California State Assembly

NATURAL RESOURCES

LUZ RIVAS
CHAIR

AGENDA

Monday, July 10, 2023
2:30 p.m. -- State Capitol, Room 447

BILLS HEARD IN SIGN-IN ORDER

** = Bills Proposed for Consent

1.	SB 4	Wiener	Planning and zoning: housing development: higher education institutions and religious institutions.
2.	SB 48	Becker	Building Energy Savings Act.
3.	SB 69	Cortese	California Environmental Quality Act: local agencies: filing of notices of determination or exemption.
4.	SB 253	Wiener	Climate Corporate Data Accountability Act.
5.	SB 261	Stern	Greenhouse gases: climate-related financial risk.
6.	**SB 306	Caballero	Climate change: Equitable Building Decarbonization Program: Extreme Heat Action Plan.
7.	SB 353	Dodd	Beverage containers: recycling.(Urgency)
8.	SB 420	Becker	Electricity: electrical transmission facility projects.
9.	SB 423	Wiener	Land use: streamlined housing approvals: multifamily housing developments.
10.	SB 425	Newman	Clean Vehicle Rebate Project: fuel cell electric pickup trucks: battery electric pickup trucks.
11.	SB 508	Laird	Cannabis: licenses: California Environmental Quality Act.
12.	SB 568	Newman	Electronic waste: export.
13.	SB 619	Padilla	State Energy Resources Conservation and Development Commission: certification of facilities: electrical transmission projects.
14.	SB 704	Min	Coastal resources: California Coastal Act of 1976: industrial developments: oil and gas developments: refineries: petrochemical facilities: offshore wind.
15.	SB 707	Newman	Responsible Textile Recovery Act of 2023.
16.	SB 751	Padilla	Franchise agreements: labor dispute.
17.	**SB 755	Becker	Energy efficiency and building decarbonization programs.
18.	SB 777	Allen	Solid waste: reusable grocery bags and recycled paper bags.
19.	SJR 2	Gonzalez	Climate change: Fossil Fuel Non-Proliferation Treaty.

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 4 (Wiener) – As Amended June 30, 2023

SENATE VOTE: 33-2

SUBJECT: Planning and zoning: housing development: higher education institutions and religious institutions

SUMMARY: Provides that an affordable housing development is a use by right (i.e., not subject to the California Environmental Quality Act (CEQA) or other discretionary review by the relevant city or county) on infill sites owned by a church or non-public college, notwithstanding any contrary local planning or zoning.

EXISTING LAW:

1) Allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." (California Constitution, Article XI, Section 7)

2) Establishes Planning and Zoning Law, which requires every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including housing and land use elements, and requires major land use decisions by cities and counties, such as development permitting and subdivisions of land, to be consistent with their adopted general plans. (Government Code (GC) Sections 65000 – 66301)

3) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)

4) Exempts from CEQA any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an EIR has been certified after January 1, 1980, unless substantial changes or new information require the preparation of a supplemental EIR for the specific plan, in which case the exemption applies once the supplemental EIR is certified. (GC 65457)

5) Exempts from CEQA specified residential housing projects which meet detailed criteria established to ensure the project does not have a significant effect on the environment, including:

    a) Affordable agricultural housing projects not more than 45 units within a city, or 20 units within an agricultural zone, on a site not more than five acres in size;

    b) Urban affordable housing projects not more than 100 units on a site not more than five acres in size; and,

c) Urban infill housing projects not more than 100 units on a site not more than four acres in size which is within one-half mile of a major transit stop.

(PRC 21159.20-21159.24)

6) Requires metropolitan planning organizations (MPOs) to include a sustainable communities strategy (SCS), as defined, in their regional transportation plans, or an alternative planning strategy (APS), for the purpose of reducing greenhouse gas (GHG) emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies, including CEQA exemption or abbreviated review for residential or mixed-use residential "transit priority projects" if the project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either an approved SCS or APS. (PRC 21155.1)

7) Exempts from CEQA residential, mixed-use, and "employment center" projects, as defined, located within "transit priority areas," as defined, if the project is consistent with an adopted specific plan and specified elements of an SCS or APS. (PRC 21155.4)

8) Exempts from CEQA multi-family residential and mixed-use housing projects on infill sites within cities and unincorporated areas that are within the boundaries of an urbanized area or urban cluster. (PRC 21159.25)

9) The CEQA Guidelines include a categorical exemption for infill development projects, as follows:

   a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;

   b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;

   c) The project site has no value as habitat for endangered, rare, or threatened species;

   d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and,

   e) The site can be adequately served by all required utilities and public services.

   (CEQA Guidelines 15332)

10) Establishes a ministerial approval process (i.e., not subject to CEQA) for certain multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs. Requires eligible projects to meet specified standards, including paying prevailing wage to construction workers and use of a skilled and trained workforce. (GC 65913.4, added by SB 35 (Wiener), Chapter 366, Statutes of 2017)

11) Establishes a ministerial approval process for affordable housing projects in commercial zones. Requires eligible projects to pay prevailing wage to construction workers and requires projects of 50 units or more to participate in an apprenticeship program and make specified

healthcare contributions for construction workers. (GC 65912.100 et seq., added by AB 2011 (Wicks), Chapter 647, Statutes of 2022)

THIS BILL:

1) Provides the following definitions:

   a) Defines "qualified developer" as a local entity; a developer that is a non-profit corporation, as specified; a developer that contracts with a nonprofit corporation, as specified; or a developer that the religious institution or independent institution of education has contracted with before to construct housing or other improvements to real property; and

   b) Defines "use by right" as a development project that meets both conditions:

      i) The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review; and

      ii) The development project is not a project for purposes of CEQA.

2) Requires, upon request by a qualified developer, a housing development project to be a use by right if all the following criteria are satisfied:

   a) The development is on land owned on or before January 1, 2024 by an independent institution of higher education or a religious institution;

   b) The project meets all of the following locational criteria:

      i) The development is located on a parcel that meets one of the following:

         I. The parcel is in a city whose boundaries include some portion of either an urbanized area or urban cluster; or

         II. The parcel is in an unincorporated areas that is wholly within the boundaries of an urbanized area or urban cluster.

      ii) At least 75 percent of the perimeter of the site adjoins parcels that are developed for urban uses;

      iii) The development is not located on one of several specified environmentally sensitive or hazardous sites (i.e., incorporating the SB 35 site exclusions in GC 65913.4, except for the Coastal Zone);

      iv) The development is not located on a site that would require demolition of specified types of rental housing, or where rental housing had been located within the previous 10 years; and

      v) The development is not adjoined to any site where more than one-third of the square footage of the site is dedicated to industrial use, as specified.

c) The project meets all of the following affordability criteria:

i) All of the units are provided to lower income households, except that up to 20 percent of the units may be for moderate-income households and five percent may be for staff of the independent institution of higher education or religious institution that owns the land;

ii) All the units are provided at a housing cost that is affordable to its occupants, as specified;

iii) Units shall be subject to a recorded deed restriction for at least the following periods of time:

I. 55 years for units that are rented, unless required by another federal, state or local law to be restricted for longer; or

II. 45 years for units that are owner occupied or where the first purchaser participated in an equity sharing agreement.

d) The project meets all of the following development standards:

i) The development project complies with all objective development standards of the city or county that are not in conflict with this bill;

ii) The development must provide off-street parking up to one space per unit, unless a local ordinance provides for a lower standard of parking. However, a local government is prohibited from imposing a parking requirement if either of the following are true:

I. The parcel is located within one-half mile walking distance of public transit, as specified; or

II. There is a car share vehicle located within one block of the parcel.

iii) Any development within 500 feet of a freeway must provide specified air filtration systems; and

iv) The development proponent completes environmental assessments of the property, as specified. If a recognized environmental condition is found, the development proponent must undertake a preliminary endangerment assessment, as specified. If a release of hazardous substance is found to exist on the site, the release must be removed, or any significant effect of the release must be mitigated to a level of insignificance in compliance with state and federal requirements. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure must be mitigated to a level of insignificance in compliance with current state and federal requirements.

v) For a vacant site, the site does not contain tribal cultural resources that could be affected by the development that were found pursuant to a consultation with the appropriate tribe, and the effects of which cannot be mitigated.

e) The project meets all of the following labor standards:

i) If the project is a public work, it must follow the requirements for public works specified in the Labor Code.

ii) If the project contains more than 10 units and is not entirely a public work:

I. All construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices may be paid at least the applicable apprentice prevailing rate;

II. The developer must ensure that the prevailing wage requirement is included in all contracts; and

III. All contractors and subcontractors must maintain and verify payroll records, as specified, and make those records available for inspection and copying.

iii) Requires that the obligation of the contractors and subcontractors to pay prevailing wages are subject to the following enforcement provisions:

I. They may be enforced by the Labor Commissioner, an underpaid worker, and a joint labor-management committee through a civil action, as specified; and

II. These enforcement provisions do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers and provides for enforcement through an arbitration procedure.

iv) Provides that for a development of 50 or more housing units, the development proponent must require both of the following:

I. Contractors and subcontractors with construction craft employees must either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards, as specified, or request the dispatch of apprentices from a state-approved apprenticeship program, as specified; and

II. Contractor and subcontractors with construction craft employees must make health care expenditures for each employee, as specified.

3) Provides that a housing project that meets the criteria in 2) is entitled to the following:

a) The following density and height:

i) If the development is located in a zone that allows residential uses:

I. The allowed density is the greater of the density limit that is already applicable to the site, the permitted density already applicable on any adjacent parcel, or the "Mullin densities" (generally, 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas). The development is also eligible for a density bonus; and

II. The allowed height is the greater of one story above the maximum already applicable to the site or the height of any adjacent parcel. The development is also eligible to seek greater heights through the density bonus process.

ii) If the development is located in a zone that does not allow residential uses:

I. The allowed density is the greater of the density limit that is already applicable to the site, the permitted density already applicable on any adjacent parcel, or 40 units per acre. The development is also eligible for a density bonus; and

II. The allowed height is the greater of one story above the maximum already applicable to the site or the height of any adjacent parcel. The development may not utilize the density bonus process to further increase the height.

b) The ability to include the following ground-floor ancillary uses:

i) In a single-family residential zone, childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services;

ii) In all other zones, the commercial uses that are permitted without a conditional use permit or planned unit development permit.

c) The ability to include a use that was previously existing and legally permitted by the local government, including a religious institutional use, if all of the following criteria are met:

i) The total square footage of nonresidential space on the site does not exceed the amount previously existing or permitted in a conditional use permit;

ii) The total parking requirement for nonresidential space on the site does not exceed the lesser of the amount existing or of the amount required by a conditional use permit; and

iii) The new uses abide by the same operational conditions as contained in the previous conditional use permit.

4) Provides that the following local review process applies:

a) The local government's determination of whether the proposed development is in conflict with any of the objective planning standards specified by this bill must occur as follows:

i) If the local government determines that the proposed development is in conflict with any of the objective planning standards specified by this bill, it must provide the development proponent written documentation of which standards the development conflicts with, and an explanation for the reasons the development conflicts with those standards, within the following timeframes:

I) Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units; and

II) Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

ii) If the local government fails to provide the required documentation, the development satisfies the required objective planning standards.

b) Design review of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as follows:

i) It must be objective;

ii) It must be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government;

iii) It must be broadly applicable to developments within the jurisdiction;

iv) It must not in any way inhibit, chill, or preclude the ministerial approval provided by this bill; and

v) It must be completed within the following timeframes:

I) Within 90 days of submittal of the development proposal to the local government pursuant to this section if the development contains 150 or fewer housing units; and

II) Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

c) A local government must not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to be a use by right pursuant to this bill;

d) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act is exempt from the requirements of CEQA;

e) A local government's approval of a development pursuant to this section is subject to the following expiration timeframes:

i) For projects that include public investment in housing affordability, beyond tax credits, the approval cannot expire; and

ii) For all other projects, the approval expires in three years, as specified.

f) If a project approved pursuant to this bill proposes modifications, and the local government has not issued the final building permit required for construction of the development, then the local government must review the modifications within specified timeframes and approve the modifications if they meet specified criteria;

g) A local government must issue a subsequent permit required for a development approved pursuant to the provisions of this bill if the application substantially complies with the development as it was approved, as specified; and

h) If a public improvement is necessary to implement a development that is approved pursuant to the provisions of this bill, to the extent that the public improvement requires approval from the local government, the local government must not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- HCD estimates minor and absorbable costs for staff to conduct any additional monitoring and enforcement efforts, update guidelines, and provide technical assistance to local agencies and developers. HCD notes that it may require additional resources for the cumulative workload associated with this bill in conjunction with several other measures, should they all be enacted. (General Fund)

- Unknown, potentially significant ongoing costs for the Department of Industrial Relations (DIR) to conduct oversight and enforcement activities related to prevailing wage and apprenticeship standards on projects constructed pursuant to the provisions of this bill. There would also be unknown annual penalty revenue gains to partially offset these costs. Actual costs and penalty revenues would depend upon the number of qualifying projects constructed under this bill and the number of complaints and referrals to the Division of Labor Standards and Enforcement that require enforcement actions, investigations, and appeals. (State Public Works Enforcement Fund)

- Unknown local costs to establish streamlined project review processes for "by right" housing developments on land owned by a religious institution, nonprofit hospital, or higher education institution, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

COMMENTS:

1) **CEQA exemptions for housing**. CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 14 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply.

   A few existing CEQA exemptions are specific to projects with an affordable housing fraction, the rest are available to affordable and market-rate projects alike. Each exemption includes a range of conditions, including requirements for prior planning-level review, as well as limitations on the location and characteristics of the site. These conditions are intended to guard against the approval of projects with significant environmental impacts that go undisclosed and unmitigated – endangering workers, residents and the greater environment. More recently, bills such as SB 35 and AB 2011 have established ministerial approval for multifamily housing projects, where local discretionary review, including CEQA, is replaced with construction labor requirements, exclusion of specified sensitive sites, and a checklist of "objective" criteria.

2) **Author's statement**:

   SB 4 would make building affordable housing easier, faster, and cheaper for faith-based institutions and nonprofit colleges that want to do so. Many of these are already community anchors, and this would help them build stable, safe, affordable housing for local residents and families and open doors to high-resource neighborhoods. Unfortunately, many of these institutions are located in areas that are not zoned to permit multifamily housing. This means the religious institution and affordable housing developer partner have to rezone the land, which is a tricky process that costs money and can cause long delays in building the affordable housing units Californians need. These religious institutions and nonprofit colleges would partner with affordable housing developers and agree to maintain the affordability of these homes for at least 55 years for rental housing and 45 years for homeownership opportunities. Depending on the location of the property and proximity to commercial areas and different types of residential neighborhoods, these institutions would be able to build new affordable homes without undergoing costly and time intensive rezonings

3) **Not just your neighborhood church or college**. Eligible religious institutions and private colleges have vast land holdings in California, in addition to sites already developed for congregation or education. These holdings include camps, farms, and open space, as well as commercial and industrial operations, even including oil production.

   Some, but not nearly all, of these properties are excluded from eligibility by the environmental site exclusions and/or the infill and urbanized area/urban cluster conditions borrowed from SB 35. (Note the urban cluster language captures the rural outskirts of very small towns and the "infill" site need not have been previously developed.) The bill adds additional, limited exclusion of sites directly adjacent to a few specified industrial uses, as well as the gesture of requiring air filtration for housing built within 500 feet of a freeway.

However, an inevitable consequence of overriding local planning and zoning is that the bill clears the path for development on a variety of sites that are ill-suited for housing and risky for residents. This includes sites that are close to pollution sources and far from schools, parks, and essential services.

4) **Proposed amendments**. *The author and the committee may wish to consider* incorporating the following site limitations and sunset, consistent with AB 2011 and AB 1449 (Alvarez), which this committee approved in April:

   a) For a site where multifamily housing is not an existing permitted use:

      i) None of the housing is located within 500 feet of a freeway (replacing the air filtration requirement in (c)(11));

      ii) None of the housing is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas; and

      iii) The project site is not within a very high fire hazard severity zone (replacing the language referenced in GC 65913.4, which is outdated and includes a clear loophole).

   b) Sunset January 1, 2033.

   In addition, because this bill freely permits residential development in industrial zones, *the author and the committee may wish to consider* revising the limits on adjacent industrial uses to protect residents from exposure to industrial hazards, as follows:

   Strike out (b)(6) and (c)(5) and insert:

   (c)(5)(A) The development site is not located within 1200 feet of a site that is either of the following:

   (i) A site that is in current industrial use.

   (ii) A site where the most recently permitted use was an industrial use.

   (iii) For purposes of this subparagraph, "industrial use" means any of the following:

      (I) Utilities, excluding power substations or utility conveyance such as power lines, broadband wires, and pipes.

      (II) Private transportation storage and maintenance facilities, including truck and freight depots.

      (III) Railroad yards and terminals.

      (IV) Warehousing facilities, including distribution and logistics facilities.

      (V) Manufacturing, including chemical manufacturing and storage.

      (VI) Metal production, metal plating, and metal recycling.

(VII) Glass manufacturing.

(VIII) Waste storage, waste management, and waste transfer land uses, including but not limited to landfills, hazardous waste facilities, and solid waste incinerators.

(IX) Slaughterhouses and meat rendering facilities.

(X) Crematoriums.

(XI) Biomass facilities.

(XII) Any other use that is a Title V source, as defined by the federal Clean Air Act.

5) **Double referral**. This bill was approved by the Assembly Housing and Community Development Committee on June 28, 2023 by a vote of 6-0.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Abundant Housing LA
AIDS Healthcare Foundation
All Home
Associated General Contractors of California
Bay Area Council
Build Casa
California Apartment Association
California Housing Consortium
California Housing Partnership
California School Employees Association
California State Association of Counties
California YIMBY
Carpenter Local Union 1599
Carpenters Local 152
Carpenters Local 22
Carpenters Local 35
Carpenters Local 701
Carpenters Local Union 1109
Carpenters Local Union 1789
Carpenters Local Union 2236
Carpenters Union Local 180
Carpenters Union Local 217
Carpenters Union Local 405
Carpenters Union Local 46
Carpenters Union Local 505
Carpenters Union Local 605
Carpenters Union Local 713
Carpenters Union Local 751
Coastside Jewish Community

Construction Employers' Association
Council of Infill Builders
Culver City Democratic Club
Dignitymoves
District Council of Plasterers and Cement Masons of Northern California
Drywall Lathers Local 9109
Drywall Lathers Union Local 9068
Drywall Lathers Union Local 9083
Drywall Local Union 9144
East Bay Housing Organizations
Enterprise Community Partners
Episcopal Community Services of San Francisco
Fieldstead and Company
Firm Foundation Community Housing
First Congregational Church of Berkeley, United Church of Christ
Friends Committee on Legislation of California
Funders Together to End Homelessness San Diego
Govern for California
Greenlining Institute
Grow the Richmond
Habitat for Humanity California
Housing Action Coalition
How to ADU
Leadingage California
League of Women Voters of California
Local Initiatives Support Corporation (LISC) Bay Area
Long Beach Gray Panthers
Los Angeles Area Chamber of Commerce
Los Angeles Business Council
Mayor of City & County of San Francisco London Breed
Menlo Together
MidPen Housing
Millwrights Local 102
Mission Housing Development Corporation
Mountain View YIMBY
Multifaith Voices for Peace & Justice
Napa-Solano for Everyone
Nor Cal Carpenters Union
Northern Neighbors
Peninsula for Everyone
Peninsula Sinai Congregation
People for Housing Orange County
Pile Drivers Local 34
Plymouth Jazz and Justice United Church of Christ Oakland
Presbytery of San Gabriel
Progress Noe Valley
Resources for Community Development
San Francisco YIMBY
Santa Cruz YIMBY

Santa Monica Democratic Club
Santa Rosa YIMBY
Silicon Valley Community Foundation
SLO County YIMBY
South Bay YIMBY
Southside Forward
Southwest Mountain States Regional Council of Carpenters
SPUR
Streets for All
Temple Beth Am
The People Concern
The United Way of Greater Los Angeles
Unitarian Universalist Fellowship of Los Gatos
Unitarian Universalists of San Mateo
United Contractors (UCON)
Urban Environmentalists
Wall and Ceiling Alliance
Western Wall and Ceiling Contractors Association
YIMBY Action2

Opposition

California Contract Cities Association
California Environmental Justice Alliance Action
Center on Race, Poverty & the Environment
City of Beverly Hills
City of Jurupa Valley
City of Chino
City of Pleasanton
City of Santa Clarita
City of Thousand Oaks
Communities for a Better Environment
Esperanza Community Housing Corporation
Leadership Council for Justice & Accountability
Physicians for Social Responsibility, Los Angeles
San Gabriel Valley Council of Governments

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 48 (Becker) – As Amended June 30, 2023

SENATE VOTE: 31-9

SUBJECT: Building Energy Savings Act

SUMMARY: Requires the California Energy Commission (CEC), in consultation with the Air Resources Board (ARB), California Public Utilities Commission (CPUC), and Department of Housing and Community Development (HCD), on or before July 1, 2026, to develop a strategy using the existing energy usage data found in the benchmarking program requirement to track and manage the energy and greenhouse gas (GHG) emissions of covered buildings in order to achieve the state's energy and climate goals for buildings.

EXISTING LAW:

1) Requires ARB, pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. AB 32 authorizes ARB to permit the use of market-based compliance mechanisms to comply with GHG reduction regulations once specified conditions are met. Requires ARB to approve a statewide GHG emissions limit equivalent to 85% below the 1990 level by 2045. (Health and Safety Code 38500-38599.11)

2) Requires CEC, in collaboration with CPUC and local publicly owned electric utilities, to establish annual targets for statewide energy efficiency savings and demand reduction that will achieve a cumulative doubling of statewide energy efficiency savings in electricity and natural gas uses by retail customers by January 1, 2030. (Public Resources Code (PRC) 25310)

3) Requires CEC to assess the potential for the state to reduce GHG emissions from the state's residential and commercial building stock by at least 40% below 1990 levels by January 1, 2030. (PRC 25403)

4) Requires CEC to award funds to research and develop projects that advance technologies critical to meeting the state's environmental and energy goals and benefit electricity ratepayers. (PRC 25711)

5) Requires CEC to adopt a biennial integrated energy policy report (IEPR) containing an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. (PRC 25302)

6) Requires CEC to establish the Equitable Building Decarbonization Program, which includes developing a statewide incentive program for low-carbon building technologies and the direct install program to fund certain projects, including installation of energy efficient

electric appliances, energy efficiency measures, demand flexibility measures, wiring and panel upgrades, building infrastructure upgrades, efficient air conditioning systems, ceiling fans, and other measures to protect against extreme heat, where appropriate, and remediation and safety measures to facilitate the installation of new technologies. (PRC 25665 *et seq*.)

7) Requires utilities, upon the request and written authorization of the owner, deliver or otherwise provide aggregated energy usage data for a covered building (i.e., any building with no residential utility accounts or any building with five or more utility accounts) to the owner. Authorizes CEC to specify additional information to be delivered by utilities to enable building owners to complete benchmarking of the energy use in their buildings. (PRC 25402.10)

THIS BILL:

1) Exempts owners of buildings with less than 50,000 square feet from the requirement to collect and deliver energy usage information to CEC.

2) Requires CEC, by July 1, 2026, in consultation with ARB, CPUC, and HCD, to develop a strategy for using benchmarking data to track and manage the energy usage and GHG emissions of covered buildings in order to achieve the state's goals, targets, and standards related to energy usage and GHG emissions of covered buildings, including:

    a) The annual targets for statewide energy efficiency savings and demand reduction established by PRC 25310; and,

    b) The GHG emission reduction targets for the building sector established by ARB pursuant to AB 32.

3) Requires CEC, in adopting the strategy, to:

    a) Avoid increasing utility and rental cost burdens for, or causing evictions, harassment, or displacement of, tenants of covered buildings, as specified;

    b) Assess the feasibility and cost-effectiveness of building upgrades available to covered building owners for achieving increased energy efficiency and reductions of GHG emissions;

    c) Provide flexibility, to the extent feasible, for covered building owners to select among technology options and to align the timing of building upgrades with equipment replacement cycles;

    d) Encourage equitable access to jobs and other economic opportunities that may result from increased investment in covered building upgrades;

    e) Prioritize reductions in fuel-related GHG emissions;

    f) Prioritize efficiency and decarbonization measures that benefit tenants, including those that reduce tenant energy costs and remove indoor environmental hazards;

g) Consider including a process by which a covered building owner can propose, and CEC or a local city or county building department, as specified, may approve or reject an alternative compliance plan for unusual circumstances where a covered building cannot reasonably meet the building performance standards in the strategy; and,

h) Consider authorizing a local jurisdiction to implement its own program for increasing energy efficiency and reducing GHG emissions as an alternative to the strategy if that program is expected to achieve substantially equivalent or better increases in energy efficiency and GHG emissions reductions and guarantees substantially equivalent or stronger tenant protections.

4) Requires CEC to consider input from affected stakeholders, as specified.

5) Requires CEC, in order to ensure equitable participation and input from stakeholders representing under-resourced communities, low-income residential tenants, and small commercial tenants in the development of the strategy, to do all of the following:

a) Contract with one or more organizations with experience representing under-resourced communities, low-income residential tenants, and small commercial tenants to advise CEC;

b) Consider the feedback and recommendations from each advisory organization contracted with on the proposed strategy in advance of adopting any final strategy and, to the extent that any recommendations are not adopted in the final strategy, provide a written explanation of why the recommendations were not adopted and how the final strategy attempts to address the issues raised in those recommendations in an alternative way; and,

c) Develop metrics, in consultation with the advisory organizations and other stakeholders, that could be used if the strategy is implemented to measure how the strategy is impacting under-resourced communities, low-income residential tenants, and small commercial tenants, and assess whether the strategy is achieving just and equitable outcomes.

6) Requires CEC, on or before August 1, 2026, to submit the strategy and recommendations for further legislative action. Authorizes CEC to submit the strategy as part of a report otherwise submitted to the Legislature.

7) States legislative findings and declarations relating to the challenges of climate change, climate-induced extreme weather and droughts, and affordability for housing and utility expenses. States the intent of the Legislature to explore the feasibility of establishing building performance standards for large buildings to achieve improvements in energy efficiency and reductions in GHG emissions.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) Likely significant ongoing costs from General Fund or the Energy Resources Program Account (ERPA) for the CEC to develop the state strategy.

2) HCD estimates ongoing costs of $179,000 annually from General Fund and one position within its State Housing Law Program that would coordinate with other state agencies in order to develop a strategy for using data to track and manage energy use and emissions of GHGs of "covered buildings" to meet state energy savings and emissions targets by July 1, 2026.

3) Potentially significant costs for the CPUC to consult and support the CEC and provide input from the Disadvantaged Community Advisory Group.

4) Costs would be minor and absorbable as estimated by ARB estimates that any costs would be minor and absorbable.

COMMENTS:

1) **Building emissions**. According to ARB's GHG Emission Inventory, residential and commercial buildings account for more than 10% of the state's total GHG emissions. However, residential and commercial buildings are responsible for roughly 25% of California's GHG emissions when accounting for fossil fuels consumed onsite and electricity demand. Refrigerants used in heating and cooling systems also contribute to building-related GHG emissions.

   Achieving net zero GHG emissions – when GHG emissions are either zero or are offset by equivalent atmospheric GHG removal – is an important part of reducing GHG emissions and minimizing the effects of climate change. Net zero GHG emissions is also often used interchangeably with carbon neutrality; however, net zero GHG emissions includes GHGs other than those that contain carbon, such as nitrous oxide. Constructing buildings to be net zero will substantially reduce the state's GHG emissions.

2) **California Building Decarbonization Assessment**. AB 3232 (Friedman), Chapter 373, Statutes of 2018, directed the CEC to develop an assessment of the feasibility of reducing the GHG emissions of California's buildings 40 % below 1990 levels by 2030, working in consultation with the CPUC and other state agencies. The legislation only required a cost-effectiveness assessment addressing emissions from space and water heating, but not other applications, such as cooking. The assessment provided a framework to develop a path toward reducing GHG emissions associated with California's buildings. The assessment was published in 2021 and has identified efficient electrification of space and water heating in California's buildings combined with refrigerant leakage reduction as the most readily achievable pathways to a greater than 40% reduction in GHG emissions by 2030. However, the assessment also acknowledges significant challenges, including consumer awareness and financing availability.

3) **BUILD and TECH**. SB 1477 (Stern), Chapter 378, Statutes of 2018, directed the CPUC to develop, in consultation with the CEC, two programs, the Building Initiative for Low-Emissions Development Program (BUILD) and the TECH Clean California Program (TECH), to reduce GHG emissions associated with buildings. SB 1477 made available $50 million annually for four years. CPUC is responsible for a Building Decarbonization proceeding to implement SB 1477 and develop pilot programs to address new construction in areas damaged by wildfires and coordinate policies with CEC's Energy Code and Appliance

Efficiency Standards. The CPUC allocated 40% of the $200 million budget for the BUILD Program and 60% for the TECH Initiative.

4) **Energy Efficiency Building Action Plan**. In 2019, the state's energy efficiency goal was integrated into the CEC's Energy Efficiency Building Action Plan, which provides a 10-year roadmap to transform California's existing residential, commercial, and public building stock into high-performing and energy-efficient buildings. The 2019 California Energy Efficiency Action Plan covers challenges, opportunities, and savings estimates relating to energy efficiency in California's buildings, industrial, and agricultural sectors. The Action Plan is separated into three goals that drive energy efficiency: doubling energy efficiency savings by 2030; removing and reducing barriers to energy efficiency in low-income and disadvantaged communities; and, reducing GHG emissions from the building sector.

5) **Integrated Energy Policy Report (IEPR)**. Every two years, CEC prepares the IEPR to forecast all aspects of energy industry supply, production, transportation, delivery, distribution, demand, and pricing. CEC is required to use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. A lead commissioner provides oversight and policy direction related to collecting and analyzing data needed to complete the IEPR on trends and issues concerning electricity and natural gas, transportation, energy efficiency, renewables, and public interest energy research. The 2021 IEPR, states that, according to the U.S. EPA, "[building performance standards] can improve the comfort and productivity of building occupants. As building owners seek to manage indoor air quality, high-efficiency HVAC systems with improved controls have become increasingly important." However, in the same IEPR, CEC recognized that there is a disconnect between the metrics required to show compliance for new buildings versus existing buildings. The CEC indicates that it intends to create a building performance standard with metrics for existing buildings that align with new building metrics.

