
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair

2021 - 2022 Regular

Bill No:	SB 896	Hearing Date:	March 8, 2022
Author:	Dodd		
Version:	February 1, 2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Katharine Moore		

Subject: Wildfires: defensible space: grant programs: local governments

BACKGROUND AND EXISTING LAW

Catastrophic and devastating wildfires have occurred repeatedly in the state in recent years. In 2021 alone, preliminary data show almost 9,000 wildland fires burned almost 2.6 million acres in the state. Slightly fewer wildland fires in 2020 burned almost 4.4 million acres – a modern record. The 2020 August Complex Fire in northern California – the largest fire in California’s modern history – burned over 1 million acres by itself. The 2021 Dixie fire also almost reached 1 million acres. Two wildland fires in the last year burned over the crest of the Sierras which had not been previously observed. Nine of the twenty largest and seven of the twenty most destructive wildland fires in state history occurred in 2020 and 2021. Thousands of firefighters have been deployed to fight these fires and the state’s wildland fire suppression costs in the last three fiscal years total on the order of \$3.5 billion. In the last five years from wildland fire, tens of thousands of structures – almost entirely homes – have been destroyed, insured losses incurred are in the billions of dollars, prime habitat has been destroyed or damaged, and, tragically, hundreds of lives have been lost. In addition, millions of Californians have been exposed to unhealthy air quality due to the wildfires. In 2020, the Air Resources Board estimates that approximately 112 million metric tons of carbon dioxide were emitted from trees and other vegetation burned in that year’s wildfires.

While wildland fires have always been present in the state, the number of days with extreme fire risk has more than doubled in the last 40 years. This is likely to continue to increase. One of the impacts of climate change in the state is an increase in the frequency and intensity of wildfires. In forested regions, decades of fire suppression, historic logging practices and drought have produced unhealthy forests that exacerbate the risk of an extreme wildfire developing when a fire occurs. Further, continued development in the Wildland Urban Interface (WUI) puts more homes at risk from wildland fire.

An important and widely-recognized method to minimize the risk that a home will ignite from a wildland fire is the creation and maintenance of defensible space around the structure. Defensible space requirements include the clearing of dead vegetation, and maintenance, such as the trimming of overhanging tree branches, for live vegetation within 100 feet of a structure. These requirements are more stringent within 30 feet of a structure. AB 3074 (Friedman, Chapter 259, Statutes of 2020) creates another zone – the ember-resistant zone – within 5 feet of structures, although the implementing regulations and guidance document for this zone are not yet complete. In a recent review of its data, the California Department of Forestry and Fire Protection (CAL FIRE) found that the odds of a structure being destroyed by wildfire were roughly five times

higher for structures that did not comply with defensible space requirements compared to those that did. Homeowners are generally responsible for maintaining defensible space around their homes. In the State Responsibility Area – where CAL FIRE is responsible for fighting wildland fires – CAL FIRE personnel perform defensible space inspections of state requirements. Local agencies may enforce stricter defensible space requirements in very high fire hazard severity zones in local responsibility areas under their jurisdiction (VHFHSZ/LRA), and also perform compliance inspections.

In September 2021, the Legislative Analyst's Office (LAO) released a report about defensible space. The report emphasized the value of defensible space in moderating the destructive impact of wildfires by reducing the chance a home would ignite and therefore also reducing the chance that a burning home would spark fires in nearby homes in the community. However, the report noted that achieving compliance with defensible space regulations varied significantly between locations. CAL FIRE aims to conduct approximately 250,000 inspections annually and to inspect each of the roughly 768,000 applicable parcels in the SRA once every 3 years. The inspection rates for different CAL FIRE units across the state, however, varied from less than 20% to 100% or higher (reflecting multiple visits to a single property) annually. Local agencies who responded to LAO's survey also reported a wide range of defensible space inspection rates. While the defensible space compliance rates observed during these reported inspections appeared to be relatively high overall, compliance rates also varied widely. LAO also found that there was a lack of consistent statewide data on defensible space inspections and compliance. The data gaps and observed variability in the data reported make evaluation of the effectiveness of varying elements of defensible space requirements difficult. The LAO recommended improving data collection, and the sharing and quality of the collected data to ensure consistency and comparability. The LAO also recommended that both state and local agencies report inspection data to a centralized system.

