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SB-438 Earthquake safety: statewide earthquake early warning program and system. (2015-2016)

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Senate Bill No. 438

CHAPTER 803

An act to amend Section 8587.8 of, and to add Sections 8587.11 and 8587.12 to, the Government Code, relating to earthquake safety.

[Approved by Governor September 29, 2016. Filed with Secretary of State September 29, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 438, Hill. Earthquake safety: statewide earthquake early warning program and system.

(1) The California Emergency Services Act requires the Office of Emergency Services, among other things, to develop in collaboration with specified entities a comprehensive statewide earthquake early warning system in California through a public-private partnership, as specified. The act requires the office to identify funding for the system through single or multiple sources of revenue, and requires those sources to exclude the General Fund and to be limited to federal funds, funds from revenue bonds, local funds, and funds from private sources. Under the act, the requirement that the office develop the system is not operative until funding is identified, and is repealed if funding is not identified by July 1, 2016. The act establishes the California Earthquake Safety Fund in the State Treasury to be used, upon appropriation by the Legislature, for seismic safety and earthquake-related programs, including the statewide earthquake early warning system.

This bill would discontinue the requirement that the funding sources for the system exclude the General Fund and be limited to federal funds, funds from revenue bonds, local funds, and funds from private sources. The bill would delete the provisions providing for the repeal and the contingent operation of the requirement that the office develop the system.

This bill would establish, within the office, the California Earthquake Early Warning Program and the California Earthquake Early Warning Advisory Board to support the development of the statewide earthquake early warning system, as specified. The bill would require the board to include 7 voting members, as specified, and the Chancellor of the California State University, or his or her designee, who would serve as a nonvoting member. The bill would authorize the President of the University of California, or his or her designee, to serve as an additional nonvoting member of the board. The bill would require all members to serve without compensation, but would require reimbursement for actual and reasonable travel and meal expenses to attend board meetings. The bill would require the board to comply with existing state open meeting and public record disclosure laws and would prohibit the disclosure of any information in a public record that is a trade secret, as defined, of a private entity cooperating with the board or participating in the statewide earthquake early warning system or the program. The bill would make legislative findings in support of its provisions.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Effective and sustainable implementation of a statewide earthquake early warning system, as funded through the California Earthquake Safety Fund, requires a governance structure that coordinates the multiple entities involved in establishing and operating the different functional areas of the system, including, but not limited to, system operations, research and development, finance and investment, and training and education.

(b) Each of the functional areas necessary for a statewide earthquake early warning system consists of designated working groups that include subject matter experts and stakeholders in the public and private sectors.

(c) The California Earthquake Early Warning Advisory Board is intended to advise the Director of Emergency Services on implementation of the earthquake early warning program.

SEC. 2. Section 8587.8 of the Government Code is amended to read:

8587.8. (a) The Office of Emergency Services, in collaboration with the California Institute of Technology (Caltech), the California Geological Survey, the University of California, the United States Geological Survey, the Alfred E. Alquist Seismic Safety Commission, and other stakeholders, shall develop a comprehensive statewide earthquake early warning system in California through a public-private partnership, which shall include, but not be limited to, the following features:

- (1) Installation of field sensors.
- (2) Improvement of field telemetry.
- (3) Construction and testing of central processing and notification centers.
- (4) Establishment of warning notification distribution paths to the public.
- (5) Integration of earthquake early warning education with general earthquake preparedness efforts.

(b) In consultation with stakeholders, the Office of Emergency Services shall develop an approval mechanism to review compliance with earthquake early warning standards as they are developed. The development of the approval mechanism shall include input from a broad representation of earthquake early warning stakeholders. The approval mechanism shall accomplish all of the following:

- (1) Ensure the standards are appropriate.
- (2) Determine the degree to which the standards apply to providers and components of the system.
- (3) Determine methods to ensure compliance with the standards.
- (4) Determine requirements for participation in the system.

(c) The Office of Emergency Services shall identify funding for the system described in subdivision (a) through single or multiple sources of revenue.

SEC. 3. Section 8587.11 is added to the Government Code, to read:

8587.11. (a) There is in state government, within the office, both of the following:

- (1) The California Earthquake Early Warning Program.
- (2) The California Earthquake Early Warning Advisory Board.

(b) The following definitions apply to this section and Section 8587.12:

- (1) "Board" means the California Earthquake Early Warning Advisory Board.
- (2) "Program" means the California Earthquake Early Warning Program.
- (3) "System" means the statewide earthquake early warning system.

