



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
May 14, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Wengraf
Subject: Letter in Support of AB 38

RECOMMENDATION

Send a letter of support for AB 38 Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund (Wood) to Assemblymember Wood, with copies to Senator Skinner, Assemblywoman Wicks and Governor Newsom.

FINANCIAL IMPLICATIONS

None

BACKGROUND

AB 38 will create a Community Fire Preparedness Council to step up the pace and broaden the scale of California's fire preparedness. This council will be responsible for reviewing and approving community wildfire protection plans; developing best practices for emergency alert and evacuation procedures; creating and executing statewide fire preparedness public education campaigns and promoting, organizing and supporting community fire evacuation drills. This bill will also create regional Community Fire Preparedness Councils in higher-fire severity zones so that they can respond to specific local needs including developing community wildfire protection plans, developing vegetation management ordinances, performing defensible space inspections on both public and private land and providing education and technical assistance for landowners and residents to improve fire safety.

The bill will also create the state's Fire Hardened Homes Revolving Loan Fund of \$1 billion to be used for no- or low-interest loans for homeowners to replace or install items such as ember-resistant vents, install fire-resistant roofing and siding or use the funds to create a noncombustible zone three feet around homes or remove trees within 100 feet of a home.

And finally, AB 38 will require the Community Fire Preparedness Council to develop a list of construction features that must be retrofitted, or built into new construction, in high and very high fire severity zones including features such as fire-resistant roofing and siding, vent screens and any other feature the Council deems critical for home protection. These features, once approved, would be required for all homes and commercial buildings beginning January 1, 2024.

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ENVIRONMENTAL SUSTAINABILITY

If passed, AB 38 would lower the likelihood of wildfire and its accompanying GHGs.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

- 1: [AB 38](#)
- 2: Letter in support
- 3: [Latest update by Assembly Committee on Natural Resources](#)



California
LEGISLATIVE INFORMATION

AB-38 Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund. (2019-2020)

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 10, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 38

Introduced by Assembly Member Wood

December 03, 2018

An act to add Section 1102.19 to the Civil Code, to add Article 4.3 (commencing with Section 8580) to Chapter 7 of Division 1 of Title 2 of the Government Code, and to add Division 33 (commencing with Section 55500) to the Health and Safety Code, relating to fire safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 38, as amended, Wood. Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund.

(1) Existing law, the California Building Standards Law, requires the State Fire Marshal to develop, and the California Building Standards Commission to review, building standards to implement the state's fire and life safety policy.

Existing law requires the Director of Forestry and Fire Protection to designate specified areas as very high fire hazard severity zones. Existing law requires the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend building standards for very high fire hazard severity zones to protect structures and vegetation from fires spreading from adjacent structures or vegetation. Existing law requires persons who own, lease, control, operate, or maintain dwellings or occupied structures in these designated areas to comply with specified requirements, including complying with all applicable state and local building standards. Existing law makes a violation of these provisions a crime.

Existing law requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material to maintain defensible space around the building or structure and to maintain vegetation and other fuel loads, as specified.

This bill would establish the State Wildfire Preparedness Board, consisting of specified members, and would prescribe the responsibilities of the state board with regard to the state's fire preparedness. The bill would divide the state's very high fire hazard severity zones into 18 regional wildfire prevention districts, which are advisory bodies to the State Wildfire Preparedness Board, as provided. The bill would prescribe the duties of the districts, including, among others, the promotion, organization, and support for the implementation of regional community fire evacuation drills.

~~(2) Existing law requires the State Fire Marshal to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures.~~

(2) Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining certain property to comply with certain defensible space requirements. Under existing law, the California Building Standards Commission has adopted regulations regarding materials and construction methods for exterior wildfire exposure.

This bill would, on or after July 1, 2025, require a seller of a building in a very high fire hazard severity zone to ~~provide to the buyer a certificate certifying that the low-cost retrofits developed by the State Fire Marshal have been undertaken on the building. The bill, prior to July 1, 2025, would require the State Fire Marshal to submit to the Legislature for approval the list of low-cost retrofits compiled by the State Fire Marshal; attest, under the penalty of perjury, certain facts related to compliance with defensible space requirements and those regulations. Because the attestation would be submitted under the penalty of perjury, this bill would impose a state-mandated local program.~~

(3) Existing law authorizes local agencies, upon making specified findings, to provide low-interest loans to the owners of buildings within their jurisdiction for the purpose of making seismic safety upgrades to eligible buildings, as defined, to meet current earthquake safety codes. Existing law authorizes these local entities to issue bonds to finance these loans that are secured by a lien on the subject property.

