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**Insights**

# CALIFORNIA CLIMATE REPORTING DEADLINES LOOM AFTER DENIAL OF PRELIMINARY INJUNCTION

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For the thousands of companies potentially subject to California's landmark climate reporting laws—the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261)—reporting has gained new urgency after a federal court's denial of a preliminary injunction motion challenging the validity of the laws under the First Amendment to the U.S. Constitution. With the injunction denied, the deadlines for greenhouse gas emissions and climate-related financial risk disclosures under these laws will be coming due soon, with the first set of disclosures under SB 261 required by January 1, 2026, and Scope 1 and Scope 2 emissions reporting under SB 253 due later in 2026 (exact date yet to be determined).

On August 13, 2025, the United States District Court for the Central District of California in *U.S. Chamber of Commerce et al. v. Cal. Air Resources Board et al.*, No. 2:24-cv-00801, denied the plaintiff business coalitions' motion for a preliminary injunction, holding that plaintiffs had not shown a likelihood of success on the merits with respect to their First Amendment challenge to the laws. This follows the court's February 2025 dismissal of plaintiffs' Supremacy Clause and Dormant Commerce Clause constitutional challenges.

In this latest installment of the case, plaintiffs requested a preliminary injunction based on a pending facial First Amendment challenge to SBs 253 and 261. The basis for the challenge is that the laws unconstitutionally compel speech by mandating sweeping disclosures regarding greenhouse gas emissions (SB 253) and climate-related financial risks (SB 261) from any entity, publicly or privately held, that "does business in" California and meets certain annual revenue thresholds (over $1 billion for SB 253 and over $500 million for SB 261).

In assessing plaintiffs' likelihood of success on the merits, the court first determined that the disclosures mandated by SBs 253 and 261 constituted commercial speech, then considered the appropriate level of scrutiny—intermediate or rational basis—to apply to each law's disclosures. The court arrived at different answers for both laws. Rational basis review was applied to SB 253 because the court held the law dealt with the disclosure of purely factual information (i.e., quantifiable disclosures of a company's greenhouse gas emissions) that was, in the court's view, "uncontroversial," as SB 253 would not force disclosing companies "to take sides in a heated

political controversy"—only to report objective data on their emissions. Meanwhile, SB 261 was evaluated using intermediate scrutiny, as the disclosures required under that law—companies' assessments of their immediate and long-term climate-related financial risks—involve "subjective and predictive opinion," rather than entirely factual information.

Despite the differing levels of scrutiny applied, the court arrived at the same result for each law, holding that neither one likely violates First Amendment protections against compelled commercial speech. The State of California cited three interests supporting the laws' disclosure requirements:

1. an interest "in reliable information that enables investors and consumers to make informed judgments about the impact of climate-related risks on their economic choices";
2. an interest "in companies reducing their emissions and thereby mitigating the risks California and its residents face from climate change"; and
3. an "interest in protecting [California] investors, consumers, and other stakeholders from fraud or misrepresentation."

With respect to the state's first basis for regulation—consumers' and investors' interests—the court concluded that the state failed to show, based on the record presented for the preliminary injunction motion, that SB 253 was reasonably related to consumers' interests. The court determined that the evidence introduced by the state related "to product carbon labels, not a company's total emissions," and "SB 253 does not require companies to label products, nor does it provide consumers with information to determine their purchasing impact on the environment." On the other hand, the state did demonstrate that investors have a legitimate interest in the type of data required to be disclosed under SB 253 and that the law was sufficiently tailored to this interest, except to the extent the law compelled disclosure from companies that had no California investors. However, the court reasoned that the vast majority of companies subject to SB 253 are public companies that almost certainly have California investors, meaning a substantial majority of the law's applications would likely pass First Amendment muster under the "investors' interest" theory. Likewise, the court held that, under the intermediate scrutiny standard, SB 261's disclosures directly advanced the substantial government interest of providing investors with climate-related financial risk data adequate to inform their investment decisions, and the law's potentially unconstitutional applications to companies without California investors did not substantially outweigh its constitutional applications to companies with California investors.

The second interest—companies' reduction of greenhouse gas emissions—was deemed to be a substantial government interest reasonably related to SB 253's disclosure requirements, based on studies cited by the state suggesting that the implementation of public reporting schemes for greenhouse gas emissions translate to corresponding decreases in overall emissions. On the other hand, the court held that the state did not present sufficient evidence at this point in the case to demonstrate that the disclosures under SB 261—reports of potential climate-related financial

risks, rather than greenhouse gas emissions—could reasonably be expected to result in emissions decreases.

In support of the final interest—protecting investors, consumers, and other stakeholders from fraud or misrepresentation—the state provided the declaration of an expert stating that "96% of companies with emissions targets exhibit at least one indicator of greenwashing." However, as the court pointed out, many of the expert's cited "indicators" were not inherently suggestive of greenwashing or misrepresentation regarding climate targets. This included failure to provide a publicly available plan for emissions reductions, engaging in lobbying contrary to climate action, or excluding Scope 3 emissions from reduction targets (even if the exclusion were clearly disclosed by the company making the reduction target claim). Based on this record, the court determined it was likely that a substantial majority of covered companies did not actually make potentially misleading environmental claims, yet would be subject to SB 253's disclosure requirements anyway. As such, SB 253 was "overbroad, unduly burdensome, and not reasonably related to" the stated interest of addressing greenwashing-related misrepresentation. For the same reasons, the court held that plaintiffs were "likely to succeed in showing that SB 261's required disclosures do not directly advance the State's stated interest in protecting its investors, consumers, and other stakeholders."

With the plaintiffs' preliminary injunction motion denied, the final countdown has begun for reporting under these laws. The first set of climate-related financial risk disclosures under SB 261 are due January 1, 2026, with Scope 1 and Scope 2 emissions reporting under SB 253 due later in 2026, by a date to be determined by the California Air Resources Board in a rulemaking expected by the end of this year. While the litigation continues, with the court's assessment here that plaintiffs are unlikely to succeed on the merits of their underlying First Amendment challenge, these deadlines and disclosure requirements are likely to remain in force.

To confirm applicability or to develop a data collection, reporting, and compliance strategy under California's climate reporting laws, please reach out to Erin Brooks, Merrit Jones, Tom Lee, Nora Faris, Daron Ravonborg, or another member of your BCLP team.

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