



CALIFORNIA CEMENT MANUFACTURERS ENVIRONMENTAL COALITION (CCMEC)

April 5, 2021

TO: Members, Senate Committee on Environmental Quality

**SUBJECT: SB 260 (WIENER) CLIMATE CORPORATE ACCOUNTABILITY ACT
HEARING SCHEDULED – APRIL 12, 2021
OPPOSE – AS INTRODUCED ON JANUARY 26, 2021**

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE SB 260 (Wiener)**, as introduced on January 26, 2021 which seeks to regulate greenhouse gas (GHG) emissions, either directly or indirectly, of all companies¹ who wish to do business in California.

SB 260 Will Impact Small and Medium Businesses

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

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

¹ Although the bill is currently defined as applying to publicly traded domestic and foreign companies, you indicated in your bill announcement that this was a drafting mistake, and that the bill will be amended to also include privately held companies.

Although **SB 260** contains a large threshold for applicability, the bill requires companies to track and set carbon emissions reductions goals not only for its California sites or products, but for worldwide operations. In the definitions, **SB 260** sets out three types of emissions: Scope 1, which is defined as direct emissions from sources owned, operated, or directly controlled by the company; Scope 2, which are indirect emissions from any electricity purchased by a company; and Scope 3, which is very broad and includes all “indirect [GHG] emissions, other than Scope 2 emissions, from activities that that stem from sources that the covered entity does not own or directly control, and may include, but are not limited to emissions associated with the covered entity’s supply chain, business travel, employee commutes, procurement, waste, and water usage.”

Requiring reporting and limiting emissions associated with a company’s entire supply chain will necessarily require that large businesses stop doing business with small and medium businesses that cannot meet stringent carbon emission requirements, leaving these companies without the contracts that enable them to grow and employ more workers. Growing companies must then increase their costs, limiting their access to larger market shares. Forcing companies to make these decisions would have the effect of consolidating market share in the largest of companies rather than fostering competition and growth of smaller industries.

The Bill Imposes the “Cap” in Cap-and-Trade Without the “Trade” or Economic Protections of that Program

As noted during the announcement of this bill, cap-and-trade has successfully reduced emissions and the author wishes to build upon that success. Notably, however, that program also built in substantial economic protections, including a refund to California ratepayers, gradual ratcheting down of emissions to allow companies time to adapt, allowances to avoid destruction of sensitive market segments, and incentives for companies who reach early emissions reductions. This combination of factors has made cap-and-trade a successful part of reaching our state climate goals. **SB 260** takes all of that nuance, and instead substitutes an across the board cap for all entities, regardless of size, feasibility, or any other consideration, and, as indicated above, would impact small and medium businesses alike. Moreover, bringing all companies into a “cap” without any market protections would undermine the incentives built into in cap-and-trade itself and will drive down participation in the cap-and-trade auction, the proceeds for which go to fund ratepayer bill credits and various environmental programs.

Duplicates Reporting and Caps Under Cap-and-Trade

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

Requires Companies to Police Supply Chain Operations and Monitor Employee Commutes

SB 260 requires companies to track, report, and cap supply chain operations and employee commutes. With respect to tracking employee commutes, although employers are aware of the legal address of their employees, we foresee substantial problems with tracking daily commutes, asking which employees take public transit, the cars they drive, etc. With respect to supply chain, many questions arise. If ARB is to enforce these caps against large entities, yet entities are required to track, audit, report and cap these supply chain operators, how will this work in practice? Will covered entities be able to rely upon the data provided by these small and medium businesses, or will they be required to audit their suppliers in order to avoid enforcement? If so, companies are likely to require that small and medium businesses indemnify them from any penalties imposed by the ARB since covered entities do not have direct control over these operations.

The Bill Exceeds Even the Paris Agreement, Which the United States Just Re-Joined

The Paris Agreement, which is the international treaty to which the United States is now again a signatory, sets an agreed upon goal of limiting global CO2 emissions. Companies are already beginning to establish goals consistent with the Paris Agreement, which sets a goal of limiting global temperature rise to 2 degrees Celsius below pre-industrial levels. **SB 260** seeks to change the Paris goals, by requiring science-based targets of below 1.5 degrees, cutting off companies that have already taken the initiative to set a science-based target consistent with the international treaty. Regular moving of the goal post and inconsistencies between global markets in this global issue has the effect of delaying climate action. Moreover, the Paris Agreement was designed with the intent that governments would set goals, which has not yet even occurred in the United States.

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

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

Jurisdictional Issues Will Mean the Burden of SB 260 Will Fall Predominantly on California Businesses

Finally, we are not aware of statutory authority that would provide the California Air Resources Board the authority to regulate foreign and out-of-state companies delivering goods to California. It seems likely that out-of-state or non-California companies would challenge such authority. Because of this uncertainty, the burden will fall on California-based companies, giving out-of-state and foreign companies a market advantage, driving production out-of-state and increasing the cost of goods for California residents.

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

Sincerely,



Leah Silverthorn
Policy Advocate

On behalf of the following organizations:

Agricultural Council of California, Tricia Geringer
Alliance for Automotive Innovation, Curt Augustine
American Forest & Paper Association, Elizabeth Bartheld
American Property Casualty Insurance Association, Denneile Ritter
Brea Chamber of Commerce, Heidi Gallegos
Building Owners and Managers Association of California, Matthew Hargrove
California Apartment Association, Debra Carlton
California Bankers Association, Melanie Cuevas
California Building Industry Association, Nick Cammarota
California Business Properties Association, Matthew Hargrove
California Cement Manufacturers Environmental Coalition, Frank Sheets, III
California Construction and Industrial Materials Association, Robert Dugan

California Independent Petroleum Association, Sean Wallentine
California League of Food Producers, Trudi Hughes
California Manufacturers & Technology Association, Lawrence Gayden
California Restaurant Association, Katie Hansen
California Retailers Association, Steve McCarthy
Carlsbad Chamber of Commerce, Bret Schanzenbach
Chemical Industry Council of California, Lisa Johnson
El Dorado Hills Chamber of Commerce, Debbie Manning
EMA Truck & Engine Manufacturers Association, Tim Blubaugh
Garden Grove Chamber of Commerce, Henry Rogers
Harbor Association of Industry and Commerce, Henry Rogers
Household and Commercial Products Association, Christopher Finarelli
International Council of Shopping Centers, Matthew Hargrove
Lodi Chamber of Commerce, Pat Patrick
Long Beach Area Chamber of Commerce, Jeremy Harris
NAIOP of California, Matthew Hargrove
Orange County Business Council, Jennifer Ward
Oxnard Chamber of Commerce, Nancy Lindholm
Personal Insurance Federation of California, Seren Taylor
Pleasanton Chamber of Commerce, Steve Van Dorn
Rancho Cordova Area Chamber of Commerce, Diann H. Rogers
Redondo Beach Chamber of Commerce, Henry Rogers
San Gabriel Valley Economic Partnership, Brad Jensen
Silicon Valley Leadership Group, Mike Mielke
South Bay Association of Chambers of Commerce, Henry Rogers
Tulare Chamber of Commerce, Donnette Silva Carter
Western Independent Refiners Association, Craig Moyer
Western States Petroleum Association, Margo Parks
Western Wood Preservers Institute, Dallin Brooks

cc: Hazel Miranda, Office of the Governor
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