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

**SUPPORT**

**STATUS**

Introduced on February 24, 2015.

**CONTACT**

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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.

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

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

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

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

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

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

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities
shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

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

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

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

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

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

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

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

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

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

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military
installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

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

(A) The reclamation of land and waters.

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

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

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

(E) Protection of watersheds.

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

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

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

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

(A) Highways and freeways.

(B) Primary arterials and major local streets.

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

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and
all other ground facilities and maintenance functions related to airport operation.

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

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

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

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

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

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

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

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

(i) Flood hazard zones. As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated
as either a special hazard area or an area of moderate or minimal
hazard on an official flood insurance rate map issued by the Federal
Emergency Management Agency (FEMA). The identification of
a flood hazard zone does not imply that areas outside the flood
hazard zones or uses permitted within flood hazard zones will be
free from flooding or flood damage.
(ii) National Flood Insurance Program maps published by
FEMA.
(iii) Information about flood hazards that is available from the
United States Army Corps of Engineers.
(iv) Designated floodway maps that are available from the
Central Valley Flood Protection Board.
(v) Dam failure inundation maps prepared pursuant to Section
8589.5 that are available from the Office of Emergency Services.
(vi) Awareness Floodplain Mapping Program maps and 200-year
flood plain maps that are or may be available from, or accepted
by, the Department of Water Resources.
(vii) Maps of levee protection zones.
(viii) Areas subject to inundation in the event of the failure of
project or nonproject levees or floodwalls.
(ix) Historical data on flooding, including locally prepared maps
of areas that are subject to flooding, areas that are vulnerable to
flooding after wildfires, and sites that have been repeatedly
damaged by flooding.
(x) Existing and planned development in flood hazard zones,
including structures, roads, utilities, and essential public facilities.
(xi) Local, state, and federal agencies with responsibility for
flood protection, including special districts and local offices of
emergency services.
(B) Establish a set of comprehensive goals, policies, and
objectives based on the information identified pursuant to
 subparagraph (A), for the protection of the community from the
unreasonable risks of flooding, including, but not limited to:
(i) Avoiding or minimizing the risks of flooding to new
development.
(ii) Evaluating whether new development should be located in
flood hazard zones, and identifying construction methods or other
methods to minimize damage if new development is located in
flood hazard zones.
(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research’s most recent publication of “Fire Hazard Planning, General Technical Advice Series” and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.
(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

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

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

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

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

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

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

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

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

(A) The most current information available regarding climate change adaptation and resiliency, as appropriate.
(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community.

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

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

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

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

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

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

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

(4)

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

(5)

(6) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain
ordinance, specifically showing how each requirement of this subdivision has been met.

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

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

SEC. 2. No reimbursement is required by this act 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 act, within the meaning of Section 17556 of the Government Code.