Snapshot

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SNAPSHOT 2023-11

California climate reporting bills

The state of California has adopted two bills, Senate Bill (SB) 253, *Climate Corporate Data Accountability Act*, and SB 261, *Greenhouse gases: climate-related financial risk*, which will create new climate reporting requirements for both private and public companies. While the bills apply only to entities doing business in California that meet applicable revenue thresholds, entities subject to the new reporting requirements are likely to implement various policies and procedures across their value chains. As such, even entities who are not subject to the reporting requirements will benefit from being familiar with the new requirements.

SB 253

SB 253 requires the California State Air Resources Board (state board) to develop and adopt regulations requiring “reporting entities,” as defined, to publicly disclose annually their scope 1, scope 2, and scope 3 greenhouse gas (GHG) emissions based on the Greenhouse Gas Protocol’s Corporate Accounting and Reporting Standard and Corporate Value Chain (Scope 3) Accounting and Reporting Standard. For purposes of SB 253, “reporting entities” comprise any “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” that is doing business in California with total annual revenues exceeding $1 billion. While the bill does not include non-U.S. entities that transact business in California in the definition of a “reporting entity,” the emission disclosure requirements will likely apply to foreign companies that have legal entities organized in the United States who collectively meet the revenue thresholds and do business in California.

SB 253 requires these reporting entities to annually disclose, beginning in 2026 (on or by a date determined by the state board), their scope 1 and scope 2 GHG emissions for fiscal years beginning in 2025, with limited assurance beginning in 2026. Starting in 2027, reporting entities will be required to disclose scope 3 GHG emissions no later than 180 days after disclosing other GHG emissions for fiscal years beginning in 2026, with limited assurance beginning in 2030, but the state board may establish an earlier assurance requirement.

SB 253 allows reporting entities to submit these reports based on other national or international reporting requirements if the reports satisfy the requirements of SB 253 in order to avoid any duplication of efforts. Examples of such reporting include reports filed for the European Union’s Corporate Sustainability Reporting Directive or potential climate reporting required by the U.S. Securities and Exchange Commission.

Reporting entities are required to submit their reports to the state board’s digital platform, which will be accessible to the public. Additionally, the state board will adopt penalties for non-filing, late filing, or other failures to meet the requirements of SB 253.

SB 261

SB 261 requires "covered entities" to biennially disclose publicly a "climate-related financial risk report," which should include the covered entity's climate-related financial risks as well as measures to mitigate such risks. "Covered entities" are defined as any "corporation, partnership, 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" that do business in California with total annual revenues exceeding $500 million. The definition of "covered entity" specifically excludes entities that are in the business of insurance. While the bill does not include non-U.S. entities that transact business in California in the definition of a "covered entity," the climate risk disclosure requirements will likely apply to foreign companies with legal entities organized in the United States who collectively meet the revenue thresholds and do business in California.

SB 261 requires covered entities to prepare on or before January 1, 2026 a climate-related financial risk report, which should include disclosure of

- Climate-related financial risks based on the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) or on an equivalent standard, such as the International Sustainability Standards Board's sustainability standards
- Measures to mitigate climate-related financial risk

The bill allows companies with multiple locations to file a consolidated report at the parent level or to comply by preparing a publicly accessible report that includes financial risk disclosures required by other regulations or laws, such as the EU Corporate Sustainability Reporting Directive. Additionally, the state board will adopt regulations to seek penalties for failures to publicly report the necessary information.

Doing business in California

Both bills include a requirement for an entity that "does business in California" to comply with the new reporting requirements. This phrase is not defined in either bill, but California's Franchise Tax Board does include the following guidance on its website:

"We consider you to be 'doing business' if you meet any of the following:

- Engage in any transaction for the purpose of financial gain within California
- Are organized or commercially domiciled in California
- Your California sales, property or payroll exceed the following amounts for 2022:
  - California sales tax $690,144
  - California real and tangible personal property exceed $69,015
  - California payroll compensation exceeds $69,015."

Next steps

Entities meeting the revenue thresholds are encouraged to determine whether they "do business in California" to understand how both bills will impact their reporting requirements. Additionally, all entities, even those without a business in California, are encouraged to inventory their GHG emissions because they may need to provide GHG emissions data to a reporting entity as part of their scope 3 GHG emissions calculation.

	SB 253	SB 261
Applicability	"Reporting entity" doing business in California with annual revenues in excess of $1 billion	"Covered entity" doing business in California with annual revenues in excess of $500 million
Report	Scope 1, scope 2, and scope 3 GHG emissions	Climate-related financial risks and measures to mitigate such risks
Beginning periods	Fiscal years 2025 (scope 1 and scope 2 GHG emissions) and 2026 (scope 3 GHG emissions)	On or before January 1, 2026
Assurance	Scope 1 and scope 2: limited assurance beginning in 2026 and reasonable assurance beginning in 2030. Scope 3: limited assurance beginning in 2030, with possibility as soon as 2027	None
Frequency	Annually	Biennially

Grant Thornton insight

These bills are another example of the increasing climate reporting requirements being proposed in numerous jurisdictions. For others, refer to our Snapshot 2022-17 covering proposed disclosures for federal suppliers and Snapshot 2022-19 discussing the European Union's Corporate Sustainability Reporting Directive. With the increased climate reporting requirements, Grant Thornton encourages all entities to establish a comprehensive climate reporting program that will allow you to comply with regulatory requirements, meet stakeholder expectations, and foster resilience by understanding your risks and opportunities.

Our service offerings around climate reporting can assist with meeting your regulatory reporting obligations, including

- Materiality assessments to aid in identifying material topics that require disclosure;
- Climate risk assessments to facilitate disclosure of the impact of climate on your business;
- GHG emissions inventory management plan to gather your GHG emissions data;
- Reporting and gap assessment to identify and assess gaps within the processes, controls, and data against the relevant disclosure requirements; and
- Assurance over the reported information.

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