

AMENDED IN SENATE APRIL 13, 1998

SENATE BILL

No. 2141

Introduced by Senator O'Connell

February 20, 1998

An act to amend Section 8610.3 of, and to repeal, add, and repeal Section 8610.5 of, the Government Code, and to repeal and add Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, relating to nuclear powerplants.

LEGISLATIVE COUNSEL'S DIGEST

SB 2141, as amended, O'Connell. Radiation: nuclear powerplants.

(1) Under existing law, the Office of Emergency Services is required to coordinate the activities of all state agencies relating to preparation and implementation of the state nuclear powerplant emergency response plan and perform other related duties, and the State Department of Health Services is required to have the lead technical role in the ingestion pathway and recovery and emergency phases of a nuclear powerplant emergency. The department is required to maintain a radiation emergency screening team, which is required to be available for immediate response, and to maintain guidelines for the designation of medical facilities that are required to have specified capabilities.

Existing law requires local governments and nuclear facility operators to develop and maintain radiological emergency response and preparedness plans and to take other specified actions, and requires entities providing utilities to take

specified actions, including sharing responsibility for nuclear powerplant emergency response with appropriate state and local jurisdictions.

This bill would extensively revise and recast those provisions and would revise the duties of the agencies and governments specified above. Specifically, the bill would require the office, if there is a nuclear powerplant accident, to coordinate information and resources to support local governments in a joint state and local government decisionmaking process, and would require the office, in consultation with the department, to review protective action recommendations developed by the utilities and local government ~~representative~~ *representatives*. The bill would require the department to have the lead technical role during the ingestion pathway and recovery phases, to define and maintain a radiological advisory team, and to maintain a list of ~~medial~~ *medical* facilities that meet statewide guidelines.

The bill would require local governments to develop and maintain radiological emergency preparedness and response plans to safeguard the public in the emergency planning zone around a nuclear powerplant and to take specified actions within that zone. The bill would require utilities to take specified actions, including developing and maintaining radiological emergency preparedness and response plans in coordination with state and local governments and to coordinate with state and local governments in maintaining nuclear powerplant education information.

The bill would create a state-mandated local program by imposing new duties upon local governments.

(2) Existing law requires the Public Utilities Commission to develop an equitable method of assessing utilities operating nuclear powerplants for their reasonable pro rata share of state agency costs. Existing law requires utilities to pay the actual or anticipated state and local agency costs to the Controller. Existing law authorizes the expenditure of these funds in the Nuclear Planning Assessment Special Account, upon appropriation by the Legislature, for purposes of the Radiation Protection Act of 1993, as specified. Under existing law, the amounts available for reimbursement of state and local costs are cumulated biennially, as specified.



This bill would instead require the annual disbursement for state costs to not exceed the lesser of the actual costs or the maximum funding levels established by the previous law. The bill would specify the amounts to be disbursed to the office and the department and would require any unexpended funds from a year when the state and local government exercises are not evaluated by the Federal Emergency Management Agency to be carried over to the year when the ~~exercise~~ *exercises* are evaluated. *The bill would authorize advance allocations for certain anticipated expenses, as specified.*

The bill would make this funding provision inoperative on July 1, 2009, and, would repeal the provision on January 1, 2010.

(3) 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: yes.

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

1 SECTION 1. Section 8610.3 of the Government Code
2 is amended to read:
3 8610.3. The Legislature hereby finds and declares as
4 follows:
5 (a) The Office of Emergency Services, in consultation
6 with the State Department of Health Services and
7 affected counties, investigated the consequences of a
8 serious nuclear powerplant accident for each of the
9 nuclear powerplants in California with a generating
10 capacity of 50 megawatts or more.



1 (b) This study culminated in the establishment of
2 emergency planning zones for nuclear powerplant
3 emergency preparedness.

4 (c) All state and local government nuclear powerplant
5 emergency response plans have been revised to reflect
6 the information provided in the study.