6) **Building Energy Benchmarking Program**. Energy benchmarking is a process for measuring a building's energy efficiency by comparing its energy consumption per square foot of floor space against similar buildings. The Building Energy Benchmarking program that is administered by the CEC requires building owners to calculate energy use intensity, which acts as a baseline to compare the efficiency of the building to that of previous years or those of similar buildings. Reporting began in 2018 for buildings with no residential units and more than 50,000 square feet of gross floor area, and in 2019 for buildings with 17 or more residential utility accounts and more than 50,000 square feet of gross floor area. For the 2021 reporting year, 18,310 of the 26,054 building owners completed the reports. CEC regulations allow buildings that report under a local benchmarking program to be exempted from reporting to the state program. Local benchmarking programs authorize cities and counties to customize California's benchmarking requirements to align with their energy, resiliency, and climate change plans.

7) **Building Performance Standards (BPS)**. Building performance standards are new policy tools that require owners of multifamily and commercial buildings to meet performance targets by actively improving their buildings over time, often with interim targets that drive energy savings and emission reductions. In California, Chula Vista seems to be the only city to have implemented BPS. As of February 2021, Washington, D.C., New York City, the City of St. Louis, and Washington State have adopted BPS policies to help meet their goals,

and several more local and state governments are exploring them. In January 2022, President Biden's Administration launched a National Building Performance Standards Coalition that includes 37 local officials (including several from California), the Governors of Washington and Colorado, and CEC Commissioner Andrew McAllister.

8) **This bill**. This bill is intended to help California reach its building energy efficiency and GHG reduction goals by requiring CEC, in consultation with ARB, CPUC, and HCD to develop a strategy using the existing energy usage data found in the benchmarking program requirement to track and manage the energy and GHG emissions of covered buildings.

9) **Author's statement**:

> California faces parallel challenges of extreme weather and droughts, brought on by climate change, and housing and utility rates affordability. Improving building efficiency can help by reducing utility bills, energy usage, and [GHG] emissions, while improving the comfort of these buildings. Strong building codes have dramatically improved the efficiency of new buildings, but the state also needs a policy for improving its older buildings. SB 48 directs the CEC to develop a strategy for leveraging energy benchmarking data, which we already collect for large commercial and residential buildings, to help achieve the state's targets for efficiency improvements and GHG emissions reductions. This bill only applies to very large buildings, so it is not going to impact smaller building owners or single-family homes. It makes sense to focus on large buildings because they represent a small share of all buildings but a majority of building emissions. For example, the commercial buildings >50,000 square feet – the ones covered by this bill – make up 6% of all commercial buildings but 53% of total space and energy use. They account for about 19 million tons of CO2 per year – 5% of our state's total. California can follow the example of other cities and states (including Washington, Maryland, Colorado, New York City, and Washington, DC) who have enacted building performance standard programs, leveraging benchmarking data, to improve efficiency in older buildings.

10) **Related legislation**:

AB 43 (Holden) requires ARB to develop a market-based embodied carbon trading system to facilitate compliance with the state's strategy to reduce the carbon intensity of building materials by 40% by 2035. This bill has been referred to the Senate Environmental Quality Committee.

SB 306 (Caballero) revises the direct install program that was enacted in the 2022-23 Budget as part of the Equitable Building Decarbonization Program and codifies and requires updates to the Extreme Heat Action Plan. This bill is also scheduled to be heard in this committee on July 10th.

SB 755 (Becker) requires CEC to develop a website for energy efficiency and building decarbonization programs available in the state for residential buildings and residential electricity customers. Requires CEC to enable customers to apply for these programs through the website. This bill is also scheduled to be heard in this committee on July 10th.

11) **Double referral**. This bill passed the Utilities and Energy Committee on June 28th with a vote of 10-3.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Petaluma
350 Sacramento
350 Ventura County Climate Hub
52nd District
Active San Gabriel Valley
All Rise Alameda
Ban SUP
Biodiversity First!
Breathe Southern California
Building Decarbonization Coalition
Building the Base Face to Face
Californians for Energy Choice
Californians for Western Wilderness
CALPIRG
Carbon Free Palo Alto
Carbon Free Silicon Valley
Center for Community Energy
Center for Sustainable Energy
Change Begins With Me
Cleanearth4kids.org
Climate Action California
Climate Action Campaign
Climate Action Mendocino
Cloverdale Indivisible
Coalition for Clean Air
Contra Costa Moveon
Defending Our Future
Drawdown Bay Area
East Valley Indivisibles
Edison International and Affiliates, Including Southern California Edison
El Cerrito Progressives
Environment California
Environmental Working Group
Environteers.org
Extinction Rebellion San Francisco Bay Area
Feminists in Action Los Angeles
Friends Committee on Legislation of California
Green the Church
Hillcrest Indivisible
Indi Squared
Indian Valley Indivisibles
Indivisible East Bay
Indivisible 30/Keep Sherman Accountable
Indivisible 36
Indivisible 41
Indivisible Alta Pasadena
Indivisible Auburn CA
Indivisible Beach Cities
Indivisible CA Statestrong
Indivisible CA-25 Simi Valley-Porter Ranch
Indivisible CA-29
Indivisible CA-3
Indivisible CA-37
Indivisible CA-39
Indivisible CA-43
Indivisible CA-7
Indivisible California Green Team
Indivisible Claremont / Inland Valley
Indivisible Colusa County
Indivisible East Bay
Indivisible El Dorado Hills
Indivisible Elmwood
Indivisible Euclid
Indivisible Lorin
Indivisible Los Angeles
Indivisible Manteca
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Normal Heights
Indivisible North Oakland Resistance
Indivisible North San Diego County
Indivisible OC 46
Indivisible OC 48
Indivisible Petaluma
Indivisible Ross Valley

Indivisible Sacramento
Indivisible San Bernardino
Indivisible San Jose
Indivisible San Pedro
Indivisible Santa Barbara
Indivisible Santa Cruz County
Indivisible Sausalito
Indivisible Sebastopol
Indivisible SF
Indivisible SF Peninsula and CA-14
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Suffragists
Indivisible Ventura
Indivisible Westside LA
Indivisible Windsor
Indivisible Yolo
Indivisible: San Diego Central
Indivisibles of Sherman Oaks
Livermore Indivisible
Los Angeles Regional Collaborative for Climate Action and Sustainability
Menlo Spark
Mountain Progressives
Natural Heritage Institute
North County Climate Change Alliance
Nothing Rhymes With Orange
Orchard City Indivisible
Orinda Progressive Action Alliance
Our City San Francisco
Our Revolution Long Beach
Pacifica Climate Committee
Peninsula Interfaith Climate Action
Rewiring America
RiseUp
RMI
Rooted in Resistance
Ross Valley Indivisible
San Diego Indivisible Downtown
San Joaquin Valley Democratic Club
Santa Cruz Climate Action Network
SFV Indivisible
Sierra Club California
Silicon Valley Youth Climate Action
SoCal 350 Climate Action
Sunflower Alliance
Sunrise Movement Orange County
Sustainable Mill Valley
Sustaining Way
Tehama Indivisible
The Climate Alliance of Santa Cruz County
The Climate Center
The Energy Coalition
The Resistance Northridge-Indivisible
Throop Unitarian Universalist Church, Pasadena
Together We Will Contra Costa
TWW/Indivisible - Los Gatos
UndauntedK12
US Green Building Council
Vallejo-Benicia Indivisible
Venice Resistance
Women's Alliance Los Angeles
Yalla Indivisible

Opposition

Affordable Housing Management Association – Pacific Southwest
Apartment Association of Orange County
Easy Bay Rental Housing Association

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 69 (Cortese) – As Amended June 22, 2023

SENATE VOTE: 40-0

SUBJECT: California Environmental Quality Act: local agencies: filing of notices of determination or exemption

SUMMARY: Revises and clarifies California Environmental Quality Act (CEQA) filing and posting requirements for local lead agency notices of determination (NODs).

EXISTING LAW:

1) Requires, under CEQA, lead agencies with the principal responsibility for approving or carrying out a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)

2) When a project is approved or carried out by a state agency, requires the state agency to file a NOD, and authorizes the agency to file a notice of exemption (NOE), with the Office of Planning and Research (OPR). (PRC 21108)

3) When a project is approved or carried out by a local agency, requires the local agency to file a NOD, and authorizes the agency to file a NOE, with the county clerk of each county in which the project will be located. (PRC 21152)

4) Authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the NOD. (PRC 21167)

THIS BILL:

1) Requires local agency NODs and NOEs to be filed with OPR.

2) Requires OPR to post on the State Clearinghouse internet website notices filed by local agencies, including any subsequent or amended notice, within 24 hours of receipt, and remain posted for a period of 30 days.

3) Declares the intent of the Legislature that a local agency NOD or NOE is not considered filed unless, and the applicable limitations periods under PRC 21167 do not commence until, the local agency complies with all the requirements relating to the filing and content of the notice.

FISCAL EFFECT: According to the Senate Appropriations Committee, OPR estimates ongoing costs of $340,000 annually to support two positions at the State Clearinghouse that would be needed to accommodate the expected increase in NOE submissions by public agencies.

COMMENTS:

1) **Background**. CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

   Once a lead agency has approved a project, the agency must file a NOD. State agencies are required to file notice with OPR, which is then posted on OPR's CEQAnet website. Local agencies are required to file notice within five working days with the county clerk of each county in which the project will be located. These notices may be posted on the county's website, but this is not required. Depending on the county's practices, the notice may simply be posted on a bulletin board in the clerk's office. CEQA also requires notices to be sent upon request to any interested person. When a public agency decides that a project is exempt from CEQA, and the public agency approves or determines to carry out the project, the agency may file a NOE.

   Generally, CEQA actions taken by public agencies can be challenged in Superior Court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations, which are tied to the date the notice was filed. Under current law, court challenges of CEQA decisions generally must be filed within 30 to 35 days, depending on the type of decision. Failure to file a notice in time may increase the statute of limitations to 180 days.

2) **Author's statement**:

   SB 69 adds transparency to the CEQA notification process. Under current law, only state agencies are required to post CEQA notices of determination or exemption on the State Clearinghouse website. This bill would require all public agencies to do so. This ensures timely and uniform online access to notices and provides an opportunity for the public to comment on projects. Members of the public deserve easily-accessible disclosures and accountability in the environmental review process. SB 69 improves the notification process to provide that transparency.

3) ***De Alviso vs. City of San Jose***. In this 2021 court case decided by the Sixth Appellate District Court of Appeal, the plaintiff (Organizacion Comunidad de Alviso) sued the City of San Jose for failing to provide it with a notice related to certain project as required under CEQA. While the court did find the City of San Jose violated CEQA by failing to send one particular notice to the plaintiff, it also found the City provided the plaintiff with "constructive notice" so it could file a lawsuit in a timely fashion, but the plaintiff did not do so. As the Court noted:

   Although the city failed to send the second [notice] to [the plaintiff], that [notice] was duly filed with the county clerk and available for review by all potential litigants before

> plaintiff filed its initial petition… the legally operative [notice], which was filed with the county clerk and readily available to potential litigants, correctly referred to [the project proponent]. The city's filing of the [notice] with the county clerk provided constructive notice of [the defendant's] identity precluding plaintiff's ability to claim genuine ignorance.

4) **Author's amendments**. The author proposes the following clarifying amendments to the intent section:

> *SECTION 1. It is the intent of the Legislature that, for purposes of Section 21167 of the Public Resources Code, a notice required by subdivision (a) of Section 21152 of the Public Resources Code or a notice authorized by subdivision (b) of Section 21152 of the Public Resources Code is ~~not considered~~ filed ~~unless,~~ and the applicable limitations periods under subdivisions (b), (c), (d), and (e) of Section 21167 of the Public Resources Code ~~do not~~ commence ~~until,~~ when the local agency complies with ~~all~~ the requirements ~~relating to the filing and content of the notice, as specified~~ in subdivisions (a) and (b) of Section 21152 of the Public Resources Code.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Justice Alliance Action
California Labor Federation
Center on Race, Poverty & the Environment
International Union of Operating Engineers, California-Nevada Conference

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 253 (Wiener) – As Amended June 30, 2023

SENATE VOTE: 24-9

SUBJECT: Climate Corporate Data Accountability Act

SUMMARY: Requires any partnership, corporation, limited liability company, or other U.S. business entity with total annual revenues in excess of $1 billion and that does business in California to publicly report their annual greenhouse gas (GHG) emissions, as specified by the California Air Resources Board (ARB).

EXISTING LAW:

1) Requires ARB, pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020, and (Health & Safety (HSC) Code 38500 *et seq*):

    a) Requires the reduction of GHGs to 40% below 1990 levels by 2030 and to 85% below 1990 levels by 2045, and:

    b) Authorizes ARB to adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit GHG emissions, applicable until December 31, 2030. Under this authority, ARB adopted a cap and trade regulation that applies to large industrial facilities and electricity generators emitting more than 25,000 metric tons of carbon dioxide equivalent per year, as well as distributors of fuels, including gasoline, diesel, and natural gas.

    c) Requires the monitoring and annual reporting of GHG emissions from GHG emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions, and dictates that for the cap-and-trade program established pursuant to AB 32, entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and had developed a GHG emission reporting program, they would not be required to significantly alter their reporting or verification program except as necessary for compliance.

2) Declares, pursuant to SCR 53 (McGuire), Res. Chapter 119, Statutes of 2022, that a climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity.

3) Requires corporations in California to report specified operating information to the Secretary of State (SOS). (California Corporations Code 100 *et seq.*)

THIS BILL:

1) Establishes the Climate Corporate Data Accountability Act.

2) Defines the following terms:

a) "Emissions reporting organization" as a nonprofit emissions reporting organization contracted by ARB that both:

   i) Currently operates a GHG reporting organization for organizations operating in the United States; and,

   ii) Has experience with GHGs disclosure by entities operating in California.

b) "Reporting entity" as 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 $1 billion and that does business in California.

c) "Scope 1 emissions" as all direct GHGs that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

d) "Scope 2 emissions" as indirect GHGs from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

e) "Scope 3 emissions" as indirect upstream and downstream GHG 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.

3) Requires, on or before January 1, 2025, ARB to develop and adopt regulations to require a reporting entity to annually disclose to the emissions reporting organization and verify all of the reporting entity's Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions. Requires ARB to ensure that the regulations require all of the following:

   a) That a reporting entity, starting in 2026 on or by a date to be determined ARB, 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 prior fiscal year.

      i) 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 measure and report its emissions of GHGs 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 (WRI) 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) During 2029, ARB is required to review, and on or before January 1, 2030, ARB is required to update as necessary, the public disclosure deadlines 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.

iv) 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 independent verification to be performed by a third-party auditor.

b) That a reporting entity's public disclosure is made in a manner that is easily understandable and accessible to residents, investors, and other stakeholders of the state.

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) 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 specified requirements.

e) That a reporting entity's public disclosure is independently verified by a third-party auditor. The reporting entity is required to ensure that a copy of the complete, audited GHG inventory, including the name of the third-party auditor, is provided to the emissions reporting organization as part of or in connection with the reporting entity's public disclosure.

i) Scope 1 emissions and Scope 2 emissions are required to be audited at a limited assurance level beginning in 2026 and at a reasonable assurance level beginning in 2030.

ii) During 2026, ARB is required to review and evaluate trends in third-party verification requirements for Scope 3 emissions. On or before January 1, 2027, ARB is authorized to establish an assurance requirement for third-party audits of Scope 3 emissions. Scope 3 emissions shall be audited at a limited assurance level beginning in 2030.

iii) A third-party auditor is required to be an expert in the emission of GHGs because of significant experience in measuring, analyzing, reporting, or attesting to the emission of GHGs. A third-party auditor is required to have sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements and to enable the auditor 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 verification report, during the verification and professional engagement period. During 2029, ARB is required to review, and on or before January 1, 2030, ARB is required to update as necessary, the qualifications for third-party auditors to evaluate trends in education relating to the emission of GHGs and consider updating guidance on third-party auditors.

iv) ARB is required to ensure that the verification process minimizes the need for reporting entities to engage multiple auditors and ensures sufficient auditor capacity, as well as timely reporting implementation.

f) That a reporting entity, upon filing its disclosure, is required to pay an annual fee that may not exceed the reasonable regulatory costs of ARB for the administration and implementation of this bill. The annual fee imposed on a reporting entity may not exceed $1,000.

i) The proceeds of the fees are required to be deposited in the Climate Accountability and Emissions Disclosure Fund, which the bill creates in the State Treasury. Requires the money in the fund to be continuously appropriated to ARB for the costs of administering and implementing this bill.

4) Requires ARB to contract with an emissions reporting organization to develop a reporting program to receive and make publicly available disclosures.

5) Authorizes ARB to adopt or update any other regulations that it deems necessary and appropriate to implement this bill.

6) Requires ARB, in developing the regulations, to 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;

c) Investors;

d) Stakeholders representing consumer and environmental justice interests; and,

e) Reporting entities that have demonstrated leadership in full-Scope GHG emissions accounting and public disclosure and GHG reductions.

7) Provides that nothing in this bill requires additional reporting of emissions of GHGs beyond the reporting of Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions required pursuant to the Greenhouse Gas Protocol standards and guidance.

8) Requires, on or before July 1, 2027, ARB 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 and the regulations adopted by ARB. Requires, in preparing the

report, consideration to be given to, at a minimum, GHGs from reporting entities in the context of state GHG reduction and climate goals. Requires the entity preparing the report to not require reporting entities to report any information beyond what is required pursuant to this bill or the regulations adopted by ARB.

9) Requires ARB to submit the report to the emissions reporting organization to be made publicly available on the digital platform required to be created by the emissions reporting organization.

10) Requires the emissions reporting organization, on or before the date determined by ARB, to 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 ARB and the report prepared for ARB. Requires the emissions reporting organization to make the reporting entities' disclosures and ARB's report available on the digital platform within 30 days of receipt.

11) Requires the digital platform to be capable of featuring individual reporting entity disclosures, and to allow consumers 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. Requires all data sets and customized views to be available in electronic format for access and use by the public.

12) Requires the emissions reporting organization to submit, within 30 days of receipt, the report prepared for ARB to the relevant policy committees of the Legislature.

13) Provides that ARB's enforcement of AB 32 compliance does not apply to a violation of this bill.

14) Requires ARB to adopt regulations that authorize it to seek administrative penalties for nonfiling, late filing, or other failure to meet the requirements of this bill. Prohibits the administrative penalties imposed on a reporting entity from exceeding $500,000 in a reporting year. Requires ARB, in imposing penalties for a violation, to consider all relevant circumstances, including both of the following:

    a) The violator's past and present compliance; and,

    b) Whether the violator took good faith measures to comply and when those measures were taken.

15) Provides that a reporting entity shall not be subject to an administrative penalty for any misstatements with regard to Scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith.

16) Provides that this bill 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.

17) Provides that the provisions of this bill are severable.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would result in unknown ongoing costs, likely in the millions of dollars annually (General Fund) for ARB to implement the provisions of this bill. These costs would be offset by revenues from an annual filing fee on reporting entities.

COMMENTS:

1) **Author's statement**:

> California has been at the forefront of climate policy in recent decades, establishing a successful cap and trade program, committing to preserve 30% of California's lands in their natural state, and setting and achieving ambitious emission reduction targets. These reductions were partially met, and continue to be bolstered by the emission reporting requirements as laid out in the California Global Warming Solutions Act. These requirements, however, only apply to electricity generators, industrial facilities, fuel suppliers, and other major emitters, missing many sources of corporate pollution. Without the same requirements for these corporate entities, California is left without proper information and will not be able to accurately regulate and reduce these emissions. Filling this gap with detailed data regarding corporate activities is a crucial next step for the state to ensure that we continue to decrease the rampant GHGs that are destroying our planet.
>
> California, like the rest of the world, is already deeply impacted by climate change … We no longer have the time to rely on massive corporations to voluntarily report their emissions, and cannot afford any possibility that the emissions we are being told about have been altered or manipulated to ensure a positive public-facing appearance for a particular company. Rather, these corporations must be required to transparently report their activities and the emissions associated with them. Californians are watching their state get irrevocably harmed by climate change, and they have a right to know who is at the forefront of the pollution causing this. SB 253 would bolster California's position as a leader on climate change, will allow for consumers to make informed decisions regarding their patronage of these corporations, and will give policymakers the specific data required to significantly decrease corporate emissions.

2) **Reporting GHG emissions.** Under AB 32, the Mandatory Reporting of Greenhouse Gas Emissions regulation (MRR) requires hundreds of businesses, including electricity generators, industrial facilities, fuel suppliers, and electricity importers, to report GHGs to ARB. A summary of reported GHG emissions data reported under MRR is made public each year. ARB implements and oversees a third-party verification program to support mandatory GHG reporting. All GHG reports subject to the Cap-and-Trade Program must be independently verified by ARB-accredited verification bodies and verifiers.

   On a global scale, the "Scope" framework was introduced in 2001 by the WRI and World Business Council for Sustainable Development as part of their Greenhouse Gas Protocol Corporate Accounting and Reporting Standard. The goal was to create a universal method for companies to measure and report the emissions associated with their business. The three

Scopes allow companies to differentiate between the emissions they emit directly into the air, which they have the most control over, and the emissions they contribute to indirectly.

Scope 1 covers all direct GHGs that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

Scope 2 covers indirect GHGs from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

Scope 3 includes all other indirect emissions that occur in a company's value chain, such as purchased goods and services, business travel, employee commuting, waste disposal, use of sold products, transportation and distribution (up- and downstream), investments, and leased assets and franchises.

Scope 1 and 2 emissions alone have shortcomings. First, Scope 1 and 2 emission sums can be manipulated. For example, a company that was once vertically integrated can procure materials from outside suppliers. Thus, the emissions produced during the making of an input material could be moved off the company's balance sheets and excluded from measurement. This would hide the true amount of carbon emitted throughout the organization's value chain and thwart the asset owner's efforts to estimate climate risk. In addition, Scope 1 and 2 emissions are under-inclusive. These deficiencies can be addressed through the inclusion of Scope 3 emissions.

Recent research from CDP (formerly the Carbon Disclosure Project) found that Scope 3 supply chain emissions are on average 11.4 times greater than operational (Scope 1 and 2) emissions, which is more than double the previous estimate.

3) **This bill**. SB 253 would require companies to use the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard to detail its Scope 3 emissions calculations.

   The emissions disclosures would need to be independently verified by an outside auditor, and businesses would pay an annual fee of up to $1,000 to cover state administrative costs.

   According to Ceres, one of the sponsors of the bill, of the 5,300 U.S. corporations that would have to report their emissions, about 73% are private companies. Many publicly traded companies already report climate risks in their financial disclosure reports.

   Some of those companies, including Dignity Health, IKEA, Patagonia, Sierra Nevada Brewing Co., and Seventh Generation support the bill, saying:

   > *California is on track to be the fourth-largest economy in the world and this bill would set a global standard for emissions disclosure. SB 253 would level the playing field by ensuring that all major public and private companies disclose their full emissions inventory, creating a pathway for collective reduction strategies.*

4) **Disclosing Scope 3 GHGs won't come easily**. There are challenges in acquiring comprehensive and consistent Scope 3 emissions data. The GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard sorts Scope 3 emissions into 15 categories. Companies need to discern whether to tabulate all or which of these categories of indirect emissions.

   Businesses will have to report not only the GHGs emitted globally from their operations and energy use, but also from indirect sources, such as emissions from their supply chains, contractors and use of their products. These Scope 3 emissions have raised the concerns of business groups. A 2021 article in the Harvard Business Review said such protocols could lead to the same emissions being reported multiple times by different companies, a critique that CalChamber echoes.

   The author contends that double counting in the context of climate emissions accounting is a consideration when there is a need for one comprehensive global or national system level accounting to track aggregate progress and/or implement carbon markets, and there are multiple different entities with GHG emissions chains that are interconnected. In that context, the author believes it is important to have a clear understanding of the actual total emissions contributed by those entire systems, further stating:

   > In the case of SB 253, the fact that a corporation would report the GHG emissions associated with the purchase of electricity as part of its Scope 2 emissions, while the producer of that energy would report those same emissions in its Scope 1 inventory is not "double counting" - an issue relating to comprehensive systems accounting with multiple interconnected entities. The goal of SB 253 is to provide a clear understanding of the total emissions of an individual corporation meeting certain requirements, to ensure accountability and catalyze their decarbonization efforts.

   Additionally, the bill allows additional time – a year and a half more – for the disclosure of Scope 3 emissions over Scope 1 and 2 emissions, and gives ARB flexibility to evaluate trends in Scope 3 emissions reporting and adjust the disclosure deadlines.

5) **Avoiding duplication**. Last March, the U.S. Securities and Exchange Commission (SEC) announced plans to enhance and standardize climate-related disclosures for investors, as part of a growing awareness of the importance of environmental, social & governance (ESG) issues among public companies. The new disclosure rules would require listed companies to not only disclose risks that are "reasonably likely to have a material impact on their business, results of operations, or financial condition," but also "to disclose information about its direct GHG emissions (Scope 1) and indirect emissions from purchased electricity or other forms of energy (Scope 2)," as well as certain types of GHG emissions "from upstream and downstream activities in its value chain (Scope 3)."

   Furthermore, there are layers of international standards that impact many of the companies that would be covered under this bill. The International Sustainability Standards Board (ISSB), an independent, private-sector body, developed the IFRS Sustainability Standards that are topic-specific and require an entity to disclose certain information in respects to climate-related risks and opportunities and will result in a comprehensive global baseline of sustainability disclosures. These were developed in response to a strong desire to address a fragmented

landscape of voluntary, sustainability-related standards and requirements that add cost, complexity and risk to both companies and investors.

The United Kingdom already requires companies to report their emissions and the European Union will begin requiring companies to track emissions next year and report them in 2025. There is an "alphabet soup" of other climate-related financial disclosure requirements across Europe.

This bill provides 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 the bill.

The business community that is governed under the AB 32 MMR regulation argues that regulation is likely the most comprehensive GHG reporting regulation in the world subject to rigorous oversight and enforcement. The regulation, developed and amended over 15 years, consists of hundreds of pages of detailed regulatory requirements and supporting appendices, guidance, and related materials impacting nearly 800 businesses. The author envisions that, to avoid costly and unnecessary duplication, an AB 32-regulated entity could include that information as part of their overall corporate climate accounting report that would be submitted pursuant to this bill.

6) **Value of disclosure**. Disclosure itself creates transparency that can have myriad benefits, including:

   - Enable more informed government investment – including by the California State Teachers' Retirement System and California Public Employees' Retirement System, who are under state mandates to consider climate-related financial risk.

   - Reputation enhancement– disclosure builds trust by responding to rising environmental concerns amongst the public.

   - Competitive advantage – disclosure can give a company a performance edge on the stock market and access to capital (California's Greenhouse Gas Reduction Fund resulting from AB 32 has billions in annual investments to make)

   - Uncover risks and opportunities —a company can't change what it doesn't measure.

   It bears mentioning that these benefits come with concerns. CalChamber worries the emissions estimates could be inaccurate, resulting in misguided public policy, while putting an onerous burden on companies. Also, there are concerns the reports would include vulnerabilities to shareholder value, consumer demand, supply chains, employee safety, loans and other economic threats that may be amplified by changing climate and more extreme weather events.

7) **Penalties.** Under the bill, ARB is required to adopt regulations that authorize administrative penalties, up to $500,000, for nonfiling, late filing, or other failure to meet the disclosure requirements.

ARB would be required to consider, among other things, a company's good faith effort to comply, and provides that a company would not be subject to an administrative penalty for any misstatements with regard to Scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith.

8) **Committee amendments**. The *Committee may wish to consider* the following amendments to:

   a) Clarify applicability of reporting entities based on revenue in U.S. dollars and that applicability shall be determined based on the reporting entity's revenue for the prior fiscal year.

   b) Allow reporting entities that are required to report mandatory industrial emissions pursuant to AB 32 to provide that data with the disclosure required pursuant to this bill.

   c) Require ARB's regulations to consider 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.

