



Council Agenda Report

To: Mayor Wagner and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Reva Feldman, City Manager

Date prepared: February 28, 2019 Meeting date: March 25, 2019

Subject: Senate Bill (SB) 584 and Assembly Bill (AB) 1788 – Support (Councilmember Mullen)

RECOMMENDED ACTION: At the request of Councilmember Mullen, authorize the Mayor to send letters of support for: 1) SB 584, a bill that would require electrical corporations to develop and administer programs to provide matching funds to local jurisdictions for conversion projects to underground power lines in Tier 3 fire-threat districts and require electrical corporations to replace overhead electrical infrastructure destroyed as a result of fire in those high fire-threat districts with underground electrical infrastructure; and 2) AB 1788, a bill that would expand current regulations prohibiting the use of pesticides containing one or more anticoagulants to the entire state, including State-owned property, unless the Department of Public Health determines there is a public health emergency or California Environmental Protection Agency determines there is an environmental emergency.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: SB 584 was introduced by Senator John Moorlach and would provide opportunities for local jurisdictions to acquire funding resources for the purpose of wildfire mitigation through the undergrounding of current overhead electrical infrastructure. The bill would also establish a Wildfire Mitigation Oversight Board to develop policies that reduce the threat of wildfires.

SB 584 would appropriate \$400,000,000 annually through 2024 to provide grants through the Department of Forestry and Fire Protection to local jurisdictions undertaking conversion projects to move electrical infrastructure underground.

SB 584 is written “as an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are: To expedite the process of replacing overhead electrical infrastructure with underground electrical infrastructure in tier 3 fire-threat districts, thereby reducing the risks of wildfire caused by that infrastructure, it is necessary for this measure to take effect immediately.” As such, if approved by the State Legislature and signed by the Governor, the bill would become effective January 1, 2020.

AB 1788 was introduced by State Assemblymember Richard Bloom to expand the State’s current law regulating the use of pesticides to the entire state. Existing law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas. AB 1788 would change the area to be the entire state, including State-owned property.

Current exemptions for agricultural uses remain unchanged. AB 1788 would prohibit the use of these pesticides throughout the state unless the State Department of Public Health determines that there is a public health emergency due to a pest infestation and the Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a pesticide containing an anticoagulant. The same exemption would be allowed if the California Environmental Protection Agency (CalEPA) determines that there is an environmental emergency due to a pest infestation and the Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a pesticide that contains an anticoagulant.

Councilmember Mullen is requesting Council approval for the Mayor to send letters of support for SB 584 and AB 1788.

ATTACHMENTS:

1. SB 584
2. AB 1788

Introduced by Senator MoorlachFebruary 22, 2019

An act to add Section 718 to the Public Resources Code, and to add Sections 764.5 and 764.7 to, and to add Division 2.2 (commencing with Section 5600) to, the Public Utilities Code, relating to electricity, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as introduced, Moorlach. Electricity: undergrounding of electrical wires.

(1) Under existing law, the Public Utilities Commission has jurisdiction over public utilities, including electrical corporations. Under its existing authority, the commission requires electrical corporations to implement the California Overhead Conversion Program to provide financial assistance to local governments to facilitate projects that are in the public interest and that remove overhead infrastructure, replacing it with infrastructure in underground trenches.

Under existing law, a violation of the Public Utilities Act or any rule, order, decision, or direction of the commission is a crime.

This bill would require the commission to require electrical corporations to develop and administer programs to provide matching funds to local jurisdictions for conversion projects to replace overhead electrical infrastructure with underground electrical infrastructure in tier 3 fire-threat districts. The bill would require electrical corporations to replace overhead electrical infrastructure in a tier 3 fire-threat district that is destroyed as a result of fire with underground electrical infrastructure.

This bill would, on January 1, 2020, establish the Wildfire Mitigation Oversight Board and require the board to adopt rules and regulations applicable to electrical corporations regarding measures to achieve the most effective mitigation of wildfire risks. The bill would require the commission to ensure electrical corporations are in compliance with those rules and regulations.

Because certain of the above provisions would be in the act, a violation of an order by the commission implementing the above provisions would be a crime, and therefore this bill would impose a state-mandated local program.

(2) Existing law, the California Global Warming Solutions Act of 2006, designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms in regulating those emissions. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available for appropriation.

This bill would, beginning with the 2019–20 fiscal year and ending with the 2023–24 fiscal year, appropriate \$400,000,000 annually to the Department of Forestry and Fire Protection to provide grants to local jurisdictions undertaking conversion projects to move electrical infrastructure underground, as described above, thereby making an appropriation.

(3) 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.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 718 is added to the Public Resources
2 Code, to read:

1 718. (a) For the 2019–20 fiscal year to the 2023–24 fiscal year,
2 inclusive, four hundred million dollars (\$400,000,000) is hereby
3 appropriated annually to the department from the Greenhouse Gas
4 Reduction Fund to provide grants to local jurisdictions undertaking
5 conversion projects pursuant to Section 764.5 of the Public Utilities
6 Code.

