

JULY 2006 LEGISLATIVE REPORT

CALIFORNIA FIRE CHIEF'S FIRE PREVENTION OFFICERS

The following is legislation in the California Legislature being monitored by the FPO
Legislative Committee.

For current information or to review any of these bills go to www.leginfo.ca.gov

| | |
|--------------------|------------------|
| AB = Assembly Bill | SB = Senate Bill |
|--------------------|------------------|

AB 158 (Bermudez) Railroads: safety study.

Status: Hearing 6-26-06

Current Location: SEN ENVIRONMENTAL QUALITY

Summary: Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail. Existing law requires every railroad corporation that transports hazardous materials, as defined, in the state to provide a system map of the state to the Office of Emergency Services and to the commission showing certain information, to annually submit a copy of its emergency handling guidelines to the office, and to provide specified information in the event of an incident where there is a release or threatened release of a hazardous material. Under existing law, the commission is required to annually report to the Legislature regarding sites on railroad lines in the state that it finds to be hazardous, including a list of all commodities transported on railroad lines that could pose a hazard to the public or the environment in the event of a train derailment or other accident, a description of the quantities of these commodities, and the locations and routes over which these materials are transported, and a list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous 5 years. This bill would create the Special Railroad Safety Task Force, comprised of specified members. The bill would require the task force to meet monthly from January 2007 to December 2007, inclusive, and to study certain railroad safety issues, and make recommendations for improving railroad safety measures. The bill would require the task force, no later than 90 days after its last meeting, to submit a written report to the commission setting forth its findings and recommendations relating to railroad safety issues. The bill would require the commission to include the findings and recommendations of the task force in its July 1, 2008, report to the Legislature on sites on railroad lines that are found to be hazardous. These provisions would become inoperative on July 1, 2008, and would be repealed on January 1, 2009, unless a later enacted statute deletes or extends that date. This bill contains other related provisions.

AB 2039 (Tran)Fireworks.

Status: 04/19/2006-In committee: Set, first hearing. Hearing canceled at the request of author.

Current Location: Assm. GO

Summary: Existing law generally regulates the sale, possession, use and transportation of fireworks. Existing law provides that, subject to exceptions, any person who violates any of those provisions, or any regulations issued pursuant to these provisions, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment in the county jail for not exceeding one year, or by both that fine and imprisonment.

This bill would additionally provide that, subject to exceptions, any person who violates any of those provisions or any regulations issued pursuant to those provisions involving any dangerous fireworks item, as defined, or any combination of any dangerous fireworks items, having the total net weight of explosive material of 7,500 grains or more, is guilty of a public offense, and upon conviction thereof would be punished by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than \$10,000, or by both the fine and imprisonment.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

Existing law provides that any person who sells, gives, or delivers any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor, with specified punishment, and that any person who violates those provisions with any dangerous fireworks item, as defined, or any combination of any dangerous fireworks items, having the total net weight of explosive material of 7,500 grains or more, is guilty of a public offense, and upon conviction thereof would be punished by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than \$5,000, or by both that fine and imprisonment. This bill would increase the maximum fine that could be imposed to \$10,000.

Existing law provides that the State Fire Marshal, his or her salaried deputies, or any chief of a fire department, or his or her authorized representatives, any fire protection agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, may seize any fireworks, as described, and may charge any person, firm, or corporation, whose fireworks are seized pursuant to this section, an amount which is sufficient to cover the cost of transporting, storing, and handling the seized fireworks.

This bill would include authorization to charge for disposing of the seized fireworks, as specified.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

AB 2177 (Plescia) Fire alarm systems: standards.

Status: Hearing 6-27-06

Current Location: SEN GOVERNMENTAL ORGANIZATION

Summary: Existing law makes it a misdemeanor for any person to market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal. This bill would revise that provision to instead provide that it shall be a misdemeanor for any person to market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been tested and listed by a nationally recognized testing laboratory that shall determine that the product meets specified standards; the product would be required to bear the listing mark of the laboratory that tested and listed the product to signify that the product meets the specified standards. The bill would further provide that nothing in these provisions shall be construed to preclude any person from applying to have any fire protection system or apparatus listed under another specified provision of law. By revising the elements of an existing crime, this bill would impose a state-mandated local program upon local government.

AB 2184 (Bogh) Residential facilities: land use regulations.

Status: Hearing 6-27-06

Current Location: SEN HUMAN SERVICES

Summary: Existing law specifies that no conditional use permit, zoning variance, or other zoning clearance is required of a residential facility, as defined, which serves 6 or fewer persons if such a permit, variance, or zoning clearance is not required of a family dwelling of the same type in the same zone.