Existing law:

- 1) Establishes the California Department of Forestry and Fire Protection (CAL FIRE) in the California Natural Resources Agency, and the Office of the State Fire Marshal at CAL FIRE.
- 2) Requires the Board of Forestry and Fire Protection 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. This is the state responsibility area (SRA).
 - a) The SRA includes about 31 million acres of which about 1/3 is categorized as very high risk, 1/3 is high risk, and another 8% is of moderate risk.
- 3) Requires the State Fire Marshal to identify areas of the state outside of the SRA as moderate, high, and very high fire hazard severity zones (VHFHSZ) based upon specified criteria. The VHFHSZ in the local responsibility area (LRA) is about 705,000 acres.
- 4) Requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining land that is covered with flammable material in the

SRA or VHFHSZ/LRA, as designated by a local agency, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. The most intensive fuels management is required within 30 feet of a structure, and there will be additional regulations and a guidance document developed for the 5 foot ember-resistant zone around a structure.

- 5) Requires CAL FIRE to establish a local assistance grant program for fire prevention activities in the state, as provided. (Public Resources Code (PRC) §4124.5)
 - a) The local assistance grant program shall establish a robust year-round fire prevention effort in and near fire-threatened communities, including the SRA, high fire hazard severity zone and VHFHSZ in the LRA, and communities listed on the “Fire Risk Reduction Community” list. The grant program focuses on increasing the protection of people, structures, and communities.
 - b) Groups eligible for the grants include local agencies, resource conservation districts, fire safe councils, UC Cooperative Extension, Native American tribes and qualified nonprofit organizations, among others.
- 6) Requires the Office of the State Fire Marshal to develop a model defensible space program that must be made available for use by a city, county, or city and county in the enforcement of defensible space provisions.
- 7) Requires CAL FIRE, until January 1, 2026, to develop a statewide defensible space and home hardening assessment and education program by trained representatives of fire safe councils, UC fire advisors, registered professional foresters, resources conservation districts, and others, as specified, in the SRA. (PRC §4291.5)
 - a) Qualified entities participating in the program shall be authorized by the CAL FIRE director to conduct defensible space assessments to assess compliance with defensible space requirements within the SRA, educate property owners about wildfire safety improvements that may be undertaken to harden a structure and make it more resistant to fire, and assess whether wildfire safety improvements have been completed in or on a structure.
 - b) CAL FIRE is required to establish a common reporting platform that allows the defensible space and home hardening assessment data conducted by qualified entities to be reported. CAL FIRE is also required to compile the reported assessment data and the director may use it to inform certain efforts, as provided.
- 8) Requires CAL FIRE, until January 1, 2026, to develop and implement a training pilot program to train individuals to support and augment CAL FIRE’s defensible space and home hardening assessment and public education efforts.
 - a) CAL FIRE shall issue a certificate of completion to individuals who successfully complete the training program.

PROPOSED LAW

This bill would incentivize and improve defensible space assessment data collection and reporting.

Specifically, this bill would:

- 1) Provide a five percent scoring bonus to any local government entity qualified to perform defensible space assessments in the very high and high fire hazard severity zones in the SRA, and that submit information using the common reporting platform for the SRA.
- 2) Require that any local government entity qualified to conduct defensible space assessments in very high and high fire hazard severity zones in the SRA use the common reporting platform to report the assessment to CAL FIRE.
- 3) Require CAL FIRE to report on December 31, 2023 and annually thereafter on all defensible space data compiled from the common reporting platform.
 - a) The report shall contain data with sufficient detail to facilitate comparison of community compliance with defensible space requirements between those with qualified local government entities to conduct the assessments and those that do not.
 - b) The report may also contain certain information about the inspections (e.g. compliance and enforcement), as provided.

ARGUMENTS IN SUPPORT

The author states, “According to the Legislative Analyst, there is no comprehensive statewide data on defensible space activities – such as inspections and compliance – reported for both state and local inspection programs. CAL FIRE reports summary data on its inspections by unit based on data collected by its inspectors (including in contract counties). There is, however, no centralized collection or reporting of activities undertaken in the LRA or by other local agencies in the SRA.”