This bill would establish the Fire Hardened Homes Revolving Loan Fund in the State Treasury, as specified. The bill would transfer \$1,000,000,000 from the General Fund to the new fund for the purposes of the bill. Moneys in the fund would be available, upon appropriation by the Legislature, to ~~an unspecified state agency to distribute to local agencies for the purpose of funding no- or low-interest loans made by those agencies~~ *the California Statewide Communities Development Authority to provide financial assistance* to owners of eligible buildings to pay for eligible costs of fire ~~hardening; hardening, as specified.~~ The bill would provide that financing under this program, along with other liens on the subject property, could not exceed 80% of the appraised value of the property. The bill would define terms for its purposes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEYVote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes**BILL TEXT****THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:****SECTION 1.**

The Legislature finds and declares all of the following:

- (a) Climate change has resulted in higher year-long temperatures and increasing dry weather conditions in California, resulting in extended, sometimes multiyear, droughts; extended wildfire seasons throughout the year, with higher temperatures during dry season conditions; and impacts on vegetation wildfire fuel loads and increasing decay and loss of vegetation due to insect infestations and plant diseases.
- (b) Wildfires have grown larger and have increased in intensity over the last several decades. As compared with 1986, wildfires in the western United States have occurred nearly four times more often, burning more than six times the land area and lasting almost five times as long. Through the end of the 2017 calendar year, 11 of the 20 most destructive wildfires in California have occurred in the last 10 years. The 2018 calendar year witnessed the most destructive wildfires in California history in terms of the loss of life and structures.
- (c) In terms of the size of wildfires, in the last decade, enormous wildfires have consumed vast areas, including the 2013 Rim Fire impacting national park and national forest lands, the 2017 Napa Valley, Sonoma Valley, and Santa Rosa wildfires, the 2017 Thomas Fire impacting 200,000 acres, and the 2018 Camp Fire.
- (d) Wildfires, which have impacted occupied areas, have resulted in enormous human and financial costs, including the following:
- (1) The 1991 Berkeley-Oakland Tunnel Fire, which resulted in 25 deaths, the loss of more than 3,000 homes, and a total financial loss of \$1.5 billion in 1991 United States dollars.
 - (2) The 2003 San Diego Cedar Fire, which resulted in 15 deaths and the loss of 2,000 structures.
 - (3) The 2017 Tubbs Fire, which resulted in 22 deaths, the loss of 5,643 structures, and a total financial loss of approximately \$1.3 billion in 2017 United States dollars.
 - (4) The 2017 Thomas Fire, which resulted in two deaths, the loss of more than 1,000 homes, and a total financial loss of approximately \$2.2 billion in 2018 United States dollars.
 - (5) The 2018 Camp Fire, which resulted in 89 deaths, the loss of 18,804 structures, and at least \$12.4 billion in 2018 United States dollars in insured losses.
- (e) More than 2,000,000 California households, approximately one in four residential structures in California, are located within or in wildfire movement proximity of “high” or “very high” fire hazard severity zones identified on maps drawn by the Department of Forestry and Fire Protection. Additionally, areas subject to seismic risks confront the likelihood that wildfires could result from downed power lines and ruptures of natural gas lines caused by earthquakes.
- (f) There is a pressing need for wildfire prevention and minimization strategies, on an area-specific basis, that combine increased wildfire resistance within developed areas to minimize wildfire impacts with comprehensive vegetation management measures in wildlands to prevent or severely limit large-scale wildfires from developing and spreading as follows:
- (1) Wildfire minimization programs. Developed areas need to carry out comprehensive urban vegetation management programs to reduce vegetation wildfire fuel loads within developed areas. Further, there is a need to provide funding for the hardening of homes and other structures to increase their resistance to wildfires.
 - (2) Wildfire prevention programs. Comprehensive wildlands vegetation management, responsive to the widely varying vegetation conditions throughout California, is required to reduce vegetation wildfire fuel

loads, in relation to the flammability of different vegetation types, to the maximum extent feasible to prevent or severely limit the spread of wildfires.

(3) Wildfire response planning. Area-specific plans should include measures needed to include planning for safe wildlands access for firefighters to the maximum extent feasible.

(g) The diversity of vegetation and development patterns through the state necessitate a geographic approach to planning and implementing wildfire prevention and minimization strategies with fire prevention management agencies covering the geographic areas in which wildfires have or may occur.

(h) Local public agencies have made efforts to prevent wildfires, but, in many instances, lack the expertise, authority, or the financial resources to undertake or complete the tasks at hand.

(i) Wildfires do not respect jurisdictional boundaries or property lines.

⊕

(j) Regional wildfire prevention districts designed to address the widely varying vegetation and development characteristics of our diverse state and to ensure that the districts have the expertise, authority, and funding to reduce the threat of wildfires on all lands, public and private, in the wildland urban interface should be established.

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(k) The coordination of planning and implementation with federal lands agencies, such as the United States Forest Service and the United States National Park Service, should take place primarily at the state and regional district level as necessary.

SEC. 2.

Section 1102.19 is added to the Civil Code, to read:

1102.19.

~~(a) On and after July 1, 2025, a seller of a building in a very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, shall provide to the buyer a certificate certifying that low-cost retrofits compiled and listed pursuant to Section 51189 of the Government Code have been undertaken on the building; attest, under the penalty of perjury, and to the best of their knowledge or belief, both of the following:~~

~~(b) Prior to July 1, 2025, the State Marshal shall submit the list compiled pursuant to subdivision (c) of Section 51189 of the Government Code to the Legislature for approval.~~

(a) The property is in compliance or arrangements have been made to bring the property into compliance with the requirements of Section 51182 of the Government Code.

