



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2421 Land use: permitting: wireless communications: emergency standby generators. (2019-2020)

SHARE THIS:  

Date Published: 09/30/2020 02:00 PM

Assembly Bill No. 2421

CHAPTER 255

An act to add and repeal Section 65850.75 of the Government Code, relating to land use.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2421, Quirk. Land use: permitting: wireless communications: emergency standby generators.

Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit. Existing law defines various terms for these purposes.

This bill would, until January 1, 2024, require local agencies to make the installation of an emergency standby generator to serve a macro cell tower site, as defined, that meets specified requirements a permitted use and require a local agency to review an application for installation on an administrative, nondiscretionary basis. The bill would specify procedures for the processing of permit applications by a local agency and would authorize a local agency to impose a fee to cover costs associated with administering the bill's provisions. Because the bill would impose new duties on local agencies, it would impose a state-mandated local program.

The bill would define terms for purposes of these provisions and provide legislative findings and declarations in support of these provisions in order to maintain cellular communications during implemented power shutoffs.

Existing law, the California Environmental Quality Act (CEQA) requires a local agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that might have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to ministerial approval of projects.

By requiring administrative approval of the installation of emergency standby generators, this bill would expand the CEQA ministerial approval exemption.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

(a) Unprecedented wildfires are forcing California to develop new strategies to preserve public safety and welfare. One strategy is a proactive Public Safety Power Shutoff. In October 2019, three of the largest electric utilities implemented power shutoffs affecting more than 2,000,000 Californians.

(b) These shutoffs interrupted commercial power to wireless infrastructure, resulting in some consumers losing access to communications services. In response, wireless providers have developed backup power solutions to ensure networks remain operational during power shutoffs.

(c) In March 2019, Governor Gavin Newsom issued a proclamation of emergency in response to the wildfire threat, which waived permitting barriers to critical forest management projects. This act also creates exemptions for public safety actions.

(d) Enabling the rapid deployment of emergency standby generators is vital for public safety to help ensure consumers maintain access to 911 services, wireless emergency alerts, and other public safety communications. Fragmented and lengthy permitting requirements could delay these public safety deployments by many months and in some cases could prevent them altogether.

(e) Given the urgency of ensuring wireless providers are prepared for fire-threat events, it is necessary to expedite these public safety deployments. This act creates a narrow time-limited exemption and a uniform process for the expedited installation of low emission, emergency standby generators and associated storage tanks located within, or immediately adjacent to, an already permitted macro cell tower site.

(f) Specifically, this act allows wireless providers to prepare for future fire seasons and power outages using an expedited process that does both of the following:

(1) Applies to the installation of a standard-configuration standby emergency generator at previously permitted macro cell tower sites.

(2) Provides for local administrative review with a 60-day deadline for local agencies to approve or deny applications.

(g) This act does not apply to any law, regulation, permit, information request, order, variance, or other requirement related to the installation of small cells for the deployment of 5G network technologies.

(h) To assist in expediting deployment of emergency standby generators, this act allows applicants to concurrently seek consent from landowners while applying for permits, but does not allow an applicant to begin installation until approval from the landowner is received by the local agency.

SEC. 2. Section 65850.75 is added to the Government Code, immediately following Section 65850.7, to read:

65850.75. (a) For purposes of this section, the following terms have the following meanings:

(1) "Emergency standby generator" means a stationary generator used for the generation of electricity that meets the criteria set forth in paragraph (29) of subdivision (a) of Section 93115.4 of Title 17 of the California Code of Regulations.

(2) "Local agency" means a city, county, or city and county.

(3) "Macro cell tower site" means the place where wireless telecommunications equipment and network components, including towers, transmitters, base stations, and emergency powers necessary for providing wide area outdoor service, are located. A macro cell tower site does not include rooftop, small cell, or outdoor and indoor distributed antenna system sites.

(b) Notwithstanding any law affecting local permitting, an emergency standby generator proposed to be installed to serve a macro cell tower site shall be a permitted use and a local agency shall review an application to install such emergency standby generator on an administrative, nondiscretionary basis if it meets all of the following requirements:

(1) The emergency standby generator is rated below 50 horsepower, compliant with applicable air quality regulations, has a double-wall storage tank, not to exceed 300 gallons, and is mounted on a concrete pad.

(2) The macro cell tower site at which the emergency standby generator is proposed to be installed is an existing site that was previously permitted by the applicable local agency.

(3) The emergency standby generator complies with all applicable state and local laws and regulations, including building and fire safety codes.

(4) The physical dimensions of the emergency standby generator and storage tank are cumulatively no more than 250 cubic feet in volume.

(5) The emergency standby generator shall be located not more than 100 feet from the physical structure of the macro cell tower or base station.

(c) A local agency that receives a permit application to install an emergency standby generator that meets the requirements in subdivision (b) shall approve or deny the application within 60 days of submittal of the application, subject to both of the following:

(1) If, within 10 days of submission, the local agency notifies the applicant in writing that the application is incomplete, then the 60-day period shall be suspended. If the application is determined not to be complete, the local agency's determination shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. Upon receipt of any resubmittal of the application, a new 60-day period shall begin, during which the local agency shall determine the completeness of the application.

(2) The local agency shall not require any new or different information for the permit applications than it routinely requires for applications for other emergency standby generators.

(d) (1) A completed application that the local agency has not approved or denied within 60 days of receiving the application or upon expiration of any tolling period shall be deemed approved.

(2) This section does not prohibit a local agency from revoking, through the appropriate process, the permit or approval status for an emergency standby generator that is determined to violate an applicable state or local law or regulation, including building and fire safety codes, or from otherwise enforcing state and local law with respect to the emergency standby generator.

(e) If the local agency requires more than one permit application for the installation of an emergency standby generator, all applications submitted concurrently shall be issued within the same 60-day period set forth in subdivision (c).

(f) The local agency shall not require the applicant to submit proof of consent or other authorization from an underlying property owner as part of the initial application for an emergency standby generator permit; however, the applicant shall not install the emergency standby generator until the applicant provides documentation, if required, to the local agency.

(g) A local agency may impose a permit fee to cover its costs associated with administering this section. The fee shall not exceed the reasonable costs of providing the service for which the fee is charged and shall not be levied for general revenue purposes.

(h) This section shall remain in effect until January 1, 2024, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that the installation of an emergency standby generators at wireless telecommunications facility sites as set forth in this section has a significant public safety impact in California and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 65850.75 to the Government Code applies to all cities, including charter cities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.