Existing law provides that those provisions shall not be construed to forbid the application to a residential care facility of any local ordinance that deals with health, safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities that serve 6 or fewer persons from other family dwellings of the same type in the same zone, and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone.

This bill would additionally provide that the aforementioned provisions shall not be construed to prohibit the application to a residential care facility of any ordinance that applies to homes of facilities not subject to licensure by a state agency.

AB 2310 (Torrico) Fireworks regulations: local law enforcement

Status: Hearing 6-27-06

Current Location: SEN PUBLIC SAFETY

Summary: Existing law generally regulates the sale, possession, use, and transportation of fireworks, including dangerous fireworks and safe and sane fireworks, as defined. Existing law provides that, subject

to exceptions, any person who violates any of those provisions, or any regulations issued pursuant to these provisions, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment. This bill would provide that the penalty for violations that involve only personal use is an infraction. The bill would also provide that, in addition to any other penalty that may be imposed, any person who violates this part by unlawfully possessing dangerous fireworks or safe and sane fireworks shall be subject to a specified penalty to reimburse the local jurisdiction for any disposal and administrative expenses. It would provide that a portion of the specified penalty shall be transferred to the State Fire Marshal for use in statewide programs for the disposal of fireworks, and a portion of the penalty will remain with the local fire protection agency for administrative costs. This bill would expressly exempt persons who hold, and are operating within the scope of a valid license or permit, as defined, from this provision. By increasing the penalties for an existing offense

AB 2410 (Runner) School facilities: the Vasquez High School multipurpose structure. Status:

Status: Hearing 6-28-06

Current Location: SEN EDUCATION

Summary: Existing law requires school districts to comply with the Field Act and to submit plans for construction to the Department of General Services and to proceed through the review and approval process, as specified. This bill would exempt the completed, temporary multipurpose structure at Vasquez High School in the Acton-Agua Dulce Unified School District from the requirements of the Field Act and require that it be lawfully opened to all customary daily uses by pupils and staff during a study and analysis by the State Architect or any other representative of the Division of the State Architect of the Department of General Services of the advanced technology structures and materials used in the multipurpose structure. This bill would require the study be completed, as shown by the presentation of written findings to the school district, no later than 36 months after the first date of authorized use of the structure. The bill would require that the exemption from the Field Act expire upon the presentation to the school district of written findings by the State Architect or a representative thereof that the structure failed to meet or exceed the fire and seismic standards for construction. This bill would provide that the exemption does not result in the assumption of liability for the facility by the state and that the use of additional state funds for the purposes of the exemption and the facility study is prohibited. This bill would declare that, due to special circumstances applicable to Vasquez High School in the Acton-Agua Dulce Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary. This bill would declare that it is to take effect immediately as an urgency statute.

AB 2836 (Karnette) Fire protection: residential care facility for the elderly.

Status: No hearing date set

Current Location: SEN APPROPRIATIONS

Summary: This bill would require residential care facilities for the elderly that house or care for 4 or more clients or residents, to have an approved, operable automatic fire sprinkler system on and after January 1, 2014, if they are licensed as of January 1, 2010. The bill would require every facility for which a license is newly issued on or after January 1, 2010, to have an approved, operable automatic fire sprinkler system on and after the date of issuance. The bill would require the State Fire Marshal to adopt regulations to implement these provisions by January 1, 2008, including addressing those fire safety features no longer required of a licensee after an operable automatic fire sprinkler system has been installed and maintained. The bill would also provide that ~~no liability shall be imposed on an owner of a facility for a violation of this requirement by a third party to whom the facility is leased or rented for operation~~ *the landlord shall determine all phases of construction, and the facility shall pay all costs including permit fees, cost of design and construction, and tenant relocation costs*

AB 2841 (De La Torre) Fireworks: transportation.

Status: No hearing date set

Current Location: ASM GOVERNMENTAL ORGANIZATION

Summary: Existing law, the State Fireworks Law, authorizes a local entity to prohibit or regulate by law or ordinance the sale, use, or discharge of fireworks in its jurisdiction and specifies that this law does not authorize the sale, use, or discharge of fireworks prohibited or regulated by law or ordinance. The State

Fireworks Law makes it unlawful for a person to, among other matters, transport fireworks unless they have been classified and registered by the State Fire Marshal. This bill would additionally specify that the transportation of fireworks prohibited or regulated by law or ordinance in a local jurisdiction is not otherwise authorized by the State Fireworks Law.

AB 2857 (Bass) Firefighters: arson investigators.

Status: Suspense file.

Current Location: A APPR. SUSPENSE FILE

Summary: Existing law classifies firefighters, who are not members of an arson-investigating unit, as peace officers if the primary duty of the firefighter, when acting in the capacity of a peace officer, is the enforcement of laws relating to fire prevention or fire suppression.