(b) The roof, gutters, attic ventilation, eaves, eave and cornice vents, and underfloor and appendages have been retrofitted, or arranged to be retrofitted to comply with the requirements of Chapter 7A (commencing with Section 701A.1) of Part 2 of Title 24 of the California Code of Regulations.

SEC. 3.

Article 4.3 (commencing with Section 8580) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 4.3. State Wildfire Preparedness Board

8580.

(a) The State Wildfire Preparedness Board is hereby established in state government, consisting of the following members:

(1) The Director of Emergency Services, or the director's designee.

(2) The Secretary of the Natural Resources Agency, or the secretary's designee.

(3) The Director of Forestry and Fire Protection, or the director's designee.

(4) The Secretary of Transportation, or the secretary's designee.

(5) The Secretary of California Health and Human Services, or the secretary's designee.

(6) The State Fire Marshal, or the State Fire Marshal's designee.

(7) The Director of the Office of Planning and Research, or the director's designee.

(8) The Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee.

(9) (A) A member of the public with expertise in fire science appointed by the Governor.

(B) The member appointed pursuant to this paragraph shall serve at the pleasure of the Governor.

(10) (A) A member of the public with expertise in fire science appointed by the Senate Committee on Rules.

(B) The member appointed pursuant to this paragraph shall serve a two-year term.

(11) (A) A member of the public with expertise in fire science appointed by the Speaker of the Assembly.

(B) The member appointed pursuant to this paragraph shall serve a two-year term.

(b) The State Wildfire Preparedness Board shall do all of the following:

(1) Convene a meeting of its members and one representative from each of the regional wildfire prevention districts, established pursuant to Section 8580.2, at least twice per year to provide technical assistance, review best practices, and receive reports on the progress and obstacles to fire prevention work from the regional wildfire prevention districts.

(2) Actively seek opportunities for interagency collaboration and efficiencies.

(3) Review and approve the regional wildfire protection plans prepared by each regional wildfire prevention district.

(4) Create and implement a statewide fire preparedness public education campaign.

8580.2.

(a) The state's very high fire hazard severity ~~zones~~ *zones, designated pursuant to Section 51178 or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code*, are divided, for purposes of this article, into 18 regional wildfire prevention districts as follows:

(1) District 1, which comprises the Counties of Del Norte, Humboldt, and Mendocino.

(2) District 2, which comprises the Counties of Shasta, Siskiyou, and Trinity.

(3) District 3, which comprises the Counties of Lassen, Modoc, and Plumas.

(4) District 4, which comprises the Counties of Butte, Glenn, and Tehama.

(5) District 5, which comprises the Counties of Nevada, Sierra, and Yuba.

(6) District 6, which comprises the Counties of Amador, El Dorado, and Placer.

(7) District 7, which comprises the Counties of Colusa and Lake.

(8) District 8, which comprises the Counties of Marin, Napa, Solano, and Sonoma.

(9) District 9, which comprises the Counties of Alameda and Contra Costa.

(10) District 10, which comprises the Counties of San Mateo, Santa Clara, and Santa Cruz.

(11) District 11, which comprises the Counties of Merced, Monterey, and San Benito.

(12) District 12, which comprises the Counties of Alpine, Calaveras, and Tuolumne.

(13) District 13, which comprises the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(14) District 14, which comprises the Counties of Fresno, Madera, and Mariposa.

(15) District 15, which comprises the Counties of Kern and Tulare.

(16) District 16, which comprises the County of Los Angeles.

(17) District 17, which comprises the Counties of Orange and San Bernardino.

(18) District 18, which comprises the Counties of Riverside and San Diego.

(b) Each regional wildfire prevention ~~district, which is an advisory body to the State Wildfire Preparedness Board, district~~ shall be governed by a board with members ~~who are residents of the counties comprising the district and appointed by the State Wildfire Preparedness Board.~~ *consisting of the following:*

(1) A member representing each constituent county in the regional wildfire prevention district selected by the board of supervisors of the county.

(2) A member from a fire safe council within the regional wildfire prevention district selected by the California Fire Safe Council.

(3) A member from each resource conservation district within the regional wildfire prevention district.

(4) A member from the regional office of the Department of Forestry and Fire Prevention within the regional wildfire prevention district.

(5) A member with fire science expertise from a campus of the University of California within, or closest to, the regional wildfire prevention district selected by the President of the Regents of the University of California.

(6) A member from the sheriff's department of each of the county within the regional wildfire prevention district.

~~8580.4.~~

~~Each regional wildfire prevention district shall do all of the following:~~

~~(a) Establish an office.~~

~~(b) Select one of its board members as chairperson at the first regular meeting held each year.~~
~~(c) Employ individuals with knowledge in wildfire prevention and types of fire-related vegetation commonly found in the district as staff of the district.~~
~~8580.6-8580.4.~~

Each regional wildfire prevention ~~district~~ *district, upon appropriation by the Legislature*, shall do all of the following:

(a) Establish an office.