7 SEC. 2. Section 8610.5 of the Government Code is
8 repealed.

9 SEC. 3. Section 8610.5 is added to the Government
10 Code, to read:

11 8610.5. (a) For purposes of this section, the following
12 definitions shall apply:

13 (1) "Department" means the State Department of
14 Health Services.

15 (2) "Office" means the Office of Emergency Services.

16 (b) (1) State and local costs to carry out activities
17 pursuant to this section and Chapter 4 (commencing with
18 Section 114650) of Part 9 of Division 104 of the Health and
19 Safety Code that are not reimbursed by federal funds
20 shall be borne by utilities operating nuclear powerplants
21 with a generating capacity of 50 megawatts or more.

22 (2) The Public Utilities Commission shall develop and
23 transmit to the office an equitable method of assessing the
24 utilities operating the powerplants for their reasonable
25 pro rata share of state agency costs specified in paragraph
26 (1).

27 (3) Each local government involved shall submit a
28 statement of its costs specified in paragraph (1), as
29 required, to the office.

30 (4) Upon each utility's notification by the office, from
31 time to time, of the amount of its share of the actual or
32 anticipated state and local agency costs, the utility shall
33 pay this amount to the Controller for deposit in the
34 Nuclear Planning Assessment Special Account, which is
35 continued in existence, for allocation by the Controller,
36 upon appropriation by the Legislature, to carry out
37 activities pursuant to this section and Chapter 4
38 (commencing with Section 114650) of Part 9 of Division
39 104 of the Health and Safety Code. The Controller shall
40 pay from this account the state and local costs relative to



1 carrying out this section and Chapter 4 (commencing
2 with Section 114650) of Part 9 of Division 104 of the
3 Health and Safety Code, upon certification thereof by the
4 office.

5 (5) *Upon appropriation by the Legislature, the*
6 *Controller may disburse up to 80 percent of a fiscal year*
7 *allocation from the Nuclear Planning Special Assessment*
8 *Account, in advance, for anticipated expenses, as*
9 *certified by the office pursuant to paragraph (4). The*
10 *office shall review program expenditures related to the*
11 *balance of funds in the account and the Controller shall*
12 *pay the portion, or the entire balance, of the account,*
13 *based upon those approved expenditures.*

14 (c) (1) The total annual disbursement of state costs
15 from the utilities operating the nuclear powerplants
16 within the state for activities pursuant to this section and
17 Chapter 4 (commencing with Section 114650) of Part 9 of
18 Division 104 of the Health and Safety Code, shall not
19 exceed the lesser of the actual costs or the maximum
20 funding levels previously established by Chapter 4
21 (commencing with Section 114650) of Part 9 of Division
22 104 of the Health and Safety Code, as that chapter read
23 on January 1, 1998, subject to subdivisions (e) and (f), to
24 be shared equally among the utilities.

25 (2) Of the initial annual amount of one million three
26 hundred forty thousand dollars (\$1,340,000) for the
27 1999–2000 fiscal year, the sum of eight hundred three
28 thousand dollars (\$803,000) shall be for support of the
29 office for activities pursuant to this section and Chapter
30 4 (commencing with Section 114650) of Part 9 of Division
31 104 of the Health and Safety Code, and the sum of five
32 hundred thirty-seven thousand dollars (\$537,000) shall be
33 for support of the department for activities pursuant to
34 this section and Chapter 4 (commencing with Section
35 114650) of Part 9 of Division 104 of the Health and Safety
36 Code.

37 (d) (1) The total annual ~~reimbursement~~
38 *disbursement* for each fiscal year, commencing July 1,
39 1999, of local costs from the utilities shall not exceed the
40 lesser of the actual costs or the maximum funding levels,



1 on a site basis, previously established on a per reactor basis
2 by Section 1 of Chapter 1607 of the Statutes of 1988, in
3 support of activities pursuant to this section and Chapter
4 4 (commencing with Section 114650) of Part 9 of Division
5 104 of the Health and Safety Code. The maximum initial
6 annual amount available for disbursement for local costs,
7 subject to subdivisions (e) and (f), shall be eight hundred
8 fifty-one thousand dollars (\$851,000) for the Diablo
9 Canyon site and one million seventy-three thousand
10 dollars (\$1,073,000) for the San Onofre site.

