

# Senate Bill 379

Land use: general plan: safety element: climate adaptation

Senator Hannah-Beth Jackson

## SUMMARY

Under current law, every city and county must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety.

SB 379 would require cities and counties to include climate adaptation and resiliency strategies in the safety elements of their general plans upon the next revision of their housing elements beginning January 1, 2017. The bill would require the climate adaptation update to include a set of goals, policies, and objectives for their communities based on the most current information available regarding climate change adaptation and resiliency.

## BACKGROUND

Except for the housing element, the Planning and Zoning Law does not require counties and cities to regularly revise their general plans. Cities and counties' major land use decisions—subdivisions, zoning, public works projects, use permits—must be consistent with their general plans.

Climate change may well be the pre-eminent challenge of our time—and it is already having a significant and measurable impact on California's environment. An August 2013 report by California's Office of Environmental Health Hazard Assessment entitled "Indicators of Climate Change in California," tracks 36 indicators of climate change and its effects and shows that climate change is occurring throughout California, including impacts to the coast, the Central Valley and the Sierra Nevada Mountains. These impacts include decreasing spring snowmelt runoff, rising sea levels, shrinking glaciers, increasing wildfires, warming lakes and oceans, and the gradual migration of many plants and animals to higher elevations.

There are many efforts under way in California by the administration and state agencies to address climate change. For example, the California Natural Resources Agency, in coordination with other state agencies, has

updated its 2009 California Climate Adaptation Strategy, now called the "Safeguarding California Plan," which was released in July 2014. The Plan is designed to provide policy guidance for state decision makers in nine specific areas. Further examples include the California Coastal Commission's recent release of its draft Sea Level Rise Policy Guidance and there is the expectation that the Governor's Office of Planning and Research will soon release revised General Plan Guidelines that will include climate adaptation.

It is becoming increasingly clear that much work needs to be done at the local level in planning for impending climate impacts. However, while some cities and counties have been proactive in including the impacts of climate change in their local planning efforts, many have not. There is no requirement in current law that they consider climate adaptation as part of their general plan process as they plan for the future.

## SOLUTION - SB 379

SB 379 would require cities and counties to review and update the safety elements of their general plans to address climate adaptation and resiliency strategies applicable to their localities the next time they are required to update the housing elements of their general plans beginning January 1, 2017, based on the most current information available. It also requires them to include a set of goals, policies and objectives and specified feasible implementation measures based on this information. SB 379 further provides that if a city or county has already adopted a climate change plan separate from the general plan that contains the information required by this bill, it can be attached by reference.

SB 379 is a natural follow-up to, and builds on the requirements of, AB 162 (Wolk, Ch. 369, Stats. of 2007) which added flood protection information and SB 1241 (Kehoe, Ch. 311, Stats. of 2012) which added fire protection information to the safety elements of general plans. It will help ensure that cities and counties are providing for the safety and protection of their communities in the future by including climate

adaptation and resiliency strategies as part of the safety elements of their general plans.

**SUPPORT**

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**STATUS**

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Introduced on February 24, 2015.

**CONTACT**

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Linda Barr, Legislative Director  
Office of Senator Hannah-Beth Jackson  
916-651-4019; [linda.barr@sen.ca.gov](mailto:linda.barr@sen.ca.gov)



**SENATE BILL****No. 379**

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**Introduced by Senator Jackson**February 24, 2015

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An act to amend Section 65302 of the Government Code, relating to land use.

## LEGISLATIVE COUNSEL'S DIGEST

SB 379, as introduced, Jackson. Land use: general plan: safety element.

The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic hazards, flooding, and wildland and urban fires.

This bill would, upon the next revision of the housing element on or after January 1, 2017, require the safety element to be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to that city or county. The bill would require the update to include a set of goals, policies, and objectives based on the most current information available regarding climate change adaptation and resiliency. By imposing new duties on cities and counties, the 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.