This bill would provide instead that firefighters, who are not members of an arson-investigating unit, are peace officers when they are enforcing laws relating to fire prevention or fire suppression, regardless of whether or not the enforcement of fire prevention or suppression laws is his or her primary duty.

Because this bill would confer peace officer status on certain local firefighters, it would impose a state-mandated local program.

AB 2943(Salinas) Water charges: residential fire sprinkler systems.

Status: No hearing date set

Current Location: ASM LOCAL GOVERNMENT

Summary: Under existing law, local water suppliers impose charges for water service in accordance with various requirements. This bill would prohibit a local water supplier that supplies water to retail customers from imposing or increasing water charges solely due to the installation of a residential fire sprinkler system.

SB 246 (Figueroa) Board for Professional Engineers and Land Surveyors: engineers

Status: This bill has been gutted and changed. It is no longer the earlier bill dealing with FPEs.

SB 841 (Hollingsworth) Fire protection: firebreaks.

Status 04/24/2006-Chaptered by Secretary of State. Chapter 21, Statutes of 2006.

Current Location:04/24/2006-S CHAPTERED

Summary: Existing law requires the State Board of Forestry and Fire Protection to adopt regulations implementing minimum fire safety standards related to defensible space, that are applicable to state responsibility area lands under the authority of the Department of Forestry and Fire Protection. Existing law requires a person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest covered lands, brush lands, or grass-covered lands, or any land that is covered with flammable material, to maintain around and adjacent to the building or structure a firebreak of at least 30 feet, as specified. This bill would, consistent with any other applicable provision of law, authorize a state or local fire official, at his or her discretion, to permit an owner of property, or his or her agent, to construct a firebreak or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, school, aboveground storage tank, hazardous materials facility, or similar facility on the property. The bill would authorize the firebreak to be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter.

SB 1290 (Ducheny) Community colleges: facilities.

Status: Hearing 6-28-06

Current Location: ASM APPROPRIATIONS

Summary: Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts throughout the state under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses.

Existing law requires the Department of General Services to supervise the design and construction of certain school buildings, including specified community college facilities, to ensure that plans and

specifications comply with specified structural safety standards and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Existing law also requires the department to pass upon and approve or reject all plans for the construction of, and in some cases, the alteration of, any school building subject to those provisions, and to make inspections of the school buildings and work of construction or alteration that in its judgment is necessary or proper for the enforcement of these requirements and the protection of the safety of the students, the instructors, and the public. These requirements are part of the body of law known as the Field Act. Existing law authorizes a community college district to acquire for use any facility previously used by the United States military and closed by action of the federal Defense Base Closure and Realignment Commission if the governing board of the district finds that specified conditions of the Field Act have been met. Existing law establishes the California Building Standards Commission within the State and Consumer Services Agency, and requires the commission to review and approve building standards proposed and adopted by state agencies and to codify and publish approved building standards in one state building standards code, known as the California Building Standards Code. This bill would require that each school building, as defined, constructed, reconstructed, modified, or expanded on or after January 1, 2007, on a community college campus be built in accordance with the Field Act or according to the California Building Standards Code , as adopted by the California Building Standards Commission .

SB 1837 (Alarcon) Fire protection and prevention: firebreaks

Status: Set, first hearing. Hearing canceled at the request of author.

Current Location: SEN NATURAL RESOURCES AND WATER

Summery: Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied 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 in a locally designated very high fire hazard severity zone, to undertake specified actions with respect to fire prevention and protection, including maintaining around and adjacent to the occupied dwelling or occupied structure a firebreak, as specified, for distance of not less than 30 feet, or to the property line, whichever is nearer.

Existing law requires the person also to maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks, as specified, that are located within 100 feet of the dwelling or structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. A violation of these requirements is a crime.

Existing law imposes similar requirements on a person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material. A violation of these requirements is a crime. This bill instead would require the person to maintain a firebreak, as specified, of 200 feet, or to the property line, whichever is nearer, or at a greater distance if required by state law, or local ordinance, rule, or regulation, thereby changing the definition of a crime and imposing a state-mandated local program.

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.

SB 1838 (Perata) Health facilities: construction plans.

Status: Hearing 6-27-06

Current Location: ASM HEALTH

Summery: The existing Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 requires design and construction standards for hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster. The act requires the Office of Statewide Health Planning and Development (OSHPD) to approve or reject all plans for the construction or alteration of a hospital building. Authorize the office to establish a training program to ensure that a sufficient number of qualified persons are available to facilitate the timely performance of the office's duties and responsibilities, as specified.