May 11, 2021

TO: Members, Senate Committee on Appropriations

SUBJECT: SB 260 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT
HEARING SCHEDULED – MAY 17, 2021
OPPOSE – AS AMENDED ON APRIL 19, 2021

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE SB 260 (Wiener)**, as amended on April 19, 2021, which seeks to require substantial data reporting of greenhouse gas (GHG) emissions, either directly or indirectly, of all companies who wish to do business in California. Although we appreciate the revisions taken in Senate Environmental Quality, the bill still needs a substantial amount of work to ensure that reporting is consistent amongst jurisdictions, is equally imposed upon out-of-state and in-state businesses, and that concerns around enforcement and small/medium business impact are addressed

SB 260 Will Impact Small and Medium Businesses, Which Impacts the Tax Base

California's companies, including many CalChamber members—without the necessity of regulation—are tracking and setting their own climate and sustainability goals, as I wrote about in the article linked here. Since that article was published, more companies have announced climate goals, zero emission goals, carbon neutrality goals, and sustainability goals.

At first glance, **SB 260** appears to limit its application to very large companies and the fact sheet and rhetoric in announcements and publications from the sponsors suggest that this is the intent. While we appreciate the intent to not impact businesses already struggling from the COVID-19 pandemic and economic decline, as one drills down into the definitions in the bill it becomes clear that **SB 260** will have an impact all through the economy, including small and medium businesses, and that the majority of the burden will fall on California companies.

Although **SB 260** contains 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 260** 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 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 of emissions associated with a company's entire supply chain will necessarily require that large businesses stop doing business with small and medium businesses that cannot meet the onerous reporting requirements required by the bill, leaving these companies without the contracts that enable them to grow and employ more workers. Although the bill alleviates small and medium businesses from the administrative burden of reporting to the Air Resources Board, these companies still must report up the supply chain. Growing companies must then increase their costs, limiting their access to larger market shares. 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.

Costly New Air Resources Board Program

As described by the author and sponsor, this program would require reporting from thousands of businesses across the world. The Air Resources Board has indicated that this new program will require the General Fund to fund upwards of $4 million to set up the program, and over $6 million annually to undertake this effort. For a state that represents only a small percentage of global GHG emissions, it will be again taking on the lion's share of work for the rest of the world. As the United States and other governments come together to share in the burden of responding to climate change, California should ensure that this is a program that will result in additional cooperation from other states and nations so that Californians, which already pay a substantial amount for climate programs, are not stuck with the bill.

Duplicates Reporting and Caps Under Cap-and-Trade

Entities subject to cap-and-trade already collect, report, and cap their emissions, in accordance with AB 398, which still governs the cap-and-trade program. This bill would duplicate that effort for entities already subject to cap-and-trade. Moreover, this program will greatly expand the need for additional Air Resources Board staff in order to create the reporting, database, monitoring, and enforcement mechanism **SB 260** anticipates, as would be expected for such a drastic expansion of the cap-and-trade program to the many thousands of companies that you anticipate being covered by the bill. The author should provide a mechanism to ensure consistency between existing reporting programs and this bill.

This duplicative reporting incurred by California's utilities will be passed along to California ratepayers, which includes the state of California. As indicated by multiple sources, rate increases threaten our ability to meet our climate goals by discouraging other priorities.

Additional Clarity Is Necessary on Many Issues Before Delegating Authority to ARB to Create this Wide-Ranging Program

Preliminary questions about the bill and definitions must also be addressed. For example, what accounting methodologies are acceptable, and what are the expectations around companies that will qualify? Who will decide, and upon which criteria will consultants conduct third party verification? Will companies that already internally track emissions be required to scrap their plans and re-design accounting to meet an unknown regulatory requirement? How does the state intend to ensure that its regulatory reporting scheme is consistent with other global reporting requirements?

