

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 12 (McGuire) – As Amended May 4, 2021

SENATE VOTE: 31-8

SUBJECT: Local government: planning and zoning: wildfires.

SUMMARY: Imposes additional fire hazard planning responsibilities on local governments, requires counties and cities to make specified findings before taking certain development actions in very high fire risk areas (VHFRA), requires related fire planning and review by multiple state agencies, and creates a grant program for smaller counties and cities to implement this bill's requirements. Specifically, **this bill**:

- 1) Defines VHFRA's to be lands located within a Very High Fire Hazard Severity Zone (VHFHSZ) in the State Responsibility Area (SRA) or the Local Responsibility Area (LRA).
- 2) Defines "wildfire risk reduction standard" to mean the following:
 - a) For a development of any size:
 - i) Existing regulations governing defensible space, vegetation management, fuel modification and building standards promulgated by the State Board of Forestry and Fire Protection (Board), the State Fire Marshal (SFM), and the Building Standards Commission, as specified.
 - ii) A wildland fire hazard assessment and mitigation plan approved by the enforcing agency in accordance with standards adopted by the SFM pursuant to the requirements of this bill.
 - iii) An enforcement program established, funded, and implemented to verify ongoing compliance with i), above, and with a fire protection plan or wildfire hazard mitigation plan, as specified.
 - iv) Regulations relating to the organization and deployment of fire suppression operations, fire protection infrastructure, water supplies for firefighting, and reducing ignition hazards from wildland fire adopted by the SFM pursuant to the requirements of this bill.
 - b) For a development of nine units or more:
 - i) All of the standards applicable to a development of any size.
 - ii) A site-specific fire protection plan designed to protect against fire encroachment, including a layout that reduces wildfire risk to the greatest extent possible, identification of potential on-site shelter-in-place locations, and mechanisms to maintain common areas and open spaces to control vegetative fuels, as specified.

- iii) A condition on the development that all parcels within the development containing structures are subject to an ongoing, permanent fee, tax, or assessment, an assessment through a homeowners' association, or a similar funding mechanism sufficient to ensure that defensible space maintenance is funded and occurs on a schedule so as to comply with this bill's requirements and existing law, as specified.
 - iv) The development shall not be approved unless the city or county finds, based on substantial evidence in the record, that the development can be reasonably accessed and served in the case of a wildfire, with adequate ingress and egress, including, but not limited to, primary and secondary routes and capacity for evacuation and emergency response at the same time.
- c) For developments of 100 or more residential units:
- i) All of the standards applicable to developments of less than 100 units.
 - ii) Additional wildfire risk reduction standards adopted by the SFM pursuant to the requirements of this bill, including all applicable recommendations included in the Office of Planning and Research's (OPR's) 2015 publication of "Fire Hazard Planning – General Plan Technical Advice Series," or conditions imposed by the city or county that provide the same practical effect, as specified.
- 3) Requires, by January 1, 2023, the SFM, in consultation with OPR and the Board, to do all of the following, subject to the Administrative Procedures Act:
- a) Adopt wildfire risk reduction standards for developments in a VHFRA that meet all of the following requirements:
 - i) Account for differences in the size of proposed developments, consistent with the categories of developments established by this bill.
 - ii) When adopting standards for developments that include 100 or more residential dwelling units, incorporate all applicable recommendations included in OPR's 2015 publication of "Fire Hazard Planning–General Plan Technical Advice Series."
 - iii) Include standards for organization and development of fire suppression operations, fire protection infrastructure, water supplies for fire fighting, and reducing structure ignition hazards from wildland fire.
 - iv) Include any additional requirements for fire hardening or similar building standards applicable to structures located in areas without a secondary egress route that are identified by the Board pursuant to existing law, as specified.
 - v) Establish specified community-scale risk reduction measures, including community design and layout and the location and construction of infrastructure to reduce ignition potential and ensure availability of water to fight fires, as specified.
 - vi) Are designed to reduce the risk of catastrophic loss due to wildfire based upon a risk model that uses current wildfire hazard severity information known for the VHFRA's,

