

If 2022 was a Rivian with all the bells and whistles, this past year was more a Ford Lightning. After a landmark 2022—a record $54 billion committed to climate spending and legislation that codified the state's goals of carbon neutrality by 2045 and 90 percent clean electricity by 2035—a significantly gloomier budget forecast gave rise to fears that California's climate programs would take a hit. While 2023 was by no means the blockbuster year 2022 was, in many respects it came out better for climate progress than some expected.

Although the Governor proposed slashing $6 billion from the climate package, in the end, the cuts totaled less than half that. And 2023 was a high-water mark in terms of bill introductions, with lawmakers considering upwards of 2,600 bills; scores of them covered climate change, energy, and environment-related topics. Among many, here are some that stood out to us:

Corporate Climate Accountability

California moved climate accountability efforts forward in a big way with the passage of two first-in-the-nation climate disclosure bills, SB 253 (Wiener) and SB 261 (Stern), that will force critical transparency about corporate climate emissions. SB 253 requires companies with over $1 billion in total annual revenue that do business in California to disclose their Scope 1, 2, and 3 emissions. And SB 261, which grew out of efforts by our Legal Planet colleagues up at UC Berkeley, requires companies with over $500 million of total annual revenue doing business in the state to disclose climate-related financial risks they face as well as measures they will take to reduce or adapt to that risk. After significant competing lobbying pushes by the California Chamber of Commerce (against) and California Environmental Voters (for), whether this corporate accountability package would actually become law was unclear until the Governor committed to signing the bills during New York Climate Week.

Together, these two laws will allow consumers—and the State—to check under the hood of corporate climate friendliness claims and will push corporations to begin to plan for and mitigate climate risk in a meaningful way. Ensuring the integrity of corporate climate pledges is critical to achieving necessary emissions reductions, as a group of high-level experts including our own Distinguished Counsel, Mary Nichols, explained in a report to the UN at COP27 last year. These laws are an important step in the right direction.

A third law, AB 1305 (Gabriel) will add to these efforts by requiring entities that market or sell voluntary carbon offsets in California to publicly disclose specific information about those offsets, including whether the offset project's attributes have been verified by an independent expert and how the project's offsets are derived. Offset buyers who claim net zero emissions or "carbon neutral" products will have to publicly disclose similar information about the offsets they are using. In both cases, disclosure violations are punishable by a fine of up to $2500/day. The actual emissions reductions attributable to voluntary offsets are notoriously poorly accounted, so like SB 253 and 261, AB 1305 is a key step in taking businesses to task and allowing consumers to assess the veracity of corporate climate claims. And while the State—and consumers—will have to wait years for SB 253 and 261 reporting, AB 1305's requirements kick in next year (though the bill's author, Assemblymember Gabriel, has clarified he didn't intend companies to need to comply until January 2025).

Oil and Gas Regulation

One of the big success stories of 2022 was the end-of-session passage of SB 1137 (Gonzalez), which established a 3,200-foot buffer zone between new oil and gas wells and sensitive receptors like schools, homes, and hospitals. But 2023 found the new law subject to a referendum to overturn its terms, which will come before voters in November 2024. Nonetheless, there were still some legislative wins in regulating the oil and gas industry this year.

SBX1-2 (Skinner), which emerged out of a special session early in the year, enabled the California Energy Commission (CEC) to collect critical data from companies participating in California's transportation fuels market, and gives the agency new powers to assess penalties for price gouging and get involved in refinery turnaround and maintenance issues when they can affect pricing. The law also requires the CEC and CARB to work together on a plan to transition the state off fossil fuels; this effort will certainly be aided by the access to new data the law affords. Newsom vetoed an end-of-session gut-and-amend by Sen. Bradford to weaken the CEC's ability to intervene on refinery turnaround and maintenance issues.

AB 1167 (Carrillo) gives CalGEM, the state oil and gas oversight agency, new authority to assess and require bonds from operators at the time of well transfer, aiming to ensure operators, and not the State, are on the hook for well abandonment costs. Research has shown current bonding requirements are woefully inadequate to cover abandonment costs, and there are thousands of orphaned and idle wells in the state, many in environmentally overburdened communities. AB 1167 is designed to, at the very least, make sure the problem doesn't get worse as oil majors transfer less productive wells to smaller companies that may not have the resources to finance their ultimate abandonment.

And AB 631 (Hart) increases statutory penalties for violations of state oil and gas regulations and provides new authority to CalGEM to refer those violations for prosecution by the State, giving the agency robust enforcement support to increase penalty recovery.