9) **Related legislation**.

   a) SB 261 (Stern) requires companies that do business in California and have gross revenues exceeding $500 million annually, excluding insurance companies, to report on their climate-related financial risk, and requires ARB to contract with a qualified climate reporting organization to review and publish an analysis of those reports, as specified. This bill is scheduled to be heard in this committee on July 10.

   b) SB 260 (Weiner, 2022) was nearly identical to SB 253. It failed on the Assembly Floor.

   c) SB 449 (Stern) was nearly identical to SB 261. It was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Marin
350 Sacramento
Active San Gabriel Valley
Alameda County Democratic Party
Asian Pacific Environmental Network
Audubon California
Avocado Green Brands
California Calls
California Environmental Justice Alliance
California Environmental Voters
California Faculty Association
California Green New Deal Coalition
California Health+Advocates, Subsidiary of The California Primary Care Association
California Interfaith Power and Light
California Nurses for Environmental Health and Justice
California Reinvestment Coalition
Californians Against Waste
Californians for Energy Choice
CALPIRG

Cascadia Climate Action Now
Center for Biological Diversity
Center for Climate Change and Health
Ceres
Citizens' Climate Lobby Santa Cruz
Cleanearth4kids.org
Climate Action California
Climate Action Campaign
Climate Equity Policy Center
Climate Hawks Vote
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Climateplan
Coalition for Clean Air
Courage California
Culver City Democratic Club
Dignity Health
Earthjustice
Eileen Fisher
Elders Climate Action, Norcal and Socal Chapters
Environment California
Environmental Defense Fund
Environmental Working Group
Everlane
Fossil Free California
Friends Committee on Legislation of California
Friends of The Earth
Green New Deal At UC San Diego
Greenbelt Alliance
Grove Collaborative
Hammond Climate Solutions Foundation
Human Impact Partners
IKEA
Indivisible Ca: Statestrong
Lawyers Committee for Civil Rights of The San Francisco Bay Area
Lawyers' Committee for Civil Rights of The San Francisco Bay Area
League of Women Voters of California
Microsoft Corporation
Mono Lake Committee
Move LA
Natural Resources Defense Council
Nextgen California
Patagonia
Pesticide Action Network
Planning and Conservation League
Plastic Pollution Coalition
Progressives for Democracy in America
Public Citizen
REI
Sacramento Area Congregations Together
Salesforce.com, INC.
San Diego 350
San Francisco Baykeeper
Save the Bay
SEIU California
Seventh Generation
Sierra Club California
Sierra Nevada Brewing Company
Solano County Democratic Central Committee
Sunflower Alliance
Sunrise Movement San Diego
Sustainable Rossmoor
Techequity Collaborative
The Climate Center
The Nature Conservancy
This! Is What We Did
Transformative Wealth Management LLC
University Professional and Technical Employees
Voices for Progress

Opposition

Advanced Medical Technology Association
African American Farmers of California
Agricultural Council of California
Agricultural Energy Consumer Association
American Bakers Association
American Beverage Association
American Chemistry Council
American Composites Manufacturers Association
American Council of Life Insurers
American Pistachio Growers
American Property Casualty Insurance

Association
Antelope Valley Chambers of Commerce
Association of California Life and Health Insurance Companies
Bank Policy Institute
Building Owners and Managers Association of California
Cal Asian Chamber of Commerce
CalCIMA
California Apartment Association
California Apple Commission
California Bankers Association
California Blueberry Association
California Blueberry Commission
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Cattlemen's Association
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Construction & Industrial Materials Association
California Cotton Ginners & Growers Association
California Credit Union League
California Date Commission
California Food Producers
California Forestry Association
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Hispanic Chamber of Commerce
California Hospital Association
California Independent Petroleum Association
California Life Sciences
California Manufactures & Technology Association
California Mortgage Bankers Association
California Poultry Federation
California Railroads
California Restaurant Association
California Retailers Association
California Taxpayers Association
California Trucking Association
California Walnut Commission
California Water Association
Carlsbad Chamber of Commerce
Chemical Industry Council of California
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Costa Mesa Chamber of Commerce
Credit Union National Association
Danville Area Chamber of Commerce
Far West Equipment Dealers Association
Financial Services Institute
Greater High Desert Chamber of Commerce
Insured Retirement Institute
LA Canada Flintridge Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Naiop California
National Association of Mutual Insurance Companies
Nisei Farmers League
North San Diego Business Chamber
Oceanside Chamber of Commerce
Olive Growers Council of California
Orange County Business Council
Pacific Merchant Shipping Association
Palos Verdes Peninsula Chamber of Commerce
PCI West-chapter of The Precast/Prestressed Concrete Institute
Personal Insurance Federation of California
Plumbing Manufacturers International
Rancho Cordova Chamber of Commerce
San Diego Gas and Electric Company
Santa Barbara South Coast Chamber of Commerce
Santee Chamber of Commerce
Securities Industry and Financial Markets Association
Simi Valley Chamber of Commerce
Southern California Gas Company
Specialty Equipment Market Association (SEMA)
Technet
Tenaska
The Association of General Contractors of America
Torrance Area Chamber of Commerce
Truck and Engine Manufacturers Association
Walnut Creek Chamber of Commerce
West Ventura County Business Alliance

Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Western States Petroleum Association
Wine Institute

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 261 (Stern) – As Amended June 19, 2023

SENATE VOTE: 27-8

SUBJECT: Greenhouse gases: climate-related financial risk

SUMMARY: Requires companies that do business in California and have gross revenues exceeding $500 million annually, excluding insurance companies, to report on their climate-related financial risk, and requires the Air Resources Board (ARB) to contract with a qualified climate reporting organization to review and publish an analysis of those reports, as specified.

EXISTING LAW:

1) Requires ARB, pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020, and (Health & Safety (HSC) Code 38500 *et seq*):

    a) Requires the reduction of GHGs to 40% below 1990 levels by 2030 and to 85% below 1990 levels by 2045, and:

    b) Authorizes ARB to adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit GHG emissions, applicable until December 31, 2030. Under this authority, ARB adopted a cap and trade regulation that applies to large industrial facilities and electricity generators emitting more than 25,000 metric tons of carbon dioxide equivalent per year, as well as distributors of fuels, including gasoline, diesel, and natural gas.

    c) Requires the monitoring and annual reporting of GHG emissions from GHG emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions, and dictates that for the cap-and-trade program established pursuant to AB 32, entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and had developed a GHG emission reporting program, they would not be required to significantly alter their reporting or verification program except as necessary for compliance.

2) Requires, by January 1, 2020, and every three years thereafter, the California State Teachers' Retirement System (CalSTRS) and California Public Employees' Retirement System (CalPERS) to publicly report on their analysis of the climate-related financial risk of its public market portfolio, including the alignment of the fund with the Paris climate agreement and California climate policy goals and the exposure of the fund to long-term risks. (Government Code 7510.5 (c))

3) Defines "climate-related financial risk" as risk that may include material financial risk posed by the effects of the changing climate, such as intense storms, rising sea levels, higher global temperatures, economic damages from carbon emissions, and other financial and transition

risks due to public policies to address climate change, shifting consumer attitudes, changing economics of traditional carbon-intense industries. (Government Code 7510.5 (a)(2))

4) Declares, pursuant to SCR 53 (McGuire), Res. Chapter 119, Statutes of 2022, that a climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity.

5) Requires corporations in California to report specified operating information to the Secretary of State (SOS). (California Corporations Code 100 *et seq*.)

THIS BILL:

1) Defines the following terms:

   a) "Climate reporting organization" as a nonprofit climate reporting organization contracted by ARB that both:

      i) Currently operates a climate reporting organization for organizations operating in the United States; and,

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

   b) "Climate-related financial risk" as 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.

   c) "Covered entity" as 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 $500 million and that does business in California. Excludes 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.

2) Requires, on or before December 31, 2024, and annually thereafter, a covered entity shall prepare a climate-related financial risk report disclosing both of the following:

   a) 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 (TCFD) (June 2017) published by TCFD, or any subsequent publication thereto; and,

   b) Its measures adopted to reduce and adapt to the disclosed climate-related financial risk.

3) Requires ARB to contract with a climate reporting organization to prepare an annual public report on the climate-risk disclosures required and ensure the climate-risk disclosures remain consistent with current best practices.

4) Provides that if a federal law or regulation enacted or promulgated on or after January 1, 2023, requires a covered entity to prepare an annual report disclosing information materially similar to the information described in this bill, a report prepared pursuant to that federal requirement satisfies the requirements of this bill and authorizes the covered entity to attest to the SOS that they have publicly disclosed the climate-risk disclosures to satisfy the requirements of this bill.

5) Requires, on or before December 31, 2024, and annually thereafter, a covered entity to do both of the following:

    a) Make available to the public on its own internet website, a copy of the report; and,

    b) Submit to the SOS a statement affirming, not under penalty of perjury, that the report prepared and published discloses climate-related financial risk in accordance with the requirements of this bill.

    c) Requires the climate reporting organization to be contracted to do all of the following:

        i) Annually prepare a public report that contains all of the following elements:

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

        iii) Analysis of the systemic and sector-wide 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; and,

        iv) Identification of inadequate or insufficient reports.

    d) Regularly convene representatives of sectors responsible for reporting climate-related financial risks, state agencies responsible for oversight of reporting sectors, investment managers, academic experts, 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;" and,

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

6) Provides that ARB's enforcement of AB 32 compliance does not apply to a violation of this bill.

7) Requires ARB to adopt regulations that authorize it to seek administrative penalties from a covered entity that fails to make the report publicly available on its internet website or publishes an inadequate or insufficient report. Requires the administrative penalties to be imposed and recovered by ARB in administrative hearings. Prohibits the administrative penalties imposed on a reporting entity from exceeding $500,000 in a reporting year.

Requires ARB, in imposing penalties, to consider all relevant circumstances, including both of the following:

a) The violator's past and present compliance with this bill; and,

b) Whether the violator took good faith measures to comply and when those measures were taken.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

> It is clear the worsening effects of climate change pose numerous environmental risks that include extreme drought, rising sea levels, catstrophic wildfires, and extreme weather events. These impacts not only effect our environment but they also effect how we live, what services we rely upon and which investments make the most sense. Major corporations and financial institutions face climate related financial risks in their business making decisions, so it is important for these businesses and institutions to assess and share the risks they have identifed, and what efforts they are employing to mitigate them. This information is important to provide more transparency to policy makers, investors, and shareholders as it will result in improved decisoin making on where to invest private and public dollars. Climate related financial risk disclosures are ultimately about good business, partnerships, governance and the solutions and planning necessary to navigate the increasing burdens of a changing climate.

2) **Climate-related financial disclosure.** Climate-related financial disclosure refers to the disclosure by companies, insurers, asset owners, and managers of (1) the risks and opportunities that climate change present to a company's financial position today and in the future, and (2) the management strategies, including governance and processes, pursued to account for and respond to those risks and opportunities. Disclosure is more transparency, not setting reduction targets.

   The Financial Stability Board, an international entity that monitors and makes recommendations about the global financial system, created the Task Force on Climate-Related Financial Disclosures (TCFD) in 2015, and the TCFD issued a report containing climate-related financial disclosure recommendations in 2017. TCFD is recognized as the primary organizational structure for climate-related risk disclosure nationally and internationally.

   As of 2022, more than 1,000 organizations representing a market capitalization of over $12 trillion have signed on as supporters of the TCFD. A group of more than 450 investors with more than $40 trillion in assets under management known as Climate Action 100+ has committed to getting the world's largest corporate GHG emitters to implement TCFD guidance.

   Many different reporting standards for climate impacts have been established over the years; according to the Principles for Responsible Investment, there are roughly 400 reporting

frameworks that are related to climate. Most of these focus on a company's impact on the climate through their emissions. By recommending companies evaluate what their operations and supply chain look like under a world with 2 degrees of warming (or other scenarios), TCFD encourages companies to think seriously about how the changing climate will affect them as well. What sets TCFD apart is that covers various reporting requirements, therefore minimizes reporting burdens on companies tasked with making financial disclosures related to climate risk, and it provides value to investors seeking to make strategic investments.

3) **Current reporting requirements.** There are several existing, but contextually distinct laws requiring climate-related disclosures.

Under AB 32, the Mandatory Reporting of Greenhouse Gas Emissions regulation (MRR) requires electricity generators, industrial facilities, fuel suppliers, and electricity importers to report GHGs from those major sources to ARB. A summary of reported GHG emissions data reported under MRR are made public each year. ARB implements and oversees a third-party verification program to support the mandatory GHG reporting. All GHG reports subject to the Cap-and-Trade Program must be independently verified by ARB-accredited verification bodies and verifiers.

Under provisions of SB 964 (Allen), Chapter 731, Statutes of 2018, CalSTRS and CalPERS are required to report to the Legislature every three years on their efforts to measure and manage climate-related financial risk in their public market investment portfolios. The most recent report, *Addressing Climate-Related Financial Risk Report* (2022) confirmed, based on the retirement systems' studies, that global economies were accelerating the movement toward reducing and eliminating carbon emissions with many governments, subnational actors, companies, and investors committing to net zero emissions.

In 2020, pursuant to Governor Newsom's Executive Order N-19-19, the California Climate-Related Risk Disclosure Advisory Group (Advisory Group) was created to address and mitigate the impacts of climate change with a focus on identifying the best practices regarding climate-related financial risk disclosures. That group released the report *Developing Climate Risk Disclosure Practices for the State of California* report, which builds upon the framework of the TCFD Task Force and translates the TCFD guidance into a set of recommendations along two pathways: direct expenditures (public works and procurement), and financial asset ownership.

Last March, the U.S. Securities and Exchange Commission (SEC) announced plans to enhance and standardize climate-related disclosures for investors, as part of a growing awareness of the importance of environmental, social & governance (ESG) issues among public companies. The new disclosure rules would require listed companies to not only disclose risks that are "reasonably likely to have a material impact on their business, results of operations, or financial condition," but also "to disclose information about its direct GHG emissions (Scope 1) and indirect emissions from purchased electricity or other forms of energy (Scope 2)," as well as certain types of GHG emissions "from upstream and downstream activities in its value chain (Scope 3)."

Furthermore, there are layers of international standards that impact many of the companies that would be covered under this bill. The International Sustainability Standards Board (ISSB), an independent, private-sector body, developed the IFRS Sustainability Standards that are topic-

specific and require an entity to disclose certain information in respects to climate-related risks and opportunities and will result in a comprehensive global baseline of sustainability disclosures. These were developed in response to a strong desire to address a fragmented landscape of voluntary, sustainability-related standards and requirements that add cost, complexity and risk to both companies and investors. The United Kingdom already requires companies to report their emissions and the European Union will begin requiring companies to track emissions next year and report them in 2025. Further, there is an "alphabet soup" of other climate-related financial disclosure requirements across Europe.

4) **This bill.** It has been reported that companies continue to invest more time, resources, and leadership effort into sustainability; however, there is still a significant disconnect between the expectations and goals of companies and their investors when it comes to corporate and sustainability reporting — in particular, the ESG disclosures that can help companies and their stakeholders to communicate and assess performance against strategic risks and opportunities in multiple dimensions. They find that this disconnect could potentially undermine the smooth running of capital markets, the collective battle against threats such as climate change, and the trust that is necessary between a company and its stakeholders, including customers, employees and communities.

   SB 261 would require more than 10,000 companies with annual revenues exceeding $500 million to detail how climate change poses financial risks to their operations, not just in California, but around the world.

   Under the provisions of the bill, a company would be required to annually report on its climate-related financial risk, consistent with the TCFD framework, and post the disclosure report on its website and submit the report to the SOS. Then ARB, through a contracted climate reporting organization, would generate an annual public report of climate related financial risk based on a subset of companies' reports.

   CalSTRS writes in support that using the TCFD framework as the basis for requiring corporate issuers to provide more comparable disclosures would facilitate CalSTRS' ongoing efforts to more easily compare companies' approach to climate risk management in a timelier fashion, through a common channel and format, and with the same degree of detail. Consistent and complete disclosures about companies' climate-related financial risks would support CalSTRS' work to meet its pledge to achieve a net zero portfolio by 2050 or sooner.

   In light of the growing number of disclosure requirements, the Governor's Advisory Group recommended that the state should establish a continuing internal process that coordinates disclosure efforts across state organizations and incorporates disclosure in other state processes and policies. To that end, to avoid duplicative reporting, the bill provides that if a covered entity has to prepare an annual report disclosing information materially similar to the information described in this bill pursuant to a federal requirement, that entity meets the requirements of this bill.

   While TCFD is the basis for many of the current reporting standards seen around the world, the author may wish to consider supplementing the language in the bill to recognize, in addition to federal regulations, other national and international reporting requirements that provide the data the bill currently covers.

5) **Is stronger oversight needed?** The bill would authorize ARB to impose administrative penalties on a covered entity for failing make a report publicly available on its internet website or for publishing an inadequate or insufficient report.

   The climate reporting organization, when preparing the public report reviewing a subset of industry reports, is required to "identify inadequate or insufficient reports." While the climate reporting organization may be well-equipped to make that identification, the bill leaves ARB in the precarious position of leaning on a third-party to essentially provide that regulatory oversight -- especially when a company could face up to $500,000 in a reporting year for that third party's assessment. Furthermore, the climate reporting organization is only required to review a "subset" of covered entity's reports (and subset is not quantifiably or qualitatively defined) meaning administrative penalties could be unevenly applied since oversight of compliance will not be comprehensive.

   The *author may wish to consider* working with ARB to strengthen its oversight role in the bill.

6) **Clarifying who's responsible for the reporting.** The bill is silent on the role of parent companies and their subsidiaries, making it unclear if a subsidiary that meets the revenue threshold under the bill would have to report, or if only the parent company has to report.

   For instance, Kraft Heinz owns Jell-O, which earned $688 million in 2022 and would be a covered entity. Under TCFD, there is no guidance for distinguishing parent companies from their subsidiaries because the standards were initially written for financial institutions.

   The author may wish to consider whether clarification is needed to decipher who is responsible for TCFD disclosure, and the penalties, under this bill.

7) **Value of disclosure**. Disclosure itself creates transparency that can have myriad benefits, including:

   - Enable more informed government investment – including by CalPERS and CalSTRS, who are under state mandates to consider climate-related financial risk.

   - Reputation enhancement– disclosure builds trust by responding to rising environmental concerns amongst the public.

   - Competitive advantage – disclosure can give a company a performance edge on the stock market and access to capital (California's Greenhouse Gas Reduction Fund resulting from AB 32 has billions in annual investments to make)

   - Uncover risks and opportunities —a company can't change what it doesn't measure.

8) **Opposition concerns.** CalChamber, the California Bankers Association, and many others have expressed concern about the $500 million revenue threshold in the bill, stating that reporting on emissions profile and risk mitigation efforts require fairly advanced analysis and could be quite challenging for smaller companies.

   The TCFD recommends reporting for organizations "that have more than $1 billion U.S. dollar equivalent in annual revenue." The author and sponsors argue that the $500,000 threshold covers an additional 5,000 mid-level companies that do not currently disclose

assessments of climate-related risk, and requiring them to do so benefits the companies themselves as well as investors and policy makers.

9) **Committee amendments.** The *Committee may wish to consider* further clarifying several things in the bill, including:

   a) The applicability of the covered entity's revenue threshold in the bill as being defined by U.S. dollars and based on revenue in the prior fiscal year.

   b) Requiring a climate reporting entity's preparation of an annual public report to be done consistent with evolving Task Force on Climate-Related Financial Disclosures guidance.

10) **Related legislation**.

   a) SB 253 (Wiener) requires all large corporations that do business in California to publicly disclose their GHGs in line with the Greenhouse Gas Protocol. That bill will be heard in the Assembly Natural Resources Committee on July 10.

   b) SB 260 (Weiner, 2022) was nearly identical to SB 253. It failed on the Assembly Floor.

   c) SB 449 (Stern) was nearly identical to SB 261. It was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Humboldt
350 Marin
350 Sacramento
350 South Bay LA
350 Southland Legislative Alliance
350 Ventura County Climate Hub
Active San Gabriel Valley
Alter Eco
Americans for Financial Reform
Avocado Green Brands
Ban Sup (single Use Plastic)
California Environmental Voters
California State Teachers' Retirement System
CALPIRG
Center for Biological Diversity
Ceres
Citizens Climate Lobby Sacramento / Roseville Chapter
Climate 911
Climate Action California
Climate Hawks Vote
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Climate Reality San Fernando Valley, CA Chapter
Coalition for Clean Air
Coastside Jewish Community
Conejo Climate Coalition
Cool Planet Group of First Presbyterian Church, Palo Alto
Culver City Democratic Club
Divest Oregon
DSM North America
East Valley Indivisibles
Elders Climate Action, Norcal and Socal Chapters
Environment California
Everlane
Extinction Rebellion San Francisco Bay Area

Fossil Free California
Friends Committee on Legislation of California
Friends of The Earth
Giniw Collective
Glendale Environmental Coalition
Grove Collaborative
Honor the Earth
Humboldt Unitarian Universalist Fellowship's Climate Action Campaign
Indivisible Alta Pasadena
Indivisible CA Statestrong
Indivisible California Green Team
Leading Change Consulting and Coaching
Microsoft Corporation
Mothers Out Front California
Natural Resources Defense Council
Nextgen California
Oil & Gas Action Network
Patagonia
Peninsula Interfaith Climate Action
Public Citizen
REI
Sacramento Area Congregations Together
San Francisco Bay Physicians for Social Responsibility
Sandiego350
Santa Cruz Climate Action Network
Seventh Generation
Sierra Club California
Sierra Nevada Brewing Company
Socal350 Climate Action
Solano County Democratic Central Committee
SolidarityInfoService
Stand.earth
Sustainable Rossmoor
The Climate Center
The Phoenix Group
Third ACT
Transformative Wealth Management LLC
Trinity Respecting Earth and Environment
Union of Concerned Scientists
Urban Ecology Project
VF Corporation

Opposition

Advanced Medical Technology Association
African American Farmers of California
Agricultural Energy Consumer Association
American Beverage Association
American Composites Manufacturers Association
American Pistachio Growers
Antelope Valley Chambers of Commerce
Auto Care Association
Building Owners and Managers Association
CA Cotton Ginners & Growers Association
California Advanced Biofuels Alliance
California Apartment Association
California Apple Commission
California Asphalt Pavement Association
California Bankers Association
California Blueberry Association
California Blueberry Commission
California Builders Alliance
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Construction and Industrial Materials Association
California Credit Union League
California Date Commission
California Fresh Fruit Association
California Fuels and Convenience Alliance
California Hispanic Chamber of Commerce
California Independent Petroleum Association
California Life Sciences
California Manufacturers & Technology Association
California Poultry Federation
California Retailers Association
California Walnut Commission
Can Manufacturers Institute
Carlsbad Chamber of Commerce
CAWA
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Costa Mesa Chamber of Commerce
Danville Area Chamber of Commerce
Far West Equipment Dealers Association
Greater High Desert Chamber of Commerce

LA Cañada Flintridge Chamber of Commerce and Community Association
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Naiop California
Nisei Farmers League
North San Diego Business Chamber
Oceanside Chamber of Commerce
Olive Growers Council of California
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
PCI West-chapter of The Precast/Prestressed Concrete Institute
Rancho Cordova Chamber of Commerce
Sacramento Regional Builders Exchange
Santa Barbara South Coast Chamber of Commerce
Securities Industry and Financial Markets Association
Southern California Leadership Council
Specialty Equipment Market Association
State Building and Construction Trades Council of CA
Torrance Area Chamber of Commerce
Walnut Creek Chamber of Commerce
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Western States Petroleum Association
Wine Institute

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 306 (Caballero) – As Amended May 18, 2023

SENATE VOTE: 40-0

SUBJECT: Climate change: Equitable Building Decarbonization Program: Extreme Heat Action Plan

SUMMARY: Revises the direct install program that was enacted in the 2022-23 Budget as part of the Equitable Building Decarbonization Program; codifies and requires updates to the Extreme Heat Action Plan (Action Plan).

EXISTING LAW:

1) Requires the California Energy Commission (CEC) to establish the Equitable Building Decarbonization Program, which includes developing a statewide incentive program for low-carbon building technologies and the direct install program to fund certain projects, including installation of energy efficient electric appliances, energy efficiency measures, demand flexibility measures, wiring and panel upgrades, building infrastructure upgrades, efficient air conditioning systems, ceiling fans, and other measures to protect against extreme heat, where appropriate, and remediation and safety measures to facilitate the installation of new technologies. (Public Resources Code (PRC) 25665 *et seq*.)

2) Authorizes CEC to administer the direct install program through regional direct install third-party implementers, as specified. Requires that the direct install program give preference to projects in buildings that meet specified criteria. (PRC 25665.3)

3) Appropriates $1.12 billion to establish the Equitable Building Decarbonization Program, pursuant to the Budget Act of 2022. (AB 179 (Ting), Chapter 249, Statutes of 2022)

4) Appropriates $125 million to establish the extreme heat and community resilience grant program within the Integrated Climate Adaptation and Resiliency Program (ICARP), pursuant to the Budget Act of 2022. (AB 179 (Ting), Chapter 249, Statutes of 2022)

5) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) to be administered by the Office of Planning and Research (OPR) to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as prescribed. (PRC 71354)

6) Requires, by July 1, 2024, and every three years thereafter, the Natural Resources Agency (NRA) to update the state's climate adaptation strategy. (PRC 71153)

7) Establishes an advisory council to the Office of Planning and Research (OPR) to provide scientific and technical support, support OPR's goals, and facilitate coordination among state, regional, and local agency efforts to adapt to climate change. (PRC 71358)

THIS BILL:

1) Codifies the direct install program as a grant program to be administered by the CEC directly or through one or more third-party implementers and makes technical and clarifying revisions to the program.

2) Authorizes CEC, to the extent possible, to allow for the leveraging of complementary programs to maximize potential benefits for an eligible resident, but not to exceed the cost of the project.

3) Requires CEC, by March 1, 2024, and annually thereafter until the funds appropriated have been expended, to submit a report to the relevant policy committees of the Legislature that includes information about the progress of the direct install program, including the selected administrators and implementers and implementation progress, including the number of residents and buildings provided low- and zero-cost projects, the number of each project type implemented, the estimated reductions of the greenhouse gas (GHG) emissions, and the locational distribution of the expenditures by county and region.

4) Requires OPR and NRA, on or before July 1, 2024, and every three years thereafter, in consultation with relevant state agencies and in alignment with the climate adaptation strategy to update the Action Plan Action Plan to promote comprehensive, coordinated, and effective state and local government action on extreme heat. Requires updates to the Action Plan to include:

    a) Review of relevant actions and grants that state agencies have undertaken to mitigate extreme heat and implement the Action Plan;

    b) A description of projects funded by the ICARP Extreme Heat and Community Resilience Grant Program;

    c) A description of the resources, budget allocations, expenditures, and staff dedicated to extreme heat;

    d) A review of state programs that address extreme heat to identify potential gaps or unmet needs in the state's approach that includes recommendations on ways to improve policies, programs, and interagency coordination;

    e) A review of the role of the advisory council in addressing extreme heat, including recommendations on ways to improve its role in implementing the Action Plan, including additional strategies to implement community cooling; and,

    f) A review of efforts to address extreme heat on California's school campuses and recommendations on additional measures to protect pupils and students from the impacts of extreme heat while at school.

5) Requires the Action Plan and any updates to be posted on OPR's website and provided to the relevant policy and fiscal committees of the Legislature.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) NRA estimates ongoing costs of $250,000 annually (General Fund or special fund) for Action Plan updates over time, including activities related to public outreach and engagement, interagency coordination, research, web and graphic design, and communications.

2) OPR estimates ongoing costs of about $200,000 annually (General Fund or special fund) and one position to coordinate with other agencies and provide technical assistance.

3) Unknown, but likely significant ongoing cost pressure, (General Fund, special fund, and bond funds) to implement provisions of the Action plan updates that would be required by this bill.

4) CEC was allocated up to 15% of administrative funds to support its implementation of the Equitable Building Decarbonization Program. This bill would utilize the same funds. The CEC anticipates that staff would need to conduct research and stakeholder engagement, develop programs guidelines and solicitations, prepare annual reports, and evaluate and manage compliance and standards. The CEC notes that administrative funds would be necessary for technology investments and the development of a public user-interface, travel, and contracting support.

COMMENTS:

1) **Building emissions**. According to the Air Resources Board (ARB), residential and commercial buildings are responsible for approximately 25% of California's GHG emissions when accounting for electricity demand, fossil fuels consumed onsite, and refrigerants. Of the 25%, around 10% of emissions are attributable to fossil fuel combustion, including natural gas, with residential buildings accounting for slightly more of those emissions than commercial buildings.

   There are several strategies that can be employed to reduce GHG emissions from the building sector, such as: improved energy efficiency of buildings and appliances, reducing carbon emissions from fossil fuel sources, ensuring cleaner sources of energy to operate buildings and associated appliances, and addressing methane leaks. Refrigerants used for space-cooling and refrigeration systems also contribute directly to building-related GHG emissions and are a growing source of GHGs from buildings. ARB's Scoping Plan for achieving carbon neutrality identifies actions to reduce GHG emissions from the building sector, including progressively improving building codes and standards, pursuing voluntary efforts to exceed code requirements, and completing existing building retrofits.

2) **Equitable Building Decarbonization Program**. The Equitable Building Decarbonization Program was established by AB 209 (Committee on Budget), Chapter 251, Statutes of 2022, to reduce GHG emissions associated with the building sector. The program encompasses the direct install program and a statewide incentive program for low-carbon building technologies. The direct install program provides minimal or no-cost retrofits to low- and moderate-income households, with preference given for buildings located in under-resourced communities, or owned or managed by a California Native American tribe or a member of a California Native American tribe. The retrofits include installation of energy efficient appliances, energy efficiency measures, demand flexibility measures, wiring and panel upgrades, building infrastructure upgrades, efficient air conditioning systems, ceiling fans,

and other measures to protect against extreme heat, where appropriate, and remediation and safety measures to facilitate the installation of new technologies. The statute defines low- and moderate-income residents as those persons and families whose income does not exceed 120% of area median income, adjusted for family size, in accordance with the U.S. Department of Housing and Urban Development. The statute also authorizes the direct install program to include tenant protections for participating rental properties.

3) **Heat**. Average global temperatures have increased with climate change, with the fastest relative increase beginning in the 1980s. According to the National Oceanic and Atmospheric administration, the ten hottest years on record are, in order, 2016, 2020, 2019, 2015, 2017, 2022, 2021, 2018, 2014, and 2010. The Centers for Disease Control and Prevention define extreme heat conditions as weather that is much hotter – and sometimes more humid – than the average for a particular time and place. California informally defines extreme heat days as those above the 98th percentile of maximum temperatures based on 1961-1990 data for a given location's warmest months. For example, in San Francisco the extreme heat day threshold is 85°F, whereas in Los Angeles, it is 91°F.

   Average temperatures in California have been increasing over the past century and heatwaves are becoming more common. Data collected by the National Aeronautics and Space Administration between 1950 and 2000 show that the biggest increases are being observed in southern California, where average temperatures rose by more than 2°F. Ventura County is warming faster than any other county in the continental United States. Further, an Office of Environmental Health and Hazard Assessment report shows that nighttime increases in extreme heat trends are at least two times greater than daytime trends, especially along the central coast as humidity, in part due to ocean warming, increases.

   In California, the statewide average temperature is predicted to increase 1.9°F by 2025, and 4.6°F by 2050. Historically, California experienced an average of four extreme heat days per year; by 2050, extreme heat days are projected to increase to 40-53 annually. Further, heat-health events (HHEs), which better predict risk to populations vulnerable to heat, will worsen drastically throughout the state; by midcentury, the Central Valley is projected to experience average HHEs that are two weeks longer, and HHEs could occur four to ten times more frequently in the Northern Sierra region.

