

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 341

Introduced by Assembly Members Dickinson and Gordon

February 13, 2013

An act to amend ~~Section~~ *Sections 18930, 18930.5, 18931.6, and 18931.7* of, and to add *Sections 18930.6 and 18940.5* to, the Health and Safety Code, relating to green building standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, Dickinson. Green building standards.

Existing law requires the California Building Standards Commission to codify all building standards of adopting agencies or state agencies that propose the building standards and statutes defining building standards into one California Building Standards Code. Existing law provides that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

This bill would require the commission to *encourage and* solicit recommendations for code updates relating to green building standards from state agencies with the authority and expertise to propose green building standards applicable to a particular occupancy. The bill would require these agencies to submit recommended code updates for the next 2 California Building Standards Code adoptions and to indicate whether the recommended code updates are intended to be voluntary or mandatory green building standards. The bill would require the commission to compile the recommendations by adoption cycle and by whether the recommendations are for voluntary or mandatory green

building standards. *The bill would also require the commission to perform an analysis of existing green building standards before adopting, approving, codifying, updating, and publishing green building standards.*

The bill would require the commission to define the intent, criteria, and schedule for establishing green building standards and transitioning voluntary standards into mandatory, codified standards.

Existing law authorizes a city, county, or a city and county to collect a fee from an applicant for a building permit assessed at the rate of \$4 per \$100,000 in valuation, as specified.

This bill would change the rate at which this fee is assessed to an unspecified amount.

Existing law provides that codification of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

This bill would require the commission, during the 2016 code adoption cycle, to codify the green building standards. The bill would also authorize the commission to publish a guide to the green building standards as an appendix to the code.

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

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

1 SECTION 1. Section 18930 of the Health and Safety Code is
2 amended to read:
3 18930. (a) Any building standard adopted or proposed by
4 state agencies shall be submitted to, and approved or adopted by,
5 the California Building Standards Commission prior to codification.
6 Prior to submission to the commission, building standards shall
7 be adopted in compliance with the procedures specified in Article
8 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of
9 Division 3 of Title 2 of the Government Code. Building standards
10 adopted by state agencies and submitted to the commission for
11 approval shall be accompanied by an analysis written by the
12 adopting agency or state agency that proposes the building
13 standards which shall, to the satisfaction of the commission, justify
14 the approval thereof in terms of the following criteria:

- 1 (1) The proposed building standards do not conflict with,
2 overlap, or duplicate other building standards.
- 3 (2) The proposed building standard is within the parameters
4 established by enabling legislation and is not expressly within the
5 exclusive jurisdiction of another agency.
- 6 (3) The public interest *in safer, healthier, and more resource*
7 *efficient buildings* requires the adoption of the building standards.
- 8 (4) The proposed building standard is not unreasonable,
9 arbitrary, unfair, or capricious, in whole or in part.
- 10 (5) The cost to the public is reasonable, based on the overall
11 benefit to be derived from the building standards.
- 12 (6) The proposed building standard is not unnecessarily
13 ambiguous or vague, in whole or in part.
- 14 (7) The applicable national specifications, published standards,
15 and model codes have been incorporated therein as provided in
16 this part, where appropriate.
- 17 (A) If a national specification, published standard, or model
18 code does not adequately address the goals of the state agency, a
19 statement defining the inadequacy shall accompany the proposed
20 building standard when submitted to the commission.
- 21 (B) If there is no national specification, published standard, or
22 model code that is relevant to the proposed building standard, the
23 state agency shall prepare a statement informing the commission
24 and submit that statement with the proposed building standard.
- 25 (8) The format of the proposed building standards is consistent
26 with that adopted by the commission.
- 27 (9) The proposed building standard, if it promotes fire and panic
28 safety, as determined by the State Fire Marshal, has the written
29 approval of the State Fire Marshal.
- 30 (b) In reviewing building standards submitted for its approval,
31 the commission shall consider only the record of the proceedings
32 of the adopting agency, except as provided in subdivision (b) of
33 Section 11359 of the Government Code.
- 34 (c) Where the commission is the adopting agency, it shall
35 consider the record submitted to, and considered by, the state
36 agency that proposes the building standards and the record of
37 public comment that results from the commission's adoption of
38 proposed regulations.
- 39 (d) (1) The commission shall give great weight to the
40 determinations and analysis of the adopting agency or state agency

1 that proposes the building standards on each of the criteria for
2 approval set forth in subdivision (a). Any factual determinations
3 of the adopting agency or state agency that proposes the building
4 standards shall be considered conclusive by the commission unless
5 the commission specifically finds, and sets forth its reasoning in
6 writing, that the factual determination is arbitrary and capricious
7 or substantially unsupported by the evidence considered by the
8 adopting agency or state agency that proposes the building
9 standards.