“A lack of consistent statewide data on defensible space inspections and compliance makes it difficult to (a) identify where gaps in or overlapping inspections programs are occurring, (2) fully understand the extent to which homeowners are out of compliance with defensible space regulations in different communities, and (3) assess the effectiveness of programs at improving compliance.”

“Comprehensive reporting of defensible space inspection data can also assist in property owners obtaining property casualty insurance as insurers become aware of neighborhoods and communities which achieve area wide defensive space standards.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

This bill seeks to address an identified need. As noted recently by the LAO, the summary data reported by CAL FIRE for defensible space inspections conducted in the SRA are limited. Inspection efforts by CAL FIRE lag in some locations when personnel are needed for higher priority activities. There have been efforts to train non-CAL FIRE personnel to perform defensible space assessments in order to help focus defensible

space inspections by CAL FIRE personnel on properties in need of additional help to achieve compliance. This bill takes advantage of and builds upon a new statewide program at CAL FIRE instituted by SB 63 (Stern, Chapter 382, Statutes of 2021) that provides for the training of certain qualified entities, as defined, to support and augment CAL FIRE's defensible space and home hardening assessment and education efforts. This bill is consistent with the recent emphasis on building local capacity for fire prevention efforts. This bill also provides an incentive – in the form of the scoring bonus in the evaluation of local assistance grants – for participation by local government entities in the defensible space assessment program in the SRA and to provide assessment data to a common reporting platform. However, the current bill language does not yet achieve all of the author's stated goals (discussed in detail below). The Committee may wish to direct the author to continue working with Committee staff to more fully develop the language in the bill as it proceeds.

Should subsequent amendments substantially change the bill, the Committee may wish to re-hear the bill in the future.

Providing for prioritization in state programs is an established practice. In some instances, existing law and program guidelines provide scoring preferences for applicants that incorporate certain elements in their application for a grant or bid proposal. For example, the Ocean Protection Council is required to give preference to public agencies that meet certain goals related to the use of scientific information for coastal- and ocean-relevant decision-making, as specified. (PRC §35621) Proposition 68 also provides preference in certain programs for those who use the state or local conservation corps. (PRC §80016)

Recent efforts promoting defensible space compliance. Within the last few weeks, Insurance Commissioner Lara, in collaboration with CAL FIRE and others, announced an interagency wildfire mitigation partnership. This new partnership focuses on retrofits for older existing homes in order to reduce their existing risk from wildland fire as well as to potentially facilitate more affordable homeowners insurance for retrofitted properties. Goals of the partnership include promoting risk reduction from wildfire systematically, increasing insurance availability in the state, and providing clear communication to the public regarding how to do that. Defensible space clearance around structures is one of the key activities promoted by this "Safer from Wildfire" program, in addition to home hardening and community preparation efforts. In addition, the recent "Venado Declaration" establishes a set of principles to guide forest management within the state in the years ahead, and calls, among other things, for additional efforts and investment in home hardening and community wildfire protection planning and supports 100% compliance in defensible space projects. The Venado Declaration was signed by numerous prominent researchers, practitioners, and advocates including former CAL FIRE Chief Pimlott and former Governor Brown.

Increasing recognition of the importance of fire prevention activities by state government. In the last several years, the Legislature has passed and the Governor has signed numerous bills to enhance fire prevention activities and reduce the risk of wildland fire across the state. These include, for example, extensive revisions to the state's defensible space requirements. These actions reflect an increasing recognition that the previous primary focus on fire suppression or response is insufficient to address the increase in catastrophic wildland fires across the state. For example, according to

the LAO, from fiscal year (FY) 2005/2006 to FY 2020/2021, almost 90 percent of the base support budget for CAL FIRE was dedication to fire response. In recent budgets, the funding available for fire prevention and related activities has increased. SB 901 (Dodd, Chapter 626, Statutes of 2018) directs an investment of \$200 million annually from the Greenhouse Gas Reduction Fund for wildfire and forest resilience through FY 2028/2029. Last year, the approved budget included \$1.5 billion in wildfire resilience activities including over \$500 million in early action funds. The Newsom Administration has proposed an additional \$1.2 billion for FY 2022/2023 and FY 2023/2024 for wildfire resilience. The current budget proposal includes funding for CAL FIRE's fire prevention grant program, home hardening, and defensible space inspections, among others.

