

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN SENATE APRIL 24, 2008

AMENDED IN SENATE APRIL 21, 2008

SENATE BILL

No. 1550

Introduced by Senator Florez

(Principal coauthors: Assembly Members Arambula and Caballero)

February 22, 2008

An act to add Section 318.2 to the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1550, as amended, Florez. Corporations: climate change disclosure.

Existing law, the General Corporation Law, governs the operation of corporations. Under existing law, the board of directors of a corporation is required to send the shareholders of the corporation, at the close of the fiscal year, an annual report containing, among other things, a balance sheet, an income statement, and a statement of cashflows for that fiscal year.

This bill would require the Controller, in consultation with the investment community, to develop a climate change disclosure standard for use by listed ~~companies~~ *corporations, as defined*, doing business in California. The standard would provide guidance on disclosure of climate change risks and opportunities for listed ~~companies~~ *corporations. The bill would require the Controller to consult with the State Air Resources Board on the development of the disclosure standard relating to emissions to ensure consistency with other related provisions.* The bill would require the Controller to publish the standard on its

Internet Web site by December 1, 2009, and would authorize the Controller to periodically revise the standard, as specified. The bill would state findings and declarations in this regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Climate change presents new corporate governance,
3 regulatory, and reputational risk to publicly held ~~companies~~
4 *corporations*, which has led various important Wall Street analysts
5 to study the effects of climate change on shareholder value.

6 (b) Institutional investors have begun pressing corporations for
7 more disclosure of climate risk and opportunities, including the
8 impact of climate change on competitiveness and investment
9 returns.

10 (c) A 2005 opinion published by Freshfields, an internationally
11 recognized corporate law firm, clearly stated that investors have
12 a fiduciary duty to examine all reasonably foreseen risks associated
13 with investment opportunities, including externalities, such as
14 climate change, which could have a material impact on the
15 performance of a publicly held ~~company~~ *corporation*.

16 (d) Institutional investors representing over \$7 trillion in assets
17 have proposed global standards for disclosing carbon and other
18 greenhouse gas emissions. Increased disclosure of the risk
19 associated with climate change provides a more transparent and
20 therefore more efficient marketplace for investors, especially large
21 institutional investors.

22 SEC. 2. Section 318.2 is added to the Corporations Code, to
23 read:

24 318.2. (a) The Controller, in consultation with the investment
25 community, shall develop an investor-based climate change
26 disclosure standard in accordance with subdivision (e) for use by
27 listed ~~companies~~ *corporations, as defined in subdivision (d) of*
28 *Section 301.5, doing business in California. The standard shall*
29 *provide guidance on disclosure of climate change risks and*
30 *opportunities for listed ~~companies. No listed company~~*
31 *corporations. No listed corporation is required to meet the*
32 *standard.*

1 (b) To the greatest extent possible, the Controller shall use
2 globally accepted climate change disclosure standards.

3 (c) The Controller shall ~~complete~~ *develop* and publish the
4 investor-based climate change disclosure standard on its Internet
5 Web site by December 1, 2009. The standard may be revised by
6 the Controller periodically in order to meet investor needs as well
7 as to incorporate new understandings of the risks and opportunities
8 of climate change. *The Controller shall consult with the State Air*
9 *Resources Board on the development of the statement described*
10 *in paragraph (1) of subdivision (e) to ensure consistency with*
11 *Section 38530 of the Health and Safety Code.*

12 (d) ~~Listed companies~~ (1) *Listed corporations* are encouraged
13 to use existing disclosure mechanisms to provide information that
14 meets investors' expectations and serve their analytical needs.
15 Existing disclosure mechanisms include, but are not limited to,
16 financial statements, filings with the United States Securities
17 Exchange Commission, annual reports, and sustainability reports.

18 (2) *A listed corporation that chooses to use the investor-based*
19 *climate change disclosure standard shall electronically submit*
20 *documentation pursuant to subdivision (e) to the Controller. Upon*
21 *receipt of this documentation, the Controller shall post the*
22 *documentation on its Internet Web site. A listed corporation may*
23 *provide direct Internet Web site links to existing disclosure*
24 *mechanisms to the extent that the information in that mechanism*
25 *is consistent with the disclosure standard described in subdivision*
26 *(e).*

27 (e) The climate change disclosure standard shall, at a minimum,
28 address and include the following:

29 (1) Emissions: A statement of the ~~company's~~ *corporation's*
30 total greenhouse gas emissions including actual historical direct
31 and indirect emissions since 1990, current direct and indirect
32 emissions, and estimated future direct and indirect emissions of
33 greenhouse gases from its operations, purchased electricity, and
34 products and services.

