

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1889 (Friedman) – As Amended April 1, 2024

SUBJECT: conservation element: wildlife and habitat connectivity

SUMMARY: Requires a city, county, or city and county to consider the impact of development on the movement of wildlife and habitat connectivity as part of the conservation element.

Specifically, **this bill:**

- 1) Creates the Room to Roam Act and requires the conservation element to consider the effect of development within a city's or county's jurisdiction on the movement of wildlife and habitat connectivity.
- 2) Requires that upon the adoption or next revision of one or more elements on or after January 1, 2026, the conservation element shall be updated to:
 - a) Identify and analyze connectivity areas, permeability, and natural landscape area within the jurisdiction, as defined.
 - b) Identify and analyze existing or planned wildlife passage features, as defined, including, but not limited to, wildlife passage features included in the inventory of connectivity needs on the state highway system, as described in Section 158.1 of the Streets and Highways Code, to ensure that planned development does not undermine the effectiveness of existing and potential wildlife passage features, as defined.
 - c) Consider the impacts of development and the barriers caused by development of wildlife and habitat connectivity.
 - d) Avoid, minimize, and mitigate impacts and barriers to wildlife movement.
 - e) Analyze and consider opportunities to remediate existing barriers to wildlife connectivity and restore degraded habitat and open space.
- 3) Allows a city, county, or city and county that has already included policies in existing plans that meet the requirements of 2) above to incorporate the plan by reference into the general plan to comply with the requirements of this bill.
- 4) Requires the city, county, or city and county, in preparation to update the conservation element, to:
 - a) Consider incorporating standards, policies, and zoning such as wildlife-friendly fencing and lighting, buffer from sensitive resources, prohibitions on invasive plants, habitat connectivity overlay zones, and compact development standards or consider whether adoption of ordinances is necessary to fully implement these standards, policies, and zoning, and include goals to adopt any necessary ordinances.
 - b) Consult with the Department of Fish and Wildlife (DFW), any California Native American tribe that is on the contact list maintained by Native American Heritage

Commission and that has traditional lands located within the city, county, or city and county jurisdiction, and any open-space district that owns lands designated for conversation within the city, county or city and county's jurisdiction.

- c) Consider relevant best available science as appropriate including, but not limited to, peer-reviewed literature, citable publicly available datasets, publicly sourced online datasets, and information and reports from government agencies, California Native American tribes, and academic institutions, such as the California Essential Habitat Connectivity Project, State Wildlife Action Plan, Regional Advance Mitigation Plan, Areas of Conservation Emphasis, Restoring California's Wildlife Connectivity 2022, and other relevant plans, policies, and ordinances adopted by neighboring jurisdiction and regional wildlife connectivity assessments.
- 5) Allows a city, county or city and county to consult with other appropriate local, state, or federal agencies, academic institutions, or nongovernment organizations, as deemed appropriate by the city or county, in preparing to update the conservation element.
- 6) Allows a city, county, or city and county to include the information required to consider by this bill in a separate component or section of the general plan entitled a wildlife connectivity element.
- 7) Contains finding and declaration regarding the purpose and intent of this bill.

EXISTING LAW:

- 1) Requires every city and county 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)
- 4) Vests CDFW with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish and Game Code (FGC) §1802)
- 5) Requires CDFW to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change, as provided. (FGC §1930.5)

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

COMMENTS:

- 1) **Bill Summary.** AB 1889 requires a city, county, or city and county to consider the impact of development on the movement of wildlife and habitat connectivity within the conservation element. The bill requires local agencies to identify areas where wildlife connectivity can be improved and requires the local agency to ensure that planned development does not undermine the effectiveness of the state's wildlife connectivity projects. The bill allows cities and counties to comply by reference of the wildlife connectivity component into the general plan. AB 1889 allows the local government to consult with Native American tribes, government agencies, and academic institution in preparation of the conservation element. The sponsors of this bill are the Wildlands Network and the Center for Biological Diversity.
- 2) **Author Statement.** The author states, "California is one of the richest biodiversity hotspots in the world and the most populous state in the nation. Developments degrade and fragment habitats, the leading threat to species imperilment. Animals need room to roam between different habitats to find food, shelter, and unrelated mates. Continued development without consideration of connected landscapes could jeopardize California's biodiversity.

For example, infrastructure and development in Southern California and the Central Coast isolate mountain lion populations, causing them to inbreed. If connectivity is not improved in the Santa Ana and Santa Monica in the next 50 years, scientists warn these mountain lion populations could become extinct. All of California's wildlife, including iconic species, like the California red-legged frog (the State Amphibian), and common species, like mule deer, need connected landscapes to access the resources they need to survive.

While policies touch on wildlife connectivity, state law does not provide clear guidance on how local jurisdictions should address connectivity in their planning process. The Safe Roads and Wildlife Protection Act (AB 2344) provided a roadmap for Caltrans to address connectivity on state highways; and some jurisdictions, like Ventura County, have voluntarily adopted wildlife connectivity policies, but statewide implementation is essential to safeguard habitat connections across the entire state.

The California Environmental Quality Act (CEQA) recommends lead agencies consider whether a project substantially interferes with native fish or wildlife movement or established migratory wildlife corridors. However, most cities and counties do not interpret this guideline as requiring protection of regional wildlife connectivity within their jurisdiction (or neighboring jurisdictions). Instead, many cities and counties have authorized the expansion of development in connectivity areas without adequate mitigation or consideration of alternatives. These authorizations progressively impede wildlife from reaching essential resources, leading to a cumulative effect known as "death by a thousand cuts."

Wildlife connectivity planning will help ensure that wildlife can move across the landscape and find food, shelter, and unrelated mates, while also adapting to increasing extremes due to climate change, like increases in wildfire, flooding, extreme heat, or drought. Preserving wildlife connectivity and restoring degraded habitat and open space also helps ensure that all Californians have equitable opportunities to experience the physical and mental health benefits of nature."

- 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) **Conservation Element.** The conservation element is one of the seven elements a local government is required to include in its long range general plan. This element must address the identification, conservation, development, and use of natural resources including water, forests, soils, waterways, wildlife, and mineral deposits. A local government may also consider issues related to flood control, water and air pollution, erosion, farmland conversion, endangered species, and timing and impact of logging and mining activities.
- 5) **Wildlife Connectivity.** In 2020, the Department of Fish and Wildlife (DFW), conducted an initial assessment of priority barriers to wildlife movement throughout the state. The assessment identified a total of 61 barriers that were considered high priorities for remediation. Of the 61 highest priority segments identified, 58 were part of the state highway system. AB 2344 (Friedman), Chapter 964, Statutes of 2022, required the California Department of Transportation (Caltrans), in consultation with the DFW, to establish an inventory of connectivity needs on the state highway systems where the implementation of wildlife passage features could reduce wildlife-vehicle collision or enhance wildlife connectivity.

DFW updated their assessment in 2022 in a report entitled *Restoring California’s Wildlife Connectivity 2022*. As of June 2022, approximately 150 segments of linear infrastructure have been identified as wildlife barriers, including 18 new segments added in 2022. Of those barrier segments, 62 were identified as priority wildlife barriers in 2022 and 12 were included on the statewide top priority list. Nearly all the known barriers are associated with the State Highway System, but railroads, canals, high-speed rail alignments, and local roads are also represented. Some segments may be impacted by more than one infrastructure type (i.e., a high-speed rail alignment along a highway).

- 6) **Policy Considerations.** There are 482 cities and 58 counties in California, which means that there are 534 general plans that would be impacted by AB 1889. Each city and county is not only diverse in size and population, but in terrain, climate, plants, and animals that call their jurisdiction home. Local governments strapped for resources and time will seek opportunities to maximize their dollars when updating their general plan. Cities and counties may consult the same government agencies, Native American tribes, or open space districts for elements

that overlap such as, the land use element, open space element, conservation element, and environmental justice element. Requiring that a local government consult with specified agencies, tribes, or open space districts at certain periods of the general plan update process may hinder progress toward completing these updates and create duplicative consultations without yielding new or salient information. The Committee may wish to consider if allowing cities to decide with who and when to consult will maximize efficiency and use of resources when drafting updates to the general plan. The Committee may also wish to consider if consulting nongovernment organizations will set a precedent and invites influence from private entities not subject to the same accountability or transparency measures as government agencies.

The general plan works as the foundation for community planning and provide the long range goals of development in a jurisdiction. In contrast to the long-term, zoning classifies the specific, immediate uses of land. Counties, general law cities, and charter cities with populations of more than two million are required to maintain consistency between their zoning ordinance and their adopted general plan. The Office Planning and Research state in their *General Plan Guidelines and Technical Advisories* state that, “If the general plan contains policies regarding orderly development, adequate public services, and compact urban growth, rezoning a large area from a low-intensity use (e.g., agriculture) to a more intensive one (e.g., residential) before urban services are available would be inconsistent with the general plan. Conversely, an inconsistency may be created when general plan policies promote high-intensity development in an area but the jurisdiction instead permits low-intensity uses.” Zoning that is inconsistent with the general plan at the time it is enacted is invalid. The Committee may wish to consider if requiring zoning to be considered as part of the general plan would negate the efforts to create consistency across the general plan.

- 7) **Committee Amendments.** In order to address the policy consideration outlined above, the committee may wish to amend the bill as follows:

Sec. 2. (d) (6) In preparing to update the conservation element, the city, county, or city and county ~~shall~~ *may*:

(A) Consider incorporating appropriate standards, policies, and **zoning implementation programs** such as wildlife-friendly fencing and lighting, buffers from sensitive resources, prohibitions on invasive plants, habitat connectivity overlay zones, and compact development standards, or consider whether adoption of ordinances is necessary to fully implement these standards, policies, and **zoning implementation programs**, and include goals to adopt any necessary ordinances.

Sec. 2.(d)(7) In preparing to update the conservation element, the city, county, or city and county may consult with other appropriate local, state, or federal agencies, *or* academic institutions, ~~or nongovernment organizations~~, as deemed appropriate by the city or county.

- 8) **Previous Legislation.** AB 2344 (Friedman), Chapter 964, Statutes of 2022, required Caltrans in consultation with the DFW and other appropriate agencies, to take actions to address wildlife connectivity needs related to the state highway system.

SB 932 (Portantino), Chapter 710, Statues of 2022, required 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 790 (Stern), Chapter 738, Statutes of 2021, authorized the DFW to approve compensatory mitigation credits for certain wildlife connectivity actions that measurably improve habitat connectivity or wildlife migration, such as adding an overpass or underpass for a roadway, as provided.

SB 395 (Archuleta), Chapter 869, Statutes of 2019, authorized the Fish and Game Commission, upon appropriation, to establish a pilot wildlife salvage permit program authorizing the roadkill of certain game species to be taken for human consumption, and, upon appropriation, authorizes the DFW to take certain actions to support the salvage pilot program.

SB 99 (Nielsen), Chapter 202, Statutes 2019, requires the 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 evacuations 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 review 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 require the safety element to be updated to address the risk of fire in state responsibility areas.

AB 162 (Wolk), Chapter 369, Statutes of 2007, required cities and counties to consider flood-related matters in the land use, conservation, safety, and housing elements of their general plans.

SB 857 (Kuehl), Chapter 589, Statutes of 2005, required Caltrans to prepare an annual report describing the status of the department's progress in locating, assessing, and remediating barriers to fish passage on the State Highway System.

- 9) **Related Legislation.** AB 2320 (Irwin) declares it is the state's policy to increase connectivity between habitat areas in order to protect wildlife and requires the Natural Resources Agency in their annual 30x30 report to outline progress in protecting wildlife corridors. The bill is currently in the Assembly Water, Parks, and Wildlife Committee.
- 10) **Arguments in Support.** The Center for Biological Diversity and Wildlands Network write in support, "The Room to Roam Act would help protect California wildlife and strengthen climate resilience by requiring local governments to incorporate wildlife connectivity into the conservation element of their general plan in consultation with state and local agencies. This legislation is necessary to safeguard California's imperiled biodiversity and limit the death by a thousand cuts caused by habitat loss and fragmentation..."

“Lack of connectivity is the primary threat for many imperiled species and populations, including Southern California and Central Coast mountain lion populations, which are provisionally listed as threatened under the state Endangered Species Act. Humans have extended roads and development into mountain lion habitat with little regard for their movement needs, which has resulted in an “extinction vortex” of dangerously isolated populations with poor genetic health AB 1889 Sponsor Letter, Page 2 and high levels of human-caused mortalities, including car strikes, rodenticide poisonings, poaching, and disease...”

“No policy exists that requires local governments to designate areas necessary to keep landscapes intact for wildlife connectivity within and adjacent to their jurisdictions. In addition, none of the other general plan elements set forth in the Government Code require the jurisdiction to identify connectivity areas, permeability, and natural landscape areas and include plans and measures to avoid, minimize, and mitigate impacts and barriers to wildlife movement.”

- 11) **Arguments in Opposition.** The California Building Industry Association writes in opposition, “AB 1889 seeks to mandate every local government to adopt a new element to its general plan focused specifically on wildlife connectivity issues without concern to the impacts such an element will have on that jurisdiction’s ability to meet its housing needs. This one-sided approach to the issue creates the foundation upon which certain local governments will build exclusionary policies like the Town of Woodside did by using mountain lion habitat as a reason it could not approve duplexes or fourplexes authorized by SB 9.”

“CBIA believes there is already more-than-adequate protection of wildlife through CEQA, the federal Endangered Species Act, the California Endangered Species Act, Fully Protected Species, Natural Community Conservation Planning Act, the conservation of 30% of California land and water by 2030 (an amount that is more than 4 times the land of California that is already developed), the Safe Roads and Wildlife Protection Act, the Wildlife Connectivity Actions, the Safe Harbor Act, and Lake and streambed alteration Agreements just to name a few. The addition of one more layer of government oversight while at the same time not creating regulatory efficiency for project proponents will only add more time and costs to housing projects. “

California is in a massive housing crisis due to numerous state legislation and regulations that cause delays, significant cost increases, and add complexity to the homebuilding industry’s ability to produce new housing. AB 1889 would only add to this vexing and nearly insurmountable problem facing all Californians.”

- 12) **Double-Referral.** This bill is double-referred to the Assembly Committee on Water, Parks, and Wildlife.

REGISTERED SUPPORT / OPPOSITION:

Support

Animal Legal Defense Fund
 Animazonia Wildlife Foundation
 Arroyos & Foothills Conservancy
 Brentwood Alliance of Canyons & Hillside

California Chaparral Institute
California Environmental Voters (formerly Clcv)
California Native Plant Society
California Trout
California Wildlife Center
Canyon Back Alliance
Center for Biological Diversity
City of Agoura Hills
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Coastal Ranches Conservancy
Defenders of Wildlife
Endangered Habitats League
Escondido Creek Conservancy, the
Felidae Conservation Fund
Friends of Plumas Wilderness
Green Foothills
Greenspace - the Cambria Land Trust
Happy Hen Animal Sanctuary
Hills for Everyone
Humane Society of The United States
Humane Wildlife Control
In Defense of Animals
Klamath Siskiyou Connectivity Project
Los Padres Forest Watch
Midpeninsula Regional Open Space District
Mojave Desert Land Trust
Mountain Lion Foundation
Ojai Raptor Center
Old Agoura Homeowners
Pathways for Wildlife
Planning and Conservation League
Poison Free Agoura
Poison Free Conejo Valley
Poison Free Malibu
Preserve Wild Santee
Project Coyote
Raptors are The Solution
San Bernardino Valley Audubon Society
San Diego Humane Society
San Diego River Park Foundation
Santa Monica Mountains Conservancy
Santa Susana Mountain Park Association
Save Joshua Tree Wildlife
Sc Wildlands
Sierra Forest Legacy
So Cal 350 Climate Action
Social Compassion in Legislation
Sonoma Land Trust

Sustainable Rossmoor
Teranga Ranch Wildlife
The Cougar Fund
The Nature of Wildworks
The River Otter Ecology Project
The Wildlands Conservancy
Unchainedtv
United Neighborhoods for Los Angeles (UN4LA)
Urban Wildlife Research Project
Ventura Land Trust
Voters for Animal Rights
Wild Earth Guardians
Wildlands Network
Wildlife Emergency Services
Wishtoyo Foundation
Women United for Animal Welfare

Opposition

Calchamber
California Building Industry Association
Los Angeles County Business Federation (BIZ-FED)

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