

EXECUTIVE OFFICER'S REPORT ON PENDING LEGISLATION

As of 04/27/2020

Administration

AB 2214, Carrillo, As Introduced

Status: Referred to Committee on Accountability and Administrative Review

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to prepare, submit as specified, and make available to the public upon request, certain documents relating to the proposed regulation, including, among other things, a copy of the express terms of the proposed regulation.

This bill would require the state agency to conspicuously post those documents on the state agency's website within 24 hours of submitting those documents to the office, instead of making those documents available to the public upon request. The bill would also remove an obsolete provision.

AB 2028, Aguiar-Curry, As Introduced

Status: Referred to Committee on Government Organization

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act.

Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a

public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

Forestry

AB 2468, Patterson, As Introduced

Status: Referred to Committee on Natural Resources

Existing law authorizes the director of the Department of Forestry and Fire Protection as part of the Forest Improvement Program, to enter into agreements with an eligible landowner, as defined, pursuant to which the landowner will undertake forest resource improvement work in return for an agreement by the director to share the cost of carrying out that work, as specified. Existing law authorizes the director to provide the funds for the director's share of the costs in advance of any work performed if the eligible landowner agrees in writing to undertake the forest resource improvement work subject to the condition that funds provided for any uncompleted work shall constitute grounds for a claim and lien upon the real property owned by the landowner.

This bill would require the department to develop, adopt, and implement policies and, if necessary, regulations that establish procedures for allowing homeowners to submit joint applications for purposes of combining the individual parcels of land owned by each homeowner so that the cumulative area of the lands in their joint application satisfies any minimum acreage requirements established by the department for participation in the program, and similarly establish procedures for providing up to 50% of the funds for the director's share of the costs under the program in advance of any work performed under a joint homeowner application.

AB 2553, Ting, As Amended

Status: Re-referred to Committee on Natural Resources

Existing law authorizes a governing body of a political subdivision, as those terms are defined, to declare a shelter crisis if the governing body makes a specified finding. Upon declaration of a shelter crisis, existing law, among other things, suspends certain state and local laws, regulations, and ordinances to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

Existing law, upon a declaration of a shelter crisis by specified local jurisdictions, specifies additional provisions applicable to a shelter crisis declared by one of those jurisdictions. Existing law, among other things, exempts from the California Environmental Quality Act specified actions by a state agency or a city, county, or city and county relating to land owned by a local government to be used for, or to provide financial assistance to, a homeless shelter constructed pursuant to these provisions. Existing law repeals these additional provisions as of January 1, 2023.

This bill would instead apply those additional provisions to a shelter crisis declared by any city, county, or city and county and would extend the repeal date of these provisions to January 1, 2026.

~~The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, including the one-time conversion of less than 3 acres to a nontimber use, as provided. Existing law, relating to this exemption, requires the state board to adopt regulations that, among other things, require the above exemption to expire if there is a change in timberland ownership and requires the person who originally submitted an application for that exemption to notify the department of a change in timberland ownership on or before 5 calendar days after the change in ownership.~~

~~This bill would instead require the person who originally submitted an application for that exemption to notify the department of a change in timberland ownership on or before 7 calendar days after a change in ownership.~~

SB 69, Wiener, As Amended

Status: August 30 hearing postponed by Committee

(7) The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. The act requires the State Board of Forestry and Fire Protection to adopt district forest practice rules and regulations, as provided, to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources. The forest practice rules establish requirements specific to watersheds with listed anadromous salmonids for each forest district.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of waste that could affect the quality of the waters of the state.

This bill would require, on or before July 1, 2022, the State Board of Forestry and Fire Protection, in consultation with specified state and federal agencies, to evaluate the above-referenced forest practice rules establishing requirements specific to watersheds with listed anadromous salmonids in order to support salmonid populations at all life history stages and to control pollutant inputs known to negatively impact salmonids. The bill would require, on or before January 1, 2024, the State Board of Forestry and Fire Protection to update those specified forest practice rules based on that evaluation, and would require any amendments to the rules to provide additional protections to listed anadromous salmonids.