10 (2) Whenever the commission makes a finding, as described
11 in this subdivision, it shall return the standard to the adopting
12 agency or state agency that proposes the building standards for a
13 reexamination of its original determination of the disputed fact.

14 (e) Whenever a building standard is principally intended to
15 protect the public health and safety, its adoption shall not be a
16 “factual determination” for purposes of subdivision (d). Whenever
17 a building standard is principally intended to conserve energy or
18 other natural resources, the commission shall consider or review
19 the cost to the public or benefit to be derived as a “factual
20 determination” pursuant to subdivision (d). Whenever a building
21 standard promotes fire and panic safety, each agency shall, unless
22 adopted by the State Fire Marshal, submit the building standard
23 to the State Fire Marshal for prior approval.

24 (f) Whenever the commission finds, pursuant to paragraph (2)
25 of subdivision (a), that a building standard is adopted by an
26 adopting agency pursuant to statutes requiring adoption of the
27 building standard, the commission shall not consider or review
28 whether the adoption is in the public interest pursuant to paragraph
29 (3) of subdivision (a).

30 ~~SECTION 1.~~

31 *SEC. 2.* Section 18930.5 of the Health and Safety Code is
32 amended to read:

33 18930.5. (a) The commission shall *encourage and* solicit
34 recommendations for code updates relating to green building
35 standards from state agencies with the authority and expertise to
36 propose green building standards applicable to a particular
37 occupancy. These agencies shall submit recommended code
38 updates for the next two California Building Standards Code
39 adoptions. The agencies shall indicate whether the recommended
40 code updates are intended to be voluntary or mandatory green

1 building standards. The commission shall compile the
2 recommendations by adoption cycle and by whether the
3 recommendations are for voluntary or mandatory green building
4 standards.

5 (b) If no state agency has the authority or expertise to propose
6 green building standards applicable to a particular occupancy, the
7 commission shall, *after performing an analysis of existing green*
8 *building standards with state environmental, public health, and*
9 *safety goals*, adopt, approve, codify, update, and publish green
10 building standards for those occupancies.

11 *SEC. 3. Section 18930.6 is added to the Health and Safety*
12 *Code, to read:*

13 *18930.6. Prior to adoption, the commission shall define the*
14 *intent, criteria, and schedule for establishing voluntary green*
15 *building standards and for transitioning voluntary standards into*
16 *mandatory, codified standards.*

17 *SEC. 4. Section 18931.6 of the Health and Safety Code is*
18 *amended to read:*

19 18931.6. (a) Each city, county, or city and county shall collect
20 a fee from any applicant for a building permit, assessed at the rate
21 of ~~four dollars (\$4)~~ _____ (\$_____) per one hundred thousand dollars
22 (\$100,000) in valuation, as determined by the local building
23 official, with appropriate fractions thereof, but not less than one
24 dollar (\$1).

25 (b) The city, county, or city and county may retain not more
26 than 10 percent of the fees collected under this section for related
27 administrative costs and for code enforcement education, including,
28 but not limited to, certifications in the voluntary construction
29 inspector certification program, and shall transmit the remainder
30 to the commission for deposit in the Building Standards
31 Administration Special Revolving Fund established under Section
32 19831.7.

33 (c) The commission may reduce the rate of the fee upon
34 determining that a lesser amount is sufficient to maintain the
35 programs established under this part.

36 *SEC. 5. Section 18931.7 of the Health and Safety Code is*
37 *amended to read:*

38 18931.7. (a) All funds received by the commission under this
39 part shall be deposited in the Building Standards Administration

1 Special Revolving Fund, which is hereby established in the State
2 Treasury.

3 (b) Moneys deposited in the fund shall be available, upon
4 appropriation, to the commission, the department, and the Office
5 of the State Fire Marshal for expenditure in carrying out the
6 provisions of this part, and the provisions of Part 1.5 (commencing
7 with Section 17910) that relate to building standards, as defined
8 in Section 18909, with emphasis placed on the *analysis performed*
9 *pursuant to subdivision (b) of Section 18930.5*, development,
10 adoption, publication, updating, *verification protocols*, and
11 educational efforts associated with green building standards.

12 *SEC. 6. Section 18940.5 is added to the Health and Safety*
13 *Code, to read:*

14 *18940.5. During the 2016 code adoption cycle, the commission*
15 *shall codify all provisions of the green building standards. The*
16 *commission may publish a guide to the green building standards*
17 *as an appendix to the code.*