(b) Select one of its board members as chairperson at the first regular meeting held each year.

(c) Develop a region-specific wildfire prevention and preparedness plan that shall include all of the following:

(1) A region specific vegetation management ordinance that could be adopted by the relevant jurisdictions within the regional wildfire prevention district.

(2) Strategic fire break and fuel reduction projects to provide community protection.

(3) Evacuation plans that include both of the following:

(A) Emergency notification protocols.

(B) A verification of the quality and capacity of identified evacuation routes.

(d) Implement a grant program to ensure compliance with regional vegetation management ordinances and the execution of strategic community protection fuel load projects.

~~(a)~~

(e) Provide education and technical assistance to landowners, residents, and regional community fire prevention advisory groups on fire prevention and land management practices to improve fire safety in the district's region.

~~(b)~~

(f) Review and recommend to the State Wildfire Preparedness Board possible methods of financing ongoing fire preparedness measures, including loan and grant programs, that may be implemented by the member departments of the board.

~~(e)~~

(g) Promote, organize, and support the implementation of regional community fire evacuation drills.

~~(d) Prepare regional wildfire protection plans for approval by the State Wildfire Preparedness Board.~~

~~(e)~~

(h) Prepare a semiannual report and ensure a member of the district attends the meeting convened pursuant to paragraph (1) of subdivision (b) of Section 8580.

SEC. 4.

Division 33 (commencing with Section 55500) is added to the Health and Safety Code, to read:

DIVISION 33. Fire Hardened Homes Revolving Loan Fund **55500.**

As used in this division:

(a) "Eligible building" means a building existing as of January 1, 2020, and containing not more than one unit that is intended for human habitation.

(b) "Eligible costs" means all costs, including costs of design, preparation, and inspection, incurred in the following:

(1) Replacing or installing the following:

(A) Ember-resistant vents.

(B) Fire-resistant roofing.

(C) Fire-resistant siding.

(D) Fire-resistant eaves.

(E) Fire-resistant soffits.

(F) Fire-resistant windows.

(2) Establishing a noncombustible zone of five feet around an eligible building.

(3) Tree removal and trimming within 100 feet of an eligible building.

55501.

(a) There is established in the State Treasury the Fire Hardened Homes Revolving Loan Fund. Moneys in the fund shall, upon appropriation by the Legislature, be made available to the ~~_____ California Statewide Communities Development Authority~~ to provide financing ~~to local agencies to make no- or low-interest loans assistance~~ to owners of eligible buildings to pay for eligible costs of fire hardening ~~if the legislative body of the local agency makes one of the following findings: as follows:~~

~~(1)(A)The owner to whom financing would be made available pursuant to this division is unable to qualify for or could not afford financing for eligible costs from private lending institutions.~~

~~(B)The legislative body of the local agency may also make no- or low-interest loans to an owner who is able to qualify or afford financing as long as priority is given to owners described in subparagraph (A).~~

~~(2)Absent the availability of financing pursuant to this division, the eligible building would pose a health and safety risk to its occupants.~~

~~(1) No- and low-interest loans to a person who owns an eligible building and has an income level up to 120 percent of the area median income.~~

~~(2) Rebates for up to 80 percent of the cost of the retrofit to a person who owns an eligible building and has an income level up to 50 percent of the area median income.~~

(b) Financing provided by a local agency pursuant to this division shall not, when combined with existing liens on the property, exceed 80 percent of the current appraised value of the property, as determined by an independent, certified appraiser, unless existing lienholders consent in writing to a higher loan-to-value ratio. Notice of the intention to provide financing to the owner of the property shall be given to existing lienholders of record not less than 30 days before any vote of the local agency authorizing the provision of financing to the owner of the property.

SEC. 5.

The sum of one billion dollars (\$1,000,000,000) is hereby transferred from the General Fund to the Fire Hardened Homes Revolving Loan Fund to provide no- or low-interest loans to owners of eligible buildings for the eligible costs of fire hardening pursuant to Division 33 (commencing with Section 55500) of the Health and Safety Code.

SEC. 6.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Letter in Support of AB 38

CONSENT CALENDAR

May 14, 2019

May 14, 2019

The Honorable Jim Wood
California State Assembly
State Capitol, Room 6005
Sacramento, CA 95814

RE: AB-38 (Wood) Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund Support from the Berkeley City Council

Dear Assemblymember Wood:

On behalf of the Berkeley City Council, I want to express our support for AB-38 (Wood), Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund.

Wildfires have increased in numbers and severity in recent years and the toll on lives and property is staggering. The combination of winds and fuel loads have made it impossible for firefighters to manage wildland fires successfully.

We must turn our attention to:

- reducing fuel loads
- planning escape routes
- hardening our homes
- early notification systems

Fires do not know geographical jurisdictions or political boundaries. Coordination between local governments is essential.

AB-38 is focused on addressing the above mentioned issues.

