding loans made from other funds used to finance the initial costs of the state board's activities pursuant to this section. Moneys in the fund shall not be expended for any purpose not enumerated in this section.

(iv) The state board may adjust the fee in any year to reflect changes in the California Consumer Price Index during the prior year.

(2) The state board shall contract with an emissions reporting organization to develop a reporting 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 section.

(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 and reporting.

(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

(5) This section does not require additional reporting of emissions of greenhouse gases beyond the reporting of scope 1 emissions, scope 2 emissions, and scope 3 emissions required pursuant to the Greenhouse Gas Protocol standards and guidance or an alternative standard, if one is adopted after 2033.

(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 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 reporting organization to be made publicly available on the digital platform required to be created by the emissions reporting organization pursuant to subdivision (e).

(e) (1) (A) The emissions 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 feature the emissions data of reporting entities in conformance with 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 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, investors, and other stakeholders 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 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) (A) The state board shall adopt regulations that authorize it to seek administrative penalties for nonfiling, late filing, or other failure to meet the requirements 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 both of the following:

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

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

(B) A reporting entity shall not be subject to an administrative penalty under this section for any misstatements with regard to scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith.

(C) Penalties assessed on scope 3 reporting, between 2027 and 2030, shall only occur for nonfiling.

(g) This section applies 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.

(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.

Senate Bill No. 261
CHAPTER 383

An act to add Section 38533 to the Health and Safety Code, relating to greenhouse gases, and making an appropriation therefor.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 261, Stern. Greenhouse gases: climate-related financial risk.

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, on or before January 1, 2026, and biennially thereafter, a covered entity, as defined, to prepare a climate-related financial risk report disclosing the entity's climate-related financial risk and measures adopted to reduce and adapt to climate-related financial risk. The bill would require the covered entity to make a copy of the report available to the public on its own internet website.

The bill would require the state board to contract with a climate reporting organization, as defined, to biennially prepare a public report that contains specified information, including a review of the disclosure of climate-related financial risk contained in a subset of publicly available climate-related financial risk reports and an analysis of the systemic and sectorwide climate-related financial risks facing the state. The bill would require the state board to adopt regulations that authorize it to seek administrative penalties from covered entities for failing to make the report publicly available on its internet website or publishing an inadequate or insufficient report, as specified.

The bill would require covered entities to pay an annual fee for the state board's actual and reasonable costs to administer and implement the bill. The bill would create the Climate-Related Financial Risk Disclosure Fund, require the proceeds of the fees to be deposited in the fund, and continuously appropriate the moneys in the fund to the state board for purposes of the bill. By creating a continuously appropriated fund, the bill would make an appropriation.

DIGEST KEY

Vote: majority   Appropriation: yes   Fiscal Committee: yes   Local Program: no BILL TEXT

BILL TEXT
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) Climate change is affecting California's communities and economy with impacts including wildfires, sea level rise, extreme weather events, extreme droughts, and associated impacts to the global economy.

(b) Global economic and climate policy leaders have conclusively established that the long-term strength of global and local economies will depend on their ability to withstand climate-related risks, including physical impacts, economic transitions, and policy and legal responses.

(c) Failure of economic actors to adequately plan for and adapt to climate-related risks to their businesses and to the economy will result in significant harm to California, residents, and investors, in particular to financially vulnerable Californians who are employed by, live in communities reliant on, or have invested in or obtained financing from these institutions.

(d) California is a global leader in addressing climate risk through state policy, as demonstrated by the requirement for state public pension funds to analyze and report material climate-related financial risks, as required by Section 7510.5 of the Government Code, and the state climate investment framework directed by, and Climate-Related Risk Disclosure Advisory Group established in accordance with, Executive Order No. N-19-19.

(e) Leading voluntary initiatives have begun to develop frameworks for disclosure of climate change- and sustainability-related information. Thousands of companies already disclose their climate-related financial risks.

(f) Other jurisdictions have begun to require certain entities to develop and disclose sustainability policies, including public entities, as required by the State of Illinois' Sustainable Investing Act (PA 101-473), and both public and private entities, as required by France's Energy Transition Law, as set forth in Article 173-VI for institutional investors and Article 173-IV for companies.

(g) On May 20, 2021, President Joseph Biden signed Executive Order 14030, Climate-Related Financial Risk, which directs federal agencies to develop a comprehensive, governmentwide strategy regarding the measurement, assessment, mitigation, and disclosure of climate-related financial risk to federal government programs, assets, and liabilities in order to increase the long-term stability of federal operations.

(h) On March 21, 2022, the United States Securities and Exchange Commission (SEC) proposed a rule that would require publicly traded United States companies to include climate-related disclosures in their registration statements and periodic reports, including information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition, and certain climate-related financial statement metrics in a note to their audited financial statements. The required information about climate-related risks also would include disclosure of a registrant's greenhouse gas emissions, which have become a commonly used metric to assess a registrant's exposure to those risks.

(i) On April 8, 2022, the National Association of Insurance Commissioners, which includes California's Insurance Commissioner, adopted a new standard for insurance companies to report their climate-related risks, in alignment with the internationally recognized Task Force on Climate-Related Financial Disclosures (TCFD). The TCFD standard is the international benchmark for climate risk disclosure and will help insurance regulators and the public better understand the climate-related risks to the United States insurance market, which is the largest in the world.