SB 260 uses terms that seem to imply that the author and sponsor wish the Air Resources Board to use similar methodology to that developed pursuant to the GHG Accounting Protocol developed by the World Resources Institute and the World Business Council for Sustainable Development. Because many companies are already tracking and auditing their emissions data under this international standard, and carbon emissions is a global issue likely to be addressed by other jurisdictions, the author should provide consistency in the bill to ensure that companies are not subject to two separate reporting standards.

Jurisdictional Issues Will Mean the Burden of SB 260 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 out-of-state companies delivering goods to California. It seems likely that out-of-state or non-California companies could challenge such authority, or more likely, just not comply. 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.

For these reasons and others, CalChamber and the organizations listed below must respectfully **OPPOSE SB 260 (Wiener)**.

Sincerely,

Leah Silverthorn
Policy Advocate

On behalf of the following organizations:

Agricultural Council of California, Tricia Geringer
Alliance for Automotive Innovation, Curt Augustine
American Council of Life Insurers, John Mangan
American Forest & Paper Association, Abigail Sztein
American Property Casualty Insurance Association, Denneile Ritter
Association of California Life and Health Insurance Companies, Matthew Powers
Brea Chamber of Commerce, Heidi Gallegos
Building Owners and Managers Association of California, Matthew Hargrove
California Apartment Association, Debra Carlton
California Bankers Association, Melanie Cuevas
California Building Industry Association, Nick Cammarota
California Business Properties Association, Matthew Hargrove
California Cement Manufacturers Environmental Coalition, Frank Sheets, III
California Chamber of Commerce, Leah Silverthorn
California Construction and Industrial Materials Association, Robert Dugan
California Independent Petroleum Association, Sean Wallentine
California League of Food Producers, Trudi Hughes
California Manufacturers & Technology Association, Lawrence Gayden
California Railroads, *(BNSF Railway Co./Juan Acosta; Union Pacific Railroad Co./Francisco Castillo, Jr.; California Short Line Railroad Association/Kennan H. Beard III)*
California Restaurant Association, Katie Hansen
California Retailers Association, Steve McCarthy
California Trucking Association, Chris Shimoda
Carlsbad Chamber of Commerce, Bret Schanzenbach

Chemical Industry Council of California, Lisa Johnson
El Dorado Hills Chamber of Commerce, Debbie Manning
EMA Truck & Engine Manufacturers Association, Tim Blubaugh
Garden Grove Chamber of Commerce, Henry Rogers
Harbor Association of Industry and Commerce, Henry Rogers
Household and Commercial Products Association, Christopher Finarelli
International Council of Shopping Centers, Matthew Hargrove
Lodi Chamber of Commerce, Pat Patrick
Long Beach Area Chamber of Commerce, Jeremy Harris
NAIOP of California, Matthew Hargrove
National Association of Mutual Insurance Companies, Christian Rataj
Orange County Business Council, Jennifer Ward
Oxnard Chamber of Commerce, Nancy Lindholm
Pacific Merchant Shipping Association, Mike Jacob
Personal Insurance Federation of California, Seren Taylor
Pleasanton Chamber of Commerce, Steve Van Dorn
Rancho Cordova Area Chamber of Commerce, Diann H. Rogers
Redondo Beach Chamber of Commerce, Henry Rogers
San Gabriel Valley Economic Partnership, Brad Jensen
Silicon Valley Leadership Group, Mike Mielke
South Bay Association of Chambers of Commerce, Henry Rogers
Tulare Chamber of Commerce, Donnette Silva Carter
Western Independent Refiners Association, Craig Moyer
Western States Petroleum Association, Margo Parks
Western Wood Preservers Institute, Dallin Brooks
Wilmington Chamber of Commerce, Dan Hoffman

cc: Hazel Miranda, Office of the Governor
Tate Hanna, Office of Senator Wiener
Ashley Ames, Senate Appropriations Committee
Emilye Reeb, Senate Republican Caucus

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