

AMENDED IN SENATE JULY 10, 2001

AMENDED IN SENATE JULY 2, 2001

AMENDED IN SENATE JUNE 25, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Wright

May 22, 2001

An act to amend Section 25402.1 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Wright. Energy conservation.

Existing

(1) *Existing* law requires the State Energy Resources Conservation and Development Commission to prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards that increase the efficiency in the use of energy for new residential and new nonresidential buildings and to provide an energy conservation manual that includes a prescriptive method of complying with the standards. Existing law prohibits a city, county, city and county, or state agency from issuing a permit for any building unless the building satisfies the standards prescribed by the commission that are in effect on the date an application for a building permit is filed, unless the city, county, or city and county files a determination with the commission that its own standards are cost effective, and the commission makes a particular finding.

This bill would permit cities, counties, and cities and counties to implement building standards requiring the use of solar water heating or photovoltaic systems without demonstrating cost effectiveness to the commission.

The bill would require the commission to provide specified information to local building departments, and to develop a program to educate builders and developers in construction techniques for zero energy buildings. The bill would require the building department of a city, county, or city and county to consider and mitigate the effects of new building construction demands on local energy supply infrastructure, and to make every effort to increase the use of solar and other renewable and peak electricity load shifting technologies in new buildings, thereby imposing a state-mandated local program. This bill would require the commission to accelerate and minimize the approval and permitting process for buildings that incorporate solar energy technologies.

The bill would also make technical, nonsubstantive changes.

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

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

- 1 SECTION 1. Section 25402.1 of the Public Resources Code
- 2 is amended to read:
- 3 25402.1. In order to implement the requirements of
- 4 subdivisions (a) and (b) of Section 25402, the commission shall do
- 5 all of the following:
- 6 (a) Develop a public domain computer program that will
- 7 enable contractors, builders, architects, engineers, and

government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods that provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Certify, not later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

1 (2) Forms, charts, tables, and other data to assist designers and
2 builders in meeting the standards.

3 (3) Design suggestions for meeting or exceeding the standards.

4 (4) Any other information that the commission finds will assist
5 persons in conforming to the standards.

6 (5) Instructions for use of the computer program for calculating
7 energy consumption in residential and nonresidential buildings.

8 (6) The prescriptive method for use as an alternative to the
9 computer program.

10 (e) The commission shall establish a continuing program of
11 technical assistance to local building departments in the
12 enforcement of subdivisions (a) and (b) of Section 25402 and this
13 section. The program shall include the training of local officials in
14 building technology and enforcement procedures related to energy
15 conservation, and the development of complementary training
16 programs conducted by local governments, educational
17 institutions, and other public or private entities. The technical
18 assistance program shall include the preparation and publication
19 of forms and procedures for local building departments in
20 performing the review of building plans and specifications. The
21 commission shall provide, on a contract basis, a review of building
22 plans and specifications submitted by a local building department,
23 and shall adopt a schedule of fees sufficient to repay the cost of
24 those services. *The commission shall provide information to local
25 building departments on solar energy and other renewable energy
26 products, high efficiency appliances, and construction techniques
27 that contribute to the goal of buildings that consume zero energy.
28 The commission shall develop a zero energy buildings program to
29 educate builders and developers in construction techniques to
30 develop buildings that consume zero energy.*

31 (f) Subdivisions (a) and (b) of Section 25402 and this section,
32 and the rules and regulations of the commission adopted pursuant
33 thereto, shall be enforced by the building department of every city,
34 county, or city and county. *The building department of a city,
35 county, or city and county shall consider and mitigate the effects
36 of new building construction demands on local energy supply
37 infrastructure, and shall make every effort to increase the use of
38 solar and other renewable and peak electricity load shifting
39 technologies in new buildings.*

(1) No building permit for any residential or nonresidential building may be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, subdivision (a) or (b) of Section 25402, and this section that are applicable to the building.

(6) The commission shall establish procedures to accelerate and minimize, and shall assist a city, county, or city and county in accelerating and minimizing, the approval and permitting process for residential and nonresidential buildings that incorporate solar energy technologies.

(g) Subdivisions (a) and (b) of Section 25402 and this section apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections prohibits either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city, county, or city and county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city, county, or city and county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections, except that cities, counties, or cities and counties may implement building standards requiring the use of solar water heating or photovoltaic systems without demonstrating cost effectiveness to the commission. If, after two or more years after the filing with the commission of the determination that any nonsolar standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city, county, or city and county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city, county, or city and county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(h) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

1 (i) If a dispute arises between an applicant for a building
2 permit, or the state pursuant to paragraph (5) of subdivision (f),
3 and the building department regarding interpretation of Section
4 25402 or the regulations adopted pursuant thereto, either party
5 may submit the dispute to the commission for resolution. The
6 commission's determination of the matter shall be binding on the
7 parties.

8 (j) Nothing in Section 25130, 25131, or 25402, or in this
9 section prevents enforcement of any regulation adopted pursuant
10 to this chapter, or Chapter 11.5 (commencing with Section 19878)
11 of Part 3 of Division 13 of the Health and Safety Code, as they
12 existed prior to September 16, 1977.

13 *SEC. 2. Notwithstanding Section 17610 of the Government*
14 *Code, if the Commission on State Mandates determines that this*
15 *act contains costs mandated by the state, reimbursement to local*
16 *agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code. If the statewide cost of the*
19 *claim for reimbursement does not exceed one million dollars*
20 *(\$1,000,000), reimbursement shall be made from the State*
21 *Mandates Claims Fund.*