Thank you for your leadership on this important issue!

Sincerely,

Susan Wengraf
Vice Mayor
City of Berkeley

CC: Senator Skinner, Representative Wicks, Governor Newsom

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Laura Friedman, Chair

AB 38 (Wood) – As Amended April 11, 2019

SUBJECT: Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund

SUMMARY: Establishes all of the following: the State Wildfire Preparedness Board (Board) consisting of specified state agencies and public members; 18 wildfire prevention districts (Districts) with one of more county; and, the Fire Hardened Homes Revolving Loan Fund (Fund) to provide no- or low-interest loans and rebates for home hardening.

EXISTING LAW:

- 1) Requires the Board of Forestry and Fire Protection (BOF) 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 State Responsibility Area (SRA)].
- 2) Requires the Department of Forestry and Fire Protection (CAL FIRE) to identify certain areas outside the SRA as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Requires a person who owns, leases, controls, operates, or maintains a building or structure on land that is covered with flammable material in the SRA or VHFHSZ to maintain defensible space of 100 feet around the structure. Requires the most intense fuels management to be within 30 feet of the structure.
- 4) Requires a local agency shall to designate, by ordinance, VHFHSZ in its jurisdiction within 120 days of receiving recommendations from the Director. Requires the State Fire Marshal (SFM) to prepare and adopt a model ordinance that provides for the establishment of VHFHSZ.
- 5) Requires, no later than January 31, 2020, the SFM, in consultation with the CAL FIRE and the Department of Housing and Community Development (HCD) to recommend building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk. Based on information learned from the 2017 wildfire season.
- 6) 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.
- 7) Requires, before July 1, 2020, the Office of Planning and Research (OPR) to update the guidance document entitled "Fire Hazard Planning General Plan Technical Advice Series" and update not less than once every eight years.

THIS BILL:

1) Makes various findings including that the state should establish regional wildfire prevention districts designed to address the widely varying vegetation and development characteristics of our diverse state, and to ensure that the districts have the expertise, authority, and funding to reduce the threat of wildfires on all lands, public and private, in the wildland urban interface.

2) Requires, on and after July 1, 2025, a seller of a building in a VHFHSZ both in and out of the SRA to attest, under the penalty of perjury, and to the best of their knowledge or belief, both of the following:

a) The property is in compliance or arrangements have been made to bring the property into compliance with specified defensible space requirements; and

b) The roof, gutters, attic ventilation, eaves, eave and cornice vents, and underfloor and appendages have been retrofitted or arranged to be retrofitted to comply with Chapter 7A fire risk building standards.

3) Establishes the State Wildfire Preparedness Board (Board) consisting of the following members:

a) The Director of Emergency Services (CAL OES), or the Director's designee;

b) The Secretary of the Natural Resources Agency (NRA), or the secretary's designee;

c) The Director of CAL FIRE, or the director's designee;

d) The Secretary of Transportation, or the secretary's designee;

e) The Secretary of California Health and Human Services, or the secretary's designee;

f) The SFM, or the SFM's designee;

g) The Director of OPR, or the director's designee;

h) The Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee; and

i) Three members of the public with expertise in fire science with the Governor, Assembly, and Senate each appointing one member.

4) Requires the Board to do all of the following:

a) Convene a meeting of its members and one representative from each of the regional wildfire prevention districts (Districts) at least twice per year to provide technical assistance, review best practices, and receive reports on the progress and obstacles to fire prevention work from Districts;

- b) Actively seek opportunities for interagency collaboration and efficiencies;
 - c) Review and approve the regional wildfire preparedness plans prepared by each District; and,
 - d) Create and implement a statewide fire preparedness public education campaign.
- 5) Divides the state's VHFHSZ both in and out of the SRA into 18 Districts as follows:
- a) District 1, which comprises the Counties of Del Norte, Humboldt, and Mendocino;
 - b) District 2, which comprises the Counties of Shasta Siskiyou, and Trinity;
 - c) District 3, which comprises the Counties of Lassen, Modoc, and Plumas;
 - d) District 4, which comprises the Counties of Butte, Glenn, and Tehama;
 - e) District 5, which comprises the Counties of Nevada, Sierra, and Yuba;
 - f) District 6, which comprises the Counties of Amador, El Dorado, and Placer;
 - g) District 7, which comprises the Counties of Colusa and Lake;
 - h) District 8, which comprises the Counties of Marin, Napa, Solano, and Sonoma;
 - i) District 9, which comprises the Counties of Alameda and Contra Costa;
 - j) District 10, which comprises the Counties of San Mateo, Santa Clara, and Santa Cruz;
 - k) District 11, which comprises the Counties of Merced, Monterey, and San Benito;
 - l) District 12, which comprises the Counties of Alpine, Calaveras, and Tuolumne;
 - m) District 13, which comprises the Counties of San Luis Obispo, Santa Barbara, and Ventura;
 - n) District 14, which comprises the Counties of Fresno, Madera, and Mariposa;
 - o) District 15, which comprises the Counties of Kern and Tulare;
 - p) District 16, which comprises the County of Los Angeles;
 - q) District 17, which comprises the Counties of Orange and San Bernardino; and,
 - r) District 18, which comprises the Counties of Riverside and San Diego.