This bill would require timber harvesting plans, nonindustrial timber management plans, and working forest management plans on plans filed on or after January 1, 2020, for lands containing or adjacent to watercourses bearing listed anadromous

salmonids included on a specified list of water quality limited segments impaired by sediment to include an erosion control implementation plan that describes methods that will be used to avoid significant sediment discharge into watercourses from timber operations. is consistent with specified law. The bill would prohibit timber harvesting activity from being undertaken under a timber harvesting plan that requires an erosion control implementation plan on ground that shows evidence of extreme erosion potential, unless the timber harvesting plan has been approved by a certified and licensed engineering geologist and is transmitted to the appropriate California regional water quality control board for review. with an extreme erosion hazard rating unless the timber harvesting plan has been reviewed by the California Geological Survey.

~~This bill would require timber harvesting plans, nonindustrial timber management plans, and working forest management plans on plans filed on or after January 1, 2020, for lands containing or adjacent to watercourses bearing listed anadromous salmonids included on a specified list of water quality limited segments impaired by sediment to include an erosion control implementation plan that describes methods that will be used to avoid significant sediment discharge into watercourses from timber operations. is consistent with specified law. The bill would prohibit timber harvesting activity from being undertaken under a timber harvesting plan that requires an erosion control implementation plan on ground that shows evidence of extreme erosion potential, unless the timber harvesting plan has been approved by a certified and licensed engineering geologist and is transmitted to the appropriate California regional water quality control board for review. with an extreme erosion hazard rating unless the timber harvesting plan has been reviewed by the California Geological Survey.~~

Fire Protection

SB 431, McGuire, As Amended

Status: Re-referred to Committee on Communications and Conveyance

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to develop and implement performance reliability standards for backup power systems installed on the property of residential and small commercial customers by a facilities-based provider of telephony services upon determining that the benefits of the standards exceed the costs.

This bill would require the commission, in consultation with the Office of Emergency Services, by July 1, 2021, to develop and implement performance reliability standards, as specified, for all mobile telephony service base transceiver station towers, commonly known as "cell towers," and for all infrastructure for providing mobile telephony service, Voice over Internet Protocol service, Internet Protocol enabled service, and cable television service that is located within a commission-designated Tier 2 or Tier 3 High Fire Threat District. District, or that affects those towers or that infrastructure within such a district.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime. Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

AB 3074, Friedman, As Introduced

Status: Referred to Committee on Natural Resources

Existing law requires the Director of Forestry and Fire Protection to identify areas in the state as very high fire hazard severity zones based on specified criteria and the severity of the fire hazard. Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. A violation of these requirements is a crime. This bill would require a person described above to use more intense fuel reductions between 5 and 30 feet around the structure, and to create an ember-resistant zone within 5 feet of the structure, as provided. Because a violation of these provisions would be a crime or expand the scope of an existing crime, the bill would impose a state-mandated local program.

The bill would require each local agency having jurisdiction of property upon which conditions that are regulated by the defensible space provisions described above apply and the Department of Forestry and Fire Protection to make reasonable efforts to provide notice to affected residents of the above requirements before imposing penalties for a violation of those requirements. By expanding the duty of a local agency, the bill would impose a state-mandated local program.

Existing law requires the Department of Forestry and Fire Protection to develop, periodically update, and post on its internet website a guidance document on fuels management, as provided.

This bill would require, on or before January 1, 2023, the department to update the guidance document to include suggestions for creating an ember-resistant zone within 5 feet of a structure, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Land Use Planning

SB 1070, Leyva, As Amended

Status: Re-referred to Committee on Rules.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires the general plan to include several elements, including, among others, an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, if the city, county, or city and county has a disadvantaged community.

This bill would revise and recast the provisions regarding an environmental justice element by requiring the environmental justice element to include certain provisions, including identification of disadvantaged communities; an assessment of the unique and compounded health risks and investment needs in disadvantaged communities; a statement of goals, quantified objectives, and policies designed to address the unique and compounded health risks and investment needs identified; and a program that sets forth a schedule of required meaningful actions with an implementation deadline and performance metrics with regard to the goals, quantified objectives, and policies identified. The bill would require local governments to ensure meaningful involvement of residents of disadvantaged communities in the preparation, adoption, and implementation of the environmental justice element, and to facilitate accomplishing this requirement by preparing and adopting a public engagement plan prior to the development of the environmental justice element, and release of any draft or a portion thereof, as provided.