- as specified to include the input of mitigating factors and the best available science and objective scientific methodologies.
- vii) Are directly applicable to, and account for, California's climate, weather, topography, and development patterns.
- b) Adopt standards for third-party inspection and certification of defensible space as established by this bill.
- 4) Requires, by January 1, 2024, the SFM, to update the maps of the VHFHSZ, including identifying areas where new residential development poses exceptional risk to future occupants of the development and to fire personnel and other public safety personnel that must access the development during a wildfire.
- 5) Requires the wildfire risk reduction standards and associated rules and regulations required by this bill to be reasonable, and to be feasible and achievable for the majority of developments, as specified.
- 6) Requires the SFM, in developing the standards required by this bill, to: convene a working group of stakeholders including representatives of urban, suburban, and rural counties and cities to assist in the effort; and, consider national standards, as specified.
- 7) Allows the SFM to incorporate some or all of the wildfire risk reduction standards it adopts pursuant to this bill into the fire protection building standards it develops pursuant to existing law or the fire safety regulations adopted by the Board pursuant existing law, as specified.
- 8) Requires OPR, by January 1, 2023, to develop and post on its website clearinghouse local ordinances, policies, and best practices relating to land use planning in VHFRA, wildfire risk reduction, and wildfire preparedness, including any comprehensive retrofit strategies submitted to OPR pursuant to this bill. OPR must also regularly update the clearinghouse.
- 9) Imposes new planning requirements on local governments, as follows:
- a) Requires each city or county, upon the next revision of the housing element or a local hazard mitigation plan (LHMP) on or after July 1, 2024, whichever occurs first, to review and update its safety element to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires that includes:
- i) A list of the types of retrofits needed in an area based on fire risk.
- ii) A process for identifying and inventorying structures in need of retrofit for fire hardening. The strategy shall prioritize the identification and inventorying of residential structures in VHFRA.
- iii) Goals and milestones for completing needed retrofit work.
- iv) Potential funding sources and financing strategies to pay for needed retrofits on public and private property.
- b) Requires the planning agency to submit the adopted comprehensive retrofit strategy to OPR for inclusion in its website clearinghouse.

- c) Requires a city or county with VHFRA within its jurisdiction to amend the land use element of its general plan upon the next revision of the housing element on or after July 1, 2024, to contain all of the following with respect to lands located within a VHFRA:
 - i) The goals contained in the most recent Strategic Fire Plan for California prepared by the California Department of Forestry and Fire Protection (CalFIRE).
 - ii) The locations of all VHFRA within the city or county.
 - iii) The data and analysis described in OPR's most recent publication of "Fire Hazard Planning – General Plan Technical Advice Series."
 - iv) The goals of any LHMP, community wildfire protection plan, and climate adaptation plan that has been adopted by the governing body of the city or county.
 - v) Objectives and policies, based on the goals, data, and analysis identified above, for the protection of lives and property from unreasonable risk of wildfire, as specified.
 - vi) Feasible implementation measures designed to carry out the goals, objectives, and policies established above.
- d) Requires, upon each subsequent revision of the housing element, but not less than once every eight years, each city or county to review all of the following:
 - i) The implementation of the wildfire risk reduction standards established by this bill within the jurisdiction, including making written findings, based upon substantial evidence, regarding whether the city or county has implemented the wildfire risk reduction standards during the preceding planning period, or made adequate progress toward implementing the wildfire risk reduction standards established by this bill.
 - ii) The designation of lands within the jurisdiction as VHFRA pursuant to this bill, including making written findings, based upon substantial evidence, supporting the determinations made in accordance with this bill.
- e) Requires the draft findings required by d), above, 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 adoption by the governing body. The Board shall, and a local agency may, review the draft findings and recommend changes to the city or county within 60 days of its receipt regarding both of the following:
 - i) Whether the city or county has implemented the wildfire risk reduction standards during the preceding planning period, or made adequate progress toward implementing the wildfire risk reduction standards as provided by this bill.
 - ii) Whether the designation of lands within the jurisdiction as VHFRA is appropriate.
- f) Requires, before adopting draft findings required by d), above, the governing body of a city or county to consider recommendations made by the Board and any local agency that provides fire protection to territory in the city or county. If the governing body determines not to accept all or some of the recommendations, it must communicate to the Board or the local agency its reasons for not accepting the recommendations. If the