35 (2) Climate Change Statement: A statement of the ~~company's~~
36 *corporation's* current position on climate change, its responsibility
37 to address climate change, and its engagement with governments
38 and advocacy organizations to effect climate change policy.

39 (3) Emissions Management: An explanation of all significant
40 actions the ~~company~~ *corporation* is taking to minimize its risk and

1 maximize its opportunities associated with climate change.
2 Specifically, this explanation should include the actions the
3 ~~company~~ *corporation* is taking to reduce, offset, or limit
4 greenhouse gas emissions. Actions could include establishment
5 of emissions reduction targets, participation in emissions trading
6 schemes, investment in clean energy technologies, and
7 development and design of new products. Descriptions of
8 greenhouse gas reduction activities and mitigation projects should
9 include estimated emission reductions and timelines.

10 (4) Corporate Governance: A description of the ~~company's~~
11 *corporation's* corporate governance actions, including whether
12 the board and executive staff have been engaged on climate change
13 and addressing climate risk. In addition, a ~~company~~ *corporation*
14 should disclose whether executive compensation is linked to
15 meeting corporate climate objectives, and if so, a description of
16 how they are linked.

17 (5) Assessment of Physical Risks: Climate change is beginning
18 to cause an array of physical effects, many of which can have
19 significant implications for public ~~companies~~ *corporations* and
20 their investors. To help investors analyze these risks, a ~~company~~
21 *corporation* should analyze and disclose material, physical effects
22 that climate change may have on the ~~company's~~ *corporation's*
23 business and its operations, including its supply chain. Specifically,
24 a ~~company~~ *corporation* should disclose how climate and weather
25 generally affect its business and its operations, including its supply
26 chain. These effects may include the impact of changed weather
27 patterns, such as increased number and intensity of storms,
28 sea-level rise, water availability and other hydrological effects,
29 changes in temperature, and impacts of health effects, such as
30 heat-related illness or disease, on its workforce. After identifying
31 these risk exposures, a ~~company~~ *corporation* should describe how
32 it could adapt to the physical risks of climate change and estimate
33 the potential costs of adaptation.

34 (6) Analysis of Regulatory Risks: As more governments adopt
35 regulatory standards relating to greenhouse gas emissions,
36 ~~companies~~ *corporations* with direct or indirect emissions may face
37 regulatory risks that could have significant implications. Investors
38 need to understand these risks and to assess the potential financial
39 impacts of climate change regulations on the ~~company~~ *corporation*.
40 Specifically, a ~~company~~ *corporation* should disclose any known

1 trends, events, demands, commitments, and uncertainties stemming
2 from climate change that are reasonably likely to have a material
3 effect on its financial condition or operating performance. This
4 analysis should include consideration of secondary effects of
5 regulation such as increased energy and transportation costs. The
6 analysis should incorporate the possibility that consumer demand
7 may shift sharply due to changes in domestic and international
8 energy markets. A ~~company~~ *corporation* should disclose all
9 greenhouse gas regulations that have been imposed in countries
10 where the ~~company~~ *corporation* operates and an assessment of the
11 potential financial impact of those regulations. The ~~company~~
12 *corporation* should disclose expectations concerning the future
13 cost of carbon resulting from emissions reductions of 5, 10, and
14 20 percent below 2000 year levels by the year 2015. Alternatively,
15 a ~~company~~ *corporation* could analyze and quantify the effect on
16 the firm and shareholder value of a limited number of plausible
17 greenhouse gas regulatory scenarios. These scenarios should
18 include plausible greenhouse gas regulations that are under
19 discussion by governments in countries where the ~~company~~
20 ~~operates.~~ *operates.* A *corporation* should
21 use the approach that provides the most meaningful disclosure,
22 while also applying, where possible, a common analytic framework
23 in order to facilitate comparative analyses across ~~companies.~~ A
24 ~~company~~ *corporations.* A *corporation* should clearly state the
25 methods and assumptions used in its analyses for either alternative.

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