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.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65302 of the Government Code is  
2 amended to read:

3 65302. The general plan shall consist of a statement of  
4 development policies and shall include a diagram or diagrams and  
5 text setting forth objectives, principles, standards, and plan  
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general  
8 distribution and general location and extent of the uses of the land  
9 for housing, business, industry, open space, including agriculture,  
10 natural resources, recreation, and enjoyment of scenic beauty,  
11 education, public buildings and grounds, solid and liquid waste  
12 disposal facilities, and other categories of public and private uses  
13 of land. The location and designation of the extent of the uses of  
14 the land for public and private uses shall consider the identification  
15 of land and natural resources pursuant to paragraph (3) of  
16 subdivision (d). The land use element shall include a statement of  
17 the standards of population density and building intensity  
18 recommended for the various districts and other territory covered  
19 by the plan. The land use element shall identify and annually  
20 review those areas covered by the plan that are subject to flooding  
21 identified by flood plain mapping prepared by the Federal  
22 Emergency Management Agency (FEMA) or the Department of  
23 Water Resources. The land use element shall also do both of the  
24 following:

25 (1) Designate in a land use category that provides for timber  
26 production those parcels of real property zoned for timberland  
27 production pursuant to the California Timberland Productivity Act  
28 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1  
29 of Division 1 of Title 5).

30 (2) Consider the impact of new growth on military readiness  
31 activities carried out on military bases, installations, and operating  
32 and training areas, when proposing zoning ordinances or  
33 designating land uses covered by the general plan for land, or other  
34 territory adjacent to military facilities, or underlying designated  
35 military aviation routes and airspace.

36 (A) In determining the impact of new growth on military  
37 readiness activities, information provided by military facilities

1 shall be considered. Cities and counties shall address military  
2 impacts based on information from the military and other sources.

3 (B) The following definitions govern this paragraph:

4 (i) “Military readiness activities” mean all of the following:

5 (I) Training, support, and operations that prepare the men and  
6 women of the military for combat.

7 (II) Operation, maintenance, and security of any military  
8 installation.

9 (III) Testing of military equipment, vehicles, weapons, and  
10 sensors for proper operation or suitability for combat use.

11 (ii) “Military installation” means a base, camp, post, station,  
12 yard, center, homeport facility for any ship, or other activity under  
13 the jurisdiction of the United States Department of Defense as  
14 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
15 10 of the United States Code.

16 (b) (1) A circulation element consisting of the general location  
17 and extent of existing and proposed major thoroughfares,  
18 transportation routes, terminals, any military airports and ports,  
19 and other local public utilities and facilities, all correlated with the  
20 land use element of the plan.

21 (2) (A) Commencing January 1, 2011, upon any substantive  
22 revision of the circulation element, the legislative body shall  
23 modify the circulation element to plan for a balanced, multimodal  
24 transportation network that meets the needs of all users of streets,  
25 roads, and highways for safe and convenient travel in a manner  
26 that is suitable to the rural, suburban, or urban context of the  
27 general plan.

28 (B) For purposes of this paragraph, “users of streets, roads, and  
29 highways” mean bicyclists, children, persons with disabilities,  
30 motorists, movers of commercial goods, pedestrians, users of public  
31 transportation, and seniors.

32 (c) A housing element as provided in Article 10.6 (commencing  
33 with Section 65580).

34 (d) (1) A conservation element for the conservation,  
35 development, and utilization of natural resources including water  
36 and its hydraulic force, forests, soils, rivers and other waters,  
37 harbors, fisheries, wildlife, minerals, and other natural resources.  
38 The conservation element shall consider the effect of development  
39 within the jurisdiction, as described in the land use element, on  
40 natural resources located on public lands, including military

1 installations. That portion of the conservation element including  
2 waters shall be developed in coordination with any countywide  
3 water agency and with all district and city agencies, including  
4 flood management, water conservation, or groundwater agencies  
5 that have developed, served, controlled, managed, or conserved  
6 water of any type for any purpose in the county or city for which  
7 the plan is prepared. Coordination shall include the discussion and  
8 evaluation of any water supply and demand information described  
9 in Section 65352.5, if that information has been submitted by the  
10 water agency to the city or county.

11 (2) The conservation element may also cover all of the  
12 following:

13 (A) The reclamation of land and waters.

14 (B) Prevention and control of the pollution of streams and other  
15 waters.

16 (C) Regulation of the use of land in stream channels and other  
17 areas required for the accomplishment of the conservation plan.

