

JUNE 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
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AB 158 (Bermudez) Railroads: safety study.

Status: Referred to Coms. on E.,U. & C. and E.Q.

Current Location: S E. U., & C.

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: 05/18/2006-Referred to Com. on G.O.

Current Location: G.O.

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 ~~standard~~-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.

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.

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

Status: In Senate – 1st read

Current Location: to assignment

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 ~~, instead, specify that a city, county, or other local public entity may require a conditional use permit, zoning variance, or other zoning clearance of a residential facility that serves 6 or fewer persons that is not required of a family dwelling of the same type in the same zone~~ 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: Appropriations Committee – Suspense file

Current Location: 05/17/2006-A APPR. SUSPENSE FILE

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 for 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. ~~These provisions would also be applicable to the owner of private property where illegal fireworks have been seized if the owner had knowledge that illegal fireworks were located on his or her property unless the property owner rents or leases the property for use of another person and within 30 days of receiving notice of the violation provides the citing agency with the name of the tenant or lessee.~~ By increasing the penalties for an existing offense, this bill would impose a state-mandated local program.

The bill would provide that the person may be required to deposit bail in a specified amount, and that, if the person does not appear, bail would be forfeited, and further proceedings could be dismissed.

~~The bill would provide that if any person is found to have failed to pay any forfeited bail or fine, or has failed to appear and deposit bail for any citation for a violation of these provisions, a peace officer may immobilize a vehicle owned by that person with a device designed and manufactured for the immobilization of vehicles.~~

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.

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

Status: 05/10/2006-In committee: Set, first hearing. Referred to APPR. suspense file.

Current Location: A APPR. SUSPENSE FILE

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: 05/11/2006-In Senate. Read first time. To Com. on RLS. for assignment.

Current Location: To Com. on RLS. for assignment.

Summary: Existing law establishes the State Fire Marshal within the Department of Forestry and Fire Protection and sets forth its duties, including, but not limited to, administering provisions relating to inspection and approval of fire protection measures for health and community care facilities. Existing law, with certain exceptions, prohibits a person, firm, or corporation from establishing, maintaining, or operating any hospital or other specified care facility for more than 6 guests or patients, and prohibits the operation of a residential care facility for the elderly licensed to care for more than 6 persons, unless it has, among other things, an automatic fire sprinkler or extinguishing system approved by the State Fire Marshal. Existing law places responsibility for enforcing State Fire Marshal building standards upon prescribed local agencies and provides for the assessment of related inspection fees. Violation of provisions related to fire protection requirements is a crime.

This bill would require residential care facilities for the elderly that house or care for ~~no more than 6-4 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.* By changing the definition of a crime, this bill would impose 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.

AB 2841 (De La Torre) Fireworks: transportation.

Status:05/04/2006-Re-referred to Com. on G.O.

Current Location: 05/04/2006-A G.O.

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.

~~Existing law requires new vehicles or engines that are required to meet emission standards to be the same in all material respects as the test vehicle or engine certified by the State Air Resources Board. Existing law allows changes to be made to new vehicles or engines if the changes do not increase emissions.~~

~~This bill would make technical, non-substantive changes to those provisions.~~

AB 2857 (Bass) Firefighters: arson investigators.

Status: 05/03/2006-In committee: Set, first hearing. Referred to APPR. 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.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

Status:03/30/2006-Referred to Com. on L. GOV.

Current Location:03/30/2006-A L. GOV.

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: 11/21/2005-Hearing postponed by committee. (Refers to 8/23/2005 hearing)

Current Location: 07/06/2005-A B. & P.

Summary: Existing law establishes the Board for Professional Engineers and Land Surveyors in the Department of Consumer Affairs. Existing law requires the board to appoint an executive officer. Existing law authorizes the board to make and enforce rules and regulations that are reasonably necessary to carry out the provisions of law regulating land surveyors. Existing law provides that these provisions are to become inoperative and are repealed on July 1, 2006, and January 1, 2007, respectively.

This bill would instead make these provisions inoperative and repealed on July 1, 2012, and January 1, 2013, respectively.

Existing law recognizes various engineering disciplines. Existing law prohibits the practicing of civil, electrical, and mechanical engineering by any person who has not passed a specified examination and who is not appropriately licensed by the board in that discipline. With respect to other engineering disciplines, existing law prohibits persons other than those licensed by the board from using certain engineering branch titles.

This bill would eliminate the disciplines of agricultural, industrial, and metallurgical engineering. The bill would prohibit the practicing of chemical, control systems, fire protection, nuclear, petroleum, and traffic engineering by any person who has not passed a specified examination and who is not appropriately licensed by the board in the particular discipline. The bill would make other changes to related provisions. This bill would also eliminate the temporary authorization process to practice as a professional land surveyor.

Existing law makes various violations of the Professional Engineers Act a crime, including the practice or offer to practice by a person of civil, electrical, or mechanical engineering without authorization as provided by the act. By revising this definition of a crime to include additional engineering disciplines, the bill would impose a state-mandated local program.

Existing law authorizes the board to hold examinations for persons seeking to be licensed by the board as engineers or land surveyors and to charge application fees.

This bill would also authorize the board to charge an examination fee, and would allow the board to make arrangements with a public or private organization for conduct of examinations and to receive payment of the examination fee.

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: 05/18/2006-In Assembly. Read first time. Held at Desk.

Current Location: Assm. Desk -Held

Summery: 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 offsite building acquired or constructed on or after January 1, 2007, for community college use to meet the standards of the Field Act, the standards required for buildings previously used by the United States military and acquired pursuant to the provision described above, or the appropriate standards for commercial buildings constructed within an earthquake zone, as set forth in 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:04/17/2006-Set, first hearing. Hearing canceled at the request of author.

Current Location:03/09/2006-S N.R. & W.

Summery: (1) 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.

(2) 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:04/24/2006-Placed on APPR. suspense file.

Current Location:04/24/2006-S APPR. SUSPENSE FILE

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 (OSHDP) to approve or reject all plans for the construction or alteration of a hospital building. ~~The act requires the office, until January 1, 2009, to establish a plan review project that would exempt multistory hospital buildings from plan review and inspection by OSHPD if the facility demonstrates by written description of the project that those same specified conditions are met. Existing law requires OSHPD to prepare and submit to the health policy committees of the Senate and the Assembly a comprehensive report of the plan review project by March 1, 2008.~~

~~This bill would change to February 1, 2008, the date by which OSHPD is required to prepare and submit that report to the health policy committees of the Senate and the Assembly~~ *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*