7 (b) Moneys provided to a local jurisdiction pursuant to this
8 section shall not exceed 15 percent of the local jurisdiction’s share
9 of project costs.

10 SEC. 2. Section 764.5 is added to the Public Utilities Code, to
11 read:

12 764.5. (a) The commission, in a new or existing proceeding,
13 shall require electrical corporations to develop and administer
14 programs to provide matching funds to local jurisdictions for
15 conversion projects to replace overhead electrical infrastructure
16 with underground electrical infrastructure in tier 3 fire-threat
17 districts, as determined by the commission.

18 (b) (1) The program shall require an electrical corporation to
19 provide matching funds to a local jurisdiction upon approval of
20 an application by the local jurisdiction for an eligible project.

21 (2) Moneys awarded to a local jurisdiction shall not exceed 50
22 percent of the total costs of the project.

23 (3) Upon completion of the project, the local jurisdiction shall
24 authorize the electrical corporation to access and use the
25 infrastructure for the provision of electrical services to the electrical
26 corporation’s customers.

27 (c) The commission shall authorize electrical corporations to
28 recover the costs incurred pursuant to this section from their
29 ratepayers on a nonbypassable basis.

30 SEC. 3. Section 764.7 is added to the Public Utilities Code, to
31 read:

32 764.7. (a) The commission shall require an electrical
33 corporation to replace overhead electrical infrastructure in a tier
34 3 fire-threat district, as determined by the commission, that is
35 destroyed as a result of fire with underground electrical
36 infrastructure.

37 (b) The commission may authorize the use of temporary
38 overhead electrical infrastructure during the construction of the
39 underground electrical infrastructure required pursuant to
40 subdivision (a).

1 (c) The commission shall authorize an electrical corporation to
2 recover the costs incurred pursuant to this section from its
3 ratepayers on a nonbypassable basis.

4 SEC. 4. Division 2.2 (commencing with Section 5600) is added
5 to the Public Utilities Code, to read:

6
7 DIVISION 2.2. WILDFIRE MITIGATION OVERSIGHT
8 BOARD
9

10 5600. (a) The Wildfire Mitigation Oversight Board is hereby
11 established in state government.

12 (b) Notwithstanding any other law, the board shall develop and
13 adopt rules and regulations applicable to electrical corporations
14 regarding measures to achieve the most effective mitigation of
15 wildfire risks.

16 (c) The commission shall ensure that electrical corporations are
17 in compliance with the rules and regulations adopted pursuant to
18 this section.

19 5601. This division becomes operative on January 1, 2020.

20 SEC. 5. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 SEC. 6. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:
33 To expedite the process of replacing overhead electrical
34 infrastructure with underground electrical infrastructure in tier 3
35 fire-threat districts, thereby reducing the risks of wildfire caused
36 by that infrastructure, it is necessary for this measure to take effect
37 immediately.

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ASSEMBLY BILL

No. 1788

Introduced by Assembly Member Bloom

February 22, 2019

An act to amend Section 12978.7 of, and to add Section 12978.8 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1788, as introduced, Bloom. Pesticides: use of anticoagulants.

Existing law regulates the use of pesticides and authorizes the Director of Pesticide Regulation to adopt regulations to govern the possession, sale, or use of any pesticide, as prescribed. Existing law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas, as defined. Existing law exempts from this prohibition the use of these pesticides for agricultural activities, as defined. Existing law requires the director, and each county agricultural commissioner under the direction and supervision of the director, to enforce the provisions regulating the use of pesticides. A violation of these provisions is a misdemeanor.

This bill would expand this prohibition to the entire state. The bill would also authorize the use of a pesticide containing a specified anticoagulant if the State Department of Public Health determines that there is a public health emergency due to a pest infestation and the Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a pesticide containing an anticoagulant, or if the California Environmental Protection Agency determines that there is an environmental emergency due to a pest infestation and the Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a

pesticide that contains an anticoagulant. The bill would also prohibit the use of any pesticide that contains one or more specifically identified anticoagulants on state-owned property. The bill would provide that this provision does not apply to the use of pesticides for agricultural activities, as defined.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

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.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Wildlife, including birds of prey, mountain lions, bobcats,
- 4 fishers, foxes, coyotes, and endangered species such as the northern
- 5 spotted owl, pacific fisher, and San Joaquin kit fox, are an
- 6 irreplaceable part of California’s natural ecosystems. As predators
- 7 of small mammals, they play an important role in regulating and
- 8 controlling the population of rodents throughout the state to
- 9 improve public health and welfare.
- 10 (2) Millions of people annually visit California for the purposes
- 11 of viewing and photographing wildlife, and these visits contribute
- 12 millions of dollars to California’s economy.
- 13 (3) Urban areas are increasingly being used by predatory
- 14 mammals and birds of prey and the public enjoys seeing them and
- 15 values these animals and the ecosystem services they provide.
- 16 (4) The ecosystem services provided by native wildlife predators
- 17 are a public trust, just like clean air and water. We, as California
- 18 residents, are obligated to conserve these wildlife populations for
- 19 future generations of Californians.
- 20 (5) Scientific research and state studies have found rodenticides
- 21 in over 75 percent of animals tested. These rodenticides lead to
- 22 direct mortality and chronic long-term health impacts for natural
- 23 predators, nontarget organisms, and endangered species and further

1 steps are needed to reduce rodenticide exposure in nontarget
2 animals.