Electrification Efforts

Efforts to accelerate progress toward the state's clean energy goals were front and center this session, beginning with the passage of a package of controversial

budget trailer bills in July marketed as an effort to capitalize on funding for clean infrastructure projects flowing from landmark federal legislation, the Inflation Reduction Act and the Infrastructure Investment and Jobs Act. But the session ended up being a mixed bag on energy project streamlining efforts.

The trailer bill package, initially lambasted by legislators and environmental and environmental justice advocates alike as a lightning– speed effort to revise key environmental statutes with minimal public participation, ultimately resulted in changes to endangered species protections to facilitate clean energy infrastructure development, CEQA litigation time limits for some clean energy and infrastructure projects, and modifications to CEQA's administrative record provisions, among other things. But later in the year, the Governor vetoed SB 619 (Padilla), which would have authorized utilities seeking to permit electrical transmission projects to take advantage of a streamlined CEQA process through the CEC, rather than running environmental review through the California Public Utilities Commission as required by current law. The Legislature had overwhelmingly approved the bill, but Newsom said splitting the permitting process between two regulators would be too complicated.

The Governor did sign other laws designed to advance electrification, though. AB 1373 (Garcia) authorized the State to execute long-term contracts to purchase electricity from renewable energy resources like offshore wind developments, on the theory that these kinds of clean energy resources can be too costly for individual utilities to procure, but centralizing procurement authority in the State would aggregate utility purchasing power and minimize project development risk. And SB 410 (Becker) is designed to cut energization lead times—delays when a project needs and has requested power but the utility hasn't yet processed the request—by requiring the PUC to establish average and maximum energization timeframes, ensure utilities have the staff needed to achieve those timeframes, and create a mechanism for customers to report delays. The law could help get power not just to electric vehicle charging infrastructure, which needs to expand significantly to support California's transition away from fossil fuel-powered vehicles, but to much-needed housing projects that sometimes languish completed but uninhabitable for weeks or months without power.

Other Notables

Coming on the heels of a historic period of statewide drought, the Legislature made

some much-needed changes to California's notoriously complex water law system this year. SB 389 (Allen) begins to address the fact that riparian and pre-1914 appropriative water rights holders do not need approval from the State Water Resources Control Board to divert water. The law clarifies that the State Board has the authority to verify those water users' claims to their rights; shockingly, those claimed rights are largely unverified but also fall outside of the State Board's permitting system, meaning that users have been asserting claims to use water without ever proving that they truly have the "senior" water rights they say they possess. SB 389 also allows the State Board to declare water use an illegal trespass when it investigates a claimed right and finds that right to be undocumented.

And AB 779 (Wilson)—a bill our own UCLA Law California Environmental Legislation Clinic students helped conceive of and draft—takes steps to make groundwater adjudications more equitable. Those proceedings, which determine groundwater rights within a basin, are time-consuming and incredibly costly, often resulting in underrepresentation of small farmers and disadvantaged communities. The new law requires courts to consider those groups' water use when entering a judgment and mandates public outreach to raise awareness about proceedings, in an effort to ensure the needs of underrepresented parties are considered. Groundwater adjudications are likely to become more common as the effects of climate change continue to drive water scarcity, so making the process fair is of paramount importance. While more reforms are needed in both surface water and groundwater frameworks, these efforts will make a meaningful impact.

Finally, the Legislature pressed ahead on conservation and biodiversity efforts this year. After issuing a 2020 executive order calling for conservation of 30 percent of California's land and coastal waters by 2030, the Newsom administration released its Pathways to 30×30 plan in mid-2022. Now, thanks to SB 337 (Min), the 30×30 goal is codified as a matter of state law. As 2030 nears, giving these conservation goals the force of law will bolster existing state efforts to ensure we preserve California's unique natural resources and biodiversity.

Looking Back, and Forward

Standing less than 7 years away from significant 2030 milestones to decarbonize and preserve the natural world, this session's steady march of state action represented a solid—and necessary—effort. But key questions remain about implementation of some of this year's headline-grabbing bills. The Governor has

already signaled that changes to the corporate climate accountability package may be in the works in 2024; many corporations have been notoriously reticent to disclose Scope 3 emissions and are likely to continue to push back on SB 253's existing timetable. The Newsom administration also flagged an ongoing conversation around AB 1167's well bonding requirements, implying those, too, may be tweaked.

It goes without saying that there's still a tremendous amount of work to be done to rise to the many challenges the climate emergency presents. But even relatively less-splashy years like 2023 make me proud to be a Californian: It's heartening to see our state lawmakers continue to make good progress towards our climate goals, even when budget conditions aren't ideal. 2024 is likely to bring more budgetary uncertainty, but if 2023 is any indicator, the Legislature has shown it can continue to forge ahead on climate priorities nonetheless. And that's great, because we don't have a moment to waste.