

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2911 (Friedman) – As Amended April 18, 2018

**SUBJECT:** Fire safety.

**SUMMARY:** Makes various changes to fire safety planning efforts, defensible space requirements, and electrical transmission or distribution lines' vegetation clearance requirements with the intent to improve the fire safety of California communities. Specifically, **this bill:**

- 1) Requires, no later than January 31, 2020, the State Fire Marshal (SFM), in consultation with Department of Forestry and Fire Protection (CAL FIRE) and the Director of the Housing and Community Development Department (HCD) to recommend building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk.
- 2) Requires, no later than January 31, 2020, the SFM, in consultation with CAL FIRE and HCD, to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk. Requires CAL FIRE to incorporate the list in its fire prevention education and outreach efforts.
- 3) Requires the list to include instructions on how to replace highly flammable plants with native plant species that are fire retardant, fire resistant, drought tolerant, or any combination thereof.
- 4) Requires a county that contains State Responsibility Areas (SRA) and cities that contain a Very High Fire Hazard Severity Zone (Zone) to submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection (Board) and every local agency that provides fire protection to territory in the city or county on July 1, 2020, and every five years thereafter.
- 5) Authorizes the Board, within 15 days of receipt of notification that its fire prevention recommendations will not be accepted by the local government, to request a consultation, prior to approval of the draft element or amendment, conducted in person, electronically, or by phone. Prohibits the board of supervisors or city council from approving the draft element or draft amendment until after consulting with the Board. Requires the consultation to occur no later than 30 days after the Board's request.
- 6) Requires on or before July 1, 2021, and every five years thereafter, the Board, in consultation with the SFM, to survey local governments, including counties, cities and fire districts to identify existing subdivisions in the SRA or a Zone without a secondary egress route that are at significant fire risk.
- 7) Requires the Board, in consultation with the SFM, and specified local government to develop recommendations to improve the subdivision's fire safety. Authorizes the recommendations to include, but not be limited to, the following:
  - a) Creating secondary access to the subdivision;

- b) Improvement to existing access road; and,
  - c) Other additional fire safety measures.
- 8) Requires the Board to provide the final recommendations developed to the subdivision and applicable local government. Allows the Board to enter into contracts with an independent group to conduct the survey. Requires the Board to maintain a list of the subdivisions and the status of the implementation of the recommendations.
  - 9) Authorizes CAL FIRE to permit an owner of a property to construct a fire break for a radius of up to 300 feet from a structure or to the property line, whichever distance is shorter, if the Director of CAL FIRE determines it is necessary to protect life, property, and natural resources from unreasonable risks associated with wildfire.
  - 10) Updates provisions of law related to the clearance required for electrical transmission or distribution lines.
  - 11) Requires dead, rotten, or diseased trees, or dead, rotten, or diseased portions of otherwise healthy trees that overhang or lean towards and may fall into a line to be felled or pruned so as to remove the hazard. Requires vertical clearance of vegetation directly above conductors to be evaluated, as specified.
  - 12) Allows any person that owns, controls, operates, or maintains any electrical transmission or distribution line to traverse land as necessary, regardless of land ownership, to prune trees to maintain clearances, as specified, and to abate, by pruning or removal, any hazardous dead, rotten, diseased, or structurally defective live trees. Provides that the clearances obtained at time-of-trim shall be at the full discretion of the person that owns, controls, operates or maintains any electrical transmission or distribution.
  - 13) Specifies that reimbursement to local agencies and school districts for those costs shall be made, pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state.
  - 14) Makes a number of findings and declarations.

**EXISTING LAW:**

- 1) Requires, no later than January 1, 2005, the SFM, in consultation with the Director of CAL FIRE and the HCD to recommend building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk.
- 2) Requires the Board to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state [known as the SRA].
- 3) Requires CAL FIRE to identify certain areas outside the SRA as Zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.

