



## California's Climate Disclosure Package Summary of [SB 253](#) and [SB 261](#)

In September 2023, the California Legislature passed two bills that will require certain businesses to disclose and report their greenhouse gas (GHG) emissions and climate-related financial impacts:

- [SB 253](#): The *Climate Corporate Accountability Act* requires certain businesses to quantify, report, and disclose Scopes 1, 2, and 3 emissions.
- [SB 261](#): Requires certain businesses to more generally report and disclose climate-related financial risks.

Governor Gavin Newsom will sign these measures into law. Upon their enactment, SB 253 and SB 261 will become the first laws in the U.S. to require companies to report, disclose, and publicly file specific reports regarding GHG emissions and climate risks. California's climate reporting package precedes [a long-anticipated final rule on climate disclosures anticipated by the U.S. Securities and Exchange Commission](#). The new laws could also compel other states to adopt similar measures.

Below is The Real Estate Roundtable's topline summary of SB 253 and SB 261.

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### [CALIFORNIA SB 253, "Climate Corporate Data Accountability Act"](#)

#### **WHAT: CORPORATE EMISSIONS DISCLOSURES**

- Requires annual corporate disclosures of Scopes 1, 2, and 3 emissions.
- Reporting in conformance with [Greenhouse Gas \(GHG\) Protocol](#)'s standards, guidance, and "scopes" definitions.
  - Scope 1: direct GHG emissions from sources a reporting entity owns or "directly controls," including but not limited to "fuel combustion activities."
  - Scope 2: indirect GHG emissions from "consumed" electricity, steam, heating or cooling "purchased or acquired by a reporting entity."
    - **NOTE:** There is no reference in the law regarding reporting of power purchase agreements (PPAs), renewable energy certificates (RECs), offsets, or other instruments regarding off-site purchases of clean energy.



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- **Scope 3:** indirect upstream and downstream GHG emissions from sources that the reporting entity does not own or directly control, that “**may** include ... purchased goods and services, business travel, employee commutes, and processing and use of sold products.”
  - Thus, embodied emissions in construction materials, and tenant-based leased space emissions, **may** be included in required disclosures
- **NOTES:**
  - The statutory text explicitly requires that that “**all**” of a reporting entity’s Scope 1 and Scope 2 emissions must be disclosed.
    - Thus, the extent of Scope 1 and Scope 2 reporting appears to be regulated company’s national and global emissions.
    - There is not a limitation to emissions from assets only located in California.
  - In contrast: The “all” qualifier is **not** included in the statutory text regarding Scope 3 emissions.
    - Because of the plain textual difference in the bill’s language for Scope 3 reports compared to Scopes 1 and 2, there is arguably an interpretation that the California Legislature did not intend to mandate disclosures for all Scope 3 emissions (either in terms of all [GHG Protocol Scope 3 categories](#) or in terms of geographic reach).
    - The extent of Scope 3 reporting will likely be a controversial issue during the agency rulemaking stage that will develop regulations to implement the law.

### **WHO: “REPORTING ENTITIES”**

- Any partnership, corporation, LLC or other business entity.
- Formed under any state law, or federal law.
- Does business in California.
- “Total annual revenues” greater than \$1 billion dollars.
  - Not “profits.”
  - “Total” revenue (i.e., global).
  - Based on reporting entity’s revenue for the prior fiscal year.



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### **TO WHOM: "EMISSIONS REPORTING ORGANIZATION"**

- Annual disclosures submitted to a non-profit Emissions Reporting Organization to be contracted by the California Air Resources Board ("Board").
- Board to establish a "digital platform" where public disclosures are made available.

### **HOW: THIRD-PARTY ASSURANCE**

- Reporting entity must retain a "third-party assurance provider" regarding all reported emissions.
  - Provider "shall have significant experience in measuring, analyzing, reporting, or attesting to" GHG emissions.
- A "complete assurance provider's report" must accompany the emissions disclosures.
- Scope 1 and Scope 2 engagement:
  - Performed at a "limited assurance level" starting in 2026.
  - "Reasonable assurance level" starting in 2030.
- Scope 3 engagement:
  - Law does not specify an assurance level through 2029, but the Board may establish one by regulation.
  - Starting in 2030, law specifies a "limited assurance level" for Scope 3 reports

### **HOW MUCH: FEES AND FINES**

- Board to establish a "filing fee" at a level to cover its administration costs. To be deposited in a State Treasury climate disclosure fund.
- Board to establish "administrative penalties" for nonfiling, late filing, or "other failure to meet requirements."
  - Any penalties imposed on a non-compliant entity shall not exceed \$500K in a reporting year.

### **WHEN: RULEMAKING AND COMPLIANCE DEADLINES**

- By January 1, 2025: Board to adopt implementing regulations.
- Starting in 2026: Scope 1 and Scope 2 disclosures required.
- Starting in 2027: Scope 3 disclosures required.
  - Scope 3 disclosures filed no later than 6 months after Scope 1 and Scope 2 disclosures.



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- During 2029 and by January 1, 2030: Board “shall update as necessary” disclosure deadlines.
- After 2033: Board can stick with the GHG Protocol, or adopt an alternative standard following a stakeholder input process.

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### [CALIFORNIA SB 261, Disclosures of Climate-Related Financial Risks](#)

- Companies with annual “total” revenues > \$500 million, d/b/i California, must biannually report and disclose:
  - climate-related financial risks; and
  - mitigation measures to reduced and adapt to such risks.
  - Entities regulated by the California Department of Insurance, or in the “business of insurance in any other state,” are exempt and have no reporting responsibilities under this law.
  - There is no requirement that only “public companies” must file California law disclosures.
- Disclosures as aligned with the Task Force on Climate-Related Financial Disclosures ([TCFD](#)) standard satisfy the law.
- Publicly accessible reports satisfy the law where such reports are required by “any regulated exchange national government, or other government entity.”
  - E.g.: Functionally equivalent reports for purposes of California law would be those submitted and filed pursuant to:
    - Any rule ultimately finalized by the US-SEC regarding disclosures for climate-related financial risks; or
    - [International Financial Reporting Standards Sustainability Disclosure Standards](#), as issued by the International Sustainability Standards Board.
- The climate-related financial risk report does not need to include Scopes 1, 2, or 3 disclosures. But if they are included, they should be third-party verified.
- SB 261 reports must be filed by January 1, 2026 – and posted on the company’s own website.
- Fees will be imposed on companies for the CA government to administer the program. Penalties may be imposed for non-filings or insufficient reports.

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