   Dense urban areas, especially in areas with limited tree vegetation, are hotter than coastal and rural areas due to the urban heat island effect. Structures such as roads, pavement, and buildings absorb and re-emit more of the sun's heat than natural landscapes such as forests, parks, or bodies of water. Plants help to reduce temperatures through evaporative cooling and by providing shade. Average daytime temperatures in urban areas are 1-6°F warmer than surrounding areas, but at night that can increase by as much as 22°F as the stored heat is gradually released from buildings and paved surfaces.

   The harmful effects of extreme heat on human health are well known. Extreme heat can exacerbate chronic illnesses and lead to strokes, heat exhaustion, and death; heat causes the most weather-related deaths in the United States. Following a record-breaking 2006 heat wave in the state, more than 16,000 emergency room visits, 1,100 hospitalizations, and 140 deaths were reported. Future increased temperatures are expected to translate to up to 4,300 excess deaths in 2025 and up to 11,300 in 2050, with associated economic costs of up to $84.8 billion per year by 2050. Even small increases in average temperature can have

dramatic impacts on fertility, learning outcomes, job performance, accident rates, quality of sleep, and overall health. Higher nighttime temperatures are particularly concerning because they inhibit people's ability to recover from daytime exposure to heat.

The urban heat island effect increases the health risks associated with extreme heat for populations living in those areas. At the community level, disadvantaged communities in California are not only hotter because they have less access to green spaces, but are at greater risk of negative outcomes from extreme heat because they have less access to air conditioning.

Many other impacts arise from extreme heat events. Increased demand for air conditioning can strain the power supply resulting in blackouts and power outages. Water demand also increases. Agricultural impacts include crop losses, reduced milk and egg production, and livestock illnesses and deaths. Fire risks increase. Damage to roadways, bridges, and other transportation infrastructure may also occur.

4) **The Action Plan**. The Action Plan, *Protection Californian's From Extreme Heat: A State Action Plan to Build Community Resilience*, was released in April of last year by the Governor's Office and served to update to *Preparing California for Extreme Heat Guidance and Recommendations* from 2013. The Action Plan includes an update on actions recommended in 2013 and new actions to further strengthen the state's resilience to extreme heat. Recommended actions are divided into four tracks: build public awareness and notification; strengthen community services and response, increase resilience in our build environment; and, utilize nature-based solutions. Areas of focus in the near term include:

    - Implement a new statewide public health monitoring system to identify heat illness events early, monitor trends, and track illnesses to intervene and prevent further harm;

    - Accelerate readiness and protection of communities most impacted by extreme heat, including through cooling schools and homes, supporting community resilience centers, and expanding nature-based solutions;

    - Protect vulnerable populations through codes, standards, and regulations;

    - Expand economic opportunity and build a climate smart workforce that can operate under and address extreme heat;

    - Increase public awareness to reduce risks posed by extreme heat; and,

    - Protect natural and working lands, ecosystems, and biodiversity from the impacts of extreme heat.

5) **State programs**. ICARP administers the Extreme Heat and Community Resilience Program, which coordinates the state's comprehensive response to this climate impact and builds capacity for heat action planning and project implementation in the most heat-burdened communities by providing funding and technical support. The program also leads implementation of the Action Plan. The Budget Act of 2022 appropriated $25 million for

this program (Chapter 43, Statutes of 2022). The Governor's January 2023 budget proposes an additional $50 million for this program.

ICARP is also coordinating with the California Environmental Protection Agency and others to develop a statewide extreme heat ranking system pursuant to AB 2238 (L. Rivas) Chapter 264, Statutes of 2022.

6) **This bill**. This bill authorizes the use of third-party implementers to help administer the direct install program and award grants to eligible residents. The CEC is proposing three potential regional administrators (in northern, central, and southern California) to provide grants to direct install program throughout the state. This bill gives priority to buildings located in a region where residents are disproportionately vulnerable to climate impacts or disruptions, including extreme heat, wildfires, or poor air quality, in addition to the existing preferences for those located in under-resourced communities or owned by a Native American tribe or member of a tribe. The author intends to support residents that experience extreme heat and other climate disruptions by improving access to the direct install program and including consideration of health, safety, and comfort of residents.

   This bill also codifies the Action Plan and requires that it be updated by July 1, 2024, and at least every three years thereafter. This change will ensure that the state is regularly evaluating its response to extreme heat, which is important given the nine year gap between the 2013 plan and the 2022 plan.

7) **Author's statement**:

   > Our climate is changing, and with devastating consequences. While California has made many investments in programs that combat climate change and rising temperatures, the average Californian living in areas affected by extreme heat is unlikely to experience relief for many years to come. According to research compiled at Public Policy Institute of California, "extreme heat events will become more frequent, more severe, and longer in duration". Exposure to extreme heat can cause existing health problems to become worse, including respiratory and heart conditions, or can bring on serious illnesses, such as heat stroke. Last year, $1.1 billion was allocated to establish a Decarbonization Program at the California Energy Commission, a portion of which will be dedicated to the Direct Install Program to provide minimal to no cost energy efficiency upgrades for low to moderate income residents. SB 306 seeks to update the program to include more structured qualifications to ensure funding is prioritized for those who need it the most- those in extreme heat areas, who are lower income, and otherwise would not be able to make home modifications that will help reduce their energy costs and the drag it creates on grid sustainability. This bill also codifies the state's Extreme Heat Action Plan with required updates every three years to ensure strategies for mitigation to heat impacts are successfully implemented.

Related legislation.

AB 43 (Holden) requires ARB to develop a market-based embodied carbon trading system to facilitate compliance with the state's strategy to reduce the carbon intensity of building materials by 40% by 2035. This bill has been referred to the Senate Environmental Quality Committee.

SB 48 (Becker) requires CEC, in consultation with ARB, California Public Utilities Commission, and Department of Housing and Community Development, on or before July 1, 2026, to develop a strategy using the existing energy usage data found in the benchmarking program requirement to track and manage the energy and GHG emissions of covered buildings in order to achieve the state's energy and climate goals for buildings. This bill is also scheduled to be heard in this committee on July 10th.

SB 755 (Becker) requires CEC to develop a website for energy efficiency and building decarbonization programs available in the state for residential buildings and residential electricity customers. Requires CEC to enable customers to apply for these programs through the website. This bill is also scheduled to be heard in this committee on July 10th.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Sacramento
350 Ventura County Climate Hub
California Community Choice Association
California Interfaith Power & Light
Climate Action California
International Interior Design Association Northern California Chapter
International Interior Design Association Southern California Chapter
Peninsula Interfaith Climate Action
Pioneer Community Energy
Regional Asthma Management and Prevention
SacACT
San Diego 350
Santa Cruz Climate Action Network
SoCal 350 Climate Action
US Green Building Council - Los Angeles

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 353 (Dodd) – As Amended May 25, 2023

SENATE VOTE: 32-8

SUBJECT: Beverage containers: recycling

SUMMARY: Adds large fruit and vegetable juice containers to the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill). Extends the date by which beverage containers for wine, distilled spirits, and large fruit and vegetable juice containers are required to comply with postconsumer recycled content requirements by two years. Authorizes the Department of Resources Recycling and Recovery (CalRecycle) to use either the 3 month average or 12 month average for scrap material values when adjusting quarterly processing payments.

EXISTING LAW establishes the Bottle Bill (Public Resources Code 14500 *et seq*.), which:

1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to CalRecycle for every beverage container sold in the state.

2) Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.

3) Requires CalRecycle to establish a quarterly processing payment for a beverage container covered under the Bottle Bill that has a scrap value less than the cost of recycling, to be determined as specified, that is at least equal to the difference between the scrap value of the material and the sum of the cost of recycling and a reasonable financial return based on the 12 month average scrap value. Establishes a processing fee, paid by beverage manufacturers, intended to cover the cost of recycling the beverage containers they manufacture. Specifies reductions in the fee, known as "offsets," based on the recycling rate of the material and caps the maximum processing fee at 65% of the processing payment.

4) Until January 1, 2024, defines "beverage" as:

    i) Beer and other malt beverages;
    ii) Wine and distilled spirit coolers;
    iii) Carbonated water;
    iv) Noncarbonated water;
    v) Carbonated soft drinks;
    vi) Noncarbonated soft drinks and sports drinks;
    vii) Noncarbonated fruit juice drinks that contain any percentage of fruit juice, as specified;
    viii) Coffee and tea drinks;
    ix) Carbonated fruit drinks; and,

x) Vegetable juice in beverage containers of 16 ounces or less.

5) After January 1, 2024, defines "beverage" as:

i) Beer and other malt beverages;
ii) Wine and distilled spirit coolers;
iii) Carbonated water;
iv) Noncarbonated water;
v) Carbonated soft drinks;
vi) Noncarbonated soft drinks and sports drinks;
vii) Noncarbonated fruit juice drinks that contain any percentage of fruit juice, as specified;
viii) Coffee and tea drinks;
ix) Carbonated fruit drinks;
x) Vegetable juice in beverage containers of 16 ounces or less;
xi) Distilled spirits (including those contained in a box, bladder, or pouch); and,
xii) Wine, or wine from which alcohol has been removed, in whole or in part, whether sparkling or carbonated (including those contained in a box, bladder, or pouch).

6) Defines "beverage container" as the individual, separate bottle, can, jar, carton, or other receptacle in which a beverage is sold, and which is constructed of metal, glass, plastic, or any other material, or any combination of these materials. Specifies that "beverage container" does not include cups or other similar open or loosely sealed receptacles.

7) Requires plastic beverage containers subject to the Bottle Bill to contain the following percentages of postconsumer recycled plastic annually:

a) From January 1, 2022 until December 31, 2024, no less than 15%;

b) From January 1, 2025 until December 31, 2029, no less than 25%; and,

c) On and after January 1, 2030, no less than 50%.

THIS BILL:

1) Removes exemptions for the following beverages beginning January 1, 2026:

a) Vegetable juice in containers larger than 16 ounces; and,

b) 100% fruit juice in containers larger than 46 ounces.

2) Exempts large fruit and vegetable juice containers from the postconsumer recycled content requirements for beverage containers until January 1, 2026.

3) Exempts vegetable juice containers larger than 16 ounces, and 100% fruit juice containers larger than 46 ounces from the Bottle Bill's labeling requirements until July 1, 2025.

4) Exempts wine containers, distilled spirit containers, vegetable juice containers larger than 16 ounces, and 100% fruit juice containers larger than 46 ounces that were filled and labeled before July 1, 2024, from the Bottle Bill's labeling requirements.

5) Authorizes CalRecycle to use the preceding 3-month or 12-month average scrap value, whichever is lower, in their discretionary quarterly processing payment adjustments.

6) Makes technical and conforming changes to existing law.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) Increased revenue, possibly in the millions or tens of millions of dollars annually (Beverage Container Recycling Fund [BCRF]), due to collection of California Redemption Fund (CRV) deposits on newly eligible containers. This revenue would be largely offset by an ongoing cost increase of between roughly $5 million and $10 million annually (BCRF) for additional CRV payouts on these containers if they are redeemed by consumers. Beverage containers currently in the program are recycled at a rate of about 75%. If the containers added by this bill were to be recycled at a similar rate, the net fiscal effect would likely be an increase in revenue in the millions of dollars. Staff note that statewide beverage sales and recycling rates are quite volatile. Therefore, the associated CRV revenue and expenditures would likely vary significantly from year to year.

2) CalRecycle estimates this bill could result in a potential increased payout of $11-$24.5 million more per year (BCRF) for processing payments under the Bottle Bill.

3) CalRecycle anticipates that the workload associated with SB 353 would be absorbable within existing resources.

COMMENTS:

1) **Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provide a consistent, clean, uncontaminated stream of recycled materials with minimal processing.

2) **Eligible beverage containers**. Only certain containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are included. Containers for wine, spirits, milk, fruit juices over 46 ounces, vegetable juice over 16 ounces, and soy drinks have historically been excluded from the program. Container types that are cartons, pouches, and any container that holds 64 ounces or more have also historically been exempted.

   Last year, SB 1013 (Atkins), Chapter 610, Statutes of 2022, amended the program to include wine and distilled spirits, including those contained in boxes, bladders, pouches, or similar containers.

3) **Ways to redeem containers**. Consumers have had four potential options to redeem their empty beverage containers:

a) Return the container to a "convenience zone" recycling center located within ½-mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the BCRF. During 2019-20 fiscal year (FY), convenience zone recyclers redeemed about 30% of beverage containers.

b) Return to a dealer that accepts them. In convenience zones without a convenience zone recycler, beverage dealers, primarily supermarkets, are required to either accept containers for redemption or pay CalRecycle an "in lieu" fee of $100 per day. Few stores accept beverage containers for redemption.

c) Return the container to an "old line" recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services. Traditional recyclers collect a little more than half of all CRV containers (58%).

d) Consumers can also forfeit their CRV and "donate" their containers to residential curbside recycling collection. In the 2019-20 FY, curbside programs collected about 12% of CRV containers. Curbside programs keep the CRV on these containers.

SB 1013 created a new dealer cooperative program beginning January 1, 2025. Under the program, dealers (i.e., certain stores that sell beverage containers) must either take back containers from consumers or join a dealer cooperative. Dealer cooperatives must meet specified statutory and regulatory requirements, including the takeback of all beverage containers within the convenience zone.

4) **Recycling center closures**. The largest challenge facing the Bottle Bill is the closure of recycling centers, which makes it difficult for consumers to redeem the CRV. In August 2019, rePlanet closed all 284 of its recycling centers in California. Before its closure, rePlanet was the largest recycling network in California. Following the closures, rePlanet stated, "With the continued reduction in State fees, the depressed pricing of recycled aluminum and PET plastic, and the rise in operating costs resulting from minimum wage increases and required health and workers compensation insurance, the Company has concluded that operation of these recycling centers is no longer sustainable." In total, more than 1,000 recycling centers have closed since 2013. According to CalRecycle, as of February 26, 2021, there are 1,224 recycling centers in the state. Some counties, such as Trinity, Sierra, and Alpine, have no recycling centers.

Several factors contributed to the closure of these recyclers. Commodity prices have dropped significantly, causing low scrap value for recycled materials. Additionally, the methods to determine processing payments do not accurately reflect the cost of recycling or provide a reasonable financial return. Processing payments also lag behind the steady decline in scrap values. Processing payments are intended to cover the difference between a container's scrap value and the cost of recycling it (including a reasonable rate of return). The calculation to determine the "cost of recycling" does not consider things like transportation costs, putting rural recyclers at a significant disadvantage. Large recyclers that process high numbers of containers generally have lower costs, on average, than smaller centers. Current statute requires CalRecycle to use the average cost of all recycling centers, which results in some centers receiving higher payments than are necessary, while other centers do not receive

enough support to remain in business. The average is also calculated over a 12 month period, which frequently does not reflect the fluctuations in markets.

5) **Author's statement**:

> Today we take a big step toward reducing our waste stream and uplifting our recycling program. Not only does this bill cut the amount of garbage we put into the ground, but it provides a financial lifeline to recyclers and processors by maximizing their options for redeeming deposits on beverage containers. Ultimately, this bill will help us meet our recycling goals.

6) **This bill**. This bill eliminates the large container exemptions for fruit and vegetable juices. Without this change, large fruit and vegetable juice containers would become subject to SB 54 (Allen), Chapter 75, Statutes of 2022, which established sweeping new minimum recycling requirements for single-use plastic packaging and food service ware (covered material), and source reduction requirements for plastic covered material. SB 54 exempts containers subject to the Bottle Bill. Including all fruit and vegetable juice manufacturers in the Bottle Bill program ensures that they are captured by one of the state's robust recycling programs, while allowing them to do so as part of a program that the manufacturers are already familiar with, rather than forming, or joining, a new producer responsibility organization to meet the requirements of SB 54.

This bill also allows CalRecycle to use either the 3-month average cost of recycling or the 12-month average, whichever is lower, when determining the amount of quarterly processing payments for recyclers. This option allows CalRecycle more flexibility to increase, or minimize reductions to, processing payments, depending on the fluctuations in scrap value.

Until January 1, 2026, large fruit and vegetable juice containers would be exempted from the state's postconsumer recycled content requirements under the bill. Additionally, this bill exempts containers included in the Bottle Bill program on January 1, 2024, that are filled and labeled before that date from CRV labeling requirements. This amendment affects more than large fruit and vegetable juice containers; it would also apply to wine and distilled spirits as added to the Bottle Bill program by SB 1013. New fruit or vegetable juice containers added to the program by this bill will have an additional six months, and a newly-included fruit or vegetable juice container that was filled and labeled before July 1, 2024, would be exempt from the labeling requirements. These changes are intended to give manufacturers time to update their labels, but it is likely to result in some confusion for recycling centers who will have to determine what containers are eligible for redemption.

REGISTERED SUPPORT / OPPOSITION:

Support

American Beverage Association
Californians Against Waste
Container Recycling Institute
Republic Services – Western Region
Sunset Recycling

Wine Institute

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 420 (Becker) – As Amended June 30, 2023

SENATE VOTE: 40-0 (not relevant)

SUBJECT: Electricity: electrical transmission facility projects

SUMMARY: Exempts reconstruction of an existing transmission facility, and the construction of a new transmission facility, by an electrical corporation, from the requirement to obtain specified discretionary permits from the Public Utilities Commission (PUC), if the facility meets specified requirements.

EXISTING LAW:

1) Requires, pursuant to the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA includes several statutory exemptions, as well as categorical exemptions in the CEQA Guidelines. (Public Resources Code (PRC) 21000, et seq.)

2) Defines "project" as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, including an activity that involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (PRC 21065)

3) For such projects subject to state agency review, requires the lead state agency to establish time limits that do not exceed one year for completing and certifying EIRs and 180 days for completing and adopting negative declarations. Requires these time limits to be measured from the date on which an application is received and accepted as complete by the state agency. (PRC 21100.2)

4) Requires the CEQA Guidelines to include a list of classes of projects that have been determined by the Secretary of the Natural Resources Agency to not to have a significant effect on the environment and that shall be exempt from CEQA. (PRC 21084)

   The list of "categorical exemptions" includes:

   a) Repair and maintenance of existing public or private facilities, involving negligible or no expansion of use, including existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. (Guidelines 15301)

   b) Replacement or reconstruction of existing facilities on the same site with the same purpose and capacity, including existing utility systems and/or facilities involving negligible or no expansion of capacity. (Guidelines 15302)

c) New construction or conversion of small structures, including electrical, gas, and other utility extensions of reasonable length to serve such construction. (Guidelines 15303)

5) Requires the PUC to certify the "public convenience and necessity" require a transmission line over 200 kilovolts (kV) before an electrical corporation may begin construction (Certificate of Public Convenience and Necessity, or CPCN). The CPCN process includes CEQA review of the proposed project. The CPCN confers eminent domain authority for construction of the project. A CPCN is not required for the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations. (Public Utilities Code (PU Code) 1001)

6) Requires an electrical corporation to obtain a discretionary permit to construct (PTC) from the PUC for electrical power line projects between 50-200 kV. A PTC may be exempt from CEQA pursuant to PUC orders and existing provisions of CEQA. Electrical corporation distribution line projects under 50 kV do not require a CPCN or PTC from the PUC, nor discretionary approval from local governments, and therefore are not subject to CEQA. (PUC General Order (GO) 131-D)

7) Requires the PUC, by January 1, 2024, to update GO 131-D to authorize electrical corporations to use the PTC process or claim an exemption under GO 131-D Section III(B) to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above 200 kV. (PU Code 564)

THIS BILL:

1) Adds "reconstruction" of an existing transmission facility to the list of actions that do not require a CPCN from the PUC pursuant to PU Code 1001.

2) Exempts the construction of a new electrical transmission facility, including lines and substations, by an electrical corporation serving 10,000 or more retail customers, from the requirement to obtain a CPCN, PTC, or any other discretionary permit from the PUC, if the facility meets all of the following requirements:

   a) It will be rated at not more than 138 kV.

   b) It will meet one of the following requirements:

      i) It will be located on a site that has been previously disturbed, including, but not limited to, site clearing, excavating, grading, or other manipulation of the terrain.

      ii) It will be located in an urbanized area, as delineated by the United States Census Bureau.

      iii) It will be part of a project that has undergone review pursuant to CEQA.

   c) It will not be located on any of the following:

      i) A wetland, as defined by the State Water Resources Control Board.

ii) Any unremediated hazardous waste site designated under the federal Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to Health and Safety Code 25356.

iii) A critical habitat as designated by the United States Fish and Wildlife Service pursuant to the federal Endangered Species Act, or habitat essential to the continued existence of an endangered or threatened species as determined by the Department of Fish and Wildlife pursuant to the California Endangered Species Act.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

   Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

   CEQA requires state and local lead agencies to establish time limits of one year for completing and certifying EIRs and 180 days for completing and adopting negative declarations. These limits are measured from the date on which an application is received and accepted as complete by the lead agency. Agencies may provide for a reasonable extension in the event that compelling circumstances justify additional time and the project applicant consents.

   As noted above, electrical transmission line projects are eligible for a number of CEQA exemptions pursuant to the CEQA Guidelines and GO 131-D. Only larger, high-voltage projects over 200 kV, which also require a CPCN, are consistently subject to complete CEQA review, including an EIR. According to PUC data, from 2012 to 2023, 608 projects have been exempted from CEQA, 29 projects have been approved via negative declaration, and 27 have required an EIR.

   GO 131-D specifically addresses the procedures to be followed in applications for siting of electric transmission infrastructure. GO 131-D establishes the distinction in the levels of review based on the voltage level of the project (under 50 kV, 50 to 200 kV, and above 200 kV) as described above. The PUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to CEQA, and (2) the review of project need and costs pursuant to PU Code 1001 et seq. and GO 131-D.

Prior to the adoption of GO 131-D in 1994, the construction of projects below 200 kV did not require utilities to obtain a permit. In GO 131-D, the PUC lowered that threshold to 50 kV, requiring most projects rated between 50-200 kV to obtain a permit to construct.

2) **Author's statement**:

> To meet California's target of 100% clean electricity by 2045, California will need to build out an unprecedented amount of new transmission and distribution capacity to connect the grid to zero emission energy generation. Unfortunately, these lines aren't being built quickly enough to meet California's goals. Prior to the adoption of a 1994 PUC decision, the construction of small-voltage transmission projects below 200 kV did not require utilities to obtain a discretionary permit from the PUC. Today, this discretionary permit exemption is only applied to lines under 50 kV. These permits are applied inconsistently to low-voltage, low-impact transmission lines and result in substantial delays, lawsuits, and project cost increases. SB 420 aims to reduce the time of transmission build-out by reverting this threshold, while still maintaining all other environmental protections provided by the state.

3) **Environmental conditions do not address all of the issues addressed in CEQA review**. This bill includes several environmental conditions, even though PU Code 1001 and the CPCN process have nothing directly to do with environmental review.

   a) The project will be located on previously disturbed land or located in an urbanized area. While these conditions limit some sites, eligible sites may still contain Native American cultural resources, high pollution burdens, or other unique environmental impacts.

   b) The project will be part of a project that has undergone review pursuant to CEQA. There are no explicit exceptions, which might otherwise apply when relying on prior CEQA review, and no deadlines, to assure the prior review is still relevant.

   c) The project will not be located on a wetland, an un-remediated hazardous waste site, or habitat for an endangered or threatened species. These three categories cover some, but not all, of the potentially inappropriate sites for construction of a transmission line.

   These conditions also seem to do nothing to address common impacts of construction, such as air pollution.

4) **How does this bill affect CEQA review**? This bill removes the PUC's discretion, but not the discretion other state and local agencies may have under current law. So the direct effect of the bill seems to be to eliminate the PUC's role as lead agency for eligible projects, and shift that role to another state or local agency that has discretionary review of the project. One effect may be to expose projects to greater litigation risk, as judicial review of PUC decisions, including its CEQA review, is very limited and the litigation rate is relatively low.

5) **Double referral**. This bill has been double-referred to the Assembly Utilities and Energy Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
American Clean Power Association
American Council of Engineering Companies
Bay Area Council
BOMA California
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Construction & Industrial Materials Association
California Grain and Feed Association
California Manufacturers & Technology Association
California Retailers Association
California State Association of Electrical Workers
California Warehouse Association
Carlsbad Chamber of Commerce
Chico Chamber of Commerce
Coalition of California Utility Employees
Edison International and Affiliates, Including Southern California Edison
Elders Climate Action, NorCal and SoCal Chapters
Family Business Association of California
Garden Grove Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Conejo Chamber of Commerce
Greater Escondido Chamber of Commerce
Greater High Desert Chamber of Commerce
Harbor Association of Industry & Commerce
Independent Energy Producers Association
LA Verne Chamber of Commerce
Large Scale Solar Association
Livermore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
NAIOP California
Oceanside Chamber of Commerce
Pacific Gas and Electric Company
Redding Chamber of Commerce
Redondo Beach Chamber of Commerce
San Pedro Chamber of Commerce
Silicon Valley Youth Climate Action
South Bay Association of Chambers of Commerce
Southern California Leadership Council
The Chamber Newport Beach
The Climate Center
Torrance Chamber of Commerce

Vista Chamber of Commerce
Walnut Creek Chamber of Commerce
Waste Management
Western Growers Association

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 423 (Wiener) – As Amended June 30, 2023

SENATE VOTE: 29-5

SUBJECT: Land use: streamlined housing approvals: multifamily housing developments

SUMMARY: Extends and expands by right approval (i.e., not subject to the California Environmental Quality Act (CEQA) or other discretionary review by the relevant city or county) of both affordable and market-rate multifamily housing projects pursuant to SB 35 (Wiener), Chapter 366, Statutes of 2017, including extending the sunset from 2026 to 2036, relaxing specified construction labor requirements, expanding to parcels where parking is a permitted use, and removing the exclusion of the coastal zone.

EXISTING LAW:

1) Allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." (California Constitution, Article XI, Section 7)

2) Establishes Planning and Zoning Law, which requires every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including housing and land use elements, and requires major land use decisions by cities and counties, such as development permitting and subdivisions of land, to be consistent with their adopted general plans. (Government Code (GC) Sections 65000 – 66301)

3) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)

4) Exempts from CEQA any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an EIR has been certified after January 1, 1980, unless substantial changes or new information require the preparation of a supplemental EIR for the specific plan, in which case the exemption applies once the supplemental EIR is certified. (GC 65457)

5) Exempts from CEQA specified residential housing projects which meet detailed criteria established to ensure the project does not have a significant effect on the environment, including:

    a) Affordable agricultural housing projects not more than 45 units within a city, or 20 units within an agricultural zone, on a site not more than five acres in size;

b) Urban affordable housing projects not more than 100 units on a site not more than five acres in size; and,

c) Urban infill housing projects not more than 100 units on a site not more than four acres in size which is within one-half mile of a major transit stop.

(PRC 21159.20-21159.24)

6) Requires metropolitan planning organizations (MPOs) to include a sustainable communities strategy (SCS), as defined, in their regional transportation plans, or an alternative planning strategy (APS), for the purpose of reducing greenhouse gas (GHG) emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies, including CEQA exemption or abbreviated review for residential or mixed-use residential "transit priority projects" if the project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either an approved SCS or APS. (PRC 21155.1)

7) Exempts from CEQA residential, mixed-use, and "employment center" projects, as defined, located within "transit priority areas," as defined, if the project is consistent with an adopted specific plan and specified elements of an SCS or APS. (PRC 21155.4)

8) Exempts from CEQA multi-family residential and mixed-use housing projects on infill sites within cities and unincorporated areas that are within the boundaries of an urbanized area or urban cluster. (PRC 21159.25)

9) The CEQA Guidelines include a categorical exemption for infill development projects, as follows:

a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;

b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;

c) The project site has no value as habitat for endangered, rare, or threatened species;

d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and,

e) The site can be adequately served by all required utilities and public services.

(CEQA Guidelines 15332)

10) Establishes a ministerial approval process for certain multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs. Requires eligible projects to meet specified standards, including paying prevailing wage to construction workers and use of a skilled and trained workforce. Includes exclusions of several types of environmentally sensitive sites, including the entire coastal zone. (GC 65913.4, added by SB 35)

11) Establishes a ministerial approval process for affordable housing projects in commercial zones. Requires eligible projects to pay prevailing wage to construction workers and requires projects of 50 units or more to participate in an apprenticeship program and make specified healthcare contributions for construction workers. The coastal zone is not excluded, but specified height requirements apply and neither the Coastal Act nor the Coastal Commission's land use authority is preempted. (GC 65912.100 et seq., added by AB 2011 (Wicks), Chapter 647, Statutes of 2022)

12) Pursuant to the California Coastal Act of 1976 (Coastal Act):

    a) Regulates development in the coastal zone and requires a new development to comply with specified requirements. (PRC 30000)

    b) Requires any person wishing to perform or undertake any development in the coastal zone, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, to obtain a coastal development permit (CDP). (PRC 30600)

    c) Provides that the scenic and visual qualities of coastal areas must be considered and protected as a resource of public importance. Permitted development must be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. (PRC 30251)

    d) Requires all new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard; assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs; be consistent with requirements imposed by an air pollution control district or the Air Resources Board as to each particular development; minimize energy consumption and vehicle miles traveled; and, where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. (PRC 30253 (f))

    e) Provides that the Legislature finds and declares that it is important for the California Coastal Commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low- and moderate-income in the coastal zone. (PRC 30604 (g))

THIS BILL:

1) Extends the sunset for SB 35 from January 1, 2026 to January 1, 2036.