18 (D) Prevention, control, and correction of the erosion of soils,  
19 beaches, and shores.

20 (E) Protection of watersheds.

21 (F) The location, quantity and quality of the rock, sand, and  
22 gravel resources.

23 (3) Upon the next revision of the housing element on or after  
24 January 1, 2009, the conservation element shall identify rivers,  
25 creeks, streams, flood corridors, riparian habitats, and land that  
26 may accommodate floodwater for purposes of groundwater  
27 recharge and stormwater management.

28 (e) An open-space element as provided in Article 10.5  
29 (commencing with Section 65560).

30 (f) (1) A noise element that shall identify and appraise noise  
31 problems in the community. The noise element shall analyze and  
32 quantify, to the extent practicable, as determined by the legislative  
33 body, current and projected noise levels for all of the following  
34 sources:

35 (A) Highways and freeways.

36 (B) Primary arterials and major local streets.

37 (C) Passenger and freight online railroad operations and ground  
38 rapid transit systems.

39 (D) Commercial, general aviation, heliport, helistop, and military  
40 airport operations, aircraft overflights, jet engine test stands, and

1 all other ground facilities and maintenance functions related to  
2 airport operation.

3 (E) Local industrial plants, including, but not limited to, railroad  
4 classification yards.

5 (F) Other ground stationary noise sources, including, but not  
6 limited to, military installations, identified by local agencies as  
7 contributing to the community noise environment.

8 (2) Noise contours shall be shown for all of these sources and  
9 stated in terms of community noise equivalent level (CNEL) or  
10 day-night average level ( $L_{dn}$ ). The noise contours shall be prepared  
11 on the basis of noise monitoring or following generally accepted  
12 noise modeling techniques for the various sources identified in  
13 paragraphs (1) to (6), inclusive.

14 (3) The noise contours shall be used as a guide for establishing  
15 a pattern of land uses in the land use element that minimizes the  
16 exposure of community residents to excessive noise.

17 (4) The noise element shall include implementation measures  
18 and possible solutions that address existing and foreseeable noise  
19 problems, if any. The adopted noise element shall serve as a  
20 guideline for compliance with the state's noise insulation standards.

21 (g) (1) A safety element for the protection of the community  
22 from any unreasonable risks associated with the effects of  
23 seismically induced surface rupture, ground shaking, ground  
24 failure, tsunami, seiche, and dam failure; slope instability leading  
25 to mudslides and landslides; subsidence; liquefaction; and other  
26 seismic hazards identified pursuant to Chapter 7.8 (commencing  
27 with Section 2690) of Division 2 of the Public Resources Code,  
28 and other geologic hazards known to the legislative body; flooding;  
29 and wildland and urban fires. The safety element shall include  
30 mapping of known seismic and other geologic hazards. It shall  
31 also address evacuation routes, military installations, peakload  
32 water supply requirements, and minimum road widths and  
33 clearances around structures, as those items relate to identified fire  
34 and geologic hazards.

35 (2) The safety element, upon the next revision of the housing  
36 element on or after January 1, 2009, shall also do the following:

37 (A) Identify information regarding flood hazards, including,  
38 but not limited to, the following:

39 (i) Flood hazard zones. As used in this subdivision, "flood  
40 hazard zone" means an area subject to flooding that is delineated

1 as either a special hazard area or an area of moderate or minimal  
2 hazard on an official flood insurance rate map issued by the Federal  
3 Emergency Management Agency (FEMA). The identification of  
4 a flood hazard zone does not imply that areas outside the flood  
5 hazard zones or uses permitted within flood hazard zones will be  
6 free from flooding or flood damage.

7 (ii) National Flood Insurance Program maps published by  
8 FEMA.

9 (iii) Information about flood hazards that is available from the  
10 United States Army Corps of Engineers.

11 (iv) Designated floodway maps that are available from the  
12 Central Valley Flood Protection Board.

13 (v) Dam failure inundation maps prepared pursuant to Section  
14 8589.5 that are available from the Office of Emergency Services.

15 (vi) Awareness Floodplain Mapping Program maps and 200-year  
16 flood plain maps that are or may be available from, or accepted  
17 by, the Department of Water Resources.

