

Date of Hearing: June 27, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1260 (Jackson) – As Amended June 18, 2018

SENATE VOTE: 36-0

SUBJECT: Fire prevention and protection: prescribed burns.

SUMMARY: Makes various changes related to local fire planning, prescribed fire requirements, and broader fire prevention efforts. Specifically, **this bill:**

- 1) Makes numerous findings related to fire, prescribed fire, wildfires, and forests.
- 2) Requires a local agency to transmit a copy of its adopted ordinance designating very high fire hazard severity (VHFHS) zones to the Board of Forestry and Fire Protection (Board).
- 3) Eliminates an obsolete schedule for cities and counties to update the safety elements of their general plans.
- 4) Requires a city or county that contains either State Responsibility Area (SRA) or VHFHS zones to notify the Board if it takes action to adopt or amend the safety element of its general plan.
- 5) Requires, upon approving a tentative map or a parcel map for an area located in either the SRA or VHFHS zone, the local agency to transmit a copy of the minimum fire safety standards findings required and accompanying maps to the Board.
- 6) Declares that compliance with the Department of Forestry and Fire Protection (CAL FIRE) burning agreement is constituted prima facie evidence of due diligence.
- 7) Authorizes a person with a CAL FIRE burn permit to use fire to abate a fire hazard.
- 8) Requires CAL FIRE to actively engage the University of California Extension Services, fire safe councils, resource conservation districts, and any other entity with demonstrated expertise to enhance its public education efforts regarding fire prevention and public safety.
- 9) Requires CAL FIRE to establish a grant program, upon appropriation by the Legislature, which may include a cost-share program with local governments.
- 10) Renames CAL FIRE burning contracts as burning agreements, revises and simplifies requirements, and clarifies that burning agreements can be executed with the federal government.
- 11) Requires, on or before January 1, 2021, the State Fire Marshal (SFM) to develop a curriculum, or amend into an existing curriculum, a certification program for fire bosses for both CAL FIRE and private prescribed fire users.

- 12) Authorizes, until January 1, 2039, a person possessing a valid fire boss certification as approved by the California Incident Command Certification System or the National Wildlife Coordinating Group to apply for a CAL FIRE burn permit on behalf of a landowner.
- 13) Requires CAL FIRE to cooperate with private and public landowners in prescribed fire activities, including, but not limited to, site preparation, and other preburn planning and activities.
- 14) Requires, to the extent feasible and only in portions of the state, the Board's vegetation treatment program (VTP) programmatic environmental impact report (PEIR), when certified, to serve as the programmatic environmental document for prescribed fires initiated by CAL FIRE or by persons conducting prescribed fires with a CAL FIRE burn permit.
- 15) Requires CAL FIRE and the Air Resources Board, in coordination with local air pollution control and air quality management districts to develop and fund a program, upon appropriation by the Legislature, to enhance air quality and smoke monitoring, and to provide a public awareness campaign regarding prescribed burns.

EXISTING LAW:

- 1) 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).
- 2) Requires CAL FIRE to identify certain areas outside the SRA as VHFHS zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Requires a draft element of, or draft amendment to the safety element of, a city's or a county 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 VHFHS zone.
- 4) 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 VHFHS zones that will protect life, property, and natural resources from unreasonable fire risk; and,
 - b) Methods and strategies for wildfire risk reduction and prevention.
- 5) Requires local governments to consider recommendations made by the Board and communicate to the Board its reasons when not accepting the recommendations.
- 6) 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.
- 7) 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.
- 8) Authorizes CAL FIRE to enter into an agreement, including a grant agreement, for prescribed burning or other hazardous fuel reduction. Authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction on wild lands.
- 9) Requires any contract entered into as part of CAL FIRE's burning contracts to do all of the following:
- a) Vest in the Director of CAL FIRE the final authority to determine the time the burn will happen;
 - b) Clearly state the obligation of each party to the contract;
 - c) Designate an officer of CAL FIRE to be the fire boss with final authority to approve and amend the plan and formula for the prescribed burn;
 - d) Specify the duties and any required precaution for the person contracting with CAL FIRE;
 - e) Specify the value of all materials, services, or equipment provided by the person contracting with CAL FIRE, and the total cost of the prescribed burn operation or other hazardous fuel reduction. Requires any person contracting with CAL FIRE to place a deposit for their cost share prior to commencement of any work; and,
 - f) Authorize CAL FIRE to purchase third-party liability insurance to cover against loss resulting from a wild land fire sustained by any personal or public agency. Require the policy to name the person CAL FIRE is contracting with. If CAL FIRE does not purchase third-party liability insurance, they must then indemnify or hold harmless the person CAL FIRE is contracting with for any liability arising out of the prescribed burn contract.
- 10) Authorizes a person, firm, or corporation to apply to CAL FIRE to utilize prescribed burning for a public purpose. Authorizes CAL FIRE to issue a burn permit. Requires the permit to specify the site preparation requirements and required precautions to be exercised prior to burning.

- 11) Declares a person who allows a fire burning upon his or her property to escape to the property of another, whether privately or publicly owned, without exercising due diligence to control such fire, is liable for the damages to the other property caused by the fire.
- 12) Authorizes any public agency authorized to engage in fire protection activities, including a fire protection district, city, city and county, county, CAL FIRE, or the United States Forest Service to use fire to abate a fire hazard.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill contains one-time costs of approximately \$2 million (General Fund) and ongoing costs of under \$2 million for staff and resources needed to implement the bill.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** SB 1260 is an omnibus fire prevention and forestry management bill, and is sponsored by the author. This bill authorizes federal, state, and local agencies to engage in collaborative forestry management, creates new opportunities for public and private land managers to mitigate wildfire risks, and enhances CAL FIRE's role in identifying wildfire hazards as local governments plan for new housing and neighborhoods.