6) Requires each District to be governed by a board with members consisting of the following:

- a) A member representing each constituent county in the District selected by the board of supervisors of the county;
- b) A member from a fire safe council within the District selected by the California Fire Safe Council;
- c) A member from each resource conservation district within the District;
- d) A member from the regional office of CAL FIRE within the District;
- e) A member with fire science expertise from a campus University of California within, or closest to, the regional wildfire prevention district selected by the President of the Regents of the University of California; and,
- f) A member from the sheriff's department of each of the counties within the District.

7) Requires each district, upon appropriation, to do all of the following:

- a) Establish an office;
- b) Select one of its board members as chairperson at the first regular meeting held each year;
- c) Develop a region-specific wildfire prevention and preparedness plan that includes the following:
 - i) A region specific vegetation management ordinance that could be adopted by the relevant jurisdiction within the District;
 - ii) Strategic fire break and fuel reduction projects to provide community protection; and,
 - iii) Evacuation plans that include:
 - (1) Emergency notification protocols; and,
 - (2) A verification of the quality and capacity of identified evacuation routes.
- d) Implement a grant program to ensure compliance with regional vegetation management ordinances and the execution of strategic community protection fuel load projects;
- e) Provide education and technical assistance to landowners, residents, and regional community fire prevention advisory groups on fire prevention and land management practices to improve fire safety in the District's region;
- f) Review and recommend to the Board possible methods of financing ongoing fire prevention measures, including loan and grant programs, that may be implemented by the member departments of the board; and,
- g) Promote, organize, and support the implementation of regional community fire evacuation drills.

8) Establishes the Fire Hardened Homes Revolving Loan Fund (Fund). Requires money in the fund, upon appropriation, to be made available to the California Statewide Communities Development Authority to provide financing assistance to owners of eligible buildings to pay for eligible costs of fire hardening as follows:

a) No- and low-interest loans to a person who owns an eligible building and has an income level up to 120% of the area median income;

b) Rebates for up to 80% of the cost of the retrofit to a person who owns an eligible building and has an income level up to 50% of the area median income.

9) Defines “eligible costs” to mean all costs, including costs of design, preparation, and inspection, incurred in the following:

a) Replacing or installing the following:

i) Ember-resistant vents;

ii) Fire-resistant roofing;

iii) Fire-resistant siding;

iv) Fire-resistant eaves;

v) Fire-resistant soffits; and

vi) Fire-resistant windows.

b) Establishing a noncombustible zone of five feet around an eligible building; and,

c) Tree removal and trimming within 100 feet of an eligible building.

10) Transfers from the General Fund to the Fund \$1 billion to provide no- or low-interest loans to owners of eligible buildings for the eligible costs of fire hardening.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author’s statement:

Wildfires have grown larger and have increased in intensity over the last several decades. As compared with 1986, wildfires in the Western United States have occurred nearly four times more often, burning more than six times the land area, and lasting almost five times as long. Through the end of 2017, eleven of the twenty most destructive wildfires in California have occurred in the last 10 years. In 2018 we witnessed the most destructive wildfires in California history in terms of the loss of life and structures. Wildfires impacting occupied areas have resulted in enormous human and financial costs. More than 2 million California households, approximately one in four residential structures in California, are located within, or in wildfire movement proximity of, “high” or “extreme fire risk” areas as identified by the California Department of Forestry and Fire Protection.

Overwhelming data suggest the two most important factors in protecting homes from wildfire are selection of building materials and the maintenance of vegetation and other flammable materials in order to establish adequate defensible space.

While existing building codes and standards ensure that newly constructed buildings utilize appropriate fire resistant materials, there are millions of homes in California that were built before these standards were established.

Additionally the diversity of vegetation and development patterns through the State of California necessitate a geographic approach to planning and implementing wildfire prevention and minimization strategies.

Local public agencies have made efforts to prevent wildfires but in many instances lack the expertise, authority and/or the financial resources to undertake or complete the tasks at hand.

2) **Background.** In 2017, over 1.3 million acres burned in high-severity wildfires and over 10,000 structures were destroyed. In 2018, over 1.8 million acres burned and over 22,700 structures were destroyed. Over one hundred Californians have died from wildfires over the last two years. CAL FIRE keeps records of the largest and most destructive wildfires in the state's history. Each year those records continue to be broken.

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.

A century of suppressing low intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought has increased the size and severity of California's fires. 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 2018 over 147 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."

The use of targeted mechanical vegetation management, prescribed fire, and managed wildfire reduces the accumulated high fuel loads, promoting healthier, more resilient forests, reducing the risk of high-severity wildfires.

Senate Bill 901 (Dodd), Chapter 626, Statutes of 2018, committed \$1 billion for CAL FIRE's Forest Health Grant Program and fire prevention grant program and dedicated fuel reduction crews over the next five years. The funds will be used to do significant fuel reduction work near communities and in forested watersheds, and many projects will include a biomass utilization component.