11 (2) The amounts paid by the utilities under this section
12 shall be allowed for ratemaking purposes by the Public
13 Utilities Commission.

14 (e) The amounts available for disbursement for state
15 and local costs as specified in this section shall be adjusted
16 *and compounded* each fiscal year by the percentage
17 increase in the California Consumer Price Index of the
18 previous calendar year.

19 (f) Through the date specified in subdivision (g), the
20 amounts available for disbursement for state and local
21 costs as specified in this section shall be cumulative
22 biennially. Any unexpended funds from a year when the
23 state and local governments conduct a full participation
24 exercise, as defined in Section 350.2 of Title 44 of the Code
25 of Federal Regulations, that is not evaluated by the
26 Federal Emergency Management Agency, shall be
27 carried over to the year when the state and local
28 governments conduct such an exercise that is ~~not~~
29 evaluated by the Federal Emergency Management
30 Agency.

31 (g) This section shall become inoperative on July 1,
32 2009, and, as of January 1, 2010, is repealed, unless a later
33 enacted statute, which becomes effective on or before
34 July 1, 2009, deletes or extends the dates on which it
35 becomes inoperative and is repealed.

36 (h) Upon inoperation of this section, any amounts
37 remaining in the special account shall be refunded pro
38 rata to the utilities contributing thereto.



1 SEC. 4. Chapter 4 (commencing with Section 114650)
2 of Part 9 of Division 104 of the Health and Safety Code is
3 repealed.

4 SEC. 5. Chapter 4 (commencing with Section 114650)
5 of Part 9 of Division 104 is added to the Health and Safety
6 Code, to read:

7

8 CHAPTER 4. THE RADIATION PROTECTION ACT OF 1999

9

10 Article 1. General Provisions

11

12 114650. (a) As used in this chapter, the following
13 definitions shall apply:

14 (1) "Department" means the State Department of
15 Health Services.

16 (2) "Disburse or disbursement" means a payment in
17 advance from the Nuclear Planning Assessment Special
18 ~~Account continued in existence pursuant to Section~~
19 ~~8610.5 of the Government Code for anticipated expenses.~~
20 *Account, as specified in paragraph (5) of subdivision (b)*
21 *of Section 8610.5 of the Government Code.*

22 (3) "Emergency planning zone" means a zone
23 identified in state and local government emergency plans
24 where immediate decisions for effective public
25 protective action from radiation may be necessary.

26 (4) "Exercise" means an event that tests emergency
27 plans and organizations and that the Federal Emergency
28 Management Agency evaluates pursuant to Part 350
29 (commencing with Section 350.1) of Subchapter E of
30 Chapter I of Title 44 of the Code of Federal Regulations.

31 (5) "Ingestion pathway phase" means the period
32 beginning after any release of radioactive material from
33 a nuclear powerplant accident when the plume
34 emergency phase has ceased, and reliable environmental
35 measurements are available for making decisions on
36 additional protective actions to protect the food chain.
37 The main concern is to prevent exposure from ingestion
38 of contaminated water or food, such as milk, fresh
39 vegetables, or aquatic foodstuffs.



1 (6) “Ingestion pathway zone” means the 50-mile
2 radius around each of the state’s nuclear powerplants in
3 which protective actions may be required to protect the
4 food chain in the event of an emergency.

5 (7) “Interjurisdictional Planning Committee” means
6 the planning committee, comprised of representatives of
7 the Counties of Orange and San Diego, the Cities of Dana
8 Point, San Clemente, and San Juan Capistrano, the Camp
9 Pendleton Marine Corps Base, the State Department of
10 Parks and Recreation, and the Southern California Edison
11 Company, established as a mechanism for coordinating
12 integrated preparedness and response in the event of an
13 emergency at the San Onofre Nuclear Generating
14 Station.