According to the author, "In 2017, California experienced the largest and most destructive wildfire season in its history. Nearly 9,000 wildfires ignited across the state, burning 1.2 million acres of land, destroying more than 10,800 structures, and killing at least 44 people. Five of California's most destructive wildfires on record occurred in 2017, including the Thomas Fire, which is now the largest recorded fire in California history.

"Unfortunately, 2017 does not appear to be an abnormality. To the contrary, most of California's largest wildfires have occurred within the past 30 years. Changing climate patterns have made our state more vulnerable to wildfire, with massive tree die-offs due to years of drought and widespread insect infestations, year-round fire weather conditions, and critical levels of fuels accumulation, all combining to create severe fire risks throughout the state. Indeed, the National Interagency Fire Center's Predictive Outlook for 2018 is forecasting above normal large fire potential in California due to the persistence of dry fuels, frequent offshore winds, and generally unfavorable weather.

"As the Little Hoover Commission concluded in its February 2018 report entitled "Fire on the Mountain: Rethinking Forest Management in the Sierra Nevada," California's forests are reaching a breaking point. Poor management policies that interrupted natural forest lifecycles, combined with climate change, have left our forests vulnerable to catastrophic wildfires.

"SB 1260 is an omnibus fire prevention and forestry management bill that will promote long-term forest health and wildfire resiliency. This bill authorizes federal, state, and local agencies to engage in collaborative forestry management, creates new opportunities for public and private land managers to mitigate wildfire risks, and enhances CAL FIRE's role in identifying wildfire hazards as local governments plan for new housing and neighborhoods."

- 2) **Background.** The 2017 fire season was devastating. Over 1.3 million acres burned in high-severity wildfires and over 10,000 structures were destroyed. Fire has always been present in California landscapes either occurring by lightning strikes or used by Native American tribes to preserve certain useful plants and prevent larger fires. Low-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of plants and trees. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity. However, after a century of fire exclusion, logging of older growth and more fire-resistant trees, and a significant five-year drought, the size and severity of California's fires has increased dramatically. Climate change has also contributed to wildfire risk by reducing humidity and precipitation and increasing temperatures.

California's forests have become overstocked and unhealthy. In the Stanislaus National Forest, a team of UC Berkeley researchers found a density of 400 trees per acre in 2013, compared with 60-90 trees per acre found in historical reports from 1911. In addition, the researchers found more undergrowth species, and a smaller average tree size than in 1911. From 2014 to 2017 over 129 million trees have died due to a combination of drought and bark beetles. New research by UC Berkeley states "these dead trees have created unprecedented levels of fuel, which could create dangerous wildfires in the near future that are beyond the predictive capacity of current fire models."

In 2016-17 California experienced a record level of precipitation, which caused an unprecedented growth in grasses and shrubs throughout California. During the summer of 2017 extended heat waves dried out the newly grown vegetation. In the fall and winter of 2017 high winds and low humidity created the conditions that led to major fires in Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Riverside, San Diego, Solano, Sonoma, Ventura, and Yuba counties. This included the Thomas fire, which was the largest wildfire in California history. Between October and December wildfires caused the tragic loss of 44 lives, which is more than the last 10 years combined. Many places in California experienced the worst air quality on record, including for deadly particulate matter 2.5. These massive fires also created significant amounts of greenhouse gas (GHG) emissions. The 2017 wildfires produced more GHG emissions than every car, truck, and big rig on the state's roads in one year.

Reports on forest health have also been released by the Public Policy Institute and the Little Hoover Commission. Both advocate for more active management of California's forests, including increased use of prescribed fire. Last year, CAL FIRE received a \$200 million appropriation from the Greenhouse Gas Reduction Fund (GGRF) for forest health and fire prevention, a significant increase from the prior year. CAL FIRE is in the process of reviewing proposals for landscape level forest health projects and developing guidelines for a local assistance fire prevention program. Even with these additional resources and attention, high-severity wildfires are an increasing threat in California.

- 6) **Double-referral and Amendments.** The Natural Resources Committee will hear the bill on Monday, June 25th, and is proposing the following amendments, which will be adopted in this Committee due to timing:

- a) Authorize the Board to require consultation with a board of supervisors or city council that does not adopt the board's recommendations concerning its draft element or draft amendment;
 - b) Declare, in addition to CAL FIRE agreements, CAL FIRE burn permits constitute prima facie evidence of due diligence;
 - c) Clarify that persons using a CAL FIRE burn permit are not authorized to use fire to abate a fire hazard during an active fire incident;
 - d) Remove the requirement that CAL FIRE establish a local assistance grants program;
 - e) Remove limitations on the Board's VTP PEIR, and instead state it is the intent of this bill that additional consideration be provided for coastal sage scrub and chaparral plant communities; and,
 - f) Other technical corrections.
- 8) **Double-Referral.** This bill is double-referred to the Natural Resources Committee, where it was heard on June 25, 2018, and passed on a 10-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Big Sur Land Trust
California Air Pollution Control Officers Association
California Association of Resource Conservation Districts
California Cattlemen's Association
California Municipal Utilities Association
California State Association of Counties
The Nature Conservancy
Rural County Representatives of California
Save the Redwoods League
Sonoma County Agricultural Preservation and Open Space District
Sonoma County Water Agency
Western United Dairymen
Wildlands Conservancy

Opposition

None on file

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