



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
June 22, 2010

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Support if Amended Assembly Bill 2133, Exempting California Memorial Stadium from the Alquist-Priolo Earthquake Fault Zoning Act

RECOMMENDATION:

Adopt a Resolution to support Assembly Bill 2133, exempting California Memorial Stadium from the Alquist-Priolo Earthquake Fault Zoning Act if amended to clarify no increase of usage or human occupancy as defined by hours.

BACKGROUND:

After the 1971 San Fernando Earthquake destroyed two hospitals, the Legislature passed the Alquist-Priolo Earthquake Fault Zoning Act to prevent building on top of active faults and provides specific limitations and requirements for any alteration and expansion of existing structures on top of active faults.

The California Memorial Stadium, completed in 1923, is an existing structure as defined by Alquist-Priolo and sits atop the Hayward Fault. A 1998 seismic safety study at the Berkeley campus gave the stadium a "poor" rating, meaning that the building represents an "appreciable life hazard" in an earthquake and requires seismic retrofitting.

The University of California has proposed a number of projects, including the retrofitting and expansion of Memorial Stadium. Since these projects fall within an earthquake fault zone, the provisions of Alquist-Priolo apply.

Assembly Bill 2133, sponsored by the University of California and authored by Assemblymember Roger Niello, explicitly exempts California Memorial Stadium from the provisions of Alquist-Priolo

The City of Berkeley should support the necessary retrofit of California Memorial Stadium, however, the decreased risk to public safety as a result of the retrofit will be negated by the significantly increased public risk of the expansion of use of the stadium.

AB 2133 should be amended to allow the retrofit of California Memorial Stadium but clarify that the exemption further prohibits any increase in usage or human occupancy as measured by hours of human occupancy than that existing on January 1, 2010. If

such an amendment is adopted, the City of Berkeley should go on record as supporting AB 22133.

FINANCIAL IMPLICATIONS:

None

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4 981-7140

Attachments:

1. Resolution
2. Copy of AB 2133

RESOLUTION NO.

SUPPORTING IF AMENDED ASSEMBLY BILL 2133 EXEMPTING CALIFORNIA MEMORIAL STADIUM FROM THE ALQUIST-PRIOLO EARTHQUAKE FAULT ZONING ACT

WHEREAS, following the 1971 San Fernando Earthquake, which destroyed two hospitals, the California State Legislature passed the Alquist-Priolo Earthquake Fault Zoning Act in order to limit new construction on top of active earthquake faults and to protect public safety and prevent damage to property; and

WHEREAS, California Memorial Stadium, completed in 1923, which is on the National Register of Historic Places, sits on top the Hayward Fault, which has an estimated probability of 30 percent for a major earthquake in the next thirty years, compared to about 20 percent for the San Andreas Fault; and

WHEREAS, a 1998 seismic safety study by UC Berkeley gave California Memorial Stadium a "poor" rating, meaning that the building represents an "appreciable life hazard" in an earthquake and requires seismic retrofitting; and

WHEREAS, the University of California has proposed the Southeast Campus Integrated Projects, which is a series of projects including the Student Athlete High Performance Center as well as the retrofitting and expansion of California Memorial Stadium. Since these projects are within an earthquake fault zone, arguably the provisions of the Alquist-Priolo Act apply; and

WHEREAS, Assembly Bill (AB) 2133, sponsored by the University of California and introduced by Assemblymember Roger Niello, amends the Alquist-Priolo Act to exempt California Memorial Stadium from the Act; and

WHEREAS, the City of Berkeley should support the necessary retrofit of California Memorial Stadium, however, the decreased risk to public safety as a result of the retrofit will be negated by the significantly increased public risk resulting from the possible expansion of use of the stadium; and

WHEREAS, AB 2133 should be amended to allow the retrofit of California Memorial Stadium but clarify that the exemption further prohibits any increase in usage or human occupancy as measured by hours of human occupancy as of January 1, 2010.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it will support Assembly Bill 2133 only if the bill is amended to clarify that it is not the intent to allow an increase in usage or human occupancy as measured by hours of human occupancy as of January 1, 2010; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to Senate President Pro Tem Darrell Steinberg, Senator Loni Hancock, Assemblymember Roger Niello, University of California President Mark Yudof, UC Berkeley Chancellor Robert Birgeneau and the City of Berkeley's lobbyist Lynn Suter.

AMENDED IN ASSEMBLY MAY 13, 2010

AMENDED IN ASSEMBLY APRIL 29, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2133

Introduced by Assembly Member Niello

February 18, 2010

An act to amend Section 2621.7 of the Public Resources Code, relating to geologic hazards.

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Niello. Geologic hazards: earthquake fault zoning.

Under the Alquist-Priolo Earthquake Fault Zoning Act, prior to approving a project within an earthquake fault zone, a city or county is directed to require the preparation of a geologic report, subject to certain exceptions. Existing law exempts from this requirement certain projects for alterations that include seismic retrofitting if a city or county, among other things, requires certain seismic retrofitting and prohibits an increase in human occupancy load.

Existing law specifically exempts projects relating to structures owned and operated by state entities and agencies listed on the California Register of Historical Resources or the National Register of Historic Places, including the California Memorial Stadium, if the state agency or entity submits a plan of proposed alterations to the State Geologist.

This bill would delete that exemption.

The bill, instead, would exempt the ~~University of California, Berkeley,~~ including the California Memorial Stadium *located on the University of California, Berkeley campus* from the application of the act. The bill

would state that the Legislature finds and declares that the ~~University of California, Berkeley, including the California Memorial Stadium located on the University of California, Berkeley campus,~~ requires seismic retrofitting, as defined, which is necessary to strengthen structures and provide increased resistance to ground shaking from an earthquake.

