



The WILLDAN Letter

News for California Building Departments

Issue #22, April - June 2009

Legislation of Interest to Building Departments

The 2009-2010 legislative session convened on January 5, 2009 and the last day to introduce legislative bills for this year's session was February 27, 2009. Following is an abbreviated description of bills proposing changes with impact on local building departments, building standards, or the code adoption process. These bills have yet to pass through committees so amendments should be expected. Amendments during the year may decrease or increase impact making it necessary to follow the legislative process.



AB 210, introduced February 2, 2009, proposes to clarify the authority in the Health and Safety Code (state law) for a city or county to enact more restrictive building standards than in Title 24 because of local conditions, includes green building standards.

AB 433, introduced February 24, 2009, proposes to require the California Building Standards Commission (CBSC) to adopt new building standards that require new construction with 10 or more dwelling units located within a roadway exposure zone, as defined, and having a specified particular concentration attributable to automobile traffic, to have ventilation systems to remove greater than 80% of ambient particular matter. The CBSC is to create a roadway exposure zone map. Projects will be subject to an air quality assessment and developers will submit air quality reports to the CBSC.

AB 828, introduced on February 26, 2009, proposes to require the CBSC to repeal the new California Green Building Standards in Part 11 of Title 24, and instead encourage state agencies with expertise in green building practices to proposed green building standards to the CBSC for adoption and publication within the existing framework of Title 24 (leaving Part 11 vacant).

continued next column

Important Dates

April 28, 2009: CALBO Leadership & Advocacy Day at the State Capital. See details and schedule at CALBO's website calbo.org.

April 30-May 2, 2009: AIA National Convention and Design Expo, at San Francisco. See details at aiaconvention.com/live/61.

May 3-9, 2009: ICC Building Safety Week. See details and suggested local activities at iccsafe.org/safety/BSW.

May 20, 2009: California Building Standards Commission Hearing. Watch for an agenda on the BSC website www.bsc.ca.gov.

June 12, 2009: Last day to apply for IAPMO Certification examinations to be held on July 18, 2009 in Oakland, Oroville, Ontario, Sacramento, and Ventura. See IAPMO's website iapmo.org for application details.

August 1, 2009: Effective date of Title 24 adoptions through the 2007 Code Adoption Cycle, including the new Green Building Standards, 2008 Energy Standards, and many more amendments.

August 24, 2009: DSA examination for Certified Access Specialist. This is the last examination scheduled for 2009. Certification applications must be approved by DSA before applying for the examination. See application and program information at the DSA website www.dsa.dgs.ca.gov/Access/casp.htm.

Legislation of Interest to Building Departments, continued

SB 23, introduced on December 8, 2008, proposes to require, on or after January 1, 2010, a mobilehome park or manufactured housing community to implement an emergency and fire safety plan and related training for park or community managers and onsite staff.

Go to the legislature's website leginfo.ca.gov/bilinfo.html for the complete text of these new legislative proposals. Other bills **worthy of watching include AB 283, AB 1164, AB 1474, SB 166, SB 398 and SB 583**. As introduced these bills have minor impact on some building departments but because of their subject matter it is wise to watch them through the legislative process.

What's Up With the State?

■ The California Building Standards Commission (CBSC) issued Building Standards Bulletin 09-01, dated January 14, 2009, providing information regarding issued supplements to the 2007 California Building Standards Code in Title 24 of the California Code of Regulations. The supplements (blue pages) are available and are the result of the 2007 Code Adoption Cycle. As discussed in our last issue of this newsletter (The Willdan Letter), the adoptions will become effective on August 1, 2009. Find this bulletin at the CBSC website www.bsc.ca.gov. Update your copy of Title 24 prior to August 1, 2009.



■ On March 3, 2009 Governor Schwarzenegger appointed **Mr. Fred Aguiar** as Secretary of the State and Consumer Services Agency following Rosario Marin's resignation. Mr. Aguiar, whose duties include being the chairperson for the California Building Standards Commission, held these positions earlier in the Schwarzenegger administration.

■ The Department of Housing and Community Development (HCD) continues to work on final language for **Wildland Urban Interface** regulations applying to manufactured housing and commercial modular installations in Wildland Urban Interface Fire Areas. Notice of a second 45-day public review period was issued on March 20, 2009 with amendments to the emergency regulations (temporary) adopted on September 1, 2008 with local building department responsibilities. The latest amendments are the result of public comments received during the public review period ending February 23, 2009. The second public review period will end on May 4, 2009. Find the proposed regulatory text and information at the HCD website hcd.ca.gov/codes under the Manufactured Housing Program, then look under the title "Proposed Manufactured Home/Commercial Modular Fire Construction Standards."