3 (6) While all anticoagulant rodenticides have a harmful impact
4 on nontarget animals, second generation anticoagulant rodenticides
5 (SGARs) are particularly dangerous to nontarget wildlife as SGARs
6 are higher potency than prior generations and a single dose has a
7 half-life of more than 100 days in a rodent’s liver. Due to high
8 toxicity and concern for impact on nontarget wildlife, Department
9 of Pesticide Regulation banned consumer sales and use of SGARs
10 in 2014, restricting their purchase and use to certified pesticide
11 applicators.

12 (7) Despite the 2014 regulations issued by the Department of
13 Pesticide Regulation, scientific research and state studies have
14 found no significant reduction in the number of nontarget wildlife
15 with detectable levels of SGARs in their system. From 2014
16 through 2018, the Department of Fish and Wildlife found SGARs
17 in more than 90 percent of tested mountain lions, 88 percent of
18 tested bobcats, 85 percent of protected Pacific fishers tested, and
19 70 of northern spotted owls tested. Such data indicates that a
20 consumer sales and use ban of SGARs has been insufficient to
21 reduce rodenticide exposure in nontarget animals and further steps
22 must be taken.

23 (8) Rodenticides can be counterproductive to rodent control by
24 poisoning, harming, and killing natural predators that help regulate
25 rodent populations throughout California.

26 (b) It is the intent of the Legislature in enacting this act to ensure
27 that aquatic, terrestrial, and avian wildlife species remain a fully
28 functional component of the ecosystems they inhabit and move
29 through in California.

30 (c) This act shall be known, and may be cited, as the California
31 Natural Predator Protection Act of 2019.

32 SEC. 2. Section 12978.7 of the Food and Agricultural Code is
33 amended to read:

34 12978.7. (a) Except as provided in subdivision ~~(d)~~, (c), (d),
35 or (e) the use of any pesticide that contains one or more of the
36 following anticoagulants is prohibited in a wildlife habitat area:
37 *this state:*

- 38 (1) Brodifacoum.
- 39 (2) Bromadiolone.
- 40 (3) Difenacoum.

1 (4) Difethialone.

2 ~~(b) As used in subdivision (a), a “wildlife habitat area” means~~
3 ~~any state park, state wildlife refuge, or state conservancy.~~

4 ~~(e)~~

5 (b) State agencies are directed to encourage federal agencies to
6 comply with subdivision (a).

7 ~~(d)~~

8 (c) This section does not apply to the use of pesticides for
9 agricultural activities, as defined in Section 564.

10 ~~(e)~~

11 (d) This section does not preempt or supersede any federal
12 statute or the authority of any federal agency.

13 (e) *This section does not apply to the use of a pesticide that*
14 *contains an anticoagulant described in paragraphs (1) to (4),*
15 *inclusive, of subdivision (a) if either of the following emergency*
16 *conditions exists:*

17 (1) *The State Department of Public Health determines that there*
18 *is a public health emergency due to a pest infestation and the*
19 *Department of Pesticide Regulation determines that controlling*
20 *or eradicating the pest infestation requires the use of a pesticide*
21 *that contains an anticoagulant described in paragraphs (1) to (4),*
22 *inclusive, of subdivision (a).*

23 (2) *The California Environmental Protection Agency determines*
24 *that there is an environmental emergency due to a pest infestation*
25 *and the Department of Pesticide Regulation determines that*
26 *controlling or eradicating the pest infestation requires the use of*
27 *a pesticide that contains an anticoagulant described in paragraphs*
28 *(1) to (4), inclusive, of subdivision (a).*

29 SEC. 3. Section 12978.8 is added to the Food and Agricultural
30 Code, to read:

31 12978.8. (a) Except as provided in subdivision (d), the use of
32 any pesticide that contains one or more of the following
33 anticoagulants is prohibited on any state-owned property in
34 California:

35 (1) Chlorophacinone.

36 (2) Diphacinone.

37 (3) Warfarin.

38 (b) State agencies are directed to encourage federal agencies to
39 comply with subdivision (a).

1 (c) This section does not apply to the use of pesticides for
2 agricultural activities, as defined in Section 564.

3 (d) This section does not preempt or supersede any federal
4 statute or the authority of any federal agency.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.