

AMENDED IN ASSEMBLY MAY 8, 2013
AMENDED IN ASSEMBLY APRIL 23, 2013
AMENDED IN ASSEMBLY APRIL 4, 2013
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 Sections 18930, 18930.5, and 18931.7 of, and to add ~~Sections 18930.6 and~~ *Section* 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.~~

~~*This bill would require the commission and state agencies that propose green building standards to allow for input by other state agencies that have expertise in green building subject areas. The bill would require the process by which these other state agencies shall submit suggested changes for consideration to be adopted as administrative regulations that include certain elements.*~~

Existing law requires that funds deposited into the Building Standards Administration Special Revolving Fund be expended, upon appropriation, to carry out specified provisions of law that relate to building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards.

This bill would expand these provisions to authorize the expenditure of those funds by the commission in performing an analysis of existing green building standards and for carrying out verification protocols relating to building standards, including, but not limited to, training and guidance for local building officials in jurisdictions that have adopted Tier 1 and Tier 2 green building standards.

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 integrate all provisions of the California Green Building Standards Code into the appropriate sections of the California Code of Regulations, as specified. The bill would also authorize the commission to publish or allow to be published a guide to the green building standards as an appendix to the code.~~

This bill would also require, as part of the next triennial update of the California Building Standards Code, that state agencies that propose green building standards, as specified, to the extent that it is feasible, reference or reprint those green building standards in other relevant portions of the California Building Standards 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:

15 (1) The proposed building standards do not conflict with,
16 overlap, or duplicate other building standards.

17 (2) The proposed building standard is within the parameters
18 established by enabling legislation and is not expressly within the
19 exclusive jurisdiction of another agency.

20 (3) The public interest in safer, healthier, and more resource
21 efficient buildings requires the adoption of the building standards.
22 *The public interest includes, but is not limited to, health and safety,*
23 *resource efficiency, fire safety, seismic safety, building and building*
24 *system performance, and consistency with environmental, public*
25 *health, and accessibility statutes and regulations.*

26 (4) The proposed building standard is not unreasonable,
27 arbitrary, unfair, or capricious, in whole or in part.

28 (5) The cost to the public is reasonable, based on the overall
29 benefit to be derived from the building standards.

1 (6) The proposed building standard is not unnecessarily
2 ambiguous or vague, in whole or in part.

3 (7) The applicable national specifications, published standards,
4 and model codes have been incorporated therein as provided in
5 this part, where appropriate.

6 (A) If a national specification, published standard, or model
7 code does not adequately address the goals of the state agency, a
8 statement defining the inadequacy shall accompany the proposed
9 building standard when submitted to the commission.

10 (B) If there is no national specification, published standard, or
11 model code that is relevant to the proposed building standard, the
12 state agency shall prepare a statement informing the commission
13 and submit that statement with the proposed building standard.

14 (8) The format of the proposed building standards is consistent
15 with that adopted by the commission.

16 (9) The proposed building standard, if it promotes fire and panic
17 safety, as determined by the State Fire Marshal, has the written
18 approval of the State Fire Marshal.

19 (b) In reviewing building standards submitted for its approval,
20 the commission shall consider only the record of the proceedings
21 of the adopting agency, except as provided in subdivision (b) of
22 Section 11359 of the Government Code.

23 (c) Where the commission is the adopting agency, it shall
24 consider the record submitted to, and considered by, the state
25 agency that proposes the building standards and the record of
26 public comment that results from the commission's adoption of
27 proposed regulations.

28 (d) (1) The commission shall give great weight to the
29 determinations and analysis of the adopting agency or state agency
30 that proposes the building standards on each of the criteria for
31 approval set forth in subdivision (a). Any factual determinations
32 of the adopting agency or state agency that proposes the building
33 standards shall be considered conclusive by the commission unless
34 the commission specifically finds, and sets forth its reasoning in
35 writing, that the factual determination is arbitrary and capricious
36 or substantially unsupported by the evidence considered by the
37 adopting agency or state agency that proposes the building
38 standards.

39 (2) Whenever the commission makes a finding, as described
40 in this subdivision, it shall return the standard to the adopting

1 agency or state agency that proposes the building standards for a
2 reexamination of its original determination of the disputed fact.

3 (e) Whenever a building standard is principally intended to
4 protect the public health and safety, its adoption shall not be a
5 “factual determination” for purposes of subdivision (d). Whenever
6 a building standard is principally intended to conserve energy or
7 other natural resources, the commission shall consider or review
8 the cost to the public or benefit to be derived as a “factual
9 determination” pursuant to subdivision (d). Whenever a building
10 standard promotes fire and panic safety, each agency shall, unless
11 adopted by the State Fire Marshal, submit the building standard
12 to the State Fire Marshal for prior approval.

13 (f) Whenever the commission finds, pursuant to paragraph (2)
14 of subdivision (a), that a building standard is adopted by an
15 adopting agency pursuant to statutes requiring adoption of the
16 building standard, the commission shall not consider or review
17 whether the adoption is in the public interest pursuant to paragraph
18 (3) of subdivision (a).