18 (vii) Maps of levee protection zones.

19 (viii) Areas subject to inundation in the event of the failure of  
20 project or nonproject levees or floodwalls.

21 (ix) Historical data on flooding, including locally prepared maps  
22 of areas that are subject to flooding, areas that are vulnerable to  
23 flooding after wildfires, and sites that have been repeatedly  
24 damaged by flooding.

25 (x) Existing and planned development in flood hazard zones,  
26 including structures, roads, utilities, and essential public facilities.

27 (xi) Local, state, and federal agencies with responsibility for  
28 flood protection, including special districts and local offices of  
29 emergency services.

30 (B) Establish a set of comprehensive goals, policies, and  
31 objectives based on the information identified pursuant to  
32 subparagraph (A), for the protection of the community from the  
33 unreasonable risks of flooding, including, but not limited to:

34 (i) Avoiding or minimizing the risks of flooding to new  
35 development.

36 (ii) Evaluating whether new development should be located in  
37 flood hazard zones, and identifying construction methods or other  
38 methods to minimize damage if new development is located in  
39 flood hazard zones.

- 1 (iii) Maintaining the structural and operational integrity of  
2 essential public facilities during flooding.
- 3 (iv) Locating, when feasible, new essential public facilities  
4 outside of flood hazard zones, including hospitals and health care  
5 facilities, emergency shelters, fire stations, emergency command  
6 centers, and emergency communications facilities or identifying  
7 construction methods or other methods to minimize damage if  
8 these facilities are located in flood hazard zones.
- 9 (v) Establishing cooperative working relationships among public  
10 agencies with responsibility for flood protection.
- 11 (C) Establish a set of feasible implementation measures designed  
12 to carry out the goals, policies, and objectives established pursuant  
13 to subparagraph (B).
- 14 (3) Upon the next revision of the housing element on or after  
15 January 1, 2014, the safety element shall be reviewed and updated  
16 as necessary to address the risk of fire for land classified as state  
17 responsibility areas, as defined in Section 4102 of the Public  
18 Resources Code, and land classified as very high fire hazard  
19 severity zones, as defined in Section 51177. This review shall  
20 consider the advice included in the Office of Planning and  
21 Research's most recent publication of "Fire Hazard Planning,  
22 General Technical Advice Series" and shall also include all of the  
23 following:
- 24 (A) Information regarding fire hazards, including, but not limited  
25 to, all of the following:
- 26 (i) Fire hazard severity zone maps available from the Department  
27 of Forestry and Fire Protection.
- 28 (ii) Any historical data on wildfires available from local  
29 agencies or a reference to where the data can be found.
- 30 (iii) Information about wildfire hazard areas that may be  
31 available from the United States Geological Survey.
- 32 (iv) General location and distribution of existing and planned  
33 uses of land in very high fire hazard severity zones and in state  
34 responsibility areas, including structures, roads, utilities, and  
35 essential public facilities. The location and distribution of planned  
36 uses of land shall not require defensible space compliance measures  
37 required by state law or local ordinance to occur on publicly owned  
38 lands or open space designations of homeowner associations.

1 (v) Local, state, and federal agencies with responsibility for fire  
2 protection, including special districts and local offices of  
3 emergency services.

4 (B) A set of goals, policies, and objectives based on the  
5 information identified pursuant to subparagraph (A) for the  
6 protection of the community from the unreasonable risk of wildfire.

7 (C) A set of feasible implementation measures designed to carry  
8 out the goals, policies, and objectives based on the information  
9 identified pursuant to subparagraph (B) including, but not limited  
10 to, all of the following:

11 (i) Avoiding or minimizing the wildfire hazards associated with  
12 new uses of land.

13 (ii) Locating, when feasible, new essential public facilities  
14 outside of high fire risk areas, including, but not limited to,  
15 hospitals and health care facilities, emergency shelters, emergency  
16 command centers, and emergency communications facilities, or  
17 identifying construction methods or other methods to minimize  
18 damage if these facilities are located in a state responsibility area  
19 or very high fire hazard severity zone.