15 (8) “Local government” means a city or county that
16 provides emergency response for a nuclear powerplant
17 emergency.

18 (9) “Local jurisdiction” means an entity that provides
19 emergency response for a nuclear powerplant
20 emergency in accordance with the plans of a local
21 government.

22 (10) “Office” means the Office of Emergency
23 Services.

24 (11) “Plume emergency phase” means the period
25 beginning at the onset of an emergency at a nuclear
26 powerplant when immediate decisions for public
27 protective actions are needed.

28 (12) “Recovery phase” means the period when actions
29 designed to reduce radiation levels in the environment to
30 acceptable levels for unrestricted use are commenced,
31 and ending when all recovery actions have been
32 completed.

33 (13) “Site” means the location of a nuclear powerplant
34 and its surrounding emergency planning zone.

35 114655. (a) The Legislature hereby finds and
36 declares as follows:

37 (1) Existing law requires the development and
38 maintenance of a nuclear powerplant emergency
39 response program by state and local governments based
40 on federal and state criteria.



1 (2) The office, in consultation with the department
2 and the counties, has investigated the consequences of a
3 serious nuclear powerplant accident and has established
4 plume emergency phase and ingestion pathway phase
5 planning zones for each site. These zones imply mutually
6 supportive emergency planning and preparedness
7 arrangements by all levels of government.

8 (3) An integrated emergency planning program is
9 necessary for the benefit of the citizens within the
10 planning zones.

11 (b) Nothing in this chapter limits the activities of any
12 government in carrying out its general responsibilities
13 pertaining to the public health and the safety aspects of
14 emergency response.

15

16 Article 2. Responsibilities of the Office of Emergency
17 Services

18

19 114660. (a) The office is responsible for the
20 coordination and integration of all emergency planning
21 programs and response plans under this chapter. If there
22 is a nuclear powerplant accident, the office shall
23 coordinate information and resources to support local
24 governments in a joint state and local government
25 decisionmaking process.

26 (b) The office shall perform all of the following duties
27 and functions:

28 (1) Coordinate the activities of all state agencies
29 relating to preparation and implementation of the State
30 Nuclear Power Plant Emergency Response Plan. The
31 office shall be the focal point for coordinating nuclear
32 powerplant emergency preparedness activities with local
33 governments, other state agencies, federal agencies, and
34 other organizations.

35 (2) Exercise explicit ultimate authority for allocating
36 funds from the Nuclear Planning Assessment Special
37 Account to local governments.

38 (3) Coordinate and participate in exercises of the
39 state's nuclear emergency response plan with each site
40 during its federally evaluated exercise.



1 (4) Ensure that state personnel are adequately trained
2 to respond in the event of an actual emergency. The
3 exercises shall include the department and other relevant
4 state agencies.

5 (5) In consultation with the department, review
6 protective action recommendations developed by the
7 utilities and local government representatives.

8 (6) Coordinate planning guidance to state agencies
9 and local governments.

10 (7) Ensure the development and maintenance of the
11 State Nuclear Power Plant Emergency Response Plan
12 and procedures necessary to carry out those
13 responsibilities and review and approve state agency
14 plans in draft prior to publication.

15 (8) Exercise discretionary authority regarding the
16 formation of interagency agreements with state agencies
17 having local emergency responsibilities, to ensure state
18 agencies have updated emergency plans and trained
19 emergency response personnel to respond during the
20 plume emergency phase.

21 (9) Annually prepare and submit a report to any joint
22 committee of the Legislature and the appropriate Senate
23 and Assembly policy ~~committee~~ *committees* with
24 jurisdiction over emergency and disaster services that
25 summarizes all of the following:

26 (A) A description of the purpose of all nuclear
27 emergency response exercises in the state involving local
28 and state authorities, including a description of state and
29 local roles in each exercise.

30 (B) An accounting of revenues from each utility and
31 a description of expenditures of funds from the Nuclear
32 Planning Assessment Special Account by each local
33 government and the state.