19 SEC. 2. Section 18930.5 of the Health and Safety Code is
20 amended to read:

21 ~~18930.5. (a) The commission shall encourage and solicit~~
22 ~~recommendations for code updates relating to green building~~
23 ~~standards from state agencies with the authority and expertise to~~
24 ~~propose green building standards applicable to a particular~~
25 ~~occupancy. These agencies shall submit recommended code~~
26 ~~updates for the next two California Building Standards Code~~
27 ~~adoptions. The agencies shall indicate whether the recommended~~
28 ~~code updates are intended to be voluntary or mandatory green~~
29 ~~building standards. The commission shall compile the~~
30 ~~recommendations by adoption cycle and by whether the~~
31 ~~recommendations are for voluntary or mandatory green building~~
32 ~~standards.~~

33 (b)

34 *18930.5. (a)* If no state agency has the authority or expertise
35 to propose green building standards applicable to a particular
36 occupancy, the commission shall, ~~after performing an analysis of~~
37 ~~existing green building standards with state environmental, public~~
38 ~~health, and safety goals,~~ adopt, approve, codify, update, and publish
39 green building standards for those occupancies.

1 (b) The commission and other state agencies that propose green
 2 building standards shall allow for input by other state agencies
 3 that have expertise in green building subject areas. The process
 4 by which these other state agencies shall submit suggested changes
 5 for consideration shall be adopted as administrative regulations
 6 in Part 1 of Title 24 of the California Code of Regulations. These
 7 administrative regulations shall include, but not be limited to, all
 8 of the following:

- 9 (1) The timing for receipt of suggested changes.
- 10 (2) Whether the suggested changes should be considered for
 11 adoption as mandatory or voluntary green building standards.
- 12 (3) The concurrent submission of appropriate technical analysis
 13 that could be used by the agency to support the proposal under
 14 the requirements of subdivision (a) of Section 18930, including
 15 the rationale supporting the recommendation that the item be
 16 considered for adoption as mandatory or voluntary green building
 17 standards.
- 18 (4) The concurrent submission of fiscal analysis necessary for
 19 submission to the Department of Finance and for use in complying
 20 with the cost of compliance provisions of Sections 11346.2 and
 21 11346.5 of the Government Code.
- 22 (5) The manner in which the suggestions will be made available
 23 to the public.

24 (c) If a state agency that proposes green building standards
 25 offers advice to the commission via an advisory panel appointed
 26 pursuant to Section 18927, as part of its presentation it shall, to
 27 the extent feasible, indicate those voluntary green building
 28 measures that may be considered for possible adoption as
 29 mandatory within the next two subsequent adoption cycles.

30 ~~SEC. 3. Section 18930.6 is added to the Health and Safety~~
 31 ~~Code, to read:~~

32 ~~18930.6. Prior to adoption, the commission shall define the~~
 33 ~~intent, criteria, and schedule for establishing voluntary green~~
 34 ~~building standards and for transitioning voluntary standards into~~
 35 ~~mandatory, codified standards.~~

36 ~~SEC. 4.~~

37 ~~SEC. 3.~~ Section 18931.7 of the Health and Safety Code is
 38 amended to read:

39 18931.7. (a) All funds received by the commission under this
 40 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, including,
11 but not limited to, training and guidance for local building officials
12 in jurisdictions that have adopted Tier 1 or Tier 2 green building
13 standards, and educational efforts associated with green building
14 standards.

15 ~~SEC. 5.~~

16 *SEC. 4.* Section 18940.5 is added to the Health and Safety
17 Code, to read:

18 ~~18940.5. During the 2016 code adoption cycle, the commission~~
19 ~~shall integrate all provisions of the California Green Building~~
20 ~~Standards Code (Part 11 of Title 24 of the California Code of~~
21 ~~Regulations) into the appropriate sections of Part 1 to 10, inclusive,~~
22 ~~of Title 24 of the California Code of Regulations. The commission~~
23 ~~may publish or allow to be published a guide to the green building~~
24 ~~standards as an appendix to the code.~~

25 *18940.5. As part of the next triennial update of the California*
26 *Building Standards Code (Title 24 of the California Code of*
27 *Regulations) adopted after January 1, 2014, agencies that propose*
28 *green building standards for inclusion in Part 11 of Title 24 of the*
29 *California Code of Regulations shall, to the extent that it is*
30 *feasible, reference or reprint the green building standards in other*
31 *relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of Title 24 of the*
32 *California Code of Regulations. For purposes of compliance with*
33 *this section, the republication of the provisions of Part 11 of Title*
34 *24 of the California Code of Regulations in other parts of Title 24*
35 *of the California Code of Regulations shall not be considered*
36 *duplication in violation of paragraph (1) of subdivision (a) of*
37 *Section 18930.*

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