20 (iii) Designing adequate infrastructure if a new development is  
21 located in a state responsibility area or in a very high fire hazard  
22 severity zone, including safe access for emergency response  
23 vehicles, visible street signs, and water supplies for structural fire  
24 suppression.

25 (iv) Working cooperatively with public agencies with  
26 responsibility for fire protection.

27 (D) If a city or county has adopted a fire safety plan or document  
28 separate from the general plan, an attachment of, or reference to,  
29 a city or county's adopted fire safety plan or document that fulfills  
30 commensurate goals and objectives and contains information  
31 required pursuant to this paragraph.

32 *(4) Upon the next revision of the housing element on or after*  
33 *January 1, 2017, the safety element shall be reviewed and updated*  
34 *as necessary to address climate adaptation and resiliency strategies*  
35 *applicable to the city or county. This review shall consider advice*  
36 *provided in the Office of Planning and Research's most recent*  
37 *General Plan Guidelines and shall include all of the following:*

38 (A) *The most current information available regarding climate*  
39 *change adaptation and resiliency, as appropriate.*

1 (B) A set of goals, policies, and objectives based on the  
 2 information identified pursuant to subparagraph (A) for the  
 3 protection of the community.

4 (C) A set of feasible implementation measures designed to carry  
 5 out the goals, policies, and objectives identified pursuant to  
 6 subparagraph (B) including, but not limited to, all of the following:

7 (i) Methods to avoid or minimize climate change impacts  
 8 associated with new uses of land.

9 (ii) An identification of high-risk areas within the city or county.

10 (iii) The relocation, when feasible, of new essential public  
 11 facilities outside of high-risk areas, including, but not limited to,  
 12 hospitals and health care facilities, emergency shelters, emergency  
 13 command centers, and emergency communications facilities, or  
 14 identifying construction methods or other methods to minimize  
 15 damage if these facilities are located in high-risk areas.

16 (iv) The designation of adequate infrastructure if a new  
 17 development is located in a high-risk area, including, but not  
 18 limited to, safe access for emergency response vehicles.

19 (v) Guidelines for working cooperatively with relevant local,  
 20 state, and federal agencies.

21 (D) If a city or county has adopted a plan or document separate  
 22 from the general plan, an attachment of, or reference to, the plan  
 23 or document that fulfills commensurate goals and objectives and  
 24 contains information required pursuant to this paragraph.

25 ~~(4)~~

26 (5) After the initial revision of the safety element pursuant to  
 27 paragraphs ~~(2)~~ and (2), (3), and (4) upon each revision of the  
 28 housing element, the planning agency shall review and, if  
 29 necessary, revise the safety element to identify new information  
 30 that was not available during the previous revision of the safety  
 31 element.

32 ~~(5)~~

33 (6) Cities and counties that have flood plain management  
 34 ordinances that have been approved by FEMA that substantially  
 35 comply with this section, or have substantially equivalent  
 36 provisions to this subdivision in their general plans, may use that  
 37 information in the safety element to comply with this subdivision,  
 38 and shall summarize and incorporate by reference into the safety  
 39 element the other general plan provisions or the flood plain

1 ordinance, specifically showing how each requirement of this  
2 subdivision has been met.

3 ~~(6)~~

4 (7) Prior to the periodic review of its general plan and prior to  
5 preparing or revising its safety element, each city and county shall  
6 consult the California Geological Survey of the Department of  
7 Conservation, the Central Valley Flood Protection Board, if the  
8 city or county is located within the boundaries of the Sacramento  
9 and San Joaquin Drainage District, as set forth in Section 8501 of  
10 the Water Code, and the Office of Emergency Services for the  
11 purpose of including information known by and available to the  
12 department, the agency, and the board required by this subdivision.

13 ~~(7)~~

14 (8) To the extent that a county’s safety element is sufficiently  
15 detailed and contains appropriate policies and programs for  
16 adoption by a city, a city may adopt that portion of the county’s  
17 safety element that pertains to the city’s planning area in  
18 satisfaction of the requirement imposed by this subdivision.

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 a local agency or school district has the authority to levy service  
22 charges, fees, or assessments sufficient to pay for the program or  
23 level of service mandated by this act, within the meaning of Section  
24 17556 of the Government Code.