

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2684 (Bryan) – As Introduced February 14, 2024

SUBJECT: Safety element: extreme heat

SUMMARY: Requires a city or county to consider the hazard of extreme heat upon the next revision of the local hazard mitigation plan or the safety element and at least once every eight years thereafter. Specifically, **this bill**:

- 1) Requires a city or county to address the hazard of extreme upon the next revision of a local hazard mitigation plan or the safety element on or after January 1, 2024. Allows a city or county that has adopted an extreme heat action plan or other document that fulfills commensurate goals and objectives to use that information to comply with this requirement and shall summarize and incorporate into the safety element that other plan or document.
- 2) Requires, after the initial revision of the safety element, 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 eight years, to identify new information relating to extreme heat hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.
- 3) Finds and declares that Section 1 of this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this bill applies to all cities, including charter cities.
- 4) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, as specified.

EXISTING LAW:

- 1) Requires cities and counties to prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions. Requires the general plan to contain seven mandatory elements: land use, circulation, housing, conservation, open-space, noise, and safety. [Government Code (GOV) § 65302]
- 2) Requires the general plan to include a conservation element that considers the effect of development within the jurisdiction for the conservation, development, and utilization of natural resources. (GOV § 65302)
- 3) Requires the general plan to include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. (GOV § 65302)

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

- 1) **Summary.** AB 2684 requires a city or county to review and update its safety element to address the hazard of extreme heat upon the next revision of its local hazard mitigation plan and to update that information at least once every eight years on or after January 1, 2024. The bill allows a city or county with an extreme heat action plan or other document that fulfills similar goals and objectives to use information to comply with the extreme heat requirement. This bill is sponsored by Climate Resolve.
- 2) **Author's Statement.** The author states, "With over 200 cities across California forecasted to reach average temperatures above 90 degrees by 2050, California and its local governments need the funds to plan and implement actions to reduce the impact of extreme heat and save lives. Historically, hazard mitigation plans have not explicitly addressed heat. As a result, local governments are missing an opportunity to protect more people from extreme heat through leveraging existing federal disaster mitigation funding."

"AB 2684 will require the inclusion of extreme heat in a city or county's safety element, protecting California residents and assisting our local governments by unlocking critical federal support."

- 3) **General Plans.** State law provides powers and duties for cities and counties regarding land use. Each city and county must prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions. The general plan has seven mandatory elements: land use, circulation, housing, conservation, open-space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. Cities and counties may adopt optional elements that address issues of their choosing, and once adopted, those elements have the same legal force as the mandatory elements. The general plan must be "internally consistent," which means the various elements cannot have conflicting information or assumptions.

Although state law spells out the plans' minimum contents, it also says local officials can address these topics to the extent to which they exist in their cities and counties, and with a specificity and level of detail reflecting local circumstances. Similarly, state law doesn't require cities and counties to regularly revise their general plans (except for the housing element, which must generally be revised every eight years).

- 4) **Local Hazard Mitigation Planning:** Because of the history of disasters throughout California, encouraging communities to adopt Local Hazard Mitigation Plans (LHMPs) is a priority. The Federal Disaster Mitigation Act of 2000 (DMA 2000) requires that states review LHMPs as part of their state hazard mitigation planning process. The LHMP is intended:
 - a) To gather hazard, vulnerability, and mitigation information from the local level for use in state-level planning.
 - b) To ensure that state and local hazard mitigation planning is coordinated to the greatest extent practical.
 - c) To ensure that local jurisdictions are made aware of the hazards and vulnerabilities within their jurisdiction and to develop strategies to reduce those vulnerabilities.

This process ensures that mitigation actions are based on sound planning processes that account for the risks and capabilities of California communities. Mitigation plans form the foundation for a community's long term strategy to reduce disaster losses and break the cycle of disaster damage, reconstruction, and repeated damage.