On March 5, 2019, CAL FIRE released a 45-day report to Governor Newsom. According to CAL FIRE, the report systematically identified high priority fuel reduction projects and other measures to immediately begin to protect over 200 of California's most wildfire-vulnerable communities and put the state on a path toward long-term wildfire prevention and forest health. CAL FIRE's report identified more than 30 strategically defined local projects that can be completed in partnership with communities in time to make a difference this wildfire season. Examples include removal of hazardous dead trees, vegetation clearing, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors.

3) **Defensible space.** According to CAL FIRE, defensible space is the front line for defending a property against wildfire. Creating and maintaining defensible space around your home can dramatically increase a home's chance of surviving a wildfire and improves the safety of firefighters defending a property. Defensible space in combination with home hardening will make a home ignition resistant from embers, radiant heat, and flame impingement. All structures within the SRA and VHFHSZ in the local responsibility area must maintain 100 feet of defensible space. SB 1595 (Kehoe), Chapter 366, Statutes of 2008, provided the last major update to defensible space requirements and included a requirement that a more intense fuel management should occur within the first 30 feet around a structure. CAL FIRE requires that within 30 feet of a structure the removal of all dead plants, grass, and weeds; removal of dry leaves, pine needles; and, to keep tree branches 10 feet away from a chimney and other trees. However, this standard still allows most vegetation within five feet of the house. According to the University of California Division of Agriculture and Natural Resources, few people think about creating a non-combustible zone in the immediate area surrounding a structure, but that noncombustible space may be the difference between losing and not losing your house in a wildfire.

In CAL FIRE's 45-day report to Governor Newsom it stated laws governing defensible space should be updated and included the following recommendations:

- a) Review the penalty for non-compliance with defensible space code, establishing a fixed compliance date in lieu of three-inspection process. Include vacant land provisions;
- b) Review enforcement the full 100 feet of defensible space around a structure when the structure is closer than 100 feet from the parcel line;
- c) Consider the home and the first 0-5 feet as the most critical and hardened aspect of home hardening and defensible space. Consider requiring ignition resistant building material, only allow bark and hardscape, not trees or shrubs in the area; and,
- d) Consider science-based regulation of wood piles and wood fences.

This bill requires that defensible space work be completed prior to selling of a home within a VHFHSZ both in and out of the SRA. This bill would also make the cost of defensible space work including establishing the noncombustible zone eligible for loans and rebates.

4) **Home hardening.** New homes within the VHFHSZ and the SRA must meet Chapter 7A building standards for new construction (including ignition resistant roofs, under eaves, siding, windows, and decking). Home hardening standards started with a prohibition on new wooden roofs in the early nineties and were dramatically improved in 2008 to make homes that have done their defensible space ignition resistant. The standards are periodically updated to be improved even further. AB 2911 (Friedman), Chapter 641, Statutes of 2018, requires the SFM to make recommendations for another update by January 31, 2020. These standards have been shown to work. An analysis by the Sacramento Bee showed that approximately 51% of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged. By contrast, only 18% of the 12,100 homes built prior to 2008 escaped damage. Factors that can cause post 2008 homes to combust include not having adequate defensible space and proximity to neighboring non-fire hardened homes.

In the informational hearing this committee held in February former fire Marshal Kate Dargan estimated there are 2 million homes in high fire threat areas that do not meet Chapter 7A building standards. According to the Building Industry Association, only 860,000 homes and apartments have been built statewide since the code went into effect. According to Paradise Town Councilman Michael Zuccolillo the average home in Paradise was built in the 1970s, which means most homes did not meet the 2008 standard and likely many homes still had wooden roofs. According to the SFM, property owners in high fire hazard zones who replace at least half their roof are required to install “fire-retardant” materials on the entire roof.

A few California cities have taken matters into their own hands. In 2008, the City Council in Big Bear Lake, a community of 5,200 in San Bernardino County, passed an ordinance declaring wood shake shingle roofs “a severe fire hazard and danger” and ordered homeowners to replace them by 2012. Armed with state and federal grants, it offered cash incentives of up to \$4,500 apiece for new roofs. Although the grant program has run out, local officials believe all wood roofs have been replaced in Big Bear Lake.

CAL FIRE’s 45-day report to Governor Newsom called for identifying options for retrofitting homes to the new Wildland Urban Interface (WUI) Standards and included the following recommendations:

- a) CAL FIRE should identify options for incentivizing home hardening to create fire resistant structures within the WUI and with a focus on vulnerable communities;
- b) The Forest Management Task Force (FMTF) should immediately begin work to identify actions for retrofitting homes in the WUI with a focus on vulnerable communities; develop a comprehensive plan to retrofit existing homes to meet Chapter 7A building standards; and explore potential rebates or incentives for homeowners.
- c) Implement the requirement of AB 2911 to develop a list of low-cost retrofits that provide comprehensive fire risk reduction.