34 (C) A description of all nuclear emergency response
35 training and education efforts undertaken by the state
36 and local agencies, and identification of any additional
37 training and educational needs.

38 (D) Recommendations consistent with this chapter.

39 (10) Conduct a study similar to that described in
40 Section 8610.3 of the Government Code, for any nuclear



1 powerplant with a generating capacity of 50 megawatts
2 or more that is proposed for licensing in this state.

3

4 Article 3. Responsibilities of the State Department of
5 Health Services

6

7 114662. (a) The department shall provide technical
8 support for plume emergency phase response. During
9 the ingestion pathway and recovery phases, the
10 department shall have the lead technical role and shall
11 participate in a joint state and local government
12 protective action decisionmaking process. The
13 department shall prepare the ingestion pathway and
14 recovery plan, and shall provide guidelines for local
15 government ingestion pathway and recovery plans.

16 (b) The department shall maintain plans for
17 communicating public health information during the
18 ingestion pathway and recovery phases. The department
19 shall also maintain a radiological advisory team, and shall
20 maintain a list of medical facilities capable of caring for
21 radiological casualties.

22 (c) The department shall perform all of the following
23 duties and functions:

24 (1) Act as the responsible entity for ensuring that
25 ingestion pathway and recovery plans are maintained
26 and ready to be implemented, including necessary
27 training and exercises, in coordination with affected
28 counties and the office.

29 (2) Establish protective action guidelines for ingestion
30 pathway and recovery operations with reference to the
31 recommendations of the federal Environmental
32 Protection Agency.

33 (3) Coordinate development and maintenance by
34 counties of, and review any information database of food,
35 water, and animal resources for, the 50-mile ingestion
36 pathway zone around the San Onofre and Diablo Canyon
37 nuclear powerplants.

38 (4) Establish measurement standards and procedures
39 to assess radioactivity in exposure pathways, including,
40 but not limited to, food, water, and animals, which are



1 compatible with the federal Environmental Protection
 2 Agency’s standards and procedures.

3 (5) Support local government nuclear emergency
 4 planning, training, exercises, and response in
 5 coordination with the office.

6 (6) Maintain plans for coordinating the dissemination
 7 of public health information during the recovery phase of
 8 a nuclear powerplant emergency.

9 (7) Define and maintain a radiological advisory team,
 10 which shall not make decisions within the jurisdiction of
 11 emergency planning and response organizations. The
 12 guidelines for the team shall include, but not be limited
 13 to, all of the following requirements:

14 (A) The team shall include individuals with expertise
 15 in medicine, radiation biology, radiation casualty
 16 management, emergency preparedness and disaster
 17 response, public health, and government responsibilities.

18 (B) The team shall be available to advise the
 19 department on its nuclear powerplant emergency
 20 planning and response.

21 (C) The team may provide advice and counsel
 22 regarding radiation protection safety issues.

23 (8) Maintain guidelines for the designation for
 24 medical facilities that would be capable of managing and
 25 caring for casualties caused by a nuclear radiation
 26 accident.

27 (9) Develop and maintain a list of medical facilities
 28 that meet the statewide guidelines.

29

30 Article 4. Responsibilities of Local Government

31

32 114677. (a) Local governments shall develop and
 33 maintain radiological emergency preparedness and
 34 response plans to safeguard the public in the emergency
 35 planning zone around a nuclear powerplant.

36 (b) The responsibilities of local government within an
 37 emergency planning zone include, but are not limited to,
 38 all of the following:

39 (1) Preemergency preparedness, including
 40 developing, maintaining, and enhancing radiological



1 emergency response plans and procedures; maintaining
2 emergency management organizations and operations
3 and field response organizations; making training
4 available to local government organizations in
5 conjunction with utilities; providing public information
6 and education; maintaining essential communications
7 systems; and implementing other preemergency
8 preparedness measures, as required in accordance with
9 federal requirements and state plans and procedures.