2) Amends SB 35's labor standards, as follows:

a) Removes the requirement to meet the skilled and trained workforce provisions for any project that does not have floors *used for human occupancy* that are located more than 85 feet above the grade plane.

b) For any project having floors used for human occupancy that are located more than 85 feet above the grade plane, amends the existing workforce provisions as follows:

   i) Removes the requirement that the provisions only apply to projects of 50 units or more in highly populated coastal counties and 25 units or more in other counties, as specified;

   ii) Requires the developer to enter into contracts with the prime contractor to utilize a skilled and trained workforce, as defined, for each scope of construction work, unless:

      I) The prime contractor fails to receive at least three responsive bids that attest to satisfying the skilled and trained workforce requirements; or

      II) All contractors, subcontractors and craft unions performing work on the development are subject to a multi-craft project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure, as specified.

   iii) Requires the prime contractor, except where they fail to receive three bids, to provide an affidavit under penalty of perjury that it will use a skilled and trained workforce, and that the prime contractor obtain from its subcontractors an enforceable commitment to use a skilled and trained workforce for each scope of work.

   iv) Requires subcontractors, if the skilled and trained requirements apply, to provide the prime contractor with:

      I) An affidavit signed under penalty of perjury that a skilled and trained workforce will be employed; and

      II) A monthly compliance report.

   v) Requires the developer, upon issuance of the invitation or bid solicitation for the project, and no less than seven days before the bid is due, to send a notice or solicitation that describes the project to the following entities within the jurisdiction of the proposed project site:

      I) Any bona fide labor organization representing workers in the building and construction trades and the local building and construction trades council; and

      II) Any organization representing contractors that may perform work necessary to complete the project, including any contractors' association or regional builder's exchange.

c) Requires that, for a development of 50 or more housing units, the development proponent must require both of the following:

   i) Contractors and subcontractors with construction craft employees must either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards, as specified, or request the dispatch of apprentices from a state-approved apprenticeship program, as specified; and

   ii) Contractors and subcontractors with construction craft employees must make health care expenditures for each employee, as specified. This requirement is severable from the rest of the bill.

d) Adds the following enforcement requirements:

   i) The obligation of the contractors and subcontractors to pay prevailing wages may be enforced by an underpaid worker through an administrative complaint or civil action, and by a joint labor-management committee through a civil action;

   ii) The requirement to provide health care may be enforced by a joint labor-management cooperation committee, as specified; and

   iii) A locality, and any labor standards enforcement agency the locality lawfully maintains, has standing to take administrative action or sue a construction contractor for failure to comply with this bill.

3) Strikes out SB 35's exclusion of the coastal zone.

4) Applies SB 35 to apply to local governments until they adopt a compliant housing element, as determined by the Department of Housing and Community Development (HCD).

5) Removes the applicability of SB 35 until July 1, 2025 on specified qualified sites located within an equestrian district designated by a general plan or specific or master plan. Specifies that this provision is intended to allow local governments to conduct general plan updates to align it with applicable zoning changes.

6) Provides the following regarding the approval of an SB 35 project:

   a) Requires the governing body of a city or county to hold a public hearing within 45 days of receiving a notice of intent to submit an application pursuant to SB 35, if the proposed project is located in a census tract designated as a moderate or low resource area, or an area of high segregation and poverty, as specified;

   b) The local determination about a project's compliance with the objective planning standards must be made by the local government's planning director or other equivalent position;

   c) All departments of the local government that are required to issue an approval of the development prior to the granting of an entitlement must comply with the requirements of this section within the law's specified time periods;

d) Removes the provision that public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate; and

e) Local governments cannot request studies, information or other materials that are not related to determining whether the development is consistent with the objective standards applicable to a development, nor can the local government require compliance with any standards necessary to receive a post-entitlement permit before the issuance of the project's entitlement.

7) Authorizes the Department of General Services (DGS), at its discretion, to act in the place of a locality or local government, for development on property owned by or leased to the state that is developed pursuant to SB 35.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- HCD estimates minor and absorbable costs for staff to conduct any additional monitoring and enforcement efforts, update guidelines, and provide technical assistance to local agencies and developers. HCD notes that it may require additional resources for the cumulative workload associated with this bill in conjunction with several other measures, should they all be enacted. (General Fund)

- Unknown, potentially significant ongoing costs for the Department of Industrial Relations to conduct oversight and enforcement activities related to prevailing wage and apprenticeship standards on projects constructed pursuant to SB 35 streamlining provisions. There would also be unknown annual penalty revenue gains to partially offset these costs. Actual costs and penalty revenues would depend upon the number of qualifying projects constructed under SB 35 streamlining provisions and the number of complaints and referrals to the Division of Labor Standards and Enforcement that require enforcement actions, investigations, and appeals. (State Public Works Enforcement Fund)

- DGS does not anticipate any fiscal impacts related to provisions that authorize it to act in place of a local agency for development of property on property owned or leased to the state. (General Fund)

- Unknown local costs to update guidance and continue to conduct streamlined project reviews, make determinations, conduct expedited design reviews, and include SB 35 information in annual progress reports. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

COMMENTS:

1) **CEQA exemptions for housing**. CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 14 distinct CEQA exemptions for housing projects. The majority of residential projects are

approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply.

A few existing CEQA exemptions are specific to projects with an affordable housing fraction, the rest are available to affordable and market-rate projects alike. Each exemption includes a range of conditions, including requirements for prior planning-level review, as well as limitations on the location and characteristics of the site. These conditions are intended to guard against the approval of projects with significant environmental impacts that go undisclosed and unmitigated – endangering workers, residents and the greater environment. More recently, bills such as SB 35 and AB 2011 have established ministerial approval for multifamily housing projects, where local discretionary review, including CEQA, is replaced with construction labor requirements, exclusion of specified sensitive sites, and a checklist of "objective" criteria.

2) **Author's statement:**

SB 423 extends the sunset on one of California's most successful housing laws, SB 35, which expedites the approval of new homes. California has failed to create enough housing at all income levels. Currently, California ranks 49th out of 50 states in per capita housing units. The Legislative Analyst's Office recommends the state produce 100,000 units annually beyond the expected 100,000 to 140,000 units per year. To help address this crisis, the Legislature passed SB 35 in 2017. The Terner Center reported that over 18,000 units have been proposed under SB 35, with 13,000 built. Of those proposed, 13,000 are affordable to very low- or low-income categories. The Mission Economic Development Agency utilized SB 35 for a 130-unit, 100% affordable project, and, decreased timelines between 6 months and 1 year. Although the bill has successfully increased affordable housing production, SB 35 under-performed producing market-rate housing, something SB 423 seeks to address.

Without an extension, SB 35 will expire on Jan. 1, 2026. SB 423 extends SB 35 to 2036, keeping a primary mechanism for streamlining housing production in place. This bill also helps California's construction workforce thrive. Construction workers will be protected by the requirement to pay prevailing wages, and on projects over 50 units, contractors must offer apprentices employment and cover health care expenditures. This creates an economic base and opportunities for construction workers and provides our state with the highly skilled workforce it needs to build our future. SB 423 ensures California does not take a step back in addressing the housing crisis, but rather leans in to assist localities in streamlining much needed housing.

3) **Fire hazard severity zone exclusion includes outdated and subjective exemptions**. The site exclusion for high fire hazard severity zones (on page 12, lines 5-15) remains unchanged since SB 35 passed in 2017. However, since SB 35, the authority of local agencies to exempt state-designated fire zones was repealed by AB 2911 (Friedman), Chapter 641, Statutes of 2018. In addition, other housing streamlining bills (including AB 2011 in 2022 and AB 1449 (Alvarez) and AB 1633 (Ting) this year) have not included an exemption based on unspecified "mitigation measures" in this bill. *The author and the committee may wish to consider* amending this provision as follows:

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire

hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. ~~This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.~~

4) **To coast or not to coast**? The Coastal Commission regulates proposed development along the coast and in nearby areas. Generally, any development activity in the coastal zone requires a CDP from the Commission or local government with a certified local coastal program (LCP). Eighty-five percent of the coastal zone is currently governed by LCPs drafted by cities and counties, and certified by the Commission. In these certified jurisdictions, local governments issue the CDP with detailed planning and design standards. There are 14 jurisdictions without LCPs – also known as "uncertified" jurisdictions – where the Commission is still the direct permitting authority. The width of the coastal zone varies, but it can extend up to five miles inland from the shore, including private and public property.

   The original Coastal Act of 1976 included PRC 30213, which stated:

   > *Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided.*

   The definition of low- and moderate-income households was anyone earning up to 120% of the median income, which included about 2/3 of California households at the time.

   In the first five years of the Coastal Act, the Commission successfully required the construction of more than 5,000 affordable, deed-restricted, owner-occupancy and rental units in high-priced areas such as Laguna Nigel, San Clemente, and Dana Point. It also collected about $2 million in in-lieu fees for additional housing opportunities throughout the state.

   Over time, however, many local governments objected to the loss of local control and stated that the Coastal Act's housing policies were preventing them from preparing LCPs. Subsequently, the Legislature passed SB 626 (Mello), Chapter 1007, Statutes of 1981, to remove the housing polices from the Coastal Act and instead provide that "*No local coastal program shall be required to include housing policies and programs."* (PRC 30500.1) That legislation allowed any developer who had not yet completed a coastal housing project to require the Commission to remove the affordable requirements from the permit and prohibited the Commission from requiring local governments to include affordable housing in their LCPs. As a result, affordable housing development waned in the coastal zone.

   Despite this, the Commission has maintained its mandate to protect the coast and, as of 2019, had approved more than 90% of all development applications. In fact, the Coastal Act continues to require the Commission to encourage housing opportunities for persons of low and moderate income. It further prohibits, in reviewing residential development applications for low- and moderate-income housing, the issuing local agency, or the Commission on appeal, from requiring measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional permitted density.

The Commission, in fact, has never denied a single affordable housing project in its history. Furthermore, permit review doesn't appear to be a roadblock to development. In terms of affordable housing project application turnaround times, permits are subject to the Permit Streamlining Act, thus the Commission must comply with those deadlines. Further, the Commission finds 'No Substantial Issue' on most of the appeals received, and turns permit applications around in 49 days.

SB 35 included a blanket exclusion of the coastal zone, and this bill repeals that exclusion. The Coastal Commission is a state agency, with land use authority emanating from the Coastal Act, as well as other authorities delegated by federal law. Review by the Commission (or even a city implementing a LCP) of a CDP application is different than a city reviewing a project under CEQA. GC 65913.4 does not explicitly preempt the Coastal Act, so it's not clear what application of this bill's by right process in the Coastal Zone means and how it would (or wouldn't) work.

Regardless, advocates on both sides are now fighting over whether this bill should exclude or include the coastal zone. If the bill passes in its current form, and developers attempt to build by right in the coastal zone, the fight is likely to extend to the Commission and/or the courts. Whether one thinks protecting public access or unchecked development better serves the coast, removing the coastal zone exclusions without addressing the unique complications of coastal land use is hardly a recipe for streamlining.

In the absence of a compromise, *the author and the committee may wish to consider* restoring the coastal zone exclusion, as follows:

> 65913.4(a)(6)(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

5) **Other loose ends**. This bill has also drawn concerns from a range of environmental justice, housing justice, and other community groups regarding gentrification, displacement, inadequate affordability requirements, locating housing in hazardous areas, inadequate/subjective cleanup standards for toxic sites, and lack of community input in the development process.

   All of this is an expected consequence of the by right process, which eliminates not only CEQA review, but other forms of public consultation regarding individual development projects, and may also disregard prior community planning work. Many of these concerns could be addressed by limiting by right eligibility, particularly for market-rate projects, to sites covered by, and consistent with, an HCD-approved housing element (as many of the issues listed above would have been addressed at the community level in the housing element process).

   An additional issue has been raised regarding June 19 author's amendments, which changed the 85 foot threshold for skilled and trained construction labor requirements as follows:

   > (F) For any project ~~over 85 feet in height above grade,~~ *having floors used for human occupancy that are located more than 85 feet above the grade plane*, the following skilled and trained workforce provisions apply:

The effect of this change is that only the residential stories built above parking or retail levels, for example, will count toward the 85 foot limit. This represents a substantial change in the effect of this provision, added by May 23 Senate Appropriations Committee amendments.

6) **Double referral**. This bill was approved by the Assembly Housing and Community Development Committee on June 28, 2023 by a vote of 7-1.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Abundant Housing LA
Active San Gabriel Valley
Associated General Contractors of California
Bay Area Council
Build Casa
California Apartment Association
California Catholic Conference
California Community Builders
California Community Economic Development Association
California Housing Consortium
California Housing Partnership Corporation
California State Council of Service Employees International Union
California YIMBY
Carpenter Local Union 1599
Carpenters Local 152
Carpenters Local 22
Carpenters Local 35
Carpenters Local 701
Carpenters Local Union #1109
Carpenters Local Union 1789
Carpenters Local Union 2236
Carpenters Union Local 180
Carpenters Union Local 217
Carpenters Union Local 405
Carpenters Union Local 46
Carpenters Union Local 505
Carpenters Union Local 605
Carpenters Union Local 713
Carpenters Union Local 751
Central City Association
Central Valley Urban Institute
Chico Councilmember Addison Winslow
City of Bakersfield
City of Berkeley Councilmember Rashi Kesarwani
City of Buena Park Council Member José Trinidad-Castañeda
City of Gilroy Council Member Zach Hilton

City of Mountain View Council Member Emily Ramos
City of Mountain View Council Member Lucas Ramirez
City of Santa Monica Council Member Jesse Zwick
City of Santa Monica Councilmember Gleam Davis
City of Sunnyvale Council Member Richard Mehlinger
City of Ventura Councilmember Mike Johnson
CivicWell
Community Coalition
Construction Employers' Association
Council of Infill Builders
Culver City for More Homes
Cupertino for All
Dignitymoves
District Council of Plasterers and Cement Masons of Northern California
Drywall Lathers Local 9109
Drywall Lathers Union Local 9068
Drywall Lathers Union Local 9083
Drywall Local Union 9144
East Bay for Everyone
East Bay Housing Organizations
East Bay YIMBY
Eastside Housing for All
Episcopal Communities Services
Episcopal Community Services of San Francisco
Fieldstead and Company
Fremont for Everyone
Greenbelt Alliance
Grow the Richmond
Habitat for Humanity California
Housing Action Coalition
How to ADU
Icon CDC
Inclusive Lafayette
Inner City Law Center
LeadingAge California
League of Women Voters of California
LISC San Diego
Livable Communities Initiative
Los Altos City Council Member Jonathan Weinberg
Los Angeles Area Chamber of Commerce
Mayor of City & County of San Francisco London Breed
Menlo Park Mayor Jen Wolosin
Mercy Housing California
Meta
MidPen Housing
Millwrights Local 102
Milpitas Councilmember Anthony Phan
Mothers Out Front California
Mountain View YIMBY

Napa-Solano for Everyone
Neighborhood Housing Services of Los Angeles County
New Way Homes
Nor Cal Carpenters Union
Northern Neighbors
Northern Neighbors SF
Passive House California
PATH (People Assisting the Homeless)
Peninsula for Everyone
Peninsula Interfaith Climate Action
People for Housing - Orange County
Pile Drivers Local 34
Place Initiative
Progress Noe Valley
Redwood Coalition for Climate and Environmental Responsibility
Resources for Community Development
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Silicon Valley Community Foundation
Silicon Valley Leadership Group
South Bay YIMBY
Southern California Association of Non-profit Housing
Southside Forward
Southwest Mountain States Regional Council of Carpenters
Streets for All
Streets for People
Sunnyvale City Council Member Alysa Cisneros
Supervisor Jaron Brandon, Tuolumne County
Supportive Housing Alliance
Sustainable Growth Yolo
The Pacific Companies
The Passive House Network
United Contractors
United Way of Greater Los Angeles
Urban Environmentalists
Urban League of San Diego County
Valley Industry and Commerce Association
Ventura County YIMBY
Wall and Ceiling Alliance
West Hollywood Mayor Pro Tempore John M Erickson
Western Wall and Ceiling Contractors Association
Westside for Everyone
YIMBY Action
YIMBY Democrats of San Diego County

Opposition

Association of California Cities – Orange County
California Cities for Local Control
California Contract Cities Association
Catalysts for Local Control
City of Beverly Hills
City of Camarillo
City of Carlsbad
City of Carson
City of Chino
City of Corona
City of Del Mar
City of Eastvale
City of Elk Grove
City of Fairfield
City of Indian Wells
City of Jurupa Valley
City of Laguna Niguel
City of Norwalk
City of Ontario
City of Palo Alto
City of Pleasanton
City of Rancho Cucamonga
City of Rancho Palos Verdes
City of Rosemead
City of San Marcos
City of Santa Clarita
City of Simi Valley
City of Stockton
City of Thousand Oaks
City of Torrance
City of Wildomar
League of California Cities
Livable California
Marin County Council of Mayors and Councilmembers
Midcoast Community Council
Pacific Palisades Community Council
San Francisco Latino Task Force
San Gabriel Valley Council of Governments
State Alliance for Firesafe Road Regulations
Sunnyvale United Neighbors
Sustainable Tamalmonte
Town of Truckee
West Torrance Homeowners Association
Western Regional Advocacy Project

Oppose Unless Amended

Azul
Ballona Wetlands Institute

California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
California Environmental Justice Alliance Action
Calle 24 Latino Cultural District
Center for Biological Diversity
Chinatown Community Development Center
Citizens Preserving Venice
City of Dublin
City of Half Moon Bay
City of Livermore
City of San Ramon
Coalition on Homelessness, San Francisco
Coastal Environmental Rights Foundation
Coastal Lands Action Network
Communities for a Better Environment
Crenshaw Subway Coalition
Defend Ballona Wetlands
Endangered Habitats League
Environmental Action Committee of West Marin
Environmental Center of San Diego
Environmental Justice Coalition for Water
Friends, Artists and Neighbors of Elkhorn Slough
Housing Rights Committee of San Francisco
Mission Economic Development Agency
Ocean Conservation Research
Orange County Coastkeeper
Poder
Public Trust Alliance
Resource Renewal Institute
San Francisco Community Land Trust
Save Capp Street
Sierra Club California
Smith River Alliance
SoCal 350 Climate Action
Soma Pilipinas Filipino Cultural Heritage District
Surfrider Foundation
The River Project
Town of Danville
Turtle Island Restoration Network
United to Save the Mission
Young Community Developers

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 425 (Newman) – As Amended June 20, 2023

SENATE VOTE: 38-1

SUBJECT: Clean Vehicle Rebate Project: fuel cell electric pickup trucks: battery electric pickup trucks

SUMMARY: Requires the State Air Resources Board (ARB) to provide specified rebates for zero-emission pickup trucks under the Clean Vehicle Rebate Project (CVRP).

EXISTING LAW:

1) Requires ARB, pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to reduce GHGs to 40% below 1990 levels by 2030 and to 85% below 1990 levels by 2045. (Health & Safety (HSC) Code 38500 *et seq*)

2) Provides the Public Utilities Commission (PUC) with authority to establish a renewable portfolio standard (RPS) requiring all retail sellers to procure 100% of California's electricity retail sales and electricity procured to serve state agencies by 2045. (Public Utilities Code 399.11)

3) Establishes the Charge Ahead California Initiative pursuant to SB 1275 [(de León), Chapter 530, Statutes of 2014], that, among other things, includes the goal of placing at least one million ZEV and near-zero emission vehicles into service by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-income, and moderate income communities and consumers. (HSC 22458)

4) Establishes the goal of the state that 100% of in-state sales of new passenger cars and trucks will be zero-emission by 2035. (Executive Order (EO) No. N-79-20)

5) Establishes the Air Quality Improvement Program (AQIP), administered by ARB in consultation with local air districts, to fund programs that reduce criteria air pollutants, improve air quality, and provide research for alternative fuels and vehicles, vessels, and equipment technologies. (HSC 44274)

6) Establishes the CVRP as a part of AQIP to expand financing mechanisms, including, but not limited to, a loan or loan-loss reserve credit enhancement program to increase consumer access to zero-emission and near-zero-emission vehicle financing and leasing options that can help lower expenditures on transportation and prequalification or point-of-sale rebates or other methods to increase participation rates among low- and moderate-income consumers. (HSC 44274.9(e)(1)(2))

THIS BILL:

1) Requires ARB to provide rebates for zero-emission pickup trucks under the CVRP as follows:

   a) Fuel cell electric pickup trucks shall receive rebates that are $2,500 more than the rebates provided for other fuel cell electric vehicles (FCEV).

   b) Battery electric pickup trucks shall receive rebates that are $2,500 more than the rebates provided for other battery electric vehicles.

2) Defines "pickup truck" as a motor truck with a manufacturer's gross vehicle weight rating of less than 11,500 pounds, an unladen weight of less than 8,001 pounds, and which is equipped with an open box-type bed not exceeding 9 feet in length (same as it is defined in Vehicle Code 471).

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would result in unknown, potentially significant ongoing cost pressure (Air Quality Improvement Fund, Greenhouse Gas Reduction Fund, General Fund) on the CVRP due to the increase in program payments for zero emission pickup trucks.

COMMENTS:

1) **Author's statement:**

   > With a quarter-million new pickup trucks registered in California in 2022 alone, pickup trucks are a prime example of a vehicle class in high demand, but desperately in need of zero-emission options. If California hopes to realistically meet its aggressive decarbonization goals, the state must update its existing market incentive – the CVRP – to align with and encourage private sector development of zero-emission pickup trucks consumers demand. The passage and implementation of [this bill] will enable California to move that much more quickly in ensuring that hardworking Californians can and will participate in this critical transition.

2) **Zero Emission Vehicles**. ZEV is an umbrella term for hydrogen FCEVs, battery electric vehicles (EVs), and plug-in hybrid electric vehicles (PHEVs). California has some of the most ambitious GHG reduction goals in the nation, which include goals to reduce petroleum use in California up to 50% from 2015 levels by 2030, phase out passenger combustion-engine cars by 2035, and reduce GHG emissions 85% below 1990 levels by 2045. The transportation sector represents about 40% of California's total GHG emissions portfolio, and replacing traditional gas-powered cars with ZEVs is a significant part of California's effort to reduce climate emissions.

   The state's ZEV program is designed to achieve the state's long-term emissions reduction goals by requiring manufacturers to offer sale specific numbers of the cleanest car technologies available, which include EVs, FCEV, and PHEV. The ZEV regulation was first adopted in 1990 and has been amended many times since. At the time of adoption, ARB required that 2% of the vehicles that large manufacturers produced for sale in California in 1998 had to be ZEVs increasing to 5% in 2001 and 10% in 2003. The tiered compliance timeline was eventually replaced, and in 2012, ARB adopted the Advanced Clean Cars

Program, which required more substantial and longer-term requirements for the deployment of ZEVs that are more than 10% of new vehicle sales by 2025.

In 2020, Governor Newsom's ZEV EO N-79-20 set ZEV targets to have 100% of in-state sales of new passenger cars and light-duty trucks be zero emission by 2035; 100% zero-emission medium and heavy-duty vehicles in the state by 2045, where feasible, and by 2035 for drayage trucks; and, 100% zero-emission off-road vehicles and equipment operations by 2035, where feasible. Following that EO, ARB developed a year-by-year roadmap so that by 2035 100% of new cars and light trucks sold in California will be ZEV.

State air-quality officials say they are confident that manufacturers can scale up to meet the deadlines. California is already two years ahead of schedule in achieving its 2025 target of selling 1.5 million ZEVs.

The two top-selling vehicles for 2022 in California were EVs — the Tesla Model Y (an SUV) and the Tesla Model 3 (sedan), illustrating the reasonable optimism for meeting the state's ambitious goals. Recent data show that California, with only 10% of the nation's cars, now accounts for more than 40% of all ZEVs in the country.

3) **CVRP rebates**. The CVRP offers rebates up to $7,500 on a first-come, first-served basis for the purchase or lease of a new EV, PHEV, or FCEV. Rebates are available to California residents that meet income requirements and purchase or lease an eligible vehicle. To-date, more than 30,000 low-income consumers have been assisted under CVRP. Since its inception, the state has awarded more than $1 billion through CVRP resulting in the purchase of more than 500,000 vehicles. Battery electric vehicles made up 68% of rebates, PHEVs are 29%, and FCEVs are 2%. One study cited a statistic that more than 50% of ZEV purchasers would not have purchased a ZEV without a state rebate.

   SB 1275 required ARB to adopt CVRP criteria that phase down rebate amounts as cumulative sales increase. SB 1275 also directed ARB to assess when the state can expect a self-sustaining ZEV market. In consultation with academia and stakeholders, ARB defined a self-sustainable ZEV market as a market where broad incentives are not required to increase ZEV adoption. In 2016, CARB determined that self-sustainability would occur when California new ZEV sales reach 16% to 20% of total new car sales. In April 2023, ZEVs made up 21% of California new car sales. Reaching the self-sustaining target indicator, combined with new ZEV sales regulations, signal an end for CVRP. At the May 30th Implementation Work Group on CVRP, ARB announced that CVRP is projected to run out of funds by October or November of this year. With no new funding proposed for CVRP in this year's budget at the time this analysis was written, the program will end during the 2023-24 fiscal year.

4) **CVRP rebates for pickup trucks.** CVRP does not currently provide different rebate levels for cars versus trucks. There is only one commercially available battery electric pickup truck— the Ford F-150 Lightning. (Rivian R1T and the Tesla Cybertruck are available for preorder.)

   These vehicles' high upfront price tags make them ineligible for both federal and state incentives. Currently, Ford's truck models range from $59,974 to $98,070; the Rivian is

more than $70,000; and, the Tesla truck is ostensibly going to be around $45,000. To qualify, cars must have a price tag less than $45,000, and trucks or larger SUVs less than $60,000.

Under this bill, battery electric pickup trucks like the Ford F-150 Lightning would receive rebates that are $2,500 more than the rebates provided for other EVs, which would help offset the steep price tag and make it more affordable if federal tax credits are inaccessible.

The bill would also make FCEV pickup trucks eligible for rebates that are $2,500 more than the rebates provided for other FCEVs. The FCEV pickup truck concept is at different stages of being explored by a few manufacturers, and commercial availability is several years away, at least.

FCEVs don't emit exhaust, hence they are ZEVs, but there is associated pollution with the hydrogen production as it is typically derived from reformed natural gas. (Ninety six percent of the hydrogen today is considered to be gray hydrogen, which is produced by heating natural gas, or methane, with steam to form syngas. This process results in a relatively high release of GHGs.)

While electric vehicles bear the same burden of pollution from the energy source – i.e. an EV is only as clean as the electricity powering it – California's aggressive renewable portfolio standard has the state on track to achieve 100% clean energy by 2045.

Meanwhile, the Legislature is debating the merits of what constitutes "clean" hydrogen.

Further, California is the fifth largest economy in the world, and our policy and economic investments often drive momentum across global markets, but that has not been the case for FCEVs. To-date, the California Energy Commission has spent 28 times more in hydrogen infrastructure per FCEV over battery-powered ZEVs, yet FCEVs represent less than 1% of all ZEVs sales. The Economist reported earlier this year that major auto manufacturers are pivoting away from FCEV and building upon the wave of battery-powered ZEVs.

5) **If you build it, will they come?** The intent of ARB's various ZEV rebate programs is to incentivize consumers to purchase ZEVs by offsetting the high price of an emerging technology until the market has leveled off making ZEVs are more comparable in cost to combustion-engine vehicles. The program also worked in tandem with polies on global automakers to sell specified percentages of ZEVs in California.

   CVRP has been successful in hitting that mark – both for consumers to increase demand and for manufacturers to meet that demand. But not for consumer pickup trucks. If incentives are made available for electric and FCEV passenger trucks, will more models become available on the market and will consumers buy them?

   According to data from April 2023, pickup trucks account for 11.7% of all vehicles on the road in California, which means there is a huge chunk of transportation-sector GHGs available to displace with EVs – perhaps if the state can help facilitate.

   The California Electric Transportation Coalition writes in support of the bill that "it is more difficult to persuade customers to adopt zero-emission technologies in the larger vehicle sectors, and as such, we support an added incentive to incentivize the purchase of zero emission pick-up trucks."

Alternatively, Plug In America recommends "prioritizing efficient electrification solutions that can help foster the EV industry in the long-term and make the transition to clean transportation more accessible." Larger vehicles like pickup trucks require larger batteries to power them and therefore are more resource intensive than smaller cars. Additionally, because of their weight, larger vehicles cause more wear and tear on roads and infrastructure.

6) **Funding**. The 2022-23 Budget Act included $6.1 billion for new zero-emission transportation investments over four years. Of these investments, $4.2 billion was appropriated to ARB and the California Energy Commission for heavy duty zero-emission technology advancement and to expand investments in passenger vehicle incentives and infrastructure.

   This year, the state is facing a $30 billion budget deficit and the Governor's budget is proposing significant cuts across the board for the state's climate investments and environmental programs, including $6 billion in cuts to last year's 5-year climate spending plan. However, the Governor overall proposes maintaining $8.9 billion, or 89%, of intended funding for ZEV programs across the 5years. While the Governor does propose to maintain the full funding amount for the Clean Cars 4 All program ($656 million), CVRP is anticipated to run out of money before this bill would go into effect.

7) **Double referral**. This bill passed the Assembly Transportation Committee on June 26 by a vote of 14-0.

REGISTERED SUPPORT / OPPOSITION:

Support

California Electric Transportation Coalition
California Fuels and Convenience Alliance

Opposition

Climate Action California
Plug in America
Santa Cruz Climate Action Network
The Climate Reality Project: Silicon Valley

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 508 (Laird) – As Amended May 9, 2023

SENATE VOTE: 36-0

SUBJECT: Cannabis: licenses: California Environmental Quality Act

SUMMARY: Relieves the Department of Cannabis Control (DCC) of its duty to act as a responsible agency under the California Environmental Quality Act (CEQA) in connection with the issuance of a cannabis license if a local lead agency has taken specified actions under CEQA.

EXISTING LAW:

1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. When a project is approved or carried out by a local agency, requires the local agency to file a notice of determination with the county clerk of each county in which the project will be located, as well as with the Office of Planning and Research (OPR). (Public Resources Code (PRC) 21000, et seq.)