This bill requires home hardening retrofits in the VHFHSZ to meet many of the standards in the Chapter 7A building standards. In addition, it also provides loans and rebates for the costs of home hardening.

5) **AB 38.** AB 38 is a complicated measure that deals with some of the most difficult and important issues in fire prevention, including improving the defensible space and retrofitting the estimated 2 million homes that are at great risk of burning down in a wildfire. Beside those issues, this bill sets up a complex new Board and 18 Districts to oversee and advise fire prevention work more broadly. Traditionally the NRA, CAL FIRE, SFM, the BOF, OPR, and CAL OES have been the main agencies to work on fire prevention and response. Due to the extreme nature of high intensity wildfires many more of the state agencies have become involved. The Board created by this bill would include state agencies such as the Health and Human Services Agency that traditionally has not been part of the fire prevention conversation. As the bill moves forward the author may wish to consult with the Administration on who should serve on this newly created Board and how the Board will interact with the FMTF, which seems to have duties that go beyond forestry management and overlap with this Board.

The 18 Districts, which in prior versions of the bill were given regulatory powers, now serve as a forum to gather relevant fire prevention and response actors together to plan, develop, and implement improvements for fire prevention and response within each District.

6) **Amendments.** The April 11th amendments to this bill appear to reverse amendments requested by the Assembly Government Organization Committee. The author may wish to consider restoring those amendments as a part of these committee amendments or another set of amendments before this bill is heard in the Assembly Appropriations Committee. The author and committee *may also wish to consider* the following amendments:

a) Clarify the defensible space compliance requirements include the SRA requirements as well as the VHFHSZ requirements;

b) Clarify the retrofit requirements include underfloor vents;

c) Add the Secretary of the Environmental Protection Agency to the Board;

d) Require the Governor to select the chair of the Board;

e) Specify that members of the Board serve without compensation, but each of the public members shall be reimbursed for his or her actual and necessary expenses incurred in the performance of his or her duties;

f) Specify the Board's public education campaign includes outreach about defensible space requirements, home hardening retrofits, and the Fund created by this bill;

g) Revise the Districts' duties to include the following:

i) Review of each jurisdiction's safety element, Hazard Mitigation Plan, and Community Wildfire Protection Plan to identify improvements and outstanding recommendations and projects;

ii) Review of each jurisdiction's evacuation plans and emergency notification protocols;

iii) Identification of fire prevention organizational or capacity deficits within the District; and,

iv) Identification of projects that relevant state agencies should prioritize for local fire prevention assistance grants.

- h) Rename Fund to Fire Hardened Homes Revolving Loan and Rebate Fund;
- i) Limit loan and rebate eligibility to buildings within high fire hazard areas;
- j) Require the California Statewide Communities Development Authority to develop guidelines for loans and rebates subject to approval by the Board;
- k) Increase the income requirement for rebates from 50% to 80% of the median income; and,
- l) Other technical clarifications.

7) **Double Referral.** This bill was also referred to the Assembly Government Organization Committee where it passed out with a 14-1 vote.

8) **Related/Previous legislation.**

AB 1516 (Friedman) makes various changes to improve defensible space requirements, electrical transmission or distribution lines' vegetation clearance requirements, and CAL FIRE local government technical assistance requirements with the intent to improve the fire safety of California communities. This bill is awaiting hearing in the Assembly Utilities and Energy Committee.

SB 190 (Dodd) requires the Office of the State Fire Marshal (SFM) to develop a model defensible space program, as specified, and requires the SFM to develop a Wildland-Urban Interface (WUI) Fire Safety Building Standards Compliance training manual. This bill is awaiting hearing in the Senate Appropriations Committee.

SB 247 (Dodd) requires CAL FIRE, on January 1, 2021, to provide a "trim list" to each electrical corporation identifying all trees and other vegetation in the vicinity of electrical lines or equipment owned by the electrical corporation requiring removal or trimming, including the extent of trimming required. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

AB 2911 (Friedman), Chapter 641, Statutes of 2018, 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.

SB 1260 (Jackson), Chapter 624, Statutes of 2018, is an omnibus fire prevention and forestry management bill with the intent of promoting long-term forest health and wildfire resiliency. It makes various changes related to local fire planning, prescribed fire requirements, and broader fire prevention efforts.

SB 901 (Dodd), Chapter 626, Statutes of 2018, establishes a comprehensive framework to address and prevent catastrophic wildfires including prevention and planning by the state's electric utilities, management of the state's forests, chaparrals, and other lands to prevent and defend against wildfires, and standards to stabilize electrical corporations in the event of extensive liability resulting from claims under inverse condemnation.

REGISTERED SUPPORT / OPPOSITION:

Support

Allstate Insurance Company California League of Conservation Voters Federal Alliance for Safe Homes (FLASH) Insurance Institute for Business & Home Safety Pacific Association of Domestic Insurance Companies Pacific Forest Trust Personal Insurance Federation of California Sierra Club California State Farm Mutual Automobile Insurance Company The Nature Conservancy

Opposition

None on file

Analysis Prepared by: **Michael Jarred / NAT. RES. /**