10 (2) Managing plume emergency phase response
11 actions; providing available resources for emergency
12 response; notifying emergency workers and the public;
13 providing emergency public information; making
14 protective action decisions and taking protective action
15 response, to provide public health support in conjunction
16 with the utility and state; providing radiologic exposure
17 control; procuring additional resources, and taking other
18 actions needed for emergency response.

19 (3) Participating in a joint state and local government
20 decisionmaking process during ingestion, ~~pathway~~,
21 *pathway phases* and recovery phases; coordinating
22 implementation of protective action decisions with state
23 and federal governments; continuing emergency public
24 information in conjunction with state and federal
25 organizations; and providing support for security of
26 evacuated areas.

27 (c) At the San Onofre Nuclear Generating Station, the
28 Interjurisdictional Planning Committee shall identify a
29 discussion leader to facilitate local government
30 protective action decisions during the plume emergency
31 phase of a nuclear powerplant emergency.

32 (d) A local government within an emergency
33 planning zone may request services from a jurisdiction
34 outside the emergency planning zone that are necessary
35 to support an evacuated emergency planning zone
36 population. Services requested by a local government
37 within the emergency planning zone may include, but
38 are not limited to, public information, congregate care,
39 traffic management, radiological monitoring or



1 decontamination of evacuees, and interjurisdictional
2 coordination.

3

4 Article 5. Responsibilities of Entities Providing
5 Utilities

6

7 114680. Entities providing utilities shall perform all of
8 the following duties and functions:

9 (a) Any public or private utility that operates a nuclear
10 powerplant in the state shall have a response organization
11 that can be integrated with federal, state, and local
12 government emergency response resources during a
13 radiological accident.

14 (b) Nuclear facility operators shall develop and
15 maintain radiological emergency preparedness and
16 response plans in coordination with state and local
17 government.

18 (c) Nuclear utilities have the primary responsibility
19 for planning and implementing emergency measures
20 within facility boundaries and shall do all of the following:

21 (1) Perform accident assessments.

22 (2) Prepare public protective action
23 recommendations for decisionmakers during the plume
24 emergency phase.

25 (3) Provide information to the appropriate state and
26 local government in support of their independent
27 assessment of offsite radiological conditions relevant to
28 protective action decisions during the plume emergency
29 phase.

30 (4) Coordinate with state and local governments in
31 maintaining nuclear powerplant public education
32 information.

33 (5) Support state and local government in nuclear
34 powerplant planning, training, drills and exercises, and
35 emergency preparedness efforts.

36

37 Article 6. Responsibilities of Other Agencies

38

39 114685. (a) The Department of Transportation shall
40 include within its criteria for funding, repair, and



1 construction projects, the need for adequate emergency
2 evacuation routes.

3 (b) State and local law enforcement agencies shall
4 ensure all of the following:

5 (1) Traffic flow plans for areas outside the emergency
6 planning zones shall adequately reflect the possible
7 evacuation of residents outside those zones.

8 (2) Traffic flow plans shall take into consideration that
9 some evacuation routes may be impassible under certain
10 weather conditions and shall have plans for designating
11 alternative routes.

12 (3) Officers who may be needed to respond during a
13 nuclear powerplant emergency shall receive the
14 necessary training, including refresher courses at least
15 once each year.

16 (c) Local jurisdictions within an emergency planning
17 zone shall coordinate nuclear powerplant emergency
18 response plans and procedures with local governments
19 and shall participate in training, drills, and exercises as
20 needed.

21 SEC. 6. Notwithstanding Section 17610 of the
22 Government Code, if the Commission on State Mandates
23 determines that this act contains costs mandated by the
24 state, reimbursement to local agencies and school
25 districts for those costs shall be made pursuant to Part 7
26 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the
28 claim for reimbursement does not exceed one million
29 dollars (\$1,000,000), reimbursement shall be made from
30 the State Mandates Claims Fund.

31 Notwithstanding Section 17580 of the Government
32 Code, unless otherwise specified, the provisions of this act
33 shall become operative on the same date that the act
34 takes effect pursuant to the California Constitution.

O