■ On January 30, 2009, HCD issued **Information Bulletin 2009-01** with detailed information about 2008 legislative changes affecting numerous housing programs administered by the HCD's Division of Codes and Standards and many enforced by local government. Find the bulletin at HCD website hcd.ca.gov/codes/mhp/infobulls.html.

■ The California Energy Commission has issued Blueprint #90 (newsletter) dated February 2009. Find this newsletter with important information at the Energy Commission's website energy.ca.gov/efficiency/blueprint.

Did you know?

It is a criminal offense to violate California's building codes



That was the question and discussion in our last issue of The Willdan Letter. As promised, to follow is a discussion about other legal remedies provided in state law for violations of California's building codes. If you did not read our prior issue, it would be best to do so now at willdan.com/WilldanLetter/Issue21.pdf.

Several state laws establishing requirements for building design, construction, and maintenance, include remedies other than criminal penalties for violations of the law and implementing regulations including building standards. Remedies include injunctions and civil penalties. **Let's look at a few examples.**

Health and Safety Code (HSC) Section 19953 establishes that a violation of Part 5.5 (commencing with Section 19955) of Division 13 of the HSC may cause an action to enjoin the violation. HSC Part 5.5 establishes requirements for public accommodations to be accessible in accordance with building standards established by the Division of the State Architect. Such building standards are found primarily in California Building Code Chapter 11B. In lay terms, "enjoin" means to be the subject of an injunction, which is an order of the appropriate court directing a person, firm, or entity to stop a practice that violates state law, or a regulation implementing state law.

Some state laws establish a means to bring an action resulting in the award of civil penalties (order to pay). California Civil Code Section 54.3 establishes civil penalties for each violation of a person's rights under Civil Code Sections 54, 54.1, and 54.2, which can include a violation of building standards requiring accessibility in public accommodations and housing accommodations. The code violation constitutes an act of discrimination. The amount of the civil penalty is determined by a jury, or the court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000), and attorney fees.

Government Code Section 12987 authorizes the Department of Fair Employment and Housing to investigate discrimination in housing accommodations, which may be in the form of a violation of the standards in Chapter 11A of the California Building Code. Orders to pay civil penalties of up to \$10,000 may be issued by the Fair Employment and Housing Commission.

For additional study of civil remedies (other than criminal penalties) for violations of building laws, read Health and Safety Code Sections 13250, 19954, 19958.5, and 19958.6, Government Code Sections, 12956.2, 12980, 12981, and 12987, and Civil Code Sections 54, 54.1, 54.2, 55, and 55.1. Access these codes at the state website leginfo.ca.gov/calaw.html.



Photos of projects plan-checked or inspected by Willdan

Other News & Things to Remember

The Building Standards Commission website has Parts 1, 6, 10, 11 (Green Building Standards), and 12 of Title 24, California Code of Regulations, available to the public. Also, there are links to read-only ICC copies of the 2007 California Building Code and 2007 California Fire Code, and read-only IAMPO copies of the 2007 California Plumbing Code and the 2007 California Mechanical Code.

When applying Exception #1 of Section 1134B.2.1 of the 2007 California Building Code to alteration projects in public accommodations (see definition in California Building Code) such as retail stores, hotels, office buildings, restaurants, churches, etc., the 2009 Construction Valuation Threshold is \$126,784.66. This figure is adjusted each January and is available at the Website of the Division of the State Architect, www.dsa.das.ca.gov/Access. Look for Valuation Threshold.

The 2009 Code Adoption Cycle

is scheduled to begin on July 1, 2009. By that date, state agencies proposing amendments to California Building Standards Code in Title 24 of the California Code of Regulations must submit the proposed language to the Building Standards Commission. Public hearings will follow.



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- Visit willdan.com/WilldanLetter for previous editions of this newsletter and to subscribe to the online edition.

Useful Websites

State Fire Marshal - osfm.fire.ca.gov

California Legislature - www.leginfo.ca.gov

Department of Housing and Community Development - www.hcd.ca.gov

California Energy Commission - www.energy.ca.gov

California Building Standards Commission - www.bsc.ca.gov

Environmental Building News - www.buildinggreen.com

Office of Administrative Law - www.oal.ca.gov