

Trio of California climate disclosure laws may be delayed or amended

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The three “first-in-the-nation” California climate-related disclosure laws enacted late last year are each the subject of proposed amendments making their way through the legislative process. These proposed amendments, which require further legislative approvals and the governor’s signature, would delay key compliance deadlines in each law and relax some of their requirements.

Three California laws enacted late last year requiring disclosure of information relating to greenhouse gas (GHG) emissions (S.B. 253), climate-related risks (S.B. 261) and companies’ statements regarding emissions reductions and transactions and other activities involving voluntary carbon offsets (A.B. 1305) (discussed [here](#) and [here](#)), are each the subject of proposed amendments¹ making their way through the legislative process. These proposed amendments, which require further legislative approvals and the governor’s signature, would delay key compliance deadlines in each law and relax some of their requirements. However, the proposed amendments to S.B. 253 and 261 are opposed by key state legislators rendering their ultimate enactment subject to uncertainty.

S.B. 253 and 261

Key changes

- **Deadlines delayed by two years.** The proposed amendments would delay all of the deadlines contained in S.B. 253 and 261 by two years as shown in the following table:

	Deadline under current law	Deadline under proposed amendments
CARB rules for reporting GHG emissions under S.B. 253	On or before January 1, 2025	On or before January 1, 2025
Scope 1 and Scope 2 reporting under S.B. 253	2026 (limited assurance) 2030 (reasonable assurance)	2028 (limited assurance) 2032 (reasonable assurance)
Scope 3 reporting under S.B. 253	2027	2029
Scope 3 reporting with assurance under S.B. 253 (subject to CARB discretion)	Rules due on or before January 1, 2027 Reporting to begin in 2030	Rules due on or before January 1, 2029 Reporting to begin in 2032 (limited assurance)
TCFD reporting under S.B. 261	2026	2028

- **Consolidated reporting under S.B. 253.** The proposed amendments would permit entities subject to S.B. 253 to rely on consolidated reporting at the parent company level and not have to prepare a separate report. The language would allow parent-level reporting to aggregate emissions data across the entire corporate group rather than requiring reporting on an entity-by-entity basis. Notably, this amendment would bring S.B. 253 in line with S.B. 261, which already allows entities to rely on consolidated parent-level reporting.

Current status

The proposed amendments have been proposed by Governor Newsom’s office as a so-called “trailer” bill, which is legislation designed to pass as part of the California’s budget process thereby bypassing standard legislative procedures. The bill aligns with the governor’s past expressions of concern regarding the timing for compliance under the two laws. However, State Senators Scott Wiener and Henry Stern, the sponsors of S.B. 253 and 261, respectively, have each expressed opposition to the proposed amendments. Accordingly, any final amendments to the laws will require negotiations between the governor and legislature. The deadline for the passage of any legislation for 2024 is the end of August.

A.B. 1305

Key changes

- **Effective date delayed to January 1, 2025.** As originally enacted, A.B. 1305 contained no explicit effective date, which under California law, meant that the effective date was January 1, 2024 by default, only a couple months after the bill was enacted. This prompted the bill’s sponsor to publish a letter in the legislative record stating that his “intent” was that the law should become effective January 1, 2025.

A.B. 2331 would formally amend A.B. 1305 to provide that initial disclosures are required by January 1, 2025. In addition, A.B. 2331 clarifies a key point left unaddressed by A.B. 1305 by providing that the disclosure requirements only apply to activities addressed by the law (namely, marketing, selling, purchasing or using voluntary carbon offsets or making carbon reduction claims) that occur after January 1, 2025.

- **Certain kinds of renewable energy certificates (RECs) explicitly carved out of disclosure requirements applicable to carbon offsets.** A.B. 2331 would clarify that RECs “issued through an accounting system of a governmental regulatory body or virtual power purchase agreement” are not considered voluntary carbon offsets and therefore not subject to the law’s disclosure requirements relating to voluntary carbon offsets. It should be noted that the definition of voluntary carbon offsets under A.B. 1305 does not appear to cover RECs of *any* type (whether or not issued by a governmental agency or under a voluntary power purchase agreement such as so-called “unbundled” RECs on the retail market) so it is unclear if this language meaningfully changes the scope of the law.
- **Other changes.** A.B. 2331 would make a number of other changes to the law, including:
 - removing the word “all” from the requirement to disclose information regarding carbon neutral or reduction claims (A.B. 1305 requires disclosure of “*all* information documenting” the claims (emphasis added); A.B. 2331 would simply require disclosure of “information...”);
 - providing that companies that market and resell voluntary carbon offsets generated by other parties can comply with the law by posting “sufficient information” on their website (e.g., a hyperlink) to direct buyers to disclosures made by the generator of the offsets meeting the law’s requirements; and
 - other refinements to disclosure requirements relating to marketers and sellers of voluntary carbon offsets.

Current status

A.B. 2331 passed the state assembly in May and is currently making its way through relevant state senate committees before a vote by the full senate. Because A.B. 2331 has been amended since it was approved by the state assembly, the legislation will require a final assembly vote before being sent to Governor Newsom for signature. Notably, A.B. 2331 has met near unanimous approval throughout the legislative process and the legislative committee and floor memos regarding the bill identify no opponents.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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¹ See [here](#) for proposed amendments to S.B. 253 and 261 and [here](#) for proposed amendments to A.B. 1305.