



Senator Scott Wiener, 11th Senate District

SB 222- Affordable Insurance and Climate Recovery Act

SUMMARY

SB 222, the Affordable Insurance and Climate Recovery Act, will create a private right of action for individuals injured by climate disasters and extreme weather events to recover their losses from the oil and gas companies that misled the public about the harm their products would cause. SB 222 will also create a direct cause of action for insurers to recover harms to their business that result from climate-related damages and increase insurance costs for Californians.

SB 222 will help save the FAIR Plan from insolvency, stop costly rate hikes for Californians who have no other insurance options, and limit long-term state subsidies or bonding that will saddle taxpayers with costs for decades by requiring the FAIR Plan to exercise its right of subrogation to recover claims paid for large climate-driven events such as catastrophic wildfires.

BACKGROUND/EXISTING LAW

Major oil companies knew decades ago that their products would fuel catastrophic events like the deadly fires that have torn through Los Angeles County and the surrounding communities. Instead of disclosing the climate risks of fossil fuels, they misled the public through an ongoing campaign of deception, keeping California reliant on their products and impeding action to avert the harms now facing California families, businesses, infrastructure, and insurance markets. This willful and ongoing "campaign of deception" has caused irrevocable damage to Californians and is now being challenged in court by California's Attorney General, in addition to dozens of other communities throughout the country that are demanding Big Oil be held accountable for its lies.

ExxonMobil was a pioneer in climate science in the 1970s, funding in-house research that contributed to our current understanding of the role fossil fuels

play in the climate crisis. A recent study by researchers at Harvard University and the Potsdam Institute for Climate Impact Research found that ExxonMobil's early climate models predicted current global warming with "shocking accuracy and skill." Instead of sharing those findings publicly, ExxonMobil and its Big Oil peers funneled millions of dollars into a public climate disinformation campaign, according to a Los Angeles Times investigation, claiming that the climate science it knew to be true was uncertain and inconclusive.

Big Oil has deceived the public and policymakers while profiting from the massive increase in extraction and consumption of its oil and gas products. Major companies operating in the US netted more than \$100 billion in profit in 2023 alone. Between 1985-2018, Big Oil cleared well over \$30 trillion in profit.

California has been at the forefront of climate policy for decades, passing the nation's first low carbon fuel standard for vehicles and economy-wide cap and trade system, committing to decarbonize the electrical grid by 2045, and requiring the reporting of corporate financial risk stemming from climate change.

California allows private parties to use litigation as a tool to remedy harms they have suffered in other areas of the law. Recent legislation includes the California Consumer Privacy Act (data privacy and security) and Senate Bill 1327 (authorizing private right of action against the firearms industry for the harms of gun violence).

PROBLEM

California is increasingly ravaged by wildfires and other extreme weather disasters that are intensified by the climate crisis. These climate damages are a direct result of the fossil fuel industry's decades-long

deception and pollution. Among other harms, the growing frequency and intensity of extreme weather events are exacerbating California’s insurance crisis by threatening the solvency of insurance providers and making it increasingly difficult for Californians to secure and afford home and property insurance.

For example, in 2023, 1.5% of policies in Los Angeles County and 2% of policies in Ventura County were not renewed by insurers. It is even worse in Northern California, with many counties approaching 10% nonrenewal rates in 2023.

These nonrenewals have put tremendous stress on the FAIR Plan, the insurer of last resort, to provide coverage across the state. California created the Fair Plan in 1968 in response to federal reinsurance legislation addressing the protests across the nation, as well as fire losses in California.

The stated goals of the statutes creating the FAIR Plan (Ins. Code § 10090.) are to:

- (1) “assure stability in the property insurance market for property;”
- (2) “assure the availability of basic property insurance;”
- (3) “encourage maximum use, in obtaining basic property insurance, of the normal insurance market...” and
- (4) “provide for the equitable distribution among admitted insurers of the responsibility for insuring qualified property ...”

The people and communities of California deserve a remedy to the state’s growing insurance crisis and the extreme weather harms they are experiencing. The scale of the damages fueled by Big Oil’s climate lies — tens of billions of dollars as a result of the most recent fires alone — demands accountability.

SOLUTION

SB 222 will create a private right of action so that individuals injured by climate disasters and extreme weather events will be able to recover their losses from the oil and gas companies that misled the public about the harm their products would cause. Defendants will be strictly liable for damages.

