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California Enacts Groundbreaking Climate Legislation

Governor Newsom Signs Landmark Climate Bills

California Governor Gavin Newsom has signed two groundbreaking climate bills into law in a significant move to address climate change. The Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261) aim to enhance transparency, standardize disclosures, align public investments with climate goals, and elevate standards for businesses to combat climate change.

Scope of Application and "Doing Business in California"

The new laws apply broadly to large companies, both public and private, engaged in business activities within California. The definition of "doing business" includes various parameters such as financial transactions, organizational domicile, and specified sales, property, or payroll levels within the state.

SB 253 — Climate Corporate Data Accountability Act

SB 253 mandates U.S. companies with annual revenues exceeding $1 billion and operating in California to disclose Scope 1 and 2 greenhouse gas (GHG) emissions data by 2026 and Scope 3 GHG emissions data by 2027. The law sets no minimum emissions threshold, focusing solely on revenue and business activities in California. This groundbreaking legislation requires emissions data to be publicly accessible, following Greenhouse Gas Protocol standards. Companies failing to comply may face penalties of up to $500,000 annually.

SB 261 — Climate-Related Financial Risk Act

SB 261 targets U.S.-based companies with annual revenues over $500 million, requiring them to submit climate-related financial risk reports by 2026, according to Task Force on Climate-Related Financial Disclosures (TCFD) recommendations. The reports must detail vulnerabilities related to employees, supply chains, consumer demand, and shareholder value. Non-compliance may result in penalties of up to $50,000 per year.

Implications for Asset Managers

The broad application of SB 253 and SB 261 raises questions about how these laws apply to asset managers. Asset managers may need to disclose their operational emissions and the emissions of companies whose funds hold securities. Reporting Scope 3 emissions involves collecting data from third parties in the supply chain, presenting potential challenges for asset managers.

Governor Newsom's Concerns and Next Steps

Governor Newsom has expressed concerns about the feasibility of implementation deadlines and potential inconsistent reporting across businesses. His administration plans to collaborate with the Legislature to address these issues. Additionally, concerns about the financial impact on businesses have prompted CARB to monitor costs and provide recommendations to streamline the program.

Engagement with legal counsel is advisable for affected companies, including asset managers. Ongoing monitoring of developments in the rulemaking associated with these laws will ensure companies are prepared to meet the required information disclosures by the implementation dates. The evolving landscape of climate legislation in California underscores the importance of staying informed and proactive in addressing environmental responsibilities.

Don’t be a silent ninja! Let us know your thoughts in the comment section below.