governing body proposes not to adopt the Board's recommendations, the Board may request a consultation with the governing body to discuss the Board's recommendations and the governing body's response. If the Board requests a consultation, the governing body shall not approve the draft element or draft amendment until after consulting with the Board.

- g) Requires the Board to notify the city or county, and allows the Board to notify the Office of the Attorney General (AG), that the city or county is in violation of state law if the Board finds that the written findings required by d), above, do not substantially comply with this bill's requirements or that the city or county has otherwise failed to comply with this bill's requirements to amend land use elements and zoning ordinances.
 - h) Allows any interested person to bring a civil action to compel compliance with the requirements of d) through g), above.
- 10) Changes, for the 7th and subsequent revisions of the housing element, the regional housing needs allocation (RHNA) process undertaken by Councils of Government (COGs) or the Department of Housing and Community Development (HCD) (where no COG exists) as follows:
- a) Adds to the list of objectives that the RHNA plan must further to include "promoting resilient communities," which includes reducing development pressure within VHFRA's.
 - b) Adds to the list of factors considered in developing the methodology used to allocate regional housing needs to include the amount of land in each jurisdiction that is within a VHFRA, by allocating a lower proportion of housing to a jurisdiction if it is likely that the jurisdiction would otherwise need to identify lands within a VHFRA as adequate sites pursuant to existing law in order to meet its RHNA. In determining whether it is likely the jurisdiction would otherwise need to identify lands within a VHFRA as adequate sites, HCD or the appropriate COG shall consider factors that include, but are not limited to, the following:
 - i) The percentage of land suitable for urban development, as specified, within the jurisdiction that includes a VHFRA.
 - ii) Whether suitable alternative sites exist outside the jurisdiction, but within the region, to accommodate the remaining regional housing need.
 - c) Requires any determination to establish, or not establish, a lower allocation for a jurisdiction containing a VHFRA to be supported by a data-driven analysis demonstrating that the reduced allocation is, or is not, appropriate, including evidence-based consideration of the factors set forth in i) and ii), above.
- 11) Requires each city, including a charter city, or county that contains a VHFRA, within 12 months after revising the land use element of its general plan as required by this bill, to develop a VHFRA overlay zone or otherwise amend its zoning ordinance so that it is consistent with the amended general plan.

- 12) Prohibits, after the amendments to the land use element and zoning ordinances required by this bill have become effective, a city or county that contains a VHFRA from entering into a development agreement or approving any new residential ministerial or discretionary permits, discretionary entitlements, tentative subdivision or parcel maps in VHFRA unless the city or county finds, based on substantial evidence in the record, that the project and all structures within the project are protected from wildfire risk in accordance with the wildfire risk reduction standards established by this bill, or standards adopted by a local jurisdiction that exceed those standards, as specified.
- 13) Establishes a Wildfire Risk Reduction Planning Supports Program (WRRPSG) under CalFIRE, upon appropriation by the Legislature, to provide small jurisdictions that contain VHFRA with grants for planning activities to enable those jurisdictions to meet the requirements of this bill, as specified. Small jurisdictions include a county that had a population of less than 250,000 as of January 1, 2019, or a city located within such a county that contains a VHFRA.
- 14) Specifies that fire safety regulations promulgated by the Board apply to the perimeters and access from the perimeters to all residential, commercial, and industrial building construction within the SRA and to lands classified and designated as VHFHSZ, and requires the regulations to conform as nearly as practicable with the regulations adopted by the SFM pursuant to this bill.
- 15) Makes other technical and conforming changes.
- 16) Provides that no reimbursement is required by this bill 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 bill, as specified.