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 2621.7 of the Public Resources Code is
- 2 amended to read:
- 3 2621.7. This chapter, except Section 2621.9, shall not apply
- 4 to any of the following:
- 5 (a) The conversion of an existing apartment complex into a
- 6 condominium.
- 7 (b) Any development or structure in existence prior to May 4,
- 8 1975, except for an alteration or addition to a structure that exceeds
- 9 the value limit specified in subdivision (c).
- 10 (c) An alteration or addition to any structure if the value of the
- 11 alteration or addition does not exceed 50 percent of the value of
- 12 the structure.
- 13 (d) (1) Any structure located within the jurisdiction of the City
- 14 of Berkeley or the City of Oakland which was damaged by fire
- 15 between October 20, 1991, and October 23, 1991, if granted an
- 16 exemption pursuant to this subdivision.
- 17 (2) The city may apply to the State Geologist for an exemption
- 18 and the State Geologist shall grant the exemption only if the
- 19 structure located within the earthquake fault zone is not situated
- 20 upon a trace of an active fault line, as delineated in the official
- 21 earthquake fault zone map or in more recent geologic data, as
- 22 determined by the State Geologist.
- 23 (3) When requesting an exemption, the city shall submit to the
- 24 State Geologist all of the following information:
- 25 (A) Maps noting the parcel numbers of proposed building sites
- 26 that are at least 50 feet from an identified fault and a statement
- 27 that there is not any more recent information to indicate a geologic
- 28 hazard.

1 (B) Identification of any sites that are within 50 feet of an
2 identified fault.

3 (C) Proof that the property owner has been notified that the
4 granting of an exemption is not any guarantee that a geologic
5 hazard does not exist.

6 (4) The granting of the exemption does not relieve a seller of
7 real property or an agent for the seller of the obligation to disclose
8 to a prospective purchaser that the property is located within a
9 delineated earthquake fault zone, as required by Section 2621.9.

10 (e) (1) Alterations that include seismic retrofitting, as defined
11 in Section 8894.2 of the Government Code, to any of the following
12 listed types of buildings in existence prior to May 4, 1975:

13 (A) Unreinforced masonry buildings, as described in subdivision
14 (a) of Section 8875 of the Government Code.

15 (B) Concrete tilt-up buildings, as described in Section 8893 of
16 the Government Code.

17 (C) Reinforced concrete moment resisting frame buildings as
18 described in Applied Technology Council Report 21 (FEMA
19 Report 154).

20 (2) The exemption granted by paragraph (1) shall not apply
21 unless a city or county acts in accordance with all of the following:

22 (A) The building permit issued by the city or county for the
23 alterations authorizes no greater human occupancy load, regardless
24 of proposed use, than that authorized for the existing use permitted
25 at the time the city or county grants the exemption. This may be
26 accomplished by the city or county making a human occupancy
27 load determination that is based on, and no greater than, the
28 existing authorized use, and including that determination on the
29 building permit application as well as a statement substantially as
30 follows: “Under subparagraph (A) of paragraph (2) of subdivision
31 (e) of Section 2621.7 of the Public Resources Code, the occupancy
32 load is limited to the occupancy load for the last lawful use
33 authorized or existing prior to the issuance of this building permit,
34 as determined by the city or county.”

35 (B) The city or county requires seismic retrofitting, as defined
36 in Section 8894.2 of the Government Code, which is necessary to
37 strengthen the entire structure and provide increased resistance to
38 ground shaking from earthquakes.

1 (C) Exemptions granted pursuant to paragraph (1) are reported
2 in writing to the State Geologist within 30 days of the building
3 permit issuance date.

4 (3) Any structure with human occupancy restrictions under
5 subparagraph (A) of paragraph (2) shall not be granted a new
6 building permit that allows an increase in human occupancy unless
7 a geologic report, prepared pursuant to subdivision (d) of Section
8 3603 of Title 14 of the California Code of Regulations in effect
9 on January 1, 1994, demonstrates that the structure is not on the
10 trace of an active fault, or the requirement of a geologic report has
11 been waived pursuant to Section 2623.

12 (4) A qualified historical building within an earthquake fault
13 zone that is exempt pursuant to this subdivision may be repaired
14 or seismically retrofitted using the State Historical Building Code,
15 except that, notwithstanding any provision of that building code
16 and its implementing regulations, paragraph (2) shall apply.

17 SEC. 2. (a) The Alquist-Priolo Earthquake Fault Zoning Act
18 (Chapter 7.5 (commencing with Section 2621) of Division 2 of
19 the Public Resources Code) shall not apply to the ~~University of~~
20 ~~California, Berkeley, including the California Memorial Stadium.~~
21 *California Memorial Stadium located on the University of*
22 *California, Berkeley campus.* However, the Legislature finds and
23 declares that the ~~University of California, Berkeley, including the~~
24 ~~California Memorial Stadium~~ *California Memorial Stadium located*
25 *on the University of California, Berkeley campus,* requires seismic
26 retrofitting, as defined in Section 8894.2 of the Government Code,
27 which is necessary to strengthen structures and provide increased
28 resistance to ground shaking from an earthquake.

29 (b) This section does not conflict with the intent or the
30 applicability of any ~~other~~ provision of the Alquist-Priolo
31 Earthquake Fault Zoning Act (Chapter 7.5 (commencing with
32 Section 2621) of Division 2 of the Public Resources Code).

