

SB 253 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT



August 14, 2023

TO: Members, Assembly Appropriations Committee

**SUBJECT: SB 253 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT
HEARING SCHEDULED – AUGUST 16, 2023
OPPOSE – AS AMENDED JULY 12, 2023**

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE SB 253 (Wiener)**, as amended on July 12, 2023, which requires that the California Air Resources Board (CARB) adopt regulations requiring the reporting of greenhouse gas emission data throughout the entire supply chain regardless of location. We oppose for the following reasons:

SB 253 Does not Build Upon Existing Emissions Reduction Efforts

California has made great strides in reducing in-state greenhouse gas emissions through a variety of programs that regulate and monitor *California* emissions. California's laws and regulations have served as models for other states and countries, particularly its Cap and Trade program. A cornerstone to 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. California should continue to implement and build upon existing programs and policies to deliver tangible emissions reductions. Emissions reductions are a byproduct of sound climate policy that is reliant on actionable data points. Unfortunately, **SB 253** runs counter to many of those data points.

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

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

Reporting emissions associated with a company's entire supply chain will necessarily require that large businesses stop doing business with small and medium businesses. Those small and medium-sized businesses are likely under resourced and will struggle to accurately measure their GHG emissions, leaving these companies without the contracts that enable them to grow and employ more workers. Further, there is a perverse incentive built into the reporting requirement to not grow your organization, as an expanded supply chain means that an organization will likely see a growing emissions profile. This has the ability to create inefficient supply chains that will further add costs to the end-user. And, as noted above, while an organization is able to account for emissions stemming from their direct operations, this becomes more challenging as we move further and further down the supply chain. This means that they will be reliant on proxy information rather than verifiable data. That proxy data will vary by sector, and by methodology. There will not be a reasonable "apples to apples" comparison that can be drawn from this information. For example, two companies that might be in the same sector could have a completely different emissions profile based simply on how they choose to report the data.

While **SB 253** seeks to limit the applicability of a penalty only to reporting entities, it is unlikely that will be the case. It is highly unlikely that a reporting entity would take sole responsibility for the risk associated with any kind of punitive action. While contracts vary by company and sector, we should expect to see indemnification clauses or shared cost recovery stipulations in contracts stemming from this measure. And, again, those under-resourced companies that cannot afford to share that risk will be left out. The inherently flawed nature of calculating Scope 3 emissions means that virtually every reporting entity could be subject

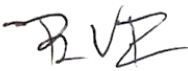
to a violation. And, naturally, those reporting entities will look for ways to mitigate the risk associated with a penalty. This will only add to the cost of goods and services here in California as that risk mitigation makes its way through the supply chain and eventually back to the consumer.

The Scope 3 Emissions Guidelines are a Moving Target

At this juncture, Scope 3 emissions reporting is more of an art than it is a science. Due to the likelihood of double counting, assessing Scope 3 emissions data with any degree of accuracy is not yet possible. This is mainly due to the protocol's reliance on secondary data, or industry averages, when calculating Scope 3 emissions. Secondary data is inherently flawed and unreliable, nor does it paint an accurate picture. For example, financial accounting standards rely on a company to report the actual invoiced cost of a raw material rather than base it on an industry average. Similarly, tax authorities demand that companies report on their actual profit margins, rather than the industry average. The State of California itself via CalPERS seems to understand that and has requested at the Securities and Exchange Commission's (SEC) ongoing rulemaking process related to climate related disclosures that the information disclosed should be "material" to a financial investment.

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

Sincerely,



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

Advanced Medical Technology Association, Bobby Patrick
African American Farmers of California, Will Scott, Jr.
Agricultural Council of California, Tricia Geringer
Alliance for Automotive Innovation, Curt Augustine
American Council of Life Insurers, John Mangan
Agricultural Energy Consumers Association, Michael Boccadoro
American Beverage Association, Rick Rivas
American Chemistry Council, Tim Shestek
American Composites Manufacturers Association, Dan Leacox
American Pistachio Growers, Richard Matoian
American Property Casualty Insurance Association, Denni Ritter
Antelope Valley Chambers of Commerce, Vicky Ventura
Association of California Life and Health Insurance Companies (ACLHIC), Matthew Powers
Association of General Contractors, Bret Gladfely
Building Owners and Managers Association, Matthew Hargrove
Cal Asian Chamber of Commerce, Andrea Cao
California Apartment Association, Debra Carlton
California Apple Commission, Todd Sanders
California Bankers Association, Melanie Cuevas
California Blueberry Association, Todd Sanders
California Blueberry Commission, Todd Sanders
California Building Industry Association, Nick Cammarota
California Business Properties Association, Matthew Hargrove
California Business Roundtable, Natalie Boust
California Cattlemen's Association, Kirk Wilbur
California Cement Manufacturers Environmental Coalition, Frank Sheets