2) Defines "responsible agency" as a public agency, other than the lead agency, which has responsibility for carrying out or approving a project. (PRC 21069)

3) Section 15096 of the CEQA Guidelines outlines the duties of a responsible agency as follows:

    a) General. A responsible agency complies with CEQA by considering the EIR or negative declaration prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved. This section identifies the special duties a public agency will have when acting as a responsible agency.

    b) Response to Consultation. A responsible agency shall respond to consultation by the lead agency in order to assist the lead agency in preparing adequate environmental documents for the project. By this means, the responsible agency will ensure that the documents it will use will comply with CEQA.

        i) In response to consultation, a responsible agency shall explain its reasons for recommending whether the lead agency should prepare an EIR or negative declaration for a project. Where the responsible agency disagrees with the lead agency's proposal to prepare a negative declaration for a project, the responsible agency should identify the significant environmental effects which it believes could result from the project and recommend either that an EIR be prepared or that the project be modified to eliminate the significant effects.

        ii) As soon as possible, but not longer than 30 days after receiving a notice of preparation from the lead agency, the responsible agency shall send a written reply by

certified mail or any other method which provides the agency with a record showing that the notice was received. The reply shall specify the scope and content of the environmental information which would be germane to the responsible agency's statutory responsibilities in connection with the proposed project. The lead agency shall include this information in the EIR.

c) Meetings. The responsible agency shall designate employees or representatives to attend meetings requested by the lead agency to discuss the scope and content of the EIR.

d) Comments on Draft EIRs and Negative Declarations. A responsible agency should review and comment on draft EIRs and negative declarations for projects which the responsible agency would later be asked to approve. Comments should focus on any shortcomings in the EIR, the appropriateness of using a negative declaration, or on additional alternatives or mitigation measures which the EIR should include. The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency. Comments shall be as specific as possible and supported by either oral or written documentation.

e) Decision on Adequacy of EIR or Negative Declaration. If a responsible agency believes that the final EIR or negative declaration prepared by the lead agency is not adequate for use by the responsible agency, the responsible agency must either:

   i) Take the issue to court within 30 days after the lead agency files a notice of determination;

   ii) Be deemed to have waived any objection to the adequacy of the EIR or negative declaration;

   iii) Prepare a subsequent EIR if permissible under Section 15162; or

   iv) Assume the lead agency role as provided in Section 15052(a)(3).

f) Consider the EIR or Negative Declaration. Prior to reaching a decision on the project, the responsible agency must consider the environmental effects of the project as shown in the EIR or negative declaration. A subsequent or supplemental EIR can be prepared only as provided in Sections 15162 or 15163.

g) Adoption of Alternatives or Mitigation Measures.

   i) When considering alternatives and mitigation measures, a responsible agency is more limited than a lead agency. A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.

   ii) When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. With respect to a project

which includes housing development, the responsible agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

h) Findings. The responsible agency shall make the findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 if necessary.

i) Notice of Determination. The responsible agency should file a notice of determination in the same manner as a lead agency under Section 15075 or 15094 except that the responsible agency does not need to state that the EIR or negative declaration complies with CEQA. The responsible agency should state that it considered the EIR or negative declaration as prepared by a lead agency.

4) Establishes DCC within the Business, Consumer Services, and Housing Agency (previously established as the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation), for purposes of administering and enforcing the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Provides DCC with authority for issuing twenty total types of cannabis licenses, including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness. Requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. Prohibits DCC from approving an application for a state cannabis license if approval of the state license will violate the provisions of any local ordinance or regulation. (Business and Professions Code (BPC) 26000, et seq.)

5) Until June 30, 2022, gave DCC discretion to issue provisional licenses to applicants who are not yet in compliance with CEQA but who provide evidence that compliance is underway, with specific criteria for demonstrating progress. Declares the intent of the Legislature that no further exemptions from annual licenses be adopted and that any licenses issued after January 1, 2025, be issued in compliance with all relevant environmental laws. (BPC 26050.2)

THIS BILL provides, notwithstanding any other law, that DCC is not required to serve as a responsible agency under CEQA in connection with the issuance of a license pursuant to MAUCRSA, if all of the following criteria are met:

1) A local jurisdiction, acting as lead agency under CEQA, has filed either of the following with OPR upon a decision to carry out or approve a commercial cannabis activity for which the applicant is seeking a license from DCC:

   a) A notice of determination for the commercial cannabis activity, following the adoption of a mitigated negative declaration.

   b) A notice of determination for the commercial cannabis activity, following certification of an EIR.

   c) A notice of exemption for a retail commercial cannabis project.

2) The commercial cannabis activity for which the applicant is seeking a license from DCC conforms to the scope of the commercial cannabis activity analyzed by the local jurisdiction under CEQA.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Background**. CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

   Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

   CEQA actions taken by public agencies, including improperly claiming an exemption, can be challenged in superior court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations – challenges of CEQA decisions generally must be filed within 30 to 35 days, depending on the type of decision.

2) **Cannabis regulation and CEQA**. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created apprehension within California's cannabis community.

   After several prior attempts to improve the state's regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act – subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA) – in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation

of the state's cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented. One of the explicit promises of Proposition 64 was to comply with CEQA and other environmental laws.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill – known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) – created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities – the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health – officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities' cannabis programs. Since July 1, 2021, DCC has been the single entity responsible for administering and enforcing the majority of MAUCRSA.

Language included in MAUCRSA authorized the state's cannabis licensing authorities to issue four month "temporary licenses" to applicants, which could be extended in 90-day increments. These temporary licenses allowed businesses to engage in commercial cannabis activity under state approval while local governments established their own local authorization processes and reviewed applications for local approval. Temporary licenses were issued without any fees and temporary licensees did not have access to the state's track and trace system.

While the intent of MAUCRSA was to transition businesses to full annual licensure no later than December 31, 2018 – at which time temporary license authority was scheduled to expire – many local jurisdictions struggled to launch their approval programs. For example, by August of 2018, Humboldt County regulators had received 2,376 permit applications and only approved 240. Some jurisdictions issued temporary or provisional local permits, but had not completed the full process for local permitting. One of the issues behind the delay with local authorization was the requirement that a "complete" application include evidence of compliance with CEQA.

To transition away from temporary licensure while local authorization issues remained unresolved, the Legislature passed SB 1459 (Cannella) in 2018, which instead established a

"provisional license" scheme. Unlike temporary licenses, provisional license holders must pay a fee, comply with track and trace requirements, and meet additional responsibilities under MAUCRSA. However, provisional licensure did not require proof of CEQA compliance.

Provisional license authority was originally scheduled to sunset on January 1, 2020; this was subsequently extended to January 1, 2022 by AB 97 (Committee on Budget). Among other things, AB 97 required evidence of progress toward compliance with CEQA. However, with the sunset approaching in 2021, little progress had been shown and SB 166 (Committee on Budget and Fiscal Review) further extended the expiration date for extension of existing provisional licenses, prohibiting DCC from renewing a provisional licenses after January 1, 2025 and sunsetting the provisional licensing program on January 1, 2026. SB 166 also included the following:

> *It is the intent of the Legislature that no further exemptions from annual licenses be adopted and that any licenses issued under this division after January 1, 2025, be issued in compliance with all relevant environmental laws.*

3) **Author's statement**:

> As the legal cannabis market struggles, we must ensure those coming into the legal market transition from provisional licenses to annual licenses with ease. To aid this transition, Senate Bill 508 streamlines the review and approval of cannabis licenses by eliminating a redundant review after a local jurisdiction completes CEQA. A robust CEQA review by local jurisdictions will remain a vital piece to obtain an annual license, and DCC will continue to complete CEQA review where local approval of a project is ministerial. The additional time and resources spent by applicants and DCC staff during this duplicative process slows licensure. Streamlining this process will improve the transition of provisional licenses to annual licenses. Shortening the time it takes to issue annual licenses will help ensure those in the legal cannabis market remain.

4) **Does the filing of a notice by a local agency always mean a project has been properly reviewed under CEQA**? While local CEQA review may well be adequate, CEQA procedures for cannabis projects vary widely by county. The 2019 and 2021 budget discussions over extension of provisional licenses revealed very inconsistent approaches to CEQA review in different counties. Relying on local agency review is unlikely to produce consistent results.

   This bill will eliminate DCC's role of responsible agency when a local lead agency has certified an EIR, adopted a negative declaration, or, for retail licenses, approved an exemption from CEQA, and filed the applicable notice with OPR.

   The premise of the bill is that DCC review is a waste of time and resources, and doesn't add any value. However, unconditionally relying on local CEQA reviews that are known to be inconsistent does not seem in keeping with Proposition 64's lofty promises regarding environmental protection. No evidence, such as specific cases or data regarding the number and length of DCC's CEQA reviews, has been offered to demonstrate that DCC's work as a responsible agency is burdensome or duplicative.

5) **Why doesn't DCC want to act as a responsible agency**? Responsible agency review is a normal part of the CEQA process. It should not be considered or implemented to duplicate the lead agency's review. As noted above, Section 15096 of the CEQA Guidelines outlines several responsible agency duties, some occurring during the lead agency's review, and others, such as determining the adequacy of an EIR or negative declaration, occurring after the lead agency is finished. The author and DCC did not respond to the committee's request to identify which of the several responsible agency duties DCC should not perform.

6) **Are we talking about the same project**? CEQA applies to "projects," which must be clearly defined. A distinct CEQA project is what would be covered by the notice of determination, and by the CEQA review itself. This bill eliminates DCC's responsible agency duties for activities that "conform with the scope" of license application, which makes it unclear whether the application before DCC is actually the same project that was reviewed by the local agency.

7) **Prior legislation**. SB 1148 (Laird, 2022) exempted the issuance of a state license for a commercial cannabis project from CEQA if the project was subject to specified CEQA review by a local lead agency. SB 1148 passed this committee with amendments, but was not heard in the Assembly Appropriations Committee.

8) **Double referral**. This bill was approved by the Assembly Business and Professions Committee on June 20, 2023 by a vote of 19-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Big Sur Farmers Association
California State Association of Counties
City of Desert Hot Springs
County of Monterey
Humboldt County Growers Alliance
League of California Cities
Mendocino Cannabis Alliance
Nevada County Cannabis Alliance
Origins Council
Rural County Representatives of California
The Parent Company
Trinity County Agriculture Alliance

Opposition

California Coastal Protection Network
California Native Plant Society
California Trout
Center for Biological Diversity
Defenders of Wildlife
Environmental Protection Information Center
Planning and Conservation League

Resources Legacy Fund
Sierra Club California
Trout Unlimited

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 568 (Newman) – As Amended June 13, 2023

SENATE VOTE: 33-6

SUBJECT: Electronic waste: export

SUMMARY: Requires any person who exports covered electronic waste (e-waste) for recycling or disposal to a foreign country, or to another state for ultimate export to a foreign country, to demonstrate that they attempted to locate an in-state covered e-waste recycler and that the waste or device could not be managed by an in-state recycler.

EXISTING LAW:

1) Establishes the Electronic Waste Recycling Act of 2003 (EWRA), which enacts a comprehensive system for the reuse, recycling, and proper and legal disposal of covered electronic devices, as provided. (Public Resources Code (PRC) 42460-42486)

2) Requires the Department of Resources, Recycling, and Recovery (CalRecycle) to administer and enforce the EWRA, in consultation with the Department of Toxic Substances Control (DTSC). (PRC 42475)

3) Defines "covered electronic device" to mean either of the following (PRC 42463):

    a) A video display device containing a screen greater than four inches, measured diagonally, that is identified in regulations adopted by DTSC; or,

    b) Any covered battery-embedded product.

4) Defines "covered electronic waste" to mean a covered electronic device that is discarded. (PRC 42463)

5) Defines “recycling" to mean the collecting, transporting, storing, transferring, handling, segregating, processing, using or reusing, or reclaiming of recyclable material to produce recycled material. (Health and Safety Code (HSC) 25121.1)

6) Defines "covered electronic waste recycler" to mean any of the following (PRC 42463):

    a) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities for the purpose of reuse or recycling;

    b) A person who changes the physical or chemical composition of a covered electronic device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for the purposes of recovering or recycling components, and who arranges for the transport of those components to an end user; or,

c) A manufacturer who meets any conditions established by the EWRA and hazardous waste control law for the collection or recycling of covered e-waste.

7) Requires a person who exports covered e-waste, or a covered electronic device intended for recycling or disposal, to a foreign country, or to another state for ultimate export to a foreign country, to demonstrate all of the following at least 60 days before export (PRC 42476.5):

a) That the waste or device is being exported for recycling or disposal;

b) That importation of the waste or device is not prohibited in the state or country of destination and that any import will be conducted in accordance with applicable laws;

c) That exportation of the waste or device is conducted in accordance with applicable federal or international laws; and,

d) That the waste or device will be managed within the country of destination only at facilities with operations that meet or exceed the decisions and guidelines of the Organization for Economic Cooperation and Development (OECD) for the environmentally sound management of the waste or device being exported.

FISCAL EFFECT: Unknown

COMMENTS:

1) **E-waste**. E-waste generally refers to any waste consumer and business electronic equipment. Most e-waste contains components that render them hazardous under state policies. Worldwide, approximately 50 million tons of e-waste is generated very year. In California, hundreds of thousands of computers, monitors, copiers, printers, and other electronics become obsolete. Rapid advances in technology and a constantly expanding demand for new devices create increasing quantities of e-waste. This massive amount of material creates management challenges for consumers, businesses, and local governments.

   The EWRA was enacted in 2003, with a focus on the management of cathode ray tubes, which were widely used in computer monitors and televisions. Since its enactment, California has recycled more than two billion pounds of covered e-waste. The program currently defines covered e-waste to include video display devices larger than four inches and all products with an embedded battery. Since the adoption of the EWRA, California has developed more than 600 e-waste recycling locations and more than 30 approved recyclers. The e-waste recycling market is expected to grow at a compound annual growth rate of 15% through 2027.

2) **Increasing circularity**. A 2018 CalRecycle report, *The Future of Electronic Waste Management in California*, estimated that electronic devices often contain valuable materials like gold, silver, and copper. Disposing of these devices results in an estimated $55 billion loss worldwide each year. The report states "…CalRecycle's vision [is] that e-waste management should move beyond focusing solely on hazardous waste and should emphasize resource recovery and the waste management hierarchy by prioritizing source reduction, reuse, and recycling."

3) **Export**. Most of the e-waste collected in the United States for recycling is exported. While the entities that export the material intend for it to be recycled, much of it ends up in countries with lax requirements that are not protective of public health, worker safety, or the environment. In California, exporters are required to notify DTSC of the destination, contents, and volume of the material and demonstrate that the waste is being exported in a manner that is consistent with applicable national and international laws and will be handled under minimum standards and guidelines established by the Organization for Economic Cooperation and Development.

4) **This bill**. This bill adds to the existing requirements for the export of e-waste a requirement that the exporter provide a statement that they attempted to locate an in-state e-waste recycling facility and that the waste or device could not be managed by an in-state e-waste recycler. This requirement is intended to encourage the in-state recycling of California-generated e-waste.

5) **Author's statement**:

> Globally, less than 20% of e-waste is properly recycled, with the remaining 80% of e-waste ending up either in landfills or improperly recycled. Much of this waste is ultimately processed by hand in developing countries, exposing workers in those places to hazardous or carcinogenic substances such as mercury, lead and cadmium. E-waste which makes its way into landfills contaminates soil and groundwater, putting food supply systems and water sources at risk. In addition to health and pollution impacts, improper management of e-waste results in a significant loss of scarce and valuable raw materials such as gold, platinum, cobalt and other rare earth elements.
>
> Rather than relying on often unsubstantiated assertions that entities abroad are following OECD standards, SB 568 adds a common-sense export requirement which would increase the share of precious resources in the state, thereby supporting California's e-waste recycling industry and advancing innovative new technologies which use advanced particle separation without pressure, heat, or chemicals to process electronic waste. Doing so will advance state and federal priorities, while also positioning California to assume a key role in creating a truly circular solution for manufacturers looking to source recycled materials and to better meet their environmental, social and governance (ESG) reporting commitments.

6) **Double referral**. This bill passed out of the Environmental Safety and Toxic Materials Committee on June 20th 8-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Californians Against Waste
Camston Wrather (sponsor)
National Stewardship Action Council

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 619 (Padilla) – As Amended June 21, 2023

SENATE VOTE: 37-0 (not relevant)

SUBJECT: State Energy Resources Conservation and Development Commission: certification of facilities: electrical transmission projects

SUMMARY: Adds "electrical transmission projects" to the opt-in permitting process at the California Energy Commission (CEC) established by AB 205 (Budget Committee), Chapter 61, Statutes of 2022.

EXISTING LAW:

1) Requires, pursuant to the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)

2) Defines "project" as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, including an activity that involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (PRC 21065)

3) Requires the Public Utilities Commission (PUC) to certify the "public convenience and necessity" require a transmission line over 200 kilovolts (kV) before an investor-owned utility (IOU) may begin construction (Certificate of Public Convenience and Necessity, or CPCN). The CPCN process includes CEQA review of the proposed project. The CPCN confers eminent domain authority for construction of the project. A CPCN is not required for the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations. (Public Utilities Code (PU Code) 1001)

4) Requires an IOU to obtain a discretionary permit to construct (PTC) from the PUC for electrical power line projects between 50-200 kV. A PTC may be exempt from CEQA pursuant to PUC orders and existing provisions of CEQA. IOU electrical distribution line projects under 50 kV do not require a CPCN or PTC from the PUC, nor discretionary approval from local governments, and therefore are not subject to CEQA. (PUC General Order (GO) 131-D)

5) Requires the PUC, by January 1, 2024, to update GO 131-D to authorize IOUs to use the PTC process or claim an exemption under GO 131-D Section III(B) to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above 200 kV. (PU Code 564)

6) Requires the CEC to adopt a strategic plan for the state's electric transmission grid, which recommends actions required to implement investments needed to ensure reliability, relieve congestion and meet future growth in load and generation. (PRC 25324)

7) Authorizes the CEC to designate electric transmission corridor zones (TCZs) in order to identify and reserve land that is suitable for high-voltage transmission lines. Specifies the CEC may designate a TCZ on its own motion or in response to an application from a person seeking a TCZ designation based on its future plans to construct a high-voltage electric transmission line. Makes the CEC the lead agency, for purposes of CEQA, for the designation of any TCZ. (PRC 25330-25341)

8) Pursuant to the Warren-Alquist Act of 1974, grants the CEC exclusive authority to license thermal powerplants 50 megawatts (MW) and larger (including related facilities such as fuel supply lines, water pipelines and electric transmission lines that tie the plant to the grid). The CEC must consult with specified agencies, but the CEC may override any contrary state or local decision. The CEC process is a certified regulatory program (determined by the Resources Secretary to be the functional equivalent of CEQA), so the CEC is exempt from having to prepare an EIR. The certified program, however, does require environmental analysis of the project, including an analysis of alternatives and mitigation measures to minimize any significant adverse effect the project may have on the environment. The Warren-Alquist Act originally limited judicial review of a CEC powerplant license decision to the California Supreme Court, based on the procedures for PUC judicial review at the time. However, original jurisdiction by the Supreme Court was overturned by a 2021 decision (*Communities for a Better Environment v. Energy Resources Conservation and Development Commission (S266386)*), so CEC powerplant license decisions are now subject to writ review by the superior courts. The Warren-Alquist Act defines "electric transmission line" as any electric powerline carrying electric power from a thermal powerplant located within the state to a point of junction with any interconnected transmission system. (PRC 25500, et seq.)

9) Authorizes, pursuant to AB 205, additional facilities not subject to the CEC's thermal powerplant licensing process to "opt-in" to a CEC process for CEQA review until June 30, 2029, in lieu of review by the appropriate local lead agency. These opt-in permitting procedures apply to the following energy-related projects:

   a) A solar photovoltaic or terrestrial wind electrical generating powerplant with a generating capacity of 50 MW or more and any facilities appurtenant thereto.

   b) An energy storage system capable of storing 200 megawatthours or more of electrical energy.

   c) A stationary electrical generating powerplant using any source of thermal energy, with a generating capacity of 50 MW or more, excluding any powerplant that burns, uses, or relies on fossil or nuclear fuels.

   d) A project for the manufacture, production, or assembly of an energy storage, wind, or photovoltaic system or component, or specialized products, components, or systems that are integral to renewable energy or energy storage technologies, for which the applicant

has certified that a capital investment of at least $250 million will be made over a period of five years.

e) An electric transmission line carrying electric power from an eligible solar, wind, thermal, or energy storage facility to a point of junction with any interconnected electrical transmission system.

Provides the CEC exclusive power to certify the site and related facility, and provides that the CEC's approval preempts state, local, or regional authorities, except for the authority of the State Lands Commission to require leases and receive lease revenues, if applicable, or the authority of the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Water Resources Control Board, or the applicable regional water quality control boards, and, for manufacturing facilities, the authority of local air quality management districts or the Department of Toxic Substances Control. Requires the CEC to determine whether to certify the EIR and to issue a certificate for the site and related facilities no later than 270 days after the application is deemed complete, or as soon as practicable thereafter. Applies the procedures and requirements applicable to Environmental Leadership Development Projects (ELDPs, PRC 21178, et seq.), including mitigation of greenhouse gas (GHG) emissions, requiring applicants to pay the costs of expedited administrative and judicial review, and requiring the courts to resolve lawsuits within 270 days, to the extent feasible. (PRC 25545, et seq.)

10) Declares, pursuant to SB 100 (De León), Chapter 312, Statutes of 2018, the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035. (PU Code 454.53)

THIS BILL:

1) Adds "an electrical transmission project that supports the state's efforts to achieve the goals set forth in (SB 100)" to the AB 205 opt-in permitting process at the CEC.

2) Authorizes the CEC, when evaluating applications for electrical transmission projects, to consider whether the applicant certifies that a capital investment of at least $250 million will be made over a period of five years.

3) Authorizes an electrical corporation, at the time it files an application with the PUC for a CPCN or PTC for new construction of any electrical transmission facility, to, at the same time, submit an application for that facility to the CEC. Prohibits the CEC from considering the necessity for the electrical transmission facility. Authorizes the CEC to consider alternative substation locations or routing of transmission lines. For these projects, authorizes an application to be filed until December 31, 2039, notwithstanding AB 205's 2029 deadline.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> While the state has enacted some of the world's most aggressive climate goals, its transition away from fossil fuels is being threatened by slow siting and permitting processes that delay critical transmission projects necessary to deliver clean energy to consumers. These long delays undermine reliability and lead to increased costs to ratepayers. If California hopes to meet its ambitious climate goals, transition transportation to clean vehicles, and end our addiction to fossil fuels, we must undertake unprecedented efforts to modernize and expand our electrical grid. New high-voltage cables, modernized existing cable networks, and new infrastructure connecting a grid with a far larger capacity to carry clean electrons to power our homes and economy is critical to keeping the lights on in California. The California Independent System Operator estimates we need 7,000 MW of new power capacity every year for the next decade, but we're only adding a fraction of that, raising the threat of summer black-outs. Delays in project approval are also resulting in significantly higher costs to ratepayers for those critical projects. Finally, long permitting delays may also make it impossible for California to access substantial federal assistance currently available to modernize our grid and reduce ratepayer costs. SB 619 would expand the CEC's alternative opt-in CEQA process to ensure faster review of key projects without sacrificing critical economic and environmental analyses of those projects.

2) **Venue shoppers beware**? The bill may present a quandary for utility applicants: trade a potentially faster administrative review for greater exposure to litigation. While proponents contend that the concurrent CPCN/CEQA review process at the PUC takes too long, the limited procedures for challenging PUC decisions discourages would-be petitioners. The litigation rate against PUC decisions is extremely low, and the odds of a petitioner prevailing against the PUC is even lower.

   Projects reviewed by the CEC under this bill are promised a 270-day (or as soon as practicable) CEC review, followed by 270-day (to the extent feasible) judicial review. However, the CEC decision is subject to review by the superior court under CEQA's ordinary judicial review procedures. Meanwhile, final approval of the project still depends on the PUC's approval of the CPCN, following the completion of the CEQA process at the CEC.

3) **SB 100 condition sounds good, but is likely meaningless and unenforceable**. Every interconnected transmission project will, in at least some small way, support delivery of renewable and zero-carbon sources of electricity. However, bulk transmission is open access. The law and physics do not discriminate between brown and green electrons, so any interconnected transmission line will enable the delivery of renewable AND fossil sources of electricity as dictated by the physical generation portfolio, supply contracts, and market-based dispatch. *The author and the committee may wish to consider* striking this symbolic reference to SB 100 (i.e., PU Code 454.53).

4) **Purpose of CEC consideration of cost of projects is unclear**. The original version of this bill, prior to the recent addition of the opt-in permitting provisions, required the CEC to give priority to an electric transmission line if the applicant certifies that a capital investment of at least $250 million will be made over a period of five years. This provision has since been amended to make this a consideration, but it's not clear what the point is in the context of the

current bill. This provision (Section 2) seems to be a vestige of a prior version of the bill. *The author and the committee may wish to consider* striking this provision.

5) **Overlap with SB 149**. SB 149 (Caballero, et al), which is part of the governor's recently-passed infrastructure package, provides for expedited judicial review of energy projects certified by the governor, including the same transmission projects eligible for this bill. In general, the environmental and labor requirements of this bill and SB 149 align. However, a key provision of SB 149 is the following new requirement to protect disadvantaged communities from the impacts of eligible projects (PRC 21189.82(c)):

> (c) An applicant for certification of an infrastructure project under this chapter shall do all of the following:
>
> (1) Avoid or minimize significant environmental impacts in any disadvantaged community.
>
> (2) If measures are required pursuant to this division to mitigate significant environmental impacts in a disadvantaged community, mitigate those impacts consistent with this division, including Section 21002. Mitigation measures required under this subdivision shall be undertaken in, and directly benefit, the affected community.
>
> (3) Enter into a binding and enforceable agreement to comply with this subdivision in its application to the Governor and to the lead agency prior to the agency's certification of the environmental impact report for the project.

The author and the committee may wish to consider adding a similar provision to this bill.

6) **Mismatched deadlines**. As noted above, this bill extends AB 205's filing deadline, only for electrical transmission projects, from June 30, 2029 to December 31, 2039. Meanwhile, related and overlapping provisions in SB 149, including streamlining for transmission projects and existing ELDP procedures, include certification deadlines of January 1, 2032. *The author and the committee may wish to consider* aligning the filing deadline in this bill either with the 2029 deadline in AB 205 or the 2032 deadline in SB 149.

7) **Double referral**. This bill has been double-referred to the Assembly Utilities and Energy Committee, which plans to hear the bill July 12. Therefore, should the bill pass this committee, adoption of any amendments will be deferred to the Utilities and Energy Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Building Owners and Managers Association
California Apartment Association
California Association of Winegrape Growers
California Building Industry Association
California Business Properties Association
California Business Roundtable

California Chamber of Commerce
California Retailers Association
California State Association of Electrical Workers
California Trucking Association
Can Manufacturers Institute
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Clean Power Campaign
Coalition of California Utility Employees
Danville Area Chamber of Commerce
Edison International and Affiliates, Including Southern California Edison
Elders Climate Action, NorCal and SoCal Chapters
Fremont Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Independent Energy Producers Association
Lake Elsinore Valley Chamber of Commerce
Large Scale Solar Association
Liberty Utilities
Livermore Valley Chamber of Commerce
Mission Viejo Chamber of Commerce
Modesto Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
NAIOP California
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Pacific Gas and Electric Company
Palm Desert Area Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
San Diego Community Power
San Leandro Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Maria Valley Chamber of Commerce
The Chamber Newport Beach
Torrance Area Chamber of Commerce
Vista Chamber of Commerce
Walnut Creek Chamber of Commerce
Yuba Sutter Chamber of Commerce

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 704 (Min) – As Amended June 20, 2023

SENATE VOTE: 31-8

SUBJECT: Coastal resources: California Coastal Act of 1976: industrial developments: oil and gas developments: refineries: petrochemical facilities: offshore wind.

SUMMARY: Authorizes the California Coastal Commission to seek scientific advice on offshore wind, and revise the coastal-dependent industrial use policies in the Coastal Act of 1976 to bar new or expanded oil and gas development and new or expanded refineries or petrochemical facilities from being considered a coastal-dependent industrial use and authorizes their permitting if all applicable Coastal Act provisions are complied with, among other things.

EXISTING LAW, pursuant to the California Coastal Act of 1976 (Public Resources Code 30000 *et seq*):

1) Regulates development along the state's coast and requires that coastal-dependent industrial facilities be encouraged to locate or expand within existing sites. Where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of the act, they may be permitted if alternative locations are infeasible or more environmentally damaging, to do otherwise would adversely affect the public welfare, and adverse environmental effects are mitigated to the maximum extent feasible.

2) Requires that oil and gas development be permitted in accordance with the requirements for coastal-dependent industrial facilities, if specified conditions relating to safety and environmental mitigation are met.

3) Provides that use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

4) Authorizes permitting of marine terminals for tankers, oil and gas development in the coastal zone, including offshore oil development, new or expanded refineries or petrochemical plants, and the construction of new thermal electric generating plants, among other things.

5) Defines "coastal-dependent development or use" as any development or use that requires a site on, or adjacent to, the sea to be able to function at all.

THIS BILL:

1) Adds offshore wind development to existing findings and declarations stating that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions.

2) Prohibits new or expanded oil and gas development from being considered a coastal-dependent industrial facility, and authorizes that development to only be permitted if found to

be consistent with all applicable provisions of the Coastal Act and if specified conditions are met.

3) Authorizes repair and maintenance of an existing oil and gas facility to only be permitted if it does not result in expansion of capacity of the oil and gas facility, and if existing statutory conditions are met.

4) Modifies the existing requirements for applicability for repair and maintenance, including that all oilfield brines be reinjected into oil-producing zones.

5) Strikes requirements applicable to offshore platform and island siting, as are those for subsea well completions.

6) Prohibits new or expanded refineries or petrochemical facilities from being considered a coastal-dependent industrial facility, and authorizes those facilities to only be permitted if found to be consistent with all applicable provisions of the Coastal Act.

7) Requires new or expanded refineries or petrochemical facilities to minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

8) Authorizes repair and maintenance of existing refineries or petrochemical facilities to only be permitted if the following conditions are met:

   a) The development does not result in expansion of capacity of existing refineries or petrochemical facilities;

   b) Alternative locations are not feasible or are more environmentally damaging;

   c) Adverse environmental effects are mitigated to the maximum extent feasible;

   d) Permitting such development would not adversely affect the public welfare;

   e) The development is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or contiguous to environmentally sensitive areas; and,

   f) The development is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.