- 5) **Hazard Mitigation Grant Program (HMGP):** FEMA's Hazard Mitigation Grant Program provides funding to state, local, tribal and territorial governments so they can develop hazard mitigation plans and rebuild in a way that reduces, or mitigates, future disaster losses in their communities. This grant funding is available after a presidentially declared disaster. In this program, homeowners and businesses cannot apply for a grant. However, a local community may apply for funding on their behalf. All state, local, tribal and territorial governments must develop and adopt hazard mitigation plans to receive funding for hazard mitigation project application.
- 6) **Author Amendments.** Due to timing constraints, the author has requested that the Committee adopt the following amendments:
 - a) **Structure.** The bill adds a new section to the Government Code to amend the safety element. The amendments instead incorporate that language directly into the safety element in GOV § 65302 (g):
 - (6) After the initial revision of the safety element pursuant to paragraphs (2), (3), (4), **and (5)**, (5), and (10), the planning agency shall 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 eight years, to identify new information relating to ~~flood and fire~~ *flood, fire, and extreme heat* hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element...
(10) Upon the next update of one or more elements described in this section on or after January 1, 2028, the safety element shall be reviewed and updated as necessary to address the hazard of extreme heat.
(A) A city or county that has adopted an extreme heat action plan or other document that fulfills commensurate goals and objectives may use that information in the safety element to comply with this paragraph and, in that event, shall summarize and incorporate into the safety element that other plan or document.
(B) A city or county may use or reference information in the Extreme Heat Action Plan described in Section 71361 of the Public Resources Code and the State Hazard Mitigation Plan required pursuant to the federal Disaster Mitigation Act of 2000 (Public Law 106-390) to comply with the requirements of this paragraph.

- b) **Implementation.** This bill proposes to require a city or county to update its safety element to address the hazard of extreme heat on or after January 1, 2024. This would mean that every city or county with a general plan would be out of compliance under this bill. Additionally, the safety element is updated once every eight years in alignment with the housing elements. The author's amendments change the implementation date of the bill from 2024 to 2028.
- 7) **Previous Legislation.** SB 932 (Portantino) Chapter 710, Statutes of 2022, requires a local agency to incorporate the principle of the Federal Highway Administration's Safe System Approach and to develop bicycle plans, pedestrian plans, and traffic calming plans based on the policies and goals in the circulation element.
- SB 99 (Nielsen), Chapter 202, Statutes 2019, required a city or county to review and update the safety element to include information identifying residential development in hazard areas that do not have at least 2 emergency evacuation routes.
- SB 1035 (Jackson), Chapter 733, Statutes 2018, required the safety element to be reviewed and revised upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years.
- SB 1000 (Leyva), Chapter 587, Statutes of 2016, required local governments to consider environmental justice as part of the general plan.
- SB 379 (Jackson), Chapter 608, Statutes 2015, required the safety element to be reviewed and updated to address climate adaptation and resiliency strategies applicable to that city or county.
- SB 1241 (Kehoe), Chapter 311, Statutes of 2012, revised the safety element requirements for state responsibility areas and very high fire hazard severity zones and required the safety element to be updated to address the risk of fire in state responsibility areas.
- 8) **Arguments in Support.** Climate Resolve writes in support, "In California, heat waves have become longer, hotter, more frequent, more widespread, and more lethal than at any time in state history. Heat disproportionately affects low-income communities of color and other vulnerable populations including seniors, pregnant women, children, and the infirm. Heat waves are now happening year-round. Yet, in light of this growing threat, the Governor is recommending a reduced budget for a historically underfunded grant program to address extreme heat at the local level."
- 9) **Argument in Opposition.** None on file.
- 10) **Double-Referral.** This bill is double-referred to the Assembly Emergency Management Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Active San Gabriel Valley
California Environmental Voters (formerly CLCV)

California Nurses for Environmental Health and Justice
Civicwell
Cleanearth4kids.org
Climate Resolve
Community Environmental Council
Gender Equity Policy Institute
Move LA
Nature for All
Pesticide Action Network
Santa Monica Democratic Club
The Climate Center
United Steelworkers Local 675

Opposition

None on file.

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