(j) Though a precedent has been set to address climate risk to businesses, corporations, and financial institutions nationwide, current disclosure standards are voluntary, and thus inadequate, for meeting rapidly accelerating climate risks. In order to begin to address the climate crisis, consistent, higher level, and mandatory disclosures are needed from all major economic actors, and California has an opportunity to set mandatory and comprehensive risk disclosure requirements for public and private entities to ensure a sustainable, resilient, and prosperous future for our state.

SEC. 2. Section 38533 is added to the Health and Safety Code, to read:

38533. (a) For purposes of this section, the following definitions apply:

(1) "Climate reporting organization" means a nonprofit climate reporting organization contracted by the state board pursuant to paragraph (2) of subdivision (b) that both:

(A) Currently operates a climate reporting organization for organizations operating in the United States.

(B) Has experience with climate-related financial risk disclosure by entities operating in California.

(2) “Climate-related financial risk” means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health.

(3) “Climate-related financial risk report” means a report required by subdivision (b).

(4) “Covered entity” means a corporation, partnership, limited liability company, or other business entity formed under the laws of the 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 five hundred million United States dollars ($500,000,000) and that does business in California. Applicability shall be determined based on the business entity’s revenue for the prior fiscal year. “Covered entity” does not include a business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state.

(b) (1) (A) On or before January 1, 2026, and biennially thereafter, a covered entity shall prepare a climate-related financial risk report disclosing both of the following:

(i) Its climate-related financial risk, in accordance with the recommended framework and disclosures contained in the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures (June 2017) published by the Task Force on Climate-related Financial Disclosures, or any successor thereto, or pursuant to an equivalent reporting requirement as described in paragraph (4).

(ii) Its measures adopted to reduce and adapt to climate-related financial risk disclosed pursuant to clause (i).

(B) If a covered entity does not complete a report consistent with all required disclosures pursuant to clause (i) of subparagraph (A), the covered entity shall provide the recommended disclosures to the best of its ability, provide a detailed explanation for any reporting gaps, and describe steps the covered entity will take to prepare complete disclosures

(2) Climate-related financial risk reports may be consolidated at the parent company level. If a subsidiary of a parent company qualifies as a covered entity pursuant to paragraph (4) of subdivision (a), the subsidiary is not required to prepare a separate climate-related financial risk report.

(3) The state board shall contract with a climate reporting organization to prepare a biennial public report on the climate-related financial risk disclosures required by this section.

(4) Notwithstanding paragraph (1), a covered entity satisfies the requirements of paragraph (1) if it prepares a publicly accessible biennial report that includes climate-related financial risk disclosure information by any of the following methods:

(A) Pursuant to a law, regulation, or listing requirement issued by any regulated exchange, national government, or other governmental entity, including a law or regulation issued by the United States government, incorporating disclosure requirements consistent with clause (i) of subparagraph (A) of paragraph (1), including the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board.

(B) Voluntarily using a framework that meets the requirements of clause (i) of subparagraph (A) of paragraph (1) or the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board.

(5) To the extent a climate-related financial risk report contains a description of a covered entity's greenhouse gases or voluntary mitigation of greenhouse gases, the state board may consider covered entity's claims if those claims are verified by a third-party independent verifier.

(c) (1) On or before January 1, 2026, and biennially thereafter, a covered entity shall make available to the public, on its own internet website, a copy of the report required by this section.

(2) (A) On or before January 1, 2026, and annually thereafter, a covered entity shall pay a fee, upon filing its disclosure, to the state board for the administration and implementation of this section.

(B) (i) The state board shall set the fee described in subparagraph (A) at an amount adequate to cover the state board's full costs of administrating and implementing this section. The total amount of fees collected shall not exceed the state board's actual and reasonable costs to administer and implement this section.

(ii) The state board may adjust the fee in any year to reflect changes in the California Consumer Price Index during the prior year.

(C) The proceeds of the fees imposed pursuant to this paragraph shall be deposited in the Climate-Related Financial Risk Disclosure Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the state board and shall be expended by the state board for the state board's activities pursuant to this section and to reimburse any outstanding loans made from other funds used to finance the initial costs of the state board's activities pursuant to this section. Money in the fund shall not be expended for any other purpose not described in this subparagraph.

(d) The climate reporting organization shall be contracted to do all of the following:

(1) Biennially prepare a public report that contains all of the following elements:

(A) A review of the disclosure of climate-related financial risk contained in a subset of publicly available climate-related financial risk reports by industry.

(B) Analysis of the systemic and sectorwide climate-related financial risks facing the state based on the contents of climate-related financial risk reports, including, but not limited to, potential impacts on economically vulnerable communities.

(C) Identification of inadequate or insufficient reports.

(2) Regularly convene representatives of sectors responsible for reporting climate-related financial risks, state agencies responsible for oversight of reporting sectors, investment managers, academic experts, standard-setting organizations, climate and corporate sustainability organizations, labor union representatives whose members work in impacted sectors, and other stakeholders to offer input on current best practices regarding the disclosure of financial risks resulting from climate change, including, but not limited to, proposals to update the definition of "climate-related financial risk," and the framework or disclosure standard of "climate-related financial risk reports" that meets the requirements of clause (i) of subparagraph (A) of paragraph (1) of subdivision (b).

(3) Monitor federal regulatory actions among agency members of the federal Financial Stability Oversight Council, as well as nonindependent regulators overseen by the White House.

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

(2) The state board shall adopt regulations that authorize it to seek administrative penalties from a covered entity that fails to make the report required by this section publicly available on its internet website or publishes an inadequate or insufficient report. 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 fifty thousand dollars ($50,000) in a reporting year. In imposing penalties for a violation of this section, the state board shall consider all relevant circumstances, including both of the following:

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

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

