

Date of Hearing: June 13, 2022

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 896 (Dodd) – As Amended May 5, 2022

**SENATE VOTE:** 32-0

**SUBJECT:** Wildfires: defensible space: grant programs: local governments

**SUMMARY:** Incentivizes and improves defensible space assessment data collection and reporting by local government entities, and requires the California Department of Forestry and Fire Protection (CAL FIRE) to annually provide a defensible space report to the Legislature.

**EXISTING LAW:**

- 1) Requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material, to at all times maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as provided.
- 2) Requires CAL FIRE to develop and implement a program to train individuals to support and augment CAL FIRE in its defensible space and home hardening assessment and public education efforts.
- 3) Requires a seller of real property that is located in a high or very high fire hazard severity zone to provide the buyer documentation stating that the property is in compliance with that defensible space requirement.
- 4) Requires CAL FIRE to establish a local assistance grant program for fire prevention and home hardening education activities in California. Requires the local assistance grant program to have a robust year-round fire prevention effort in and near fire threatened communities that focuses on increasing the protection of people, structures, and communities. To the maximum extent practicable, the grants shall be designed to be durable and adaptively managed so that while improving resiliency to wildfire, the projects, when on forest land, retain a mixture of species and sizes of trees to protect habitat values.
- 5) Requires the director of CAL FIRE to establish a statewide program to allow qualified entities to support CAL FIRE in its defensible space and home hardening assessment and education efforts. Requires qualified entities participating in the program to be authorized by the director to conduct defensible space assessments to assess compliance with specified requirements within the State Responsibility Area (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.
- 6) Requires the Director of CAL FIRE to establish a common reporting platform that allows defensible space and home hardening assessment data, collected by qualified entities, to be

reported to CAL FIRE and to establish any necessary quality control measures to ensure that the assessment data is accurate and reliable.

**THIS BILL:**

- 1) Requires CAL FIRE, when reviewing applications for the local assistance grant program, to give priority to any local governmental entity qualified to perform defensible space assessments in very high and high fire hazard severity zones, or by a local agency for using the common reporting platform created to report that information.
- 2) Requires any local governmental entity that is qualified to conduct defensible space assessments in very high and high fire hazard severity zones to report that information using the common reporting platform.
- 3) Requires, on December 31, 2023, and annually thereafter, CAL FIRE to report to the Legislature all defensible space data collected. Authorizes the report to include information on the proportion of unique parcels that were inspected, the degree of compliance with specified requirements, any enforcement actions that may have been taken for noncompliant parcels, and the proportion of parcels that were found to be in compliance across jurisdictions. Requires, at minimum, the report to include data with sufficient detail to facilitate comparisons of community compliance between local governmental entities qualified to conduct defensible space assessments and local governmental entities that are not.
- 4) Requires the report submitted pursuant to this subdivision to be submitted in compliance with Section 9795 of the Government Code.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, enactment of this bill would result in negligible state costs.

**COMMENTS:**

1) **Author's statement.**

According to the Legislative Analyst, many of the largest and most damaging wildfires have occurred in recent years. One approach to mitigating future wildfire disasters is to reduce the chance that homes ignite when wildfires occur nearby, such as through the maintenance of defensible space—areas free of excess or dead vegetation—around homes. Importantly, maintaining defensible space not only helps to protect that home, it also reduces the risk that the wildfire will spread to neighboring homes, thereby helping to protect communities.

In general, inspections can contribute to improved defensible space compliance in several ways. First, inspections verify whether homeowners are complying with defensible space requirements and best practices. Failure to meet requirements can then lead to enforcement actions. Second, many agencies use inspections as an opportunity to educate homeowners about specific steps they can take to reduce their risk. Third, inspections can play an important role in homeowner financial assistance programs.

Creating an incentive for agencies to report defensible space inspection information, centralizing that information, and providing public access to that information should benefit policymakers and administrators where to focus attention to achieve the most effective wildfire prevention efforts.

- 2) **Wildfires in California.** Wildfires have been growing in size, duration, and destructivity over the past 20 years. Growing wildfire risk is due to accumulating fuels, a warming climate, and expanding development in the wildland-urban interface (WUI). The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time, destroying thousands of buildings, forcing hundreds of thousands of people to flee their homes, and exposing millions of residents to dangerously unhealthy air. More than 4 million acres burned across the state, double the previous record.

New research from Standard University (February 2022) on wildfire shows that climate change is drying out vegetation in the West even faster and increasing fire risk. The researchers found that a combination of plant and soil dehydration coupled with atmospheric dryness is creating what they've termed 'double-hazard zones.' The researchers identified 18 of these double-hazard zones across the Western U.S., including three in California. Their study further showed that the increased population growth in the WUI is concerning as this landscape is often comprised of grasslands or chaparral, which is highly sensitive to drought, making it also highly vulnerable to extreme fire events. In California, more than 11 million of the state's 40 million residents live in the WUI, which encompasses not only densely forested areas like Paradise, but also parts of the wooded coastal foothills around Silicon Valley, the brush-and-grass covered hills around Santa Barbara and Los Angeles, and neighborhoods in the Oakland Hills.

CAL FIRE designates areas with higher risk of severe wildfires as high and very high fire hazard severity zones. Notably, many of these zones are in lightly populated areas and small communities in the WUI.

- 3) **Defensible space.** Defensible space is the buffer created between a building on a property and the grass, trees, shrubs, or any wildland area that surrounds it. This space is needed to slow or stop the spread of wildfire, and it helps protect structures from catching fire—either from embers, direct flame contact or radiant heat. Proper defensible space also provides firefighters a safe area to work in to defend property.

Current law requires defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line, with certain exceptions. The amount of fuel modification necessary considers the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels are required to be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure.

CAL FIRE requires the removal of all dead plants, grass, and weeds, and the removal of dry leaves and pine needles within 30 feet of a structure. In addition, tree branches must be 10 feet away from a chimney and other trees within the same 30 feet surrounding a structure. These existing requirements still permit most vegetation within five feet of the house or structure.

According to the University of California Division of Agriculture and Natural Resources, implementation of this five-foot non-combustible area could make a significant difference in a home's ability to withstand a wildfire. 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 high fire hazard areas.

The following year, the Legislature approved SB 63 (Stern, Chapter 382, Statutes of 2021) to authorize CAL FIRE to fund residential vegetation management programs, including defensible space training and public wildfire resistance education outreach to facilitate managing and monitoring vegetation on residential properties to help slow or stop an active wildfire from growing.

Current law also requires a seller of a property that is located in a high or very high fire hazard severity zone to provide documentation of a compliant Defensible Space Inspection. If that documentation cannot be provided by close of escrow, the law allows the buyer to enter into a written agreement that documentation of compliance will be made available within one year of the close of escrow.

CAL FIRE currently has a defensible space Collector App where defensible space inspectors can track each defensible space inspection with a high level of detail and the history of any citations on a property. The Collector App has been developed to provide a consistent standard of data collection during defensible space inspections and is part of a central archival location for analysis, research, and regulation development to reduce fire loss. The simplified data collection system has added to the understanding of how defensible space and building construction may help reduce wildfire impacts in the WUI.

- 4) **Defensible space data.** CAL FIRE has a program to allow qualified entