

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2442 (Robert Rivas) – As Amended April 5, 2022

**SUBJECT:** Climate change.

**SUMMARY:** Adds “climate change” to the definition of disaster in the California Disaster Assistance Act (CDAA), makes the use of natural infrastructure to mitigate climate change disasters reimbursable under the CDAA, and requires local agencies to incorporate measures designed to reduce greenhouse gas (GHG) emissions in the next update of their General Plan. Specifically, **this bill:**

- 1) Amends the definition of “disaster” in the CDAA to include “climate change” as a listed disaster that the governor may determine presents a threat to public safety.
- 2) Amends the types of activities that the director of the Governor’s Office of Emergency Services (Cal-OES) may authorize as mitigation measures eligible for funding under the CDAA to include, but not be limited to:
  - a) Measures that reduce emissions of GHGs.
  - b) Preserving open space.
  - c) Improving forest management and wildfire risk reduction measures.
  - d) Other investments in natural infrastructure.
- 3) Incorporates into the CDAA the definition of “natural infrastructure” used in Planning and Zoning Law.
- 4) Amends Planning and Zoning Law to require local agencies upon the next revision of either the local hazard mitigation plan or the safety element of their general plan to include the following:
  - a) A set of feasible measures designed to reduce emissions of GHGs.
  - b) A set of measures designed to use natural features and ecosystem processes in or near identified at-risk areas threatened by the impacts attributable to climate change.
- 5) 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.

**EXISTING LAW:**

- 1) Requires, pursuant to Planning and Zoning Law, every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a safety element.

- 2) Defines, in Planning and Zoning Law, “natural infrastructure” to mean using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. This includes, but is not limited to, the conservation, preservation, or sustainable management of any form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. It also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.
- 3) Establishes the CDAA, which generally provides that the state pays 75 percent of the non-federal share of eligible costs for any federally declared emergency. For some statutorily specified disasters, the state pays 100 percent of the non-federal cost.
- 4) Prohibits the state share for any eligible project from exceeding 75 percent of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan, in accordance with the federal Disaster Mitigation Act of 2000, as part of the safety element of its general plan.

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

**COMMENTS:**

- 1) **Bill Summary.** This bill amends the CDAA to expand the scope of disaster recovery mitigation measures that are eligible for state reimbursement to include measures that reduce emissions of GHGs, preserve open space, improve forest management and wildfire risk reduction measures, and make other investments in natural infrastructure.

This bill also expands the types of items that must be included in a local hazard mitigation plan to include feasible measures designed to reduce emissions of GHGs and measures designed to use natural features and ecosystem processes in or near at-risk areas. This bill does not require local agencies to update their hazard mitigation plans until their next update of the general plan. However, the CDAA limits the amount of funding the state may reimburse to local agencies that do not have an adopted hazard mitigation plan to 75 percent of the eligible costs. By amending the requirements of the hazard mitigation plans, this bill would require local agencies to update their hazard mitigation plans in order to qualify for reimbursement of eligible costs in excess of 75 percent.

This bill is sponsored by the Nature Conservancy.

- 2) **Author’s Statement.** According to the author, “Current law is inconsistent as to whether climate change is a hazard in and of itself, or whether it is merely a ‘hazard modifier’ that increases the risks associated with existing hazards like storms or floods. Assembly Bill 2442 will clarify that climate change is itself a hazard as well as a hazard modifier, which will enable better integration of climate mitigation and adaptation planning at the state and local levels as well as open up new sources of state and federal funding for climate resilience.”

- 3) **The California Disaster Assistance Act.** The CDAA authorizes the director of Cal-OES to reimburse local governments for debris removal, emergency work, and repair or replacement of public facilities damaged by a disaster upon a governor's proclamation. When there is a federal declaration, the Federal Emergency Management Agency (FEMA) pays 75 percent, and the state may pay up to 75 percent of the remaining 25 percent of eligible costs for any state-declared emergency (18.75 percent of the total). For some statutorily specified disasters, the state may pay up to 100 percent of the non-federal eligible disaster mitigation costs. Existing law prohibits the state share for any eligible project from exceeding 75 percent of state eligible costs unless the local agency has adopted a local hazard mitigation plan as part of the safety element of its general plan.
- 4) **Expanding and Limiting.** This bill expands the categories of disasters that are eligible for reimbursement under the CDAA to include climate change. This bill also expands the types of activities eligible for reimbursement under the CDAA to include nature-based mitigation measures designed to lessen the impact of disasters. These two provisions could significantly expand the amount of reimbursement local agencies are eligible to receive from the state under the CDAA. Conversely, this bill expands the planning activities local agencies must include in their hazard mitigation plans. In order to be eligible for CDAA reimbursement in excess of 75 percent of eligible costs, local agencies will need to update their hazard mitigation plans. Once local hazard mitigation plans are updated to reflect the new requirements added by this bill, local agencies can be reimbursed for more than 75 percent of eligible costs.

In effect, this bill expands the range of activities eligible for reimbursement, but limits the amount that can be reimbursed until local agencies update their hazard mitigation plans to include plans directly related to the new funding categories.

- 5) **Arguments in Support.** The Nature Conservancy writes in support, “If passed, AB 2442 will help incentivize nature-based solutions that both mitigate climate change and help local communities adapt to its impacts, and AB 2442 will also open new funding sources for climate mitigation and adaptation...”
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral.** This bill is double-referred to the Natural Resources Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

The Nature Conservancy [SPONSOR]  
California Native Plant Society  
Defenders of Wildlife

##### **Opposition**

None on file.

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