EXISTING LAW:

- 1) Requires every county and city to adopt a general plan with seven mandatory elements, including a safety element.
- 2) Provides that the safety element's purpose is to protect the community from unreasonable risks from geologic hazards, flooding, and wildland and urban fires.
- 3) Requires the Director of CalFIRE to designate areas of moderate, high, and VHFHSZs.
- 4) Requires landowners in the SRA and VHFHSZs to follow specified fire prevention practices and meet standards developed by the Board.
- 5) Requires the Board to adopt specified minimum fire safety standards applicable to the perimeters and access to all residential, commercial, and industrial building construction within the SRA and lands classified and designated as VHFHSZ.
- 6) Requires OPR to develop and update a fire hazard technical advisory that includes best practices in land use and permitting for fire hazard planning.

FISCAL EFFECT: According to the Senate Appropriations Committee:

Staff notes that the Department of Forestry and Fire Protection (CalFIRE) was unable to provide information on the fiscal impacts of this bill for CalFIRE, the Office of the State Fire Marshal (SFM), and the Board of Forestry and Fire Protection (Board) at the time of this analysis. The impacts noted below are estimates based upon relevant information provided for a nearly identical measure, SB 182 (Jackson, 2019).

- Estimated CalFIRE costs of approximately \$3.5 million in the first year and \$3.1 million annually thereafter for 11.0 PY of staff to review and update regulations in accordance with the bill's requirements. (Greenhouse Gas Reduction Fund – GGRF)
- Unknown significant cost pressures, likely in the millions of dollars annually, to provide WRRPSG Program grant funding to small jurisdictions that contain high fire risk areas for specified planning purposes. Depending upon available resources, CalFIRE could incur additional state operations costs to administer the program. (GGRF or General Fund)
- Estimated SFM costs of up to \$2 million for staff time to review wildfire risk reduction standards, adopt standards for third-party inspections and certifications, and update maps in very high fire hazard severity zones (VHFHSZs). (General Fund)
- Estimated Board costs of approximately \$180,000 annually for 1.0 PY of staff to provide technical assistance and review general plan safety elements. (General Fund)
- The California Air Resources Board (CARB) estimates costs of \$195,000 annually for 1.0 PY of staff to revise its California Climate Investments tracking and reporting system, consult with CalFIRE and update its annual report, website and outreach materials. (GGRF)
- The Governor's Office of Planning and Research (OPR) estimates costs of \$354,000 annually for IT upgrades and 2.0 PY of staff to support the development of risk reduction and third-party inspection standards, provide technical assistance to local agencies, update General Plan guidelines, curate best practices on wildfire preparedness, and post information on the Adaptation Clearinghouse. (General Fund)
- The Department of Housing and Community Development estimates costs of \$178,000 annually to develop the new RHNA methodology and evaluate local agencies compliance with the new objective and factor, as well as provide technical assistance for councils of government developing and revising those methodologies. (General Fund)
- State-mandated local costs for local agencies to comply with the planning mandates in the bill are not reimbursable by the state because affected local agencies have the authority to charge fees to offset any costs related to planning mandates.

COMMENTS:

- 1) **Fire Hazard Severity Zones.** CalFIRE provides wildland fire protection on non-federal lands outside cities. To meet this duty, the Board designates the SRA every five years. Within SRA lands, the Director of CalFIRE designates moderate, high, and VHFHSZs. After the 1991 Oakland-Berkeley firestorm, the Legislature required CalFIRE to designate

VHFHSZs in the LRA. These maps must be updated every five years (current maps date to 2007).

Landowners in the SRA and VHFHSZs must follow specified fire prevention practices and meet standards developed by the Board. These practices and standards include maintaining defensible space of 100 feet around structures, performing certain activities to reduce the amount of flammable material near and on structures, and meeting specific building standards developed by CalFIRE and HCD that help a structure withstand ignition and reduce fire risk. AB 2911 (Friedman), Chapter 641, Statutes of 2018, required the SFM to update these building standards to provide for comprehensive site and structure fire risk reduction by January 1, 2020.