9) Authorizes development of facilities for the purposes of producing low-carbon fuels at an existing refinery or petrochemical facility to be permitted if all of the specified requirements are met.

10) Finds and declares that existing ports, including the Humboldt Bay Harbor, Recreation, and Conservation District, should be encouraged to pursue development that contributes to the construction and deployment of offshore wind energy generation facilities, consistent with the policies of the division.

11) Requires reimbursement to local agencies and school districts for their costs if the Commission on State Mandates determines that this bill contains costs mandated by the state.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would result in an unknown, potentially significant loss of state revenue to the extent that this bill restricts new or expanded oil and gas development in the coastal zone that would generate revenue for the state (General Fund, special funds). Also, should the Commission on State Mandates determine that this bill contains costs mandated by the state, the bill could result in unknown state costs to reimburse local agencies.

COMMENTS:

1) **Author's statement:**

> The California Coast Act regulates development in California's coastal zone and formally recognizes the state's coast as a "distinct and valuable natural resource of vital and enduring interest." The Coastal Act contains provisions to protect environmentally sensitive areas to address equity concerns raised by coastal development, and to reduce the subsequent environmental impacts. When the Coastal Act was enacted, however, a loophole was created that allowed oil and gas development, refineries, and petrochemical facilities to circumvent environmental protections standards otherwise applied to all other projects."
>
> This loophole, known as the "industrial override" provision, is severely outdated and continues to perpetuate 1970s statewide energy goals that existed when the Coastal Act was originally written. Fifty years later, new oil and gas development is inconsistent with the state's efforts to decarbonize its economy and achieve net zero carbon emissions. SB 704 closes the industrial override loophole for new oil and gas development, including new refineries and petrochemical facilities in the coastal zone. While existing facilities can be repaired and maintained, the bill levels the playing field to ensure that all new energy development meets the same standards as other approved projects. This is a long overdue and common sense reform that not only modernizes the Coastal Act, but also readies the state for policies related to the deployment of offshore wind technology.

2) **Coastal Act**. In response to the 1969 Santa Barbara oil spill, Californians in 1972 rallied to "Save Our Coast" and passed a voter initiative called the Coastal Conservation Initiative (Prop 20), which created the California Coastal Commission to make land use decisions in the Coastal Zone. In 1976 the State Legislature passed the Coastal Act, which made the Coastal Commission a permanent agency with broad authority to regulate coastal development.

   The Coastal Act emphasizes the importance of the public being able to access the coast, and the preservation of sensitive coastal and marine habitat and biodiversity. Development activities in the coastal zone generally require a coastal development permit from the Coastal Commission or from a local government with a local coastal program certified by the Coastal Commission. Development is broadly defined to include, among other things, the construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters.

The Coastal Act prioritizes certain types of activities and development over other types in the coastal zone. For instance, visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation are prioritized over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The Coastal Act includes an industrial "override" provision authorizing industrial development that is inconsistent with Coastal Act protective provisions so long as a few basic requirements are met – such as finding that any alternative location would be infeasible or more environmentally damaging. The industrial override provision, therefore, effectively greenlights the permitting of oil and gas development in the coastal zone, exposing coastal resources to great risk.

3) **Coastal-dependent industrial facilities**. Some of California's most valuable oil and gas resources are primarily located in and adjacent to some of the state's beaches and coastline; these refineries largely predate the Coastal Act. The controversy over the development of oil and gas resources has been going on since 1921 when the first development was permitted. There are 11 actively producing offshore oil and gas leases in state waters, which are what remain of the more than 60 originally issued, and there are 23 oil and gas production facilities in federal waters off the coast of California.

   Coastal Act policies are the standards the Coastal Commission uses to determine the permissibility of proposed developments subject to its jurisdiction. The Coastal Act dictates that development be clustered in areas to preserve open space, and that coastal agricultural lands be preserved. As such, it requires that coastal-dependent industrial facilities "be encouraged to locate or expand within existing sites." This law has not been amended since it was enacted in 1976.

   SB 704 will update the law to require the Coastal Commission to review new oil and gas wells, refineries, and petrochemical facilities using the same Coastal Act development policies as other projects proposed in the coastal zone, effectively closing the override loophole for oil and gas facilities.

   Existing permits remain in effect, and repair and maintenance of existing applicable development and facilities in the coastal zone remains part of the override. Necessary repairs and maintenance, for example for pipelines, would continue to be subject to the override provisions and would not have to meet all other Coastal Act policies to be approved. Existing permits for refineries, for example, remain in effect.

4) **Related legislation**.

   a) SB 1423 (Stern) would have revised the coastal-dependent industrial use policies in the Coastal Act to bar new or expanded oil and gas development and new or expanded refineries or petrochemical facilities from being considered a coastal-dependent industrial use, and would authorize their permitting if all applicable Coastal Act provisions are complied with, among other things. It was held in the Senate Appropriations Committee.

   b) SB 953 (Min, 2022) would terminate the existing oil and gas leases managed by the State Lands Commission in state tidelands and submerged lands. It was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Justice Alliance Action, a Project of Tides Advocacy
California Environmental Voters
Center for Biological Diversity
Natural Resources Defense Council
Sierra Club California
Social Compassion in Legislation

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 707 (Newman) – As Amended July 3, 2023

SENATE VOTE: 32-8

SUBJECT: Responsible Textile Recovery Act of 2023

SUMMARY: Establishes an extended producer responsibility (EPR) program for waste textiles.

EXISTING LAW:

1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste. Establishes a state recycling goal that 75% of solid waste generated is to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (Public Resources Code (PRC) 40000 *et seq*.)

2) Establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content requirements for single-use packaging and food ware and source reduction requirements for plastic single-use packaging and food ware, to be achieved through an EPR program. (PRC 42040 *et seq*.)

3) Establishes the Used Mattress Recovery and Recycling Act, which creates an EPR program for the collection and recycling of used mattresses. (PRC 42985 *et seq*.)

4) Establishes the Electronic Waste Recycling Act of 2003, which requires consumers to pay a fee for specified electronic devices, defined to include video screens larger than four inches and battery-embedded products and establishes processes for consumers to return, recycle, and ensure the safe disposal of covered electronic devices. (PRC 42460 *et seq*.)

5) Requires CalRecycle to establish a three-year pilot project located in the Los Angeles and Ventura Counties partnering with garment manufacturers to study and report on the feasibility of recycling fabric. (PRC 40512)

6) Establishes, upon appropriation from the Legislature, a Zero-eWaste equity grant program that can be used for repair and extending the life of products including textiles. (PRC 42999.5)

THIS BILL:

1) Requires CalRecycle to adopt regulations to implement the bill's requirements with an effective date no earlier than December 31, 2025. Authorizes CalRecycle to reassess the regulations beginning January 1, 2032, including adjusting the minimum recycled collection rates, establishing minimum recycling efficiency rates, or establishing other criteria.

2) Requires, no sooner than 90 days after the effective date of the regulations, CalRecycle to appoint an advisory committee to consult with producers and stewardship organizations (SO) with approved plans. Requires the advisory committee to include, but not limited to,

representatives from local governments, recyclers, retailers, nonprofit thrift stores, authorized collectors, authorized sorters, authorized repair businesses, nongovernmental organizations, environmental organizations, community-based justice and public health organizations, the second-hand industry, and the solid waste industry.

3) Authorizes producers to establish and implement a stewardship program independently or as part of one or more stewardship organizations (SO).

4) Prohibits producers from selling, distributing for sale, offering for sale, or importing for sale any apparel or textile article in or into unless the producer is in compliance with any regulations in effect adopted pursuant to the bill.

5) Requires producers opting to comply with the program through an SO to register with the SO and comply with all procedures and requirements of the SO.

6) Specifies that producers are not in compliance with the bill and subject to penalties if, commencing two years from the adoption of regulations, a covered product sold or offered for sale by the producer is not subject to an approved stewardship plan.

7) Requires producers, within 180 days of the effective date of this bill , to provide CalRecycle a list of covered products that the producer sells, distributes for sale, imports for sale, or offers for sale in or into the state. Requires the list to be updated on or before January 15 of every year or upon the request of CalRecycle.

8) Requires a program operator to establish a method of fully funding the stewardship program in a manner that equitably distributes the program's costs among participating producers that reflects the production and sales volumes. Requires the funding mechanism to incentivize green design by modulating distribution of costs to consider the cost of repairing, recycling, or otherwise managing specific covered products.

9) Requires that all collection sites be operated to ensure that covered products are collected safely and handled in accordance with all applicable state, federal, and municipal laws and regulations and the rules and conditions of the stewardship plan. Allows authorized collectors and authorized sorters to divert reusable apparel and textile articles for sale in secondhand markets.

10) Requires program operators, within 12 months of the effective date of the regulations, to develop and submit a complete stewardship plan to CalRecycle. Requires the stewardship plan to cover the collection, transportation, repair, sorting, recycling, and the safe and proper management of covered products in the state, as specified. Prohibits a program operator from limiting the stewardship plan to covered products of the producers participating in the program.

11) Requires CalRecycle to review and approve, disapprove, or conditionally approve the plan within 120 days of receipt, unless CalRecycle consults with the Department of Toxic Substances Control, in which case it has 180 days. Establishes a process for revisions to the plan.

12) Requires, within 24 months of the effective date of the regulations, program operators to have a complete stewardship plan approved by CalRecycle and requires that each producer to be subject to an approved stewardship plan.

13) Requires, within 12 months of the approval of a stewardship plan, the program operator to fully implement the stewardship program.

14) Requires CalRecycle to respond to requests for petitions to investigate noncompliant producers in a timely manner.

15) Establishes required components for a stewardship plan, including:

    a) The names of producers and brands of covered products covered by the plan;

    b) A budget that fully funds the stewardship program;

    c) A description of methodologies used to measure and achieve the recycling efficiency rate or other criteria established by CalRecycle;

    d) A description of how the program operator will provide for a free and convenient collection system for covered products in each county and how the collection sites will be authorized and managed;

    e) A description of the process by which collected covered products will be sorted, transported, processed, repaired, reused, and recycled;

    f) A comprehensive statewide education and outreach program to educate consumers and promote participation in the program;

    g) A description of efforts to coordinate with specified entities;

    h) A contingency plan in the event the stewardship plan expires, is disapproved, or revoked.

    i) Develop a program in coordination with other program operators to support laundries for laundering covered products; and,

    j) A description of how the program operator will minimize the negative environmental impacts of all operations associated with the plan.

16) Requires a program operator to review its stewardship plan at least every five years and determine whether plan revisions are necessary and, if necessary, submit the revised plan for review and approval. Authorizes CalRecycle to require plan revisions, as specified.

17) Requires the program operator to pay CalRecycle's costs associated with administering the program, as specified. Establishes the Textile Stewardship Recovery Fund for the purpose of implementing enforcing the bill's requirements.

18) Requires each producer, individually or through an SO, to pay all administrative and operational costs associated with establishing and implementing the stewardship program in which it participates.

19) Requires the program operator to keep board minutes, books, and records that clearly reflect the activities and transactions of the program operator. Requires the program operator to retain an independent public accountant to annually audit the accounting books of the program operator, which must be included as part of its annual report. Authorizes CalRecycle to conduct its own audits.

20) Requires the program operator to submit an annual report to CalRecycle that includes specified information about the preceding calendar year. Requires CalRecycle to determine if the annual report is in compliance with the program within 120 days of receipt.

21) Requires CalRecycle, within 24 months of the effective date of the regulations, and on or before July 1 thereafter, to post a list of compliant producers, brands, and covered products. Requires retailers, importers, and distributors to monitor the list and prohibits the sale of noncompliant products.

22) Establishes administrative civil penalties of up to $10,000 per day, and up to $50,000 per day for intentional, knowing, or reckless violations.

23) In addition to assessing penalties for violations, authorizes CalRecycle to revoke a program operator's stewardship plan approval, remove the producer from the website, impose additional compliance reporting requirements, and post the noncompliant entity to a list of noncompliant entities.

24) Allows producers under a plan that was terminated or revoked to continue to continue to sell or offer for sale covered products for up to one year after the plan was terminated or revoked if the producer operates under the most recent approved plan.

25) Establishes inspection, recordkeeping, and auditing requirements.

26) Establishes anti-trust immunity for stewardship organization actions and provides justification for limitations on the public's access to specified information.

27) Specifies that nothing in the bill grants any city, county, city and county, special district, or joint powers authority with any new authority over solid waste handling or solid waste franchise agreements.

28) Defines terms used in the bill, including:

    a) "Apparel" as clothing and accessory items intended for regular wear or formal occasions, including, but not limited to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onsies, bibs, diapers, footwear, handbags, backpacks, and everyday uniforms for workwear. Excludes personal protective equipment or clothing items exclusively for use by the United States military.

    b) "Brand" as a trademark, including both a registered trademark and an unregistered trademark, logo, name, symbol, word, identifier, or traceable mark that identifies a covered textile article and identifies the owner or licensee of the brand.

c) "Covered product" as any postconsumer apparel or postconsumer textile article that is unwanted by a consumer. Excludes products covered by the Used Mattress Recovery and Recycling Act or the Electronic Waste Recycling Act.

d) "Importer" as either:

   i) A person qualifying as an importer or record, as specified; or,

   ii) A person importing into the state for sale, distribution for sale, or offering for sale in the state a covered textile article that was manufactured or assembled by a company physically located outside of the state.

e) "Producer" as a person who manufactures a covered product and who owns or is the licensee of the brand or trademark under which that covered product is sold, offered for sale, or distributed for sale in the state. If there is no person who meets this requirement, the producer is the owner of a brand or trademark or the exclusive licensee of a brand or trademark. If there is no person who meets these requirements, the producer is the person who sells, offers for sale, or is the importer or distributor of the covered textile article. Excludes sellers of secondhand apparel or secondhand textile articles.

f) "Stewardship organization" (SO) means an organization exempt from taxation under Section 501 (c)(3) of the federal Internal Revenue Code that is established or designated by a group of producers in accordance with this chapter to develop and implement a stewardship program.

g) "Stewardship program" as a program established by a program operator pursuant to the bill for the free at drop off, convenient, and safe collection, transportation, repair, recycling, and otherwise proper management of covered products.

h) "Textile article" as any item customarily used in households or business that are made entirely or primarily from a natural, artificial, or synthetic fiber, yard, or fabric, including, blankets, curtains and fabric window coverings, knitted and woven accessories , towels, tapestries, bedding, tablecloths, napkins, linens, pillows, and fabric sold by the bolt at retail.

FISCAL EFFECT: According to the Senate Appropriations Committee, unknown ongoing costs, possibly in the millions of dollars annually (special fund), for CalRecycle to implement and administer the EPR program that would be established by this bill. CalRecycle notes that the initial fund source is not identified and a loan would be required. Once an SO is established, the fund source would be the Textile Stewardship Recovery Fund, which would be established by this bill. These costs would eventually be offset by reimbursements paid by the producer responsibility organization.

COMMENTS:

1) **Textile waste**. According to CalRecycle's 2020 *Facility-Based Characterization of Solid Waste in California* report, textiles, including apparel, textile (fabric), and textile articles (such as linens, curtains, etc.) were the sixth most prevalent material type disposed of by single-family residences in 2018. Overall, Californians disposed of nearly 1.2 million metric tons of textiles in 2018, making up about 3% of California's total waste stream.

The generation of textile waste has been supercharged by the rise of fast fashion. "Fast fashion" is an approach to the design, creation, and marketing of clothing that emphasizes making fashion trends quickly and cheaply available to consumers. Retailers and producers benefit from frequently updating styles to incentivize shopping. Fast fashion has contributed to a global doubling of clothing production from 2000 to 2014. Fast fashion provides clothes to consumers for lower prices, but sacrifices the quality and longevity of garments in the process leading to more waste.

Dealing with all this waste is expensive; in 2021, California ratepayers paid more than $70 million dollars in disposal costs. Textile waste comes with a carbon cost as well; textile and garment industries account for between 6-8% of total global carbon emissions, or some 1.7 billion tons in carbon emissions per year.

2) **Managing waste textiles**. According to CalRecycle, 95% of California's textile waste is reusable or recyclable, meaning that the textiles are in a condition that allows them to be reused, or that still have tags identifying the materials used. Tags are critical for textile recycling in order to identify the material type.

   Both reuse and recycling for used textiles begin when textiles are discarded, either when businesses toss out scrap or surplus material, or when consumers dispose of old clothes or textile household items, like sheets, curtains, and pillows. Once these materials have been collected, they can be sorted to separate reusable material from material that is only eligible for recycling or landfilling.

   According to CalRecycle, only 10-15% of garments donated or sold to second-hand markets are directly resold in the stores where they are collected. Of the remaining material, 30% is cut down to rags, 20% is converted into recycled fibers for uses such as carpet padding, insulation, and pillow stuffing, 5% is landfilled in the state, and 45% is sent overseas for further processing or eventual disposal. Items that are sent overseas may or may not have a long second life. For example, of the 15 million used garments that flow into Ghana every week, an estimated 40% are deemed worthless upon arrival and landfilled. This off-shore landfilling comes at a high carbon cost, since shipping overseas is a carbon-intensive process.

   Recycling textiles is a multistep process. Natural fibers are mechanically processed. For example, cotton textiles are shredded, the fibers are separated, and then re-spun with virgin fibers into yarn to make new textiles. Synthetic fibers, such as polyester, can sometimes be mechanically processed by shredding, cleaning, molding into pellets, and then extruding into new fibers. If mechanical processing is not possible, the textiles can also undergo the more intensive process of chemical processing, where the synthetic material is broken down into its component molecules to remove contaminants and then reformed into fibers.

   Blends of materials, either different types of natural fibers, synthetic fibers, or both, are typically not eligible for chemical processing, but can be mechanically processed and downcycled into composite materials, such as thermal insulation or carpet for use in the building industry.

   The current recovery rate for textiles in the United States is approximately 15%, while the remaining 85% of discarded clothing and textiles are sent to landfill or incineration. Just

one-percent of recycled clothes are turned back into new garments, which is the gold standard for recycling towards a circular economy.

3) **Pilot programs**. According to the bill's sponsor, the California Product Stewardship Council (CPSC), there are various textile recycling pilot projects underway or completed in San Francisco, the City of Los Angeles, the County of Los Angeles, and the County of Alameda. Additionally, SB 1187 (Kamlager), Chapter 616, Statutes of 2022, requires CalRecycle to establish a three-year pilot project in the Counties of Los Angeles and Ventura to study and report on the feasibility of recycling fabric; however, this program has not received funding through the Budget process.

4) **EPR**. According to CalRecycle, EPR is a strategy that places shared responsibility for end-of-life management for products on the producers and all entities involved in the product chain, instead of entirely on local governments and ratepayers. EPR programs rely on industry, formalized in a product stewardship organization, to develop and implement approaches to create a circular economy that makes business sense, with oversight and enforcement provided by a government entity. This approach provides flexibility for manufacturers to design products in a way that facilitates recycling and to develop systems to capture those products at the end-of-life to meet statutory goals.

   There are several key elements that should be carefully evaluated to develop a successful EPR program. These elements are part of CalRecycle's "EPR checklist" and include considerations of: (1) the scope of the program (what and who is captured in the covered product and SO universe); (2) requirements for the SO; (3) funding for the program; and, (4) oversight for the program.

5) **Author's statement**:

   > The fashion industry is considered a top industrial polluter, accounting for approximately 10% of global carbon emissions. As textiles decompose, they emit high levels of methane gas, a major contributor to global warming. The phenomenon of "fast fashion," which revolves around the marketing and sale of low-cost, low-quality garments that go out of vogue with increasing speed, is a major contributor to this alarming environmental trend.
   >
   > A well-designed and effectively administered statewide textile [EPR] program has the potential to develop previously untapped or underutilized upcycled and recycled clothing and fiber markets, as well as to support ongoing efforts to encourage the repair and reuse of clothing and other textiles in California. In so doing, SB 707 will facilitate a transition to a sustainable, market-aligned, circular economy for textiles that will unlock new production and consumption opportunities to the benefit of the environment, all at a relatively low cost to both the state and consumers alike.

6) **The big picture**. This bill is intended to create a statewide EPR program to manage the volumes of textile waste generated in California. The program would require producers, either individually or through one or more SOs, to design and implement a program to collect and recycle, reuse, repair, or otherwise properly manage textile wastes, including apparel, bulk fabric, and other textile articles.

7) **Details matter**. This bill establishes a broad framework for an EPR program, including the basic components of an EPR program, but leaves the details open for the producer responsibility organization or CalRecycle to develop through the plan or as part of the regulations.

"Apparel" is defined broadly to include, but not be limited to, nearly all items of clothing and accessories that are worn. "Textile article" is also defined, but uses terminology that aligns with federal harmonized tariff schedule (HTS) codes, which are widely used by industry to describe individual items in commerce. Using two different definitions, one that will have to be interpreted by CalRecycle (apparel) and the other that is based on accepted industry standards (textile articles) may create confusion about what types of textiles and textile products are covered by the bill. Additionally, the stated focus of the bill is to address the significant waste generated by the fast fashion industry, but the bill includes fabric sold by the bolt at retail, which is used by consumers who make their own clothes or textile items and is arguably the opposite end of the spectrum from fast fashion.

This bill models the definition of producer after prior EPR legislation, which starts with the brand owner and steps down to the importer or retailer to ensure that there is an entity located within the state that is responsible for ensuring compliance with the bill's requirements. This has worked well previously, but it may not be able to capture many fast fashion producers, as a significant portion of fast fashion apparel is shipped directly to in-state consumers from companies located overseas. These products would be collected and managed by the in-state program operators, but it may be difficult or impossible to require overseas producers to participate in the program.

Program operators will also continue to be responsible for the collection and management of items collected from the reuse and repair market. For example, a pair of jeans imported into the state and sold by a member of a stewardship organization who participates in the program, including paying the relevant fees and complying with program requirements. When those jeans are collected by a program operator, sorted, and used as fabric by a different manufacturer to make a new item like a skirt or a throw pillow, that manufacturer only covered by the program as a reuse facility. This means that program operators of the stewardship program will continue to be responsible for the collection and reuse or recycling of the fabric that skirt or pillow is made from until it is recycled into a product that is not a textile or disposed.

This bill establishes clear metrics for collection sites, requiring each program operator to provide at least 10 collection sites per county, or one collection site for every 25,000 people, whichever is greater. This appears to be required for every program operator, including every producer opting to implement the program individually. As drafted, all producer responsibility organizations would have to collect all materials covered by the bill, whether or not their stewardship plan covers all covered products. This will provide convenience for consumers, but may be somewhat challenging for program operators if there are multiple stewardship plans covering different covered products.

This bill does not establish any recycling goals or timelines. CalRecycle is required to adopt regulations to implement the bill, but there is no timeline for those regulations to be adopted or to go into effect other than "no earlier than December 31, 2025." While this should

alleviate any concerns about CalRecycle's capacity to adopt the regulations quickly, it may result in an indefinite delay before the program goes into effect. Moreover, it precludes CalRecycle from adopting a minimum recycling efficiency rate (i.e., the percentage of material collected that is actually recycled) when developing the program's regulations. Instead, the bill allows CalRecycle to adopt a minimum recycling efficiency rate when it reassesses the program's regulations in 2032. So, for at least the first several years of the program's operation, program operators will not have any specific targets to achieve beyond collection. If CalRecycle decides not to adopt a rate in 2032, the bill allows program operators to include one, at their discretion, in a stewardship plan revision. The bill also precludes CalRecycle from adopting, "other criteria" for the program until 2032, which may include things like recycled content requirements or limitations on certain types of products or materials that may hinder recycling. While EPR programs appropriately allow producers to determine how to achieve the goals of the programs, it is the role of policy makers to establish clear objectives and timelines for those programs.

According to the author, they are working with CalRecycle to receive technical assistance to refine the bill's provisions. Many prior bills that established EPR programs took multiple years to allow adequate time for negotiations with all stakeholders. If this bill moves forward, the author and sponsors should continue to work with stakeholders, the administration, and this committee to ensure that the bill can be effectively implemented and that the program fulfills the goals of the author.

8) **Suggested amendments**: The *committee may wish to make the following amendments* to the bill:

   a) Correct references to "covered product" and "apparel and textile articles" throughout the bill.

   b) Revise the definition of "apparel" to include knitted and woven accessories and remove handbags and backpacks.

   c) Exempt products covered by the state's carpet EPR law to avoid potentially duplicative regulation of carpets and rugs.

   d) Revise the definition of "textile article" to remove knitted and woven accessories and clarify that the list of textile articles is exclusive.

   e) Revise the effective date from "no earlier than December 31, 2025" to "no later than December 31, 2026" and extend the date CalRecycle is authorized to revise the regulations from 2032 to 2033.

   f) Authorize CalRecycle to establish a minimum recycling efficiency rate and other program criteria by regulation and specify that the regulations can be revised no more frequently than every two years.

   g) Require the program operator to consult the advisory committee when determining whether revisions to the stewardship plan are necessary.

h) Clarify the reporting requirements for apparel and textile articles sold in the state and covered products collected by the program operator for reuse, recycling, or disposal.

i) Authorize CalRecycle to require, by regulation, producers or program operators to meet program requirements if it determines that a producer or program operator has not achieved any of the requirements of the program.

j) Clarify that the statement that the bill does not grant a city, county, city and county, special district, or joint powers authority any new authority over solid waste franchises is legislative intent.

k) Make related technical and clarifying amendments.

REGISTERED SUPPORT / OPPOSITION:

Support

5 Gyres Institute
Ambercycle
Aquafil Carpet Recycling
Boardrider
California Environmental Voters
California Product Stewardship Council
Californians Against Waste
CALPIRG
Castro Valley Sanitary District
CBU Productions
Center for Oceanic Awareness, Research, & Education
Changing Markets Foundation
Circ, INC.
Cirtex
City of Roseville
City of San Jose
City of Sunnyvale
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
County of Santa Barbara
Coyuchi
Delta Diablo
Environmental Working Group
Everlane
Fashion Revolution USA
Fibershed
Fort Ord Environmental Justice Network
Friends Committee on Legislation of California
Full Circle Environmental
Grace Veterinary, INC
Greenwaste Recovery
Heal the Bay
Luna Lab
Lymi, INC. Dba Reformation
Mara Hoffman
Marmot
Materevolve
Mojave Desert and Mountain Recycling Authority
National Stewardship Action Council
Northern California Recycling Association
Ocean+main
Ouros Industries
Plastic Oceans International
Plastic Pollution Coalition
Plsreturnit INC
Product Stewardship Institute
R3 Consulting Group, INC.
Ravel
Recology
Renewcell
Repeat Reuse, INC
Republic Services INC.
Resource Recovery Coalition of California
Roboro
Rural County Representatives of California
Salinas Valley Solid Waste Authority
Santa Barbara County Solid Waste Local

Task Force
Santa Clara County Recycling and Waste Reduction Commission
Scullyspark
Sea Hugger
Seventh Generation Advisors
Sierra Club California
Social Compassion in Legislation
Solana Center for Environmental Innovation
Sortile
South Bayside Waste Management Authority Dba Rethinkwaste
St. Catherine University
Stand Up to Trash
Sustainable Works
The Fashion Connection
Upcycle It Now
USAgain
Western Placer Waste Management Authority (WPWMA)
Wishtoyo Chumash Foundation
Zero Waste Company
Zero Waste San Diego
Zero Waste Sonoma
Zero Waste USA

Opposition

Accelerating Circularity, INC.
American Apparel & Footwear Association
American Circular Textiles Group
California Chamber of Commerce
California Manufacturers and Technology Association

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 751 (Padilla) – As Amended May 4, 2023

SENATE VOTE: 30-9

SUBJECT: Franchise agreements: labor dispute

SUMMARY: Prohibits a city or county from entering into or amending a solid waste hauling agreement if it excuses the service provider from performing its duties in the event of a labor dispute, and requires agreements to include certain provisions in the event of a labor dispute.

EXISTING LAW:

1) Authorizes cities and counties to "make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (California Constitution, Article XI, Section 7)

2) Requires local agencies to make adequate provision for solid waste handling within their jurisdictions and in response to regional needs, consistent with state policies, standards, and requirements. (Public Resources Code (PRC) 40002)

3) Expressly authorizes local agencies to determine:

   a) Aspects of solid waste handling which are of local concern, including frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extend of providing services; and,

   b) Whether services are provided by nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. (PRC 40059)

4) Defines "solid waste handling services" as the collection, transportation, storage, transfer, or processing of solid waste. (PRC 40195)

5) Defines "labor dispute" as any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether or not the disputants stand in the proximate relation of employer and employee. (Code of Civil Procedure 527.3)

THIS BILL:

1) Prohibits a franchise contract, license, or permit for solid waste handling services entered into or amended by a local agency on or after January 1, 2024, from excusing the service provider from performance in the event of a labor dispute, as defined.

2) Prohibits the following provisions from being included in any franchise contract, license, or permit for solid waste handling services entered into or amended by a local agency on or

after January 1, 2024, and apply in the event of service being interrupted by a work stoppage associated with a labor dispute:

a) A timeframe in which the franchisee shall provide advance notice of service being disrupted;

b) A process that allows a customer to file a service complaint with the franchisee and a timeframe within which the franchisee shall respond to complaints;

c) A process for customers to request and receive refunds or credits for services not received; and,

d) A remedy that allows the local agency to take administrative action to enforce the franchisee's failure to perform.

3) Specifies that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for local agencies and school districts shall be made, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, this bill has negligible state costs.

COMMENTS:

1) **Author's statement**:

> In 2022, I had a front row seat to a business taking advantage of a loophole, which resulted in a public health emergency. Republic Services failed to reach a labor agreement that triggered a strike. In the franchise agreement with the City of Chula Vista, Republic Services had placed a provision that shielded the company from liability in the face of a strike or work stoppage. As workers called for better wages and the strike continued, Republic Services halted trash pick-up leaving residents to deal with the consequences. The clause shielded the company from liability for the trash piling up throughout the city. The vendor stalled for time while trash piled up, causing a public health crisis.
>
> What happened in Chula Vista in a perfect example of companies leveraging loopholes in their exclusive agreements with cities to take advantage of residents and workers alike. Sanitation vendors have turned an Act of God provision into a hammer against residents and workers. We shouldn't allow vendors to use the public as pawns in their labor fights.