California Chamber of Commerce, Brady Van Engelen
California Construction and Industrial Materials Association, Adam Harper
California Cotton Ginners and Growers Association, Roger Isom
California Date Commission, Kristy Kneiding
California Food Producers, Trudi Hughes
California Forestry Association, Craig Swaim
California Fresh Fruit Association, Ian LeMay
California Fuels and Convenience Alliance, Alessandra Magnasco
California Hispanic Chamber of Commerce, Yolanda Benson
California Hospital Association, Rony Berdugo
California Independent Petroleum Association, Sean Wallentine
California Life Sciences, Andrea Correia
California Manufacturers and Technology Association, Robert Spiegel
California Mortgage Bankers Association, Susan Milazzo
California Poultry Federation, Bill Mattos
California Railroads, Juan Acosta
California Restaurant Association, Katie Davey
California Retailers Association, Ryan Allain
California Trucking Association, Chris Shimoda
California Water Association, Jennifer Capitolo
California Walnut Commission, Robert Verloop
CalCIMA, Adam Harper
CalTax, Peter Blocker
Carlsbad Chamber of Commerce, Bret Schanzenbach
Chino Valley Chamber of Commerce, Zeb Welborn
Chemical Industry Council of California, Lisa Johnson
Citrus Heights Chamber, Diane Ebbitt
Costa Mesa Chamber of Commerce, David Haithcock
Danville Area Chamber of Commerce, Judy Lloyd
Energy Infrastructure Council, Lori Ziebert
Far West Equipment Dealers Association, Joani Woelfel
Financial Services Institute, Bret Gladfelty
Greater High Desert Chamber of Commerce, Mark Creffield
Household & Commercial Products Association, Christopher Finarelli
La Cañada Flintridge Chamber of Commerce, Pat Anderson
Long Beach Area Chamber of Commerce, Alexandra Lakatos
Los Angeles Area Chamber of Commerce, Jacqueline Romero
Los Angeles County Business Federation, Sarah Wiltfong
North San Diego Business Chamber of Commerce, Sophia Hernandez
National Association of Mutual Insurance Companies, Seren Taylor
National Association of Industrial and Office Properties, Matthew Hargrove
Nisei Farmers League, Manuel Cuncha, Jr.
Oceanside Chamber of Commerce, Scott Ashton
Olive Growers Council of California, Todd Sanders
Orange County Business Council, Connor Medina
Pacific Merchant Shipping Association, Brian White
Palos Verdes Peninsula Chamber of Commerce, Marilyn Lyon
Personal Insurance Federation of California, Seren Taylor
Plastics Industry Association, Kris Quigly
Plumbing Manufacturers International, Jerry Desmond
Rancho Cordova Chamber of Commerce, Diann Rogers
Santa Barbara South Coast Chamber of Commerce, Dustin Hoiseth
Santee Chamber of Commerce, Kristen Dare
Securities Industry and Financial Markets Association, Joanne Bettencourt
Simi Valley Chamber of Commerce, James Vigdor
Specialty Equipment Market Association, Christian Robinson

Torrance Area Chamber of Commerce, Donna Duperron
TechNet, Lia Nitake
Tenaska, Brian White
Truck and Engine Manufacturers Association, David Gonzalez
Walnut Creek Chamber, Bob Linscheid
West Precast Prestressed Concrete Institute, Dan Leacox
West Ventura County Business Alliance, Nancy Lindholm
Western Agricultural Processors Association, Roger Isom
Western Growers Association, Matthew Allen
Western Plant Health Association, Renee Pinel
Western States Petroleum Association, Shant Apekian
Wine Institute, Noelle Cremers

cc: Legislative Affairs, Office of the Governor
Tate Hanna, Office of Senator Wiener
Jay Dickenson, Assembly Appropriations Committee
Joe Shinstock, Assembly Republican Caucus