- 2) **Planning and Permitting.** Every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. Most major land use decisions – subdivisions, zoning, public works projects, use permits, and so forth – must be consistent with the general plan. Development decisions must carry out and not obstruct a general plan’s policies.

The Subdivision Map Act regulates how local officials approve the conversion of larger parcels into marketable lots. Major subdivisions – more than four lots – require a discretionary tentative map and a ministerial final map. Minor subdivisions – four or fewer lots, called “lot splits” – usually require a single, discretionary parcel map. In some communities, minor subdivisions require a tentative parcel map and a final parcel map, similar to major subdivisions.

- 3) **Fire-Specific Planning Requirements.** The Planning and Zoning Law provides that the safety element’s purpose is to protect the community from unreasonable risks from geologic hazards, flooding, and wildland and urban fires. In 2012, the Legislature expanded the safety elements’ contents for fire risks on land classified as SRAs and VHFHSZs. SB 1241 (Kehoe), Chapter 311, Statutes of 2012, required safety elements to contain specified information about fire hazards and, based on that information, a set of comprehensive goals, policies, and objectives to protect against unreasonable fire risks. SB 1241 also required safety elements to contain a set of feasible implementation measures to carry out these goals.

Cities and counties must also submit a draft of any safety element amendments to the Board and to local fire protection agencies at least 90 days before adopting it. The Board must review and recommend changes to the draft safety element within 60 days of receiving it. If the Board provides recommendations within this timeframe, local governments must consider its recommendations. If they do not adopt the Board’s recommendations, local governments have to explain why they did not to the Board. Local agencies must meet with the Board on its recommendations if the Board requests, but are not required to adopt the Board’s recommendations. The safety element must also include similar information about risks due to climate change, and goals, policies, objectives, and implementation measures to protect against those risks.

Many local governments have also adopted a LHMP to identify all of the natural hazards that threaten a community, and strategies to mitigate those hazards. The Federal Emergency Management Agency reviews and approves every LHMP, and the LHMP expires five years after it’s approved, unless amended and recertified. Local governments with a compliant

LHMP are eligible for proactive hazard mitigation grants from the federal government, as well as additional post-disaster assistance.

Before a city council or county board of supervisors can approve a tentative map or final map in the SRA or VHFHSZ, it must make findings supported by substantial evidence that: the subdivision is consistent with the Board's applicable regulations or local ordinances certified by the Board as meeting or exceeding the state regulations; and, a local agency or CalFIRE, under contract, will provide structural fire protection and suppression services to the subdivision. Upon making these findings, the city or county must send them, along with the subdivision maps, to the Board.

- 4) **OPR Technical Advisory.** To assist local governments with fire hazard planning, OPR issues a technical advisory series that includes best practices in land use and permitting for fire hazard planning. Additionally, AB 2911 made various changes to fire safety planning, including to direct OPR to update its fire hazard technical advisory and to require the Board to identify at-risk subdivisions not less than every five years. The current technical advisory dates to 2015 and OPR released a draft 2020 update late last year for comment.
- 5) **Board of Forestry Regulatory Update.** Public Resources Code 4290 (PRC 4290) requires the Board to adopt minimum fire safety standards applicable to the perimeters and access to all residential, commercial, and industrial building construction within the SRA and lands classified and designated as VHFHSZ. These standards include:
 - 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.
 - d) Fuel breaks and greenbelts.

SB 901 (Dodd), Chapter 626, Statutes of 2018, expanded the applicability of the regulations promulgated under PRC 4290 to land in the LRA VHFHSZ. SB 901 also revised PRC 4290 to require the Board to more frequently update regulations relating to fuel breaks and greenbelts near communities, and to preserve undeveloped ridgelines to reduce fire risk and improve fire protection. Pursuant to SB 901, the Board is revising its regulations to meet a July 1, 2021 deadline to address fuel breaks, greenbelts, and ridgeline preservation.

