

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 549 (Quirk) – As Introduced February 14, 2017

SUBJECT: Local government: building permit: electric fence: notice.

SUMMARY: Requires counties and cities to notify their respective fire agencies when they approve a permit for an electrified security fence. Specifically, **this bill:**

- 1) Requires a city, county, or city and county that approves a building permit for the construction of an electrified security fence to notify the local fire department and fire marshal and provide them with a copy of the approved permit.
- 2) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Allows a county or city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- 2) Allows an owner of real property to install and operate an electrified security fence on his or her property subject to all of the following:
 - a) The property is not located in a residential zone;
 - b) The fence meets the 2006 international standards and specifications of the International Electrotechnical Commission for electric fence energizers in “International Standard IEC 60335, Part 2-76;”
 - c) The fence is identified by prominently placed warning signs that are legible from both sides of the fence. At a minimum, the warning signs shall meet all of the following criteria:
 - i) The warning signs are placed at each gate and access point, and at intervals along the fence not exceeding 30 feet;
 - ii) The warning signs are adjacent to any other signs relating to chemical, radiological, or biological hazards; and,
 - iii) The warning signs are marked with a written warning or a commonly recognized symbol for shock, a written warning or a commonly recognized symbol to warn people with pacemakers, and a written warning or commonly recognized symbol about the danger of touching the fence in wet conditions; and
 - d) The height of the fence does not exceed 10 feet and is located behind a perimeter fence that is not less than six feet in height.

- 3) Prohibits an owner of real property from installing and operating an electrified security fence where a local ordinance prohibits that installation and operation. If a local ordinance allows the installation and operation of an electrified security fence, the installation and operation of the fence shall meet the requirements of that ordinance and the requirements of 2), above.
- 4) Defines, for purposes of the above provisions, "electrified security fence" to mean any fence, other than an electrified fence described in the Food and Agricultural Code, as specified, that meets the following requirements:
 - a) The fence is powered by an electrical energizer with both of the following output characteristics:
 - i) The impulse repetition rate does not exceed 1 hertz (hz); and,
 - ii) The impulse duration does not exceed 10 milliseconds, or 10/10000 of a second; and,
 - b) The fence is used to protect and secure commercial or industrial property.

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

COMMENTS:

- 1) **Bill Summary.** This bill requires counties and cities that approve a building permit for the construction of an electrified security fence to notify their local fire department and fire marshal and provide them with a copy of the approved permit. This bill is sponsored by the author.
- 2) **Author's Statement.** According to the author, "Electrified fences are not a new technology. However, the legal use of electrified fences for security purposes is. Under current law, a business must meet certain requirements to install and operate an electrified security fence, (which) must meet certain requirements. These include height, signage and impulse (or shock) restrictions.

"Firefighters recognize that electrified security fences are designed to give a non-lethal electrical shock. However, firefighters, including my local responding firefighters, have expressed concern about how the electrical current will interact with the metal tools they use for forced entry. They fear the shock may disable a firefighter or may severely (injure) a firefighter.

"Although current law has requirements regarding signage along the property with an electrified security fence, there is no requirement that local firefighters or (a) fire marshal be notified when a permit for its construction is approved. Firefighters argue that this could pose a significant safety risk to them when responding to an emergency call."

- 3) **Background.** Electrified security fences are designed to serve as a non-lethal security measure for the perimeter of real property. These fences are generally constructed of metal with attached wires that run along the width of the fence, carrying pulses of electric current that provide an unpleasant, yet non-lethal shock to deter potential trespassers. Most electrified security fences are rigged with an alarm system that is set up to signal the property

owner or the security company when the fence is being tampered with. These fences are designed to provide a physical and psychological deterrent to potential intruders, and generally have visible warning signs that provide alerts of existing hazards about which the security fence owner or property owner are required to warn others. Currently, most electrified security fences in the U.S. are used in industrial and commercial zones to protect property located within the perimeter of the fence, such as in an equipment yard or commercial storage facility.

Existing law, which went into effect on January 1, 2016, allows an owner of property in a non-residential area to install and operate an electrified security fence as long as the fence meets specified shock standards, signage requirements and height restrictions. Such a fence must also be located behind a perimeter fence of at least six feet in height and must be used to protect and secure commercial or industrial property. This authority is not allowed where a local ordinance prohibits the installation and operation of electrified security fences. If a local ordinance allows such an installation, it must meet the requirements of the ordinance and the limitations outlined above.

According to news reports, in July of 2013, a Cal Fire firefighter was stunned and knocked down by a powerful shock from an electric fence at a fire in the American River Canyon. The fence had apparently been set to its highest level by a property owner who was using it to keep bears off the property. It is cases like this one that this bill hopes to avoid by requiring counties and cities that approve a building permit for an electrified security fence to notify their local fire department and fire marshal and provide them with a copy of the approved permit.

- 4) **Previous Legislation.** SB 582 (Hall), Chapter 273, Statutes of 2015, authorized an owner of real property to install and operate an electrified fence on his or her property if the property is not in a residential zone, the fence meets specified requirements, and a local ordinance does not prohibit its installation and operation.
- 5) **Technical Amendment.** The Committee may wish to amend this bill, which adds a new section to the Government Code, to include a cross-reference to the existing Civil Code section that defines "electrified security fence."
- 6) **Arguments in Support.** The California Professional Firefighters, in support, write, "California's firefighters face unique and uniquely dangerous risks in their mission to keep the public safe. Electrical hazards are among the various hazards that firefighters face in the course of performing their job-related duties. While electric fence voltage may vary, when set to the highest level, the shock has the potential to knock a firefighter to the ground. Such was the case in 2013, when a CalFIRE firefighter was stunned and knocked down by a powerful electric fence shock while responding to a fire in the American River Canyon. Electric fences are no longer only found in rural areas and are becoming increasingly popular in urban settings. The nature of the emergency response profession is unpredictable. The more information a fire department has regarding potential response hazards, such as an electric fence, the better prepared our members will be in navigating those hazards to ensure a safe outcome."
- 7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Firefighters
California Professional Firefighters
California State Firefighters Association

Opposition

None on file

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