(c) (1) The board shall be composed of the following eight members:

(A) Seven voting members, as follows:

(i) The Secretary of the Natural Resources Agency, or his or her designee.

(ii) The Secretary of California Health and Human Services, or his or her designee.

(iii) The Secretary of Transportation, or his or her designee.

(iv) The Secretary of Business, Consumer Services, and Housing, or his or her designee.

(v) One member who is appointed by, and serves at the pleasure of, the Speaker of the Assembly and represents the interests of private businesses.

(vi) One member who is appointed by, and serves at the pleasure of, the Governor and represents the utilities industry.

(vii) One member who is appointed by, and serves at the pleasure of, the Senate Committee on Rules and represents county government.

(B) The Chancellor of the California State University, or his or her designee, shall serve as a nonvoting member of the board.

(2) The President of the University of California, or his or her designee, may serve as a nonvoting member of the board.

(3) The members of the board shall serve without compensation, but shall be reimbursed for actual and reasonable travel and meal expenses to attend board meetings.

(d) (1) The board shall convene periodically and advise the director on all aspects of the program, including, but not limited to, the following functional areas of the program:

(A) System operations.

(B) Research and development.

(C) Finance and investment.

(D) Training and education.

(2) The board shall utilize committees, groups, and organizations, including, but not limited to, the California Institute of Technology, the California Geological Survey, the University of California, the United States Geological Survey, and entities participating in the critical infrastructure sectors to fulfill the objectives of the program by supporting the functional areas of the system.

(3) The board shall inform the public regarding, and provide the public with the opportunity to engage the board on, the development and implementation of the system.

(4) The board shall consult with program participants, state agencies, departments, boards and commissions, private businesses, postsecondary educational institutions, and subject matter experts, as necessary, to advise the board on the development, implementation, and maintenance of the system.

(e) (1) Except as otherwise provided by law, the California Integrated Seismic Network shall be responsible for the generation of an earthquake early warning alert and related system operations.

(2) The board shall, in conjunction with the director, determine the appropriate methods to provide the public with an earthquake early warning alert.

(f) (1) The board shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3) and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(2) Notwithstanding any law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), any information in a public record that is a trade secret, as that term is defined in Section 3426.1 of the Civil Code, of a private entity cooperating with the board or participating in the system or with the program is confidential and shall not be disclosed.

SEC. 4. Section 8587.12 is added to the Government Code, to read:

8587.12. (a) On or before February 1, 2018, the office, in consultation with the board, shall develop and submit a business plan for the program to the Senate Committee on Governmental Organization, the Assembly Committee on Governmental Organization, the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and the Legislative Analyst's Office. The business plan shall include, but not be limited to, all of the following elements:

(1) The funding plan for the program and the estimated costs associated with the program. The funding plan shall include, but not be limited to, all of the following:

(A) Specific cost estimates for each component of the program, including, but not limited to, education and outreach costs, staff costs, and the capital costs, operation costs, and maintenance costs of the system.

(B) Identification of specific sources of funding, including, but not limited to, federal funds, funds from revenue bonds, local funds, general funds, special funds, funds from private sources, and funding from any written agreements with public or private entities to fund components of the program.

(2) The expected roles and responsibilities of various program participants, including, but not limited to, private sector partners and local emergency personnel.

(3) The expected time schedule for completing the system and when it can start to provide alerts.

(4) A discussion of all reasonably foreseeable risks the program may encounter, including, but not limited to, risks associated with the program's finances, the reliability of the system, access to land for sensor placement, and changes in technology. The plan shall describe the office's strategies, processes, or other actions it intends to utilize to manage those risks.

(b) On or before February 1, 2019, and annually thereafter, the office shall report to the Legislature any changes to the business plan from the prior year and shall provide a general report on progress of the program and the implementation of the system. The report shall include, but not be limited to, all of the following:

(1) The overall progress of the implementation of the system.

(2) An update on funding acquired and expended.

(3) An update on contracts and requests for proposals.

(4) A summary of recommendations made by the board to the office.

SEC. 5. The Legislature finds and declares that Section 3 of this act, which adds Section 8587.11 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The development and implementation of the California Earthquake Early Warning System will help mitigate the loss of lives and property due to an earthquake. The need to protect the proprietary rights of owners of trade secrets relating to systems or products that may be incorporated into the California Earthquake Early Warning System and used within the California Earthquake Early Warning Program and the need to encourage the participation of those owners in the development and implementation of that system and program outweigh publicly disclosing those trade secrets.