Although the regulations are not final, the March 15th draft regulations propose to apply a set of stringent road standards to all new roads, as well as existing public and private roads when approval is sought for the creation of three or more new parcels, zoning changes that increase the intensity of land use, or an application for a change in use permit that proposes to increase use intensity or density. The draft regulations also prohibit construction where access is provided by a road that does not meet minimum standards for a 14-foot width or does not have turnouts every 400 feet, among other conditions.

These draft regulations have generated a significant degree of controversy, both from parties who are concerned they are too stringent and those who believe they are not stringent enough. The Board opened its public comment period on April 23, 2021 and is scheduled to

hold a public hearing on June 22, 2021. The written comment period ends at the conclusion of the public hearing.

- 6) **Author’s Statement.** According to the author, “California’s largest, most destructive, and deadly wildland fires have all taken place in the last decade – with over 38,000 homes and structures destroyed by California wildfires since 2015. As climate change deepens and the hots grow hotter, the hazard wildfire poses to California communities is greater than ever before. We must take decisive action now to save lives. SB 12 presents a comprehensive approach to ensuring data driven, fire-safe development. It does not say that communities cannot develop, but does tell them that they have to do it safely using the new and aggressive wildfire risk reduction standards.

“SB 12 requires local governments to do extensive planning to identify fire risks to their communities. To ensure that local governments have the information they need to do this planning, it requires the Governor’s Office of Planning and Research and the State Fire Marshall to develop best practices and update maps relating to wildfire risk reduction and preparedness. Importantly, SB 12 prohibits local agencies from approving developments that are not adequately protected from fire hazards and do not meet the new standards established in this bill. Finally, SB 12 creates the Wildfire Risk Reduction Planning Support Grants Program to assist jurisdictions to implement the planning activities the bill requires.”

- 7) **Bill Summary.** This bill imposes additional fire hazard planning responsibilities on local governments, requires counties and cities to make specified findings before taking certain development actions in VHFRA, requires related fire planning and review by multiple state agencies, and creates a grant program for small jurisdictions to implement this bill's requirements. This bill requires the following:

- a) By January 1, 2023, the SFM must adopt wildfire risk reduction standards that meet specified requirements and standards for third-party inspection and certification of defensible space.
- b) By January 1, 2024, the SFM must update maps of VHFHSZs and identify areas where new residential development poses exceptional risk to future occupants of the development and to public safety personnel who must access the development during a wildfire.
- c) By January 1, 2023, OPR must identify local ordinances, policies and best practices relating to land use planning in VHFRA, wildfire risk reduction, and wildfire preparedness, and publish those resources on its clearinghouse for climate adaptation information.
- d) Upon the next revision of the housing element or the hazard mitigation plan, on or after July 1, 2024, whichever occurs first, counties and cities must review and update the safety element of their general plans as necessary to include a comprehensive retrofit strategy for existing structures.
- e) Upon the next revision of the housing element on or after July 1, 2024, each county or city that contains a VHFRA must amend the land use element of its general plan to include specified goals, objectives, information, policies, and implementation measures

related to fire hazard planning. Counties and cities must adopt corresponding zoning changes, and are subject to specified restrictions on development actions in VHFRA's unless they make findings that the project and all structures in it are protected from wildfire risk.

- f) Counties and cities must make findings regarding their progress in implementing wildfire risk reduction standards and designating lands as VHFHSZs, and submit those findings to the Board and local agencies that provide fire protection in the area. The Board must review these findings and recommend changes. The Board must notify the county or city, and may notify the AG, that the county or city is violating state law if the Board determines that the county's or city's findings do not substantially comply with the requirements of this bill.
- g) For the 7th and subsequent revisions of the housing element, RHNA plans must further the objective of promoting resilient communities, which includes reducing development pressure within VHFRA's. The factors used to develop the RHNA methodology must include the amount of land in each jurisdiction that includes a VHFRA, and whether suitable alternative sites exist outside the jurisdiction, but within the region, to accommodate the remaining regional housing need. Any determination to establish, or not establish, a lower allocation must be supported by a data-driven analysis demonstrating that the reduced allocation is, or is not, appropriate.