SB 222 will additionally create a direct cause of action for insurers against the oil and gas companies

that misled the public about the harm their products would cause. This option allows insurers to recover for harms to their business that result from climate-related impacts and increasing costs that threaten the viability of insurance in the normal insurance market and through the FAIR Plan in California.

SB 222 provides a major infusion of financial support that will help save the FAIR Plan from insolvency, stop costly rate hikes for all insured Californians, and limit long-term state subsidies and bonding that will saddle taxpayers with costs for decades. If an independent expert assessment determines that the benefits of FAIR Plan litigation outweigh the costs, SB 222 will require the FAIR Plan to exercise its right of subrogation against oil and gas companies (the right to sue them on behalf of injured policyholders) to recover claims paid toward large climate-driven events such as catastrophic wildfires.

Under SB 222, if the FAIR Plan exceeds its reserves due to claims, the relative share that an insurer must pay to replenish the FAIR Plan reserves will be reduced for those companies that exercise their right of subrogation against oil and gas companies that misled the public about the harm their products would cause. Those insurers that do not make a subrogation claim will see their assessment increased to make up the difference.

This amendment to the FAIR Plan will incentivize insurers to seek funds from the fossil fuel industry rather than policyholders and taxpayers.

SUPPORT

- **The Center for Climate Integrity, Sponsor**
- **California Environmental Voters (Formerly CLCV), Sponsor**
- **Extreme Weather Survivors, Sponsor**
- Natural Resources Defense Council
- Sierra Club California
- Community Water Center
- NextGen California
- Voices for Progress
- CA Consumer Attorneys
- Consumer Watchdog
- Consumer Federation of California
- Courage California
- Central California Environmental Justice Network
- Climate Action California

- Climate Hawks Vote
- Santa Cruz Climate Action Network
- Ban SUP (Single Use Plastic)
- Active San Gabriel Valley
- Sierra Nevada Alliance
- 350 Sacramento
- Rise Economy
- Clean Water Action
- Worksafe
- Climate First: Replacing Oil & Gas (CFROG)
- CleanEarth4Kids.org
- Public Citizen
- Leadership Council
- California Nurses for Environmental Health and Justice
- Azul
- 350 Conejo/San Fernando Valley
- Greenpeace
- Oil Change International
- Friends Committee on Legislation of California
- Americans for Financial Reform
- National Community Reinvestment Coalition (NCRC)
- Elders Climate Action Southern CA Chapter
- Asian Pacific Environmental Network
- Long Beach Alliance for Clean Energy
- Action for the Climate Emergency (ACE)
- Food and Water Watch
- NorCal Elder Climate Action
- SanDiego350
- 350 Bay Area Action
- 350 Humbolt
- The Climate Reality Project
- Center for International Environmental Law
- Green America
- The Climate Center
- California Nightlife Association (Cal Night)
- Climate Equity Policy Center
- San Francisco Cannabis Retailers Alliance
- Center for Race, Poverty, and the Environment
- San Francisco Bay Keeper
- Union of Concerned Scientists
- Democrats of Rossmoor
- Sustainable Rossmoor
- Elected Officials to Protect America (EOPA) Code Blue
- The Climate Reality Project San Fernando Valley
- TRANSFORM
- Fossil-Free California
- Planning and Conservation League
- National Association of Consumer Advocates
- GreenLatinos
- Mothers Out Front
- CFT- A Union of Educators and Classified Professionals, AFT, AFL-CIO
- Santa Monica Democratic Club
- Seventh Generation
- Patagonia
- Ben & Jerry's
- Amy's
- B Lab United States & Canada- B Corps
- Dr. Bronner's All-One!
- Thrive Market
- American Sustainable Business Council
- B Local Los Angeles
- Business For Good San Diego
- Quit Carbon
- Protagonist
- Four Fin
- MaCher
- Four Fin
- Lotus Sustainables
- Vessel
- Biotic Ferments
- Thinkshift Communications
- Nia Impact Capital
- Optimist Botanicals
- VIANOVA Consulting Group
- ETHOS: Low Waste Living Shop and Refillery
- NYXC
- Green Retirement
- Fervor & Zeal
- Higher Ring
- Echo Adventure Cooperative
- Liquid Blue Party Band
- Cultivating Capital
- MW Enterprises LLC
- Merge 4
- Climate Positive Consulting
- Ettitude
- Rachel K Group

FOR MORE INFORMATION

Name: Radhika Gawde, *Legislative Aide*

Email: radhika.gawde@sen.ca.gov

Phone: 961-651-4011