This bill is a work-in-progress. The author may wish to consider and potentially address the following:

- *More fully incorporate the LRA.* While the local assistance grants are available for work in both the very high and high fire hazard severity zones in the LRA, the SRA, and in Fire Risk Reduction Communities, as defined, the defensible space assessment program is for the SRA only. A more comprehensive effort would include more than locations in the SRA. Further, the author may wish to consider how to ensure more comprehensive reporting of defensible space assessment, inspection and compliance statewide.
- *Incorporate additional fire prevention activities.* Both the local assistance grants and the defensible space assessment program authorize additional activities beyond defensible space assessments, such as home hardening assessments and other fire prevention-related activities. These activities may also benefit from standardized reporting and incentives for local government participation.
- *More explicit reported information.* In order to ensure the required legislative report includes all of the information sought by the author "in sufficient detail," there may be some benefit to instituting explicit requirements in lieu of leaving most specifics to CAL FIRE's discretion. This could include, for example, a consideration of ensuring that assessment data can be shown to effectively inform and target inspections performed by CAL FIRE. As the assessment program sunsets on January 1, 2026, it may be useful to consider what information would be useful in evaluating any future sunset extension.
- *Clarifying language.* Standardizing and clarifying the use of terms across different sections of statute, such as the definition of "local government entity" qualified under the defensible space assessment program in the SRA, could help to ensure that the author's goals are met and facilitate implementation by CAL FIRE.

Technical amendment. There is a small typo in subdivision (h) of Section 2 in the bill. [Amendment 1]

Recent related legislation

SB 1062 (McGuire, 2022) would require CAL FIRE to maintain minimum staffing levels on each of its fire engines, increase the number of firefighter fuel crews, and provide a legislative report describing long-term staffing needs, among other things. (*This bill is pending before this Committee.*)

SB 63 (Stern, Chapter 382, Statutes of 2021) made numerous statutory changes to promote fire prevention activities across the state, including the creation of the pilot program for defensible space and home hardening assessments by qualified entities, among other things.

SB 109 (Dodd, Chapter 239, Statutes of 2021) established an Office of Wildfire Technology Research and Development at CAL FIRE.

SB 456 (Laird, Chapter 387, Statutes of 2021) requires the implementation and regular updating of the Wildfire and Forest Resilience Task Force's recently-released "California's Wildfire and Forest Resilience Action Plan", the alignment of the Action Plan's goals and key actions within the state's climate adaptation and resiliency framework, as provided, and annual reporting of progress, among other things.

AB 9 (Wood, Chapter 225, Statutes of 2021) establishes the Regional Forest and Fire Capacity Program in the Department of Conservation, and transfers certain duties related to fire safety and wildfire prevention from CAL FIRE and its director to the Office of the State Fire Marshall and the State Fire Marshal, among other things.

AB 642 (Friedman, Chapter 375, Statutes of 2021) made numerous statutory changes to enhance wildland fire prevention efforts, including, among other things, incorporating and facilitating cultural burning practices, and requiring the identification of moderate and high fire hazard severity zones in local responsibility areas, as provided.

AB 3074 (Friedman, Chapter 259, Statutes of 2020) established an ember-resistant zone within five feet of a structure as part of revised defensible space requirements for structures located in specified areas to help protect against wildfire, among other things.

SB 190 (Dodd, Chapter 414, Statutes of 2019) includes a specific requirement to develop best models for defensible space and additional standards for home hardening and construction materials to increase the resilience of communities.

AB 38 (Wood, Chapter 391, Statutes of 2019) provides mechanisms to develop best practices for community-wide resilience against wildfires through home hardening, defensible space, and other measures.

AB 1516 (Friedman, 2019) would have made various changes to improve defensible space requirements and compliance to protect homes and communities from wildfire. (*This bill was vetoed by Governor Newsom.*)

AB 1823 (Friedman, Chapter 399, Statutes of 2019) facilitates fuel reduction and other forest health projects.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addresses numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, and wildfire mitigation plans by electric utilities, among other things.

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

SUGGESTED AMENDMENTS

AMENDMENT 1

On page 6, line 23: add "of" between "requirements" and "Section"

SUPPORT

Association of California Water Agencies

OPPOSITION

None Received

-- END --