This bill specifies that fire safety regulations promulgated by the Board apply to the perimeters and access from the perimeters to all residential, commercial, and industrial building construction within the SRA and to lands classified and designated as VHFHSZ, and requires the regulations to conform as nearly as practicable with the regulations adopted by the SFM pursuant to this bill.

This bill also creates a grant program administered by CalFIRE to distribute grant funds to small jurisdictions to fund local planning activities necessary to meet the requirements of this bill. "Small jurisdiction" is defined as a county with a population of less than 250,000 as of January 1, 2019, or a city located in such a county.

This bill is sponsored by the author.

- 8) **SB 182 Redux.** This bill is largely identical to SB 182 (Jackson) of 2020, except that this bill:
 - a) Requires primary and secondary routes for simultaneous evacuation and fire response, instead of requiring "adequate ingress and egress."
 - b) Provides a longer period for local governments to demonstrate adequate progress towards meeting the fire response standards, water infrastructure requirements, and defensible space enforcement programs.
 - c) Adds changes to the statute relating to the Board regulations.
 - d) Delays implementation of the RHNA provisions until the seventh housing element cycle.

e) Delays other implementation dates based on the later introduction of this bill.

- 9) **Policy Consideration.** The Committee may wish to consider the following: According to the Senate Governance and Finance Committee’s analysis of this bill, “Many local agencies are deeply concerned that the draft fire safe regulations currently being developed by the Board will require prohibitively expensive upgrades to many miles of existing roads. They worry that without information on how many roads qualify as substandard, the Board may adopt regulations that effectively put large swaths of the state off-limits for building anything, including wildfire rebuilds.

“SB 12 amends PRC Section 4290 to limit the Board of Forestry’s regulations for subdivision design to access from the perimeters of a parcel to the buildings on that parcel, instead of also regulating access along public roads to the parcel. This interpretation is consistent with how the Board historically interpreted its authority: the Board approved local ordinances that included exemptions for existing roads as consistent with PRC Section 4290 until its reviews in 2020. However, this would substantially narrow the scope of the Board’s regulations relative to their current draft.

“SB 12 also requires the Board’s regulations to conform as nearly as practicable to the wildfire risk reduction standards in the bill, which ensures consistency between the sets of regulations adopted by the Board and the State Fire Marshal, and prevents the regulations from conflicting. But it may also mean that the Board’s regulations have to be amended to match the tiers of development size in SB 12, potentially loosening the requirements that apply to smaller projects. Other participants in the Board’s regulatory process believe the current draft regulations are not strict enough and worry that SB 12 would undermine the protectiveness of the Board’s current draft regulations.”

According to the Senate Committee on Natural Resources and Water, “(This Committee) generally exercises jurisdiction over departments, commissions and boards within the California Natural Resources Agency, including CALFIRE and the Board. As noted in a previous section, this bill, by proposing to qualify ‘access’ to ‘access from the perimeters’ in PRC 4290, appears to significantly limit and undercut the Board’s current draft regulations that seek to implement fire safe standards for roadways, including turnout and width requirements, between parcels to help provide for evacuation in the event of a wildfire in very high fire risk areas.”

The Committee may wish to consider whether it is premature to amend PRC 4202 while the Board’s regulatory process is still underway.

- 10) **Related Legislation.** AB 1295 (Muratsuchi) of 2021 prohibits a city or county from entering into a residential development agreement for property located within a VHFRA. AB 1295 is pending in this Committee.

SB 55 (Stern) of 2021 prohibits residential development in the VHFHSZ unless local agencies adopt a wildfire prevention strategy that mitigates significant risks of loss, injury, or death. SB 55 is pending in the Senate Governance and Finance Committee.