- 4) Requires a draft element of or draft amendment to the safety element of a county or a city's general plan to be submitted to the Board and to every local agency that provides fire protection to territory in the city or county at least 90 days prior to either the adoption of the safety element or amendment to the safety element of its general plan for each county that contains SRA or a Zone.
- 5) Requires the Board to review the draft or existing safety element and recommend changes regarding both of the following:
  - a) Land use policy in SRA and Zones that will protect life, property and natural resources from unreasonable fire risk; and,
  - b) Methods and strategies for wildfire risk reduction and prevention.
- 6) Requires local governments to consider recommendations made by the Board and communicate to the Board its reasons for not accepting the recommendations.
- 7) Requires the Board to adopt regulations implementing minimum fire safety standards related to defensible space in the SRA, which apply to buildings, parcel maps, and other developments constructed or approved on or after January 1, 1991. Requires regulations to include all of the following:
  - a) Road standards for fire equipment access;
  - b) Standards for signs identifying streets, roads, and buildings;
  - c) Minimum private water supply reserves for emergency fire use; and,
  - d) Fuel breaks and greenbelts.
- 8) Requires a person who owns, leases, controls, operates, or maintains a building or structure on land that is covered with flammable material to maintain defensible space of 100 feet around the structure.
- 9) Requires CAL FIRE to develop and update a guidance document on fuels management that includes regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat. Requires the guidelines to include suggestions to minimize or eliminate the risk of flammability of non-vegetative sources of combustion, such as woodpiles, propane tanks, decks, and outdoor lawn furniture.
- 10) Authorizes a state or local fire official to permit an owner of a property, or his or her agent, to construct a firebreak, or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, or similar facility on the property. Authorizes the firebreak to be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter.
- 11) Requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or in forest-covered land, brush-covered land,

or grass-covered land during such times and in such areas as are determined to be necessary by CAL FIRE to maintain a clearance in all directions between all vegetation and all conductors, as follows:

- a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet;
  - b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet; and,
  - c) For any line which is operating at 110,000 or more volts, 10 feet.
- 12) Requires dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line to be felled, cut, or trimmed to remove the hazard.
- 13) Authorizes CAL FIRE to permit exceptions to vegetation clearance requirements for persons that own, control, operate, or maintain any electrical transmission or distribution line based upon the specific circumstances involved.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill makes various changes to fire safety planning efforts, defensible space requirements, and electrical transmission or distribution lines' vegetation clearance requirements with the intent to improve the fire safety of California communities. This bill is sponsored by the author.

The provisions specific to local agencies include the following:

- a) Requires a county that contains an SRA and cities that contain a Zone to submit for review the safety element of its general plan to the Board and every local agency that provides fire protection to territory in the city or county on July 1, 2020, and every five years thereafter.
- b) Authorizes the Board, within 15 days of receipt of notification that its fire prevention recommendations will not be accepted by the local government, to request a consultation, prior to approval of the draft element or amendment, conducted in person, electronically, or by phone. Prohibits the board of supervisors or city council from approving the draft element or draft amendment until after consulting with the Board. Requires the consultation to occur no later than 30 days after the Board's request.
- c) Requires on or before July 1, 2021, and every five years thereafter, the Board, in consultation with the SFM, to survey local governments, including counties, cities and fire districts to identify existing subdivisions in the SRA or a Zone without a secondary egress route that are at significant fire risk.
- d) Requires the Board, in consultation with the SFM, and specified local governments, to develop recommendations to improve the subdivision's fire safety.

e) Requires the Board to provide the final recommendations developed to the subdivision and applicable local government. Allows the Board to enter into contracts with an independent group to conduct the survey. Requires the Board to maintain a list of the subdivisions and the status of the implementation of the recommendations.

- 2) **Author's Statement.** According to the author, "Given the devastation of the 2017 wildfire season, it is imperative that we reevaluate and update our current fire safety measures. Over 1 million acres were burned, tens of thousands of infrastructures were destroyed, hundreds were evacuated or displaced from their homes, and 46 individuals lost their lives. In the wake of such destructive fires, California has often enacted responsive measures to try and curtail the risks associated with future wildfires.

"In 1991, CAL-FIRE was required to designate very high fire hazard severity zones in urbanized areas. Currently, more than 40% of California is considered as a high fire risk severity zone. Landowners in these areas must follow specified fire prevention practices. Cities within these areas are also required to adopt a safety element in their general plans to reduce risk and prevent wildfires.

"In 2012, the California Legislature passed SB 1241 (Kehoe) which amended the safety element of the general plan each city is required to adopt to minimize fire risks through wise land use planning. SB 1241 required cities and counties found within high fire hazard severity zones to review and update their safety elements to address fire risks and the Board of Forestry (Board) to review those updates.

"AB 2911 improves the fire safety of communities in high fire risk severity zones by updating past fire safety legislation to better reflect the severe nature of what is now a year-round wildfire season."

- 3) **Arguments in Support.** None on file.
- 4) **Arguments in Opposition.** None on file.
- 5) **Double-referral.** This bill was heard in the Natural Resources Committee on April 16, 2018, and passed on a 7-0 vote.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

None on file

##### **Opposition**

None on file

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958