

# Assembly Bill 2140 (AB 2140)

Information for Counties and Cities

Version: August 28, 2018



## **What is AB 2140?**

Passed in 2006, this legislation allows California counties and cities to adopt their current, FEMA-approved local hazard mitigation plans (LHMPs) into the Safety Element of their General Plans. This adoption makes the county or city eligible to be considered for part or all of its local-share costs on eligible Public Assistance funding to be provided by the state through the California Disaster Assistance Act (CDAA).

## **How Can AB 2140 Help Counties, Cities, and Your Citizens?**

The CDAA allows the state to pay up to 18.75% of the non-federal share that would otherwise fall upon the county or city to pay for Public Assistance projects when the legislature has passed a bill to allow this additional state funding after a disaster occurs. The usual local share is 25% of the total project cost. If the legislature allows it, counties and cities that are AB 2140 compliant will be eligible to be considered for the remaining 6.25% local share to be funded by the state.

## **What Do You Need to Know?**

- AB 2140 is not a requirement. It is an optional state incentive to help counties and cities become more resilient to natural hazards.
- Be sure to work with your planning department as the process proceeds.
- Your jurisdiction must have a current, FEMA-approved or approvable pending adoption (APA) LHMP.
- Be aware that adopting the LHMP with FEMA is a federal requirement and does not make your jurisdiction automatically AB 2140 compliant. AB 2140 is a state incentive and requires adopting your LHMP into the Safety Element of your General Plan. However, both adoptions can take place at the same time using the same adoption resolution.
- The year the LHMP was approved by FEMA must be included in the resolution and Safety Element language.
- AB 2140 compliance expires when the LHMP expires. You must re-adopt when you update your LHMP to continue compliance.
- For multi-jurisdiction LHMPs, each county and city in the LHMP must adopt your annex into your own general plan safety element. Annex jurisdictions are not covered under the county's adoption.
- Special districts are not eligible for AB 2140 compliance.
- **Funding is not guaranteed.**
- Also consider other key legislation that influences General Plans and their Safety Elements, such as SB 379, SB 1000, and SB 1241. For further information, contact Cal OES Mitigation Planning.

## **What Do You Need to Do to Be AB 2140 Compliant?**

1. Complete and submit an LHMP to the Governor's Office of Emergency Services (Cal OES). Cal OES provides an initial review and then will forward the LHMP to FEMA for final formal review and approval.
2. Adopt the LHMP once FEMA has approved the plan pending local adoption (APA). At that time you may also choose to adopt the LHMP into the Safety Element of your General Plan using the same resolution.
3. If the LHMP is already adopted and approved by FEMA, you may directly adopt the LHMP into the Safety Element with a new resolution.
4. Scan the final, signed adoption resolution and e-mail to Cal OES Mitigation Planning at [mitigationplanning@caloes.ca.gov](mailto:mitigationplanning@caloes.ca.gov).

## **Frequently Asked Questions**

- Q: If a county is AB 2140 compliant, are its cities automatically covered?  
A: No. Each county and city must:  
a. Have either your own stand-alone LHMP or have an annex in a multi-jurisdiction LHMP.  
b. Adopt your stand-alone LHMP or annex into your own General Plan Safety Element.
- Q: Can a jurisdiction obtain AB 2140 compliance before their LHMP is approved pending adoption?  
A: No. The LHMP must be either approvable pending adoption or approved before you may adopt to obtain AB 2140 compliance.
- Q: Are special districts covered under their county's LHMP since they do not have their own general plan?  
A: No. Special districts are not qualified for AB 2140.
- Q: If a county or city becomes AB 2140 compliant, does this compliance last forever?  
A: No. AB 2140 compliance expires on the day the LHMP expires. You must re-adopt your LHMP into your General Plan Safety Element each time you update your LHMP.
- Q: Once a county or city becomes AB 2140 compliant, are they guaranteed funding?  
A: No. You will be eligible to be considered for additional CDAA funding if the legislature approves it. There is no guarantee of funding.
- Q: Can a city or county adopt their LHMP to obtain AB 2140 compliance at the same time they adopt their LHMP to fulfill the FEMA requirement when the LHMP is approvable pending adoption?  
A: Yes, this is a viable option. It is crucial, however, that Cal OES gets a copy of the adoption resolution to ensure compliance. Your jurisdiction is not compliant until Cal OES has documentation.
- Q: Section 65302.6(a) of the legislation states that certain elements shall be included in the LHMP including an initial earthquake performance evaluation of public facilities, an inventory of potentially hazardous private facilities, and a plan to reduce potential risk. What if a jurisdiction's current LHMP does not include these elements? Do they have to revise the LHMP before we can obtain AB 2140 compliance?  
A: No. These elements are not required at this time. You may consider including these elements in your next LHMP updates.

### **For LHMP and AB 2140 Questions:** [mitigationplanning@caloes.ca.gov](mailto:mitigationplanning@caloes.ca.gov)

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### **For Public Assistance and CDAA Questions:** (916) 845-8200 [DisasterRecovery@caloes.ca.gov](mailto:DisasterRecovery@caloes.ca.gov)