2) **Franchise agreements**. Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Under these agreements, the local agency charges the franchisee for the benefit of operating within the public right-of-way. The franchisee then charges customers for providing waste hauling services. Jurisdictions have the authority to enter into franchises with waste haulers, with or without competitive bidding. Exclusive franchises authorize a single hauler to operate within a jurisdiction. Non-exclusive franchises allow for more than one hauler, but establish specific requirements for hauling within the jurisdiction.

Some communities in California do not have franchise agreements, which allows solid waste businesses to compete within the jurisdiction for service contracts with individual waste generators.

Some franchise agreements include "force majeure" provisions, which free the parties to the agreement from performing their respective duties if extraordinary events directly prevent the parties from doing so. Such an extraordinary event is often referred to as an "act of god," but can include both natural and human-made events, including fires, floods, storms, and labor disputes.

3) **City of Chula Vista**. Chula Vista is San Diego County's second largest city, with just over 275,000 residents. In 2014, Chula Vista renewed its franchise agreement with Republic Services, one of the nation's largest waste hauling companies with more than 39,000 employees nationwide, to serve more than 50,000 customers in the city. Their agreement included a force majeure provision that shielded both parties from fulfilling their obligations in certain extraordinary events, including natural events that cannot be anticipated, sabotage, war, riots, and strikes or work stoppages.

   In December 2021, members of Teamsters Local 542 employed by Republic Services stopped working to protest stalled contract negotiations. During the month-long work stoppage, Republic Services halted some waste pick-up because the franchise agreement included a force majeure provision that shielded the company from liability for not picking up waste during uncontrollable events, including a work stoppage. While Republic Services picked up some waste and allowed customers to drop off waste at their landfill free of charge, the City also used its own staff and contracted with nonprofits to make up for lost or reduced services. In June 2022, the City settled with Republic Services. As part of the settlement, Republic Services reimbursed some City costs, provided the City with additional services, and provided a partial credit to customers.

4) **This bill**. This bill is intended to prevent future work stoppages that disrupt solid waste collection services due to labor disputes by prohibiting the inclusion of clauses that excuse services providers from their duties during labor disputes in local government contracts.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Chula Vista

Opposition

Waste Management & Affiliated Entities

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 755 (Becker) – As Amended July 3, 2023

SENATE VOTE: 40-0

SUBJECT: Energy efficiency and building decarbonization programs

SUMMARY: Requires the California Energy Commission (CEC) to develop a website for energy efficiency and building decarbonization programs available in the state for residential buildings and residential electricity customers administered by CEC, a federal or local government agency, or a nonprofit organization. Requires CEC to enable customers to apply for these programs through the website.

EXISTING LAW:

1) Requires CEC to assess the potential for the state to reduce greenhouse gas (GHG) emissions from the state's residential and commercial building stock by at least 40% below 1990 levels by January 1, 2030. (Public Resources Code (PRC) 25403)

2) Requires CEC to award funds to research and develop projects that advance technologies critical to meeting the state's environmental and energy goals and benefit electricity ratepayers. (PRC 25711)

3) Requires CEC to establish the Equitable Building Decarbonization Program, which includes developing a statewide incentive program for low-carbon building technologies and the direct install program to fund certain projects, including installation of energy efficient electric appliances, energy efficiency measures, demand flexibility measures, wiring and panel upgrades, building infrastructure upgrades, efficient air conditioning systems, ceiling fans, and other measures to protect against extreme heat, where appropriate, and remediation and safety measures to facilitate the installation of new technologies. (PRC 25665 *et seq*.)

4) Appropriates $1.12 billion to establish the Equitable Building Decarbonization Program, pusruant to the Budget Act of 2022. (AB 179 (Ting), Chapter 249, Statutes of 2022)

5) Requires the California Public Utilities Commission (CPUC) to report biennially on its efforts to identify ratepayer-funded energy efficiency programs that are similar to programs administered by CEC, the Air Resources Board (ARB), and the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) in its annual report on ratepayer costs, and to require revisions of ratepayer funded programs as necessary. (Public Utilities Code 913.9)

THIS BILL:

1) Requires CEC to develop and make available a website for energy efficiency and building decarbonization programs administered by CEC, a federal or local agency, or a nonprofit organization that are available for residential buildings and residential electricity customers.

Requires the website to be capable of gathering specified information from a user and autopopulating the information in applications for participation in those programs.

2) Requires CEC to consider including all energy efficiency and building decarbonization programs, including:

   a) The direct install program;

   b) The statewide incentive program for low-carbon building technologies; and,

   c) Any other energy efficiency and building decarbonization programs administered by a federal or local agency or a nonprofit organization.

3) Requires that customers be able to apply for the programs through the website, and specifies that the website complement, but not replace, other application methods.

4) Requires CEC to partner with relevant entities that administer the programs.

5) Requires CEC to annually review the programs included, invite stakeholder suggestions for new programs to be added to the website, and provide feedback.

6) Authorizes CEC to provide a link for any program CEC determines cannot be included on the website, including any other state program that is not administered by CEC or funded by the customers of an electrical corporation.

7) Prohibits CEC from including any energy efficiency program or building decarbonization program administered by the CPUC.

8) Requires CEC to communicate with local organizations and disadvantaged communities about the website, including annual changes or updates.

9) Specifies that funding for implementation of the bill's requirements "shall be available, upon appropriation by the Legislature, in the annual Budget Act."

10) States legislative intent to improve distribution and access to state and federal programs for energy efficiency and building decarbonization programs.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) Unknown, potentially significant ongoing cost pressure (various funds) due to potential increases in applicants for energy efficiency and building decarbonization programs due to the simplified application process that this bill would establish.

2) Unknown but likely minor costs (General Fund) for the CEC to develop a website as specified.

COMMENTS:

1) **Building emissions**. According to ARB, residential and commercial buildings are responsible for approximately 25% of California's GHG emissions when accounting for electricity demand, fossil fuels consumed onsite, and refrigerants. Of the 25%, around 10%

of emissions are attributable to fossil fuel combustion, including natural gas, with residential buildings accounting for slightly more of those emissions than commercial buildings.

There are several strategies that can be employed to reduce GHG emissions from the building sector, such as: improved energy efficiency of buildings and appliances, reducing carbon emissions from fossil fuel sources, ensuring cleaner sources of energy to operate buildings and associated appliances, and addressing methane leaks. Refrigerants used for space-cooling and refrigeration systems also contribute directly to building-related GHG emissions and are a growing source of GHGs from buildings. ARB's Scoping Plan for achieving carbon neutrality identifies actions to reduce GHG emissions from the building sector, including progressively improving building codes and standards, pursuing voluntary efforts to exceed code requirements, and completing existing building retrofits.

2) **State programs**. The state has numerous energy efficiency and GHG reduction funding programs that provide grants and loans. These programs are available from various state entities, such as the CEC, CPUC ARB, CAEATFA, and the Department of Community Services and Development. The federal Inflation Reduction Act, adopted in 2022, authorized $370 billion for clean energy, transportation, and the environment, including two residential energy rebate programs: The Homeowner Managing Energy Savings Program will provide performance-based rebates for whole-house energy saving retrofits, and the High-Efficiency Electric Home Rebate Program will provide rebates for qualified electrification projects in low- to moderate-income households. This mishmash of programs makes is challenging for individuals to identify and apply for funding programs for which they may be eligible.

3) **Equitable Building Decarbonization Program**. The Equitable Building Decarbonization Program was established by AB 209 (Committee on Budget), Chapter 251, Statutes of 2022, to reduce GHG emissions associated with the building sector. The program encompasses the direct install program and a statewide incentive program for low-carbon building technologies. The direct install program provides minimal or no-cost retrofits to low- and moderate-income households, with preference given for buildings located in under-resourced communities, or owned or managed by a California Native American tribe or a member of a California Native American tribe. The retrofits include installation of energy efficient appliances, energy efficiency measures, demand flexibility measures, wiring and panel upgrades, building infrastructure upgrades, efficient air conditioning systems, ceiling fans, and other measures to protect against extreme heat, where appropriate, and remediation and safety measures to facilitate the installation of new technologies. The statute defines low- and moderate-income residents as those persons and families whose income does not exceed 120% of area median income, adjusted for family size, in accordance with the U.S. Department of Housing and Urban Development. The statute also authorizes the direct install program to include tenant protections for participating rental properties.

4) **This bill**. This bill is intended to provide residential ratepayers with one website, administered by CEC, to identify the building efficiency programs and building decarbonization programs they may be eligible for and to apply for those programs through the website. The website may also help any third-party administrators selected by CEC to administer the Equitable Building Decarbonization Program, as well as community-based organizations, connect residents with access to these programs.

5) **Author's statement**:

> California and the federal government have provided unprecedented investments, rebates, grants, and incentives to help low- and middle-income households switch to electric appliances and gain energy savings. In the Inflation Reduction Act (IRA) alone, for example, California was allocated $582 million in rebates for home decarbonization. While California leads on providing financial support to increase energy efficiency, reduce utility bills, and support a transition to a zero-emission appliances, the applications for these various energy programs are scattered. Energy applications are currently administered between 3 state agencies, a household's utility, and their various local governments. Local organizers, non-profits, and individual Californians have struggled with using and promoting these disintegrated applications, as a result. This is particularly inaccessible to low-income households, who are often required to apply up to six programs to cost-effectively transition to an electric appliance. SB 755 requires the California Energy Commission to create 'California's Layered Energy Application for Residents (CLEAR), a one-stop online application portal CEC energy programs and other federal or local programs interested in participating. For program applications that cannot be integrated, the portal would show a user which other incentives they qualify for. The CEC would also receive feedback annually on which local programs could be integrated and proactively communicate with advocates in disadvantaged communities on updates to the portal.

6) **Suggested amendments**. The *committee may wish to amend the bill* to simplify and consolidate the language and to specify that the website is intended to include programs administered by CEC, federal or local public agencies, *and* (rather than "or") nonprofit organizations.

7) **Double referral**. This bill passed the Assembly Utilities and Energy Committee on June 28th with a vote of 14-0.

8) **Related legislation**.

AB 43 (Holden) requires ARB to develop a market-based embodied carbon trading system to facilitate compliance with the state's strategy to reduce the carbon intensity of building materials by 40% by 2035. This bill has been referred to the Senate Environmental Quality Committee.

SB 48 (Becker) requires CEC, in consultation with ARB, California Public Utilities Commission, and Department of Housing and Community Development, on or before July 1, 2026, to develop a strategy using the existing energy usage data found in the benchmarking program requirement to track and manage the energy and GHG emissions of covered buildings in order to achieve the state's energy and climate goals for buildings. This bill is also scheduled to be heard in this committee on July 10th.

SB 306 (Caballero) revises the direct install program that was enacted in the 2022-23 Budget as part of the Equitable Building Decarbonization Program and codifies and requires updates to the Extreme Heat Action Plan. This bill is also scheduled to be heard in this committee on July 10th.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
California Building Industry Association
California Business Properties Association
California Green New Deal Coalition
Carbon Free Palo Alto
Carbon Free Silicon Valley
Central Coast Energy Services
Climate Action California
Elders Climate Action, NorCal and SoCal Chapters
Rewiring America
San Francisco Peninsula Energy Services

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SB 777 (Allen) – As Amended July 3, 2023

SENATE VOTE: 36-2

SUBJECT: Solid waste: reusable grocery bags and recycled paper bags

SUMMARY: Requires stores that distribute reusable, as defined, bags to consumers to provide customers with the opportunity to return the bags for recycling. Requires that stores use funds from the $0.10 per bag charge required by the state's "Bag Ban" to provide customers with opportunities to return reusable grocery bags for recycling, and requires specified stores to report data on bag sales and funds to the Department of Resources Recycling and Recovery (CalRecycle) on a quarterly basis.

EXISTING LAW:

1) Requires, under the Integrated Waste Management Act (IWMA), local governments to divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020. (Public Resources Code (PRC) 41780, 41780.01)

2) Establishes the statewide Bag Ban that prohibits a store from providing a single-use carryout bag to a customer at the point of sale. (PRC 42283)

3) Defines "store" as any retail establishment that meets any of the following requirements:

    a) Is a full-line, self-service retail store with gross annual sales of $2 million or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items;

    b) Has at least 10,000 square feet of retail space that generates sales or use tax, as specified, and has a pharmacy;

    c) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a specified license to sell alcohol; or,

    d) Any retail establishment that voluntarily agrees to comply with the bag ban.

4) Authorizes a store to provide a reusable bag that meets specified requirements, a compostable bag (under specified conditions), or a recycled paper bag for not less than $0.10. (PRC 42281-42283)

5) Requires stores to expend money from the $0.10 charge for:

    a) Costs associated with complying with the requirements of the bag ban;

    b) Actual costs of providing recycled paper bags or reusable grocery bags; and,

c) Costs associated with a store's educational materials or educational campaign encouraging the use of reusable grocery bags. (PRC 42283.7)

6) Authorizes a city, county, city and county, or state to impose civil liability on a person or entity that violates these provisions. Violation amounts increase for multiple violations from $1,000 to $5,000 per day. (PRC 42285)

THIS BILL establishes the Transparancy in Grocery Bag Recycling Act, which:

1) Requires that the statement printed on reusable bags stating their reusability must be in at least 14-point font.

2) Requires operators of stores to provide customers with the opportunity to return reusable grocery bags and maintain a plan that ensures the reusable grocery bags returned to the store are recycled. Requires the plan to include arrangements made with recyclers and reclaimers to ensure the reusable bags meet specified recycling requirements and are sent to responsible end markets, as defined.

3) Specifies that funds collected by stores pursuant to the state's 10-cent bag fee may be used for costs associated with providing customers with an opportunity to return reusable grocery bags to the store for recycling, and any other costs associated with ensuring that collected bags are recycled.

4) Requires stores to submit a quarterly report to CalRecycle that includes:

   a) The number of bags purchased in the quarter;

   b) The actual costs to the store for acquiring and providing bags purchased;

   c) The actual costs associated with providing recycled paper bags or reusable bags;

   d) The actual costs associated with the store's educational materials or educational campaign encouraging the use of reusable bags;

   e) The total costs associated with complying with the bag ban and related costs; and,

   f) The balance, if any, of remaining funds in the quarter.

5) Allows an authorized representative of a store with a collective bargaining agreement to review and make copies of the quarterly reports.

6) Authorizes CalRecycle to conduct audits of stores to determine compliance with the bill.

7) Defines "store" for purposes of the bill as a full-line, self-service retail establishment that meets the following criteria:

   a) Has gross annual sales of $2 million or more;

   b) Sells a line of dry groceries, canned goods, or nonfood items, and some perishable items; and,

c) Is an employer with 300 or more employees nationwide.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill has unknown, ongoing costs, likely in the millions of dollars annually. Appropriations Committee staff notes that for the 2023-24 fiscal year, the Reusable Grocery Bag Fund is anticipated to have no revenue and an ending fund balance of $1 million.

COMMENTS:

1) **California's single-use bag ban**. The state's Bag Ban was enacted by SB 270 (Padilla), Chapter 850, Statutes of 2014; however, the law was almost immediately suspended by a referendum, and did not go into effect until voters approved it as Proposition 67 in November 2016.

   Under the ban, stores are prohibited from providing single-use plastic carryout bags to customers at checkout. Instead, stores can sell reusable grocery bags, recycled paper bags, or compostable bags to customers at checkout. Under the bill, reusable bags are defined as any bag that has a handle and is designed to be reused at least 125 times, has a 15 liter capacity, and can be cleaned and disinfected. These bags are primarily made from film plastic similar to the type used for single-use bags, but the bags are thicker to enable them to meet the definition of reusable. Stores are required to charge a minimum of 10 cents for these bags. This 10-cent charge per bag is intended not only to cover the costs of the store's switch from single-use plastic to more expensive reusable, compostable, or recycled bags but also to drive a change in consumer behavior, incentivizing customers to bring their own reusable bag to avoid the 10-cent charge.

   Stores do not have a reporting requirement under the bag ban but are held accountable for purchasing compostable or recycled bags. Bag producers pay an administrative certification fee and submit proof to CalRecycle certifying that their bags meet the recycled or compostable criteria for the state. This data is sent once every two years to CalRecycle via the Reusable Grocery Bag Reporting System (RGBRS). Once CalRecycle receives this proof of certification in the RGBRs data system, it posts the name of producers to a Certified Reusable Grocery Bags and Producers list. Stores are only allowed to purchase carryout bags that are certified by this process.

   Immediately following the passage of the Bag Ban, CalRecycle conducted a one-time survey on the impact of the bag ban on shifting consumer behavior and reducing plastics. Six months after SB 270 went into effect there was an 85% reduction in the number of plastic bags and a 61% reduction in the number of paper bags provided to customers, according to self-reported data from 1,500 stores. However, given that this data was self-reported, only collected over six months, and did not parse out the impact of statewide and local plastic bag bans, the findings cannot be considered definitive. However, further studies have found that the Bag Ban has led to a reduction in bag litter. In 2007, up to 10% of littered items collected across California were plastic or paper bags, but a decade later, after SB 270 was enacted, under 4% of items collected during the Coastal Cleanup Day were plastic or paper bags, representing a significant drop in single-use bag pollution.

2) **Recycling challenges**. While plastic bags are made from recyclable resin types, they are difficult to recycle and are generally not accepted for recycling in curbside collection

programs. When they are mixed with other recyclables, they become entangled in sorting equipment, causing significant delays and costs.

Prior to SB 270, state law had established an At-Store Recycling Program which required stores that provided single-use plastic carryout bags to also provide collection bins for those bags. The bags collected in these bins were required to be recycled in a manner consistent with local jurisdictions' recycling plans. Under the At-Store Recycling Program, stores reported their single-use plastic bag collection and recycling efforts to CalRecycle. SB 270 required that reusable plastic bags be accepted for return at stores subject to the At-Store Recycling Program. The At-Store Recycling Program sunset on January 1, 2020, leaving consumers with very limited recycling options for plastic bags, including reusable plastic bags and plastic produce bags distributed by stores.

3) **This bill**. This bill reinstates a take-back requirement for reusable bags distributed by stores and requires stores to maintain a plan to ensure the bags are recycled. This bill is intended to provide transparency and accountability to the use of plastic bag surcharge funds collected by stores. This bill also authorizes, but does not require, stores to use a portion of the funds to provide recycling opportunities to consumers.

4) **Author's statement**:

> In 2014, California became the first state in the nation to ban the sale and use of single-use plastic bags at retail establishments. The law was intended to reduce the torrent of plastic polluting our beaches, parks, and oceans and endangering wildlife. SB 270 established specific requirements for the use and sale of plastic and paper bags, such as meeting specific weight and compostable requirements, allowing for a surcharge of a minimum of 10 cents per bag sold, and allocating only three uses for the surcharge. The three uses include: (1) covering the costs associated with complying with the requirements of the law, (2) covering the actual costs of providing recycled paper bags or reusable grocery bags, and (3) covering the costs associated with a store's education materials or educational campaign encouraging the use of reusable grocery bags. However, SB 270 did not contain any reporting or accountability measures to ensure transparency in the surcharge imposed by retailers. SB 777 corrects this by requiring larger chain retailers to report this critical information quarterly, ensuring regulators and consumers know their money is being spent to further the goals of reducing plastic waste in the state.

5) **Suggested amendment**. The committee may wish to clarify that stores are required to maintain *and implement* the plan for the recycling of bags.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers, AFL-CIO
Californians Against Waste
United Food and Commercial Workers, Western States Council

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: July 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Luz Rivas, Chair
SJR 2 (Gonzalez) – As Amended March 30, 2023

SENATE VOTE: 28-7

SUBJECT: Climate change: Fossil Fuel Non-Proliferation Treaty

SUMMARY: Formally endorses the call for a Fossil Fuel Non-Proliferation Treaty (Treaty), states California's agreement with the principle of nonproliferation of fossil fuels, and urges the United States government to join in formally developing a Fossil Fuel Non-Proliferation Treaty.

EXISTING LAW:

1) Requires, pursuant to the California Global Warming Solutions Act [(AB 32), Nuñez, Chapter 488, Statutes of 2006], ARB to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020, reduce GHG emissions at least 85% below the 1990 level by 2045, and establishes a goal of zero net carbon emissions by 2045, commonly known as carbon neutrality. (Health and Safety Code (HSC) 38500 *et seq*.)

2) Finds and declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems. (HSC 38501(a))

3) Pursuant to Governor Newsom's direction, requires the State Air Resources Board (ARB) to evaluate how to phase out oil extraction by 2045 through the climate change scoping plan, the state's comprehensive, multi-year regulatory and programmatic plan to achieve required reductions in GHG emissions. (Executive Order N-79-20)

4) Declares, pursuant to SCR 53 (McGuire), Res. Chapter 119, Statutes of 2022, that a climate emergency threatens the state, the nation, the planet, the natural world, and all of humanity.

THIS BILL:

1) Formally endorses the call for the Treaty.

2) Urges the United States government to join the global community in formally developing theTreaty as an international mechanism to manage a global transition away from coal, oil, and gas.

3) Resolves that California agrees with the principle of the nonproliferation of fossil fuels and the need to end the expansion of new coal, oil, and gas production.

4) Affirms the need for a plan to phase out existing fossil fuel production that prioritizes the most impacted workers and local government services with short- and long-term investments that include enforceable labor standards, such as prevailing wages, apprenticeship opportunities, and project labor agreements to protect workers and communities.

5) Affirms its ongoing commitment to the goals of the Paris Agreement, the United Nations Sustainable Development Goals, and the GHG reduction targets as called for by the International Panel on Climate Change and intends to meet its proportionate GHG reductions under the Paris Agreement.
6)

FISCAL EFFECT: Non-fiscal

COMMENTS:

1) **California's climate goals**. California has aggressively adopted GHG reduction targets to reduce the state's portfolio of climate emissions and facilitate emissions reductions across virtually every sector and region. But the impacts of climate change are still happening. Extreme heat, rising sea levels, ongoing drought, flooding, and wildfires have had direct impacts on public health, infrastructure, people's livelihoods, and local and state economies. The need to further reduce GHGs to spare the most significant impacts of climate change are critical to managing our resources and species' survival.

   According to ARB's GHG inventory data for 2020, the most recent year available, overall emissions have dropped 20% since 2000 with sector-by-sector levels varying. Emissions related to the production and distribution of electricity, for example, have dropped 43%, the largest decline of any sector. Emissions related to the high global warming potential gases (e.g. sulfur hexafluoride, nitrogen trifluoride, perfluorocarbons, and hydrofluorocarbons), however, have increased more than 230%.

   The United Nations-sponsored Paris Agreement, to which the United States is a party, calls on member governments to limit the global temperature increase to below 2 degrees Celsius over pre-industrial levels. It also urges efforts to limit the increase to 1.5 degrees Celsius (or 2.7 degrees Fahrenheit). Past the 1.5-degree threshold, climate impacts may be more intense, longer lasting, or irreversible.

   As of 2022, the planet had already warmed 1.1 degrees Celsius. Avoiding a 1.5-degree increase may be out of reach. Scientists report a 50% chance global temperatures will hit the 1.5-degree threshold, at least temporarily, within the next five years. Meanwhile, global emissions continue to rise.

2) **Oil & gas in California**. According to data cited in ARB's Draft Scoping Plan for 2022, the total oil extracted in California peaked at 402 million barrels in 1986, and has decreased by an average of six million barrels per year. This steadily decreasing production of crude in California is expected to continue as the state's oil fields deplete.

   However, California remains the third largest oil and gas producing state, and as of 2022, produced 3% of the crude oil of the nation. That same year, California supplied about 26% of all oil going into the state's 17 oil refineries.

Transportation accounts for 37% of all GHG emissions in the state, considering the tailpipe emissions alone. When emissions from refining and oil and gas extraction operations are included, transportation accounts for about half of the state's GHG emissions portfolio (or about 184.6 million metric tons of GHG in 2020).

California has an ambitious goals to reduce petroleum use in California up to 50% from 2015 levels by 2030 and phase out passenger combustion-engine cars by 2035 to meet our climate neutrality goals.

3) **The Fossil Fuel Non-Proliferation Treaty**. Fossil fuels continue to dominate the global energy system, accounting for 81% of primary energy demand and demand is growing. "Non-proliferation" is a term that first emerged in the context of stopping the proliferation of nuclear weapons and is used to mean curb a rapid spread. The Treaty is a landmark international agreement that originated from grassroots efforts and came into effect in 1970 to prevent the spread of nuclear weapons. The Nuclear Non-Proliferation Treaty was used as a model for the Fossil Fuel Non-Proliferation Treaty Initiative.

   The Treaty started in 2019 through a Climate Breakthrough award and is an international climate policy proposal for a new treaty to manage a global just transition away from coal, oil and gas. It would complement the Paris Agreement and states that it draws lessons from other treaties that have successfully managed threats of landmines, tobacco, chemical weapons, ozone-depleting chemicals and nuclear weapons.

   In April 2021, the Treaty Initiative coordinated a letter signed by 100 Nobel laureates, including scientists, peace makers, writers, and the Dalai Lama, urging world leaders "to take concrete steps to phase out fossil fuels in order to prevent catastrophic climate change."

   The open letter highlighted a report from the United Nations Environment Programme, stating that "120% more coal, oil, and gas will be produced by 2030 than is consistent with limiting warming to 1.5°C."

4) **Cost of climate change.** California Fourth Climate Change Assessment found that the costs to adapt to the impacts of climate change will be incredibly high. Specifically, the report found it could soon cost Californians $200 million a year in increased energy bills to keep homes air conditioned; $3 billion from the effects of a long drought on agriculture; and, $18 billion to replace buildings inundated by rising seas. It also underscores the loss of life from heat waves, which could add more than 11,000 heat-related deaths a year by 2050 in California, and carry an estimated $50 billion annual price tag.

5) **SJR 2.** This resolution states that California agrees with the principle of the nonproliferation of fossil fuels and the need to end the expansion of new coal, oil, and gas production, and urges the federal government to formally develop the Treaty as an international mechanism to manage a global transition away from coal, oil, and gas.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area
350 Bay Area Action
350 Conejo
350 Sacramento
350.org
Abibinsroma Foundation

Accelerate Neighborhood Climate Action
Advocating for Humanity
African Solution
Alliance for Just Money
Alliance of Nurses for Healthy Environments
Amnesty International USA
Animals are Sentient Beings, INC.
Asian Pacific Environment Network
Biofuelwatch
Breast Cancer Action
Businesses for A Livable Climate
California Kitchen
California Nurses for Environmental Health and Justice
California Small Business Alliance
Call to Action Colorado
Carmelite Ngo
Catholicnetwork US
Center for Biological Diversity
Center for International Environmental Law
Center on Race, Poverty & the Environment
Central Valley Air Quality Coalition
Citizens' Climate Lobby Canada
Cleanearth4kids.org
Climate Action Rhode Island-350
Climate Emergency Australia
Climate Hawks Vote
Climate Health Now
Co Businesses for A Livable Climate
Colorbrightongreen
Communities for A Better Environment
Community for Sustainable Energy
Community Initiatives for Development in Pakistan (CIDP)
Connie Anderson Dba Grandmaloutunes
Cowichan Climate Hub
Democrats of Rossmoor
Dibeen
Divest Oregon
Divest Parliament
Earth Guardians
Eco Equity
Elders Climate Action
Elders Climate Action Socal Chapter
Environmental Investigation Agency
Environmental Justice Ministry Cedar Lane Unitarian Universalist Church
Extinction Rebellion Peace
Fossil Free California
Fossil Fuel Non-proliferation Treaty
Fox Valley Citizens for Peace & Justice
Fridays for Future US
Fridays for Future Windhoek
Fridaysforfuture Orangecounty
Gen-z for Change
George Mason University Center for Climate Change Communication
Global Exchange
Global Justice Now
Global Warming Mitigation Project
Global Witness
Gower St
Grassroots Global Justice Alliance
Greater New Orleans Housing Alliance
Green America
Greenfaith
Greenpeace USA
Hindus for Human Rights
Hollywood Climate Summit
Honor the Earth
I-70 Citizens Advisory Group
Indigenous Environmental Network
Indivisible Ambassadors
Institute for Agriculture and Trade Policy
Larimer Alliance for Health, Safety and Environment
Laudato Si' Movement Africa
Littleton Business Alliance
Mayfair Park Neighborhood Association Board
Media Alliance
Mental Health & Inclusion Ministries
Mind Eye World
Mobilizeto
Montbello Neighborhood Improvement Association
Mothers Out Front California
Mothers Out Front Sf
Movement Rights
Moveon.org Hoboken Resist
North American Climate, Conservation and Environment
North Range Concerned Citizens
Oil & Gas Action Network
Pacan
Pacific Environment
Parents for Future Global

Parents for Future Miami
Parliament of The World's Religions
Physicians for Social Responsibility - Los Angeles
Plastic Free Fridays
Power Shift Africa
Primavera Zur
Public Citizen
Rainforest Action Network
Rapidshift Network
Rodzice Dla Klimatu - Parents for Future Poland
Safe Cities
San Francisco Bay Physicians for Social Responsibility
Santa Cruz Climate Action Network
Save Epa (former Employees)
See (social Eco Education)
Sierra Club California
Solidarityinfoservice
Spirit of The Sun, INC.
Stamp Out Poverty
Stand.earth
Sunflower Alliance
Sustainable Mill Valley
Sustainable Rossmoor
System Change Not Climate Change
Talanoa Institute
Terra Advocati
The Climate Center
The Green House Connection Center
The Phoenix Group
Third ACT Educators
This! Is What We Did
Unite North Metro Denver
Vote Earth Now
Wall of Women
Way of The Sacred Mountain
We, the World Botswana Chapter
Western Slope Businesses for A Livable Climate
Whatnext?
Women's Earth and Climate Action Network (WECAN)
Women's International League for Peace and Freedom, Ghana
Women's International League for Peace and Freedom, US
Women’s International League for Peace and Freedom
Womxn From the Mountain
Working for Racial Equity
Youth for Climate Turkey

Opposition

None on file

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