11) **Previous Legislation.** SB 182 (Jackson) of 2020 was nearly identical to this bill. SB 182 was vetoed by the Governor with the following message:

“I strongly support strengthening land use planning requirements in order to better protect our communities from wildfire. The importance of reducing the number and impact of fires in our communities cannot be overstated. However, this bill creates inconsistencies, duplicates existing requirements, creates a loophole for regions to not comply with their housing requirements, fails to account for consequences that could increase sprawl and places significant cost burdens on the state.

“New state laws and policies are already directing housing to communities near transit, jobs and urban centers and away from fire risk areas, including integration into the current housing planning cycle. Additionally, the 2019-20 Budget requires the California Department of Housing and Community Development, in collaboration with the Governor's Office of Planning and Research, to develop recommendations to improve the regional housing need allocation process to promote and streamline housing development to address California's housing shortage. Wildfire resilience must become a more consistent part of land use and development decisions. However, it must be done while meeting our housing needs.”

SB 474 (Stern) of 2020 would have prohibited the creation or approval of a new development in a VHFHSZ or a SRA. SB 474 was held in this Committee.

12) **Arguments in Support.** The California Fire Chiefs Association and the Fire Districts Association of California write, “California has experienced the largest and most destructive wildfires during the last decade with over 38,000 homes destroyed. As these wildfires accelerate in terms of frequency and ferocity, 2 million homes are located in high- risk fire zones. Concurrently, land use decisions are being approved every day which increases the number of homes at risk in these areas.

“Senate Bill 12 would require local governments to do planning to identify fire risks and develop fire risk reduction programs before greenlighting development projects. The fire-safe planning component would include provision for emergency ingress and egress routes, firebreaks, defensible space maintenance and vegetation management. Further, the bill creates a Wildfire Risk Reduction Planning Support Grants Program to assist local agencies implement planning activities set forth in the bill. Senate Bill 12 does not prevent local agencies from approving development projects. However, it does provide a workable approach and standards to protect the residents from fire hazards.”

13) **Arguments in Opposition.** A coalition of opponents, including the California Building Industry Association, the California Business Properties Association, the California Forestry Association, the California Chamber of Commerce, the California Builders Alliance, Associated General Contractors, the California Apartment Association and others state, “SB 12 is another legislative measure myopically focused on a single objective that will further curtail housing production. Every year, state lawmakers enact a host of legislative measures myopically focused on specific objectives that directly or indirectly curtail housing production, whether pertaining to agricultural land preservation, toxics chemicals in the soil or air, gentrification, displacement, wetlands preservation, habitat conservation, sea level

rise, seismic safety, flood prevention, federally owned lands, protecting tribal cultural resources, or a myriad of other concerns that legislators feel obliged to address.

“As this year’s SB 1(Atkins) points out, sea level rise will cause more damage than wildfires and earthquakes. These new laws quickly become the tools of those opposed to housing for ulterior reasons such as NIMBYs. Unfortunately, failure to adequately consider the need that hardworking Californians have for housing that they can afford produces unbalanced and unreasonable results. This myopia is precisely what has produced the current housing crisis.”

14) **Double-Referral.** This bill is double-referred to the Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Cal Fire Local 2881
California Fire Chiefs Association
Fire Districts Association of California
Mountain Housing Council of Tahoe Truckee
Sierra Business Council
Sonoma Land Trust
Tree Care Industry Association

Support If Amended

Sustainable Tamalmonite

Opposition

American Wood Council
Associated General Contractors
Building Industry Association of Southern California
California Apartment Association
California Association of Realtors
California Builders Alliance
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Forestry Association
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Engineering Contractors' Association
Folsom Chamber of Commerce
Greater Irvine Chamber of Commerce
Home Builders Association of the Central Coast
Los Angeles County Business Federation
North Orange County Chamber

Orange County Business Council
Rancho Cordova Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Regional Builders Exchange
San Gabriel Valley Economic Partnership
South Orange County Economic Coalition
Southern California Contractors Association
Southern California Leadership Council
The Two Hundred
United Chamber Advocacy Network
Ventura County Coalition of Labor, Agriculture and Business
Yuba Sutter Chamber of Commerce

Oppose Unless Amended

Orange County Council of Governments

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