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Ninth Circuit Pauses SB 261 Climate–Risk Reporting While SB 253 Emissions Disclosures Move Forward

On November 18, 2025, the U.S. Court of Appeals for the Ninth Circuit issued an order enjoining enforcement of California’s Senate Bill (SB) 261, the Climate–Related Financial Risk Act, while the U.S. Chamber of Commerce’s appeal proceeds. The order temporarily halts SB 261’s biennial climate–risk reporting obligation, including the first reports that otherwise would have been due January 1, 2026. By contrast, the court declined to enjoin SB 253, the Climate Corporate Data Accountability Act, leaving SB 253’s greenhouse gas emissions reporting regime on track for initial implementation in 2026.

Case Background and Procedural Posture

The injunction arises from *Chamber of Commerce of the United States et al. v. California Air Resources Board et al.*, in which several business groups challenge SB 253 and SB 261 on First Amendment and related constitutional grounds. In the Central District of California, Judge Otis D. Wright II dismissed the plaintiffs’ preemption and extraterritoriality claims, then denied their motion for a preliminary injunction, holding that SB 253’s emissions disclosures are “purely factual and uncontroversial” and that SB 261’s more narrative climate–risk disclosures likely survive intermediate scrutiny. The plaintiffs appealed and sought an injunction pending appeal. The district court refused, but the Ninth Circuit partially reversed course: in a one–page order that did not explain its reasoning, it granted an injunction as to SB 261 only and set oral argument on the appeal for January 9, 2026.

SB 261: Narrative Climate–Risk Reporting Temporarily Enjoined

SB 261 applies to U.S.–formed entities with more than \$500 million in annual global revenue that “do business in California.” Covered

entities must publish a public climate-related financial risk report every two years, broadly aligned with categories used by the Task Force on Climate-related Financial Disclosures (TCFD)—governance, strategy, risk management, metrics and targets. The report must describe both material climate-related financial risks and the measures adopted to mitigate or adapt to those risks.

The business-group plaintiffs argue that SB 261 compels controversial speech on climate policy and risk strategy in a way that goes beyond factual disclosure and forces companies to adopt the state's preferred narrative. They also contend that the statute reaches far beyond California, given the "doing business" trigger and global revenue threshold. The district court rejected most of these theories but acknowledged that SB 261's content is not purely factual and applied intermediate scrutiny. The Ninth Circuit's order granting an injunction pending appeal indicates that the panel found at least a likelihood of success on the merits or "serious questions" regarding SB 261's compatibility with the First Amendment, coupled with sufficient potential for irreparable harm to justify preserving the status quo while it considers the appeal.

As a result, California may not enforce SB 261. Companies that had been preparing to publish reports by January 1, 2026, are no longer under a statutory deadline, and the California Air Resources Board's (CARB) implementation work will remain in flux at least through the January 2026 argument and the court's decision.

SB 253: Emissions Reporting Still on Track for 2026

SB 253 applies to entities with more than \$1 billion in annual global revenue that "do business in California" and requires annual disclosure of greenhouse gas emissions in three scopes, consistent in structure with the Greenhouse Gas Protocol. The statute phases in assurance requirements and initially focuses on Scope 1 and Scope 2 emissions; Scope 3 emissions follow on a later schedule.

In the same federal litigation, the plaintiffs challenge SB 253 as compelled speech. The district court, however, held that SB 253's reporting regime is properly evaluated under the more

deferential standard in *Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626 (1985), because it demands quantitative, factual emissions information rather than normative or controversial narratives. The Ninth Circuit's order maintains that distinction in practical terms: it refused to enjoin SB 253, allowing CARB's rulemaking and compliance schedule to continue. CARB staff have since indicated that, for Scope 1 and Scope 2 emissions, the proposed initial reporting deadline is August 10, 2026, with enforcement discretion for good-faith first-year efforts.

For covered companies, SB 253 therefore remains a live obligation on essentially the same planning horizon. Litigation may still reshape some details, but the Ninth Circuit has not suggested that SB 253 will be halted before the first reporting cycle.

A Working Distinction: Narrative Risk vs. Quantitative Emissions

The current procedural posture draws a *de facto* line: SB 261 governs narrative climate-risk reporting, while SB 253 governs quantitative emissions data. SB 261's narrative reports require registrants to characterize their climate-related financial risks, governance structures, scenario analysis, and transition plans in public, interpretive terms. SB 253's disclosures, by contrast, focus on measured or calculated emissions, categorized under standard Scope 1 and Scope 2 definitions, ultimately to be assured by independent providers.

The Ninth Circuit's partial injunction does not decide the merits, but it suggests that the court views SB 261's narrative obligations as raising more acute First Amendment concerns—at least at the preliminary stage—than SB 253's largely quantitative reporting. That working distinction aligns with the district court's earlier analysis and with broader debates over compelled ESG-related speech, including challenges to U.S. Securities and Exchange Commission and state ESG disclosure rules.

At the same time, SB 261 is paused, not repealed. The statute remains on the books, and a merits decision later in 2026 could revive its requirements, potentially on compressed timelines if the

court upholds the law and the California Legislature or CARB does not reset compliance dates.

Practical Implications for Covered Companies

SB 261 planning: Slow execution, yet preserve governance work.

The immediate need to finalize a SB 261 report by January 1, 2026, has lifted. However, boards, audit committees, and management teams should not assume that climate-risk oversight will recede. Global regimes such as the European Union's Corporate Sustainability Reporting Directive (CSRD) and the International Sustainability Standards Board (ISSB) standards, as well as voluntary TCFD reporting, continue to move in the same direction as SB 261. Work already done to map climate governance, strategy, and risk-management processes will remain useful even if SB 261 is ultimately narrowed or struck down.

SB 253 timetable: Maintain the 2025–2026 build-out.

Companies within SB 253's revenue and "doing business" thresholds should continue to build or refine their emissions inventories, establish Greenhouse Gas Protocol-aligned methodologies, confirm organizational and operational boundaries, and design internal controls that support eventual assurance. The proposed August 10, 2026, deadline for Scope 1 and Scope 2 leaves limited time to consolidate global facility data, harmonize methodologies, and coordinate with outside verifiers.

Reporting frameworks: Use the pause to align regimes.

Many large enterprises already prepare climate disclosures under SEC rules, CSRD, or voluntary sustainability reports. The current pause on SB 261 offers an opportunity to align those frameworks with California's requirements in a deliberate way—using the litigation window to reconcile metrics, avoid inconsistent narratives, and design a single underlying set of data and governance processes that can serve multiple regimes.

Next Steps and Open Questions

The appeal now moves toward full briefing and argument. The Ninth Circuit will decide whether the district court correctly denied a

preliminary injunction, whether SB 253 and SB 261 implicate different levels of First Amendment scrutiny, and whether California has carried its burden of justifying compelled climate-related disclosures. Whatever the outcome, further U.S. Supreme Court review is a realistic possibility, given the broader national disputes over compelled ESG-related speech.

For in-scope companies, the practical priorities are clear: treat SB 261's injunction as a temporary reprieve on narrative climate-risk reporting, continue preparing for SB 253's emissions disclosures on the current timetable, and use this period to rationalize climate governance and disclosure strategies across California, federal, and international regimes rather than addressing each in isolation. We will continue to monitor the appeal and any related rulemaking or legislative developments and can assist in evaluating entity coverage, designing SB 253 compliance programs, and integrating California requirements into broader climate and ESG reporting frameworks. For more information, please contact the author or any attorney with the firm's [Environmental Practice Group](#).

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