This bill would also require a city, county, or city and county, subject to these requirements, that does not have an adopted environmental justice element as of September 30, 2020, to adopt the environmental justice element, pursuant to these provisions, on or before the due date for the next revision of its housing element or by January 1, 2023, whichever is sooner, and if the local government has adopted an environmental justice element pursuant to these provisions by September 30, 2020, it would be required to review and amend the element on or before the deadline for adoption of the next revision of its housing element and periodically thereafter, as provided.

Because the bill would impose new duties on local governments with respect to the environmental justice element, the bill would create a state-mandated local program.

(2) Existing law requires cities and counties to prepare, adopt, and amend general plans and elements of those general plans in the manner provided. Upon an application by a city or county, the Director of State Planning and Research is required to grant a reasonable extension of time, not to exceed 2 years, for the preparation and adoption of all or part of the general plan, as specified. With

exceptions, the director is prohibited from granting an extension of time for the preparation and adoption of a housing element.

This bill would add the preparation of an environmental justice element to the prohibition.

(3)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

SB 182, Jackson, As Amended

Status: In Assembly. Held at Desk.

This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after January 1, 2020, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires, as specified, and would require the planning agency to submit the adopted strategy to the Office of Planning and Research for inclusion into the above-described clearinghouse. The bill would also require the planning agency to review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years, to identify new information relating to retrofit updates applicable to the city or county that was not available during the previous revision of the safety element. By increasing the duties of local officials, this bill would create a state-mandated local program.

This bill would require a city or county that contains a very high fire risk area, as defined, upon each revision of the housing element on or after January 1, 2021, to amend the land use element of its general plan to contain, among other things, the locations of all very high fire risk areas within the city or county and feasible implementation measures designed to carry out specified goals, objectives, and policies relating to the protection of lives and property from unreasonable risk of wildfire. The bill would require the city or county to complete a review of, and make findings related to, wildfire risk reduction standards, as defined, upon each subsequent revision of the housing element, as provided. The bill would require the State Board of Forestry and Fire Protection to review the findings and make recommendations, as provided.

The bill would additionally require the Office of the State Fire Marshal, in consultation with the Office of Planning and Research and the Board of Forestry and Fire Protection, on or before January 1, 2022, to adopt wildfire risk reduction standards that meet certain requirements and reasonable standards for third-party inspection and certifications for a specified enforcement program. The bill would also require the Office of the State Fire Marshal to, on or before January 1, 2023, update the maps of the very high fire hazard severity zones, as specified. The bill would require the Office of the State Fire Marshal to convene a working group of stakeholders, as specified, to assist in this effort and to consider specified national standards.

Existing law requires county or city zoning ordinances to be consistent with the general plan of the county or city, as specified.

This bill would require a city or county that contains a very high fire risk area, within 12 months following the amendment of the city or county's land use element, to adopt a very high fire risk overlay zone or otherwise amend its zoning ordinance so that it is consistent with the general plan, as specified.

This bill would additionally prohibit the legislative body of a city or county that contains a very high fire risk area, upon the effective date of the revision of the city or county's land use element, from entering into a development agreement for property that is located within a very high fire risk area, approving specified discretionary permits or other discretionary entitlements for projects located within a very high fire risk area, or approving a tentative map or a parcel map for which a tentative map was not required for a subdivision that is located within a very high fire risk area, unless the city or county makes specified findings based on substantial evidence in the record.

(6) Existing law requires, until the 2023–24 fiscal year, the amount of \$165,000,000 to be appropriated from the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.

This bill would establish the Wildfire Risk Reduction Planning Support Grants Program, administered by the Department of Forestry and Fire Protection, for the purpose of providing small jurisdictions, as defined, containing very high fire hazard risk areas with grants for specified planning activities to enable those jurisdictions to meet the requirements set forth in the bill, as described above. Upon appropriation, the bill would require the department to distribute \$3,000,000 under the program via a noncompetitive, over-the-counter process, as provided, to small jurisdictions. The bill would require a recipient small jurisdiction to use the allocation solely for wildfire risk reduction planning activities, as specified. The bill would authorize the department to set aside up to 5% of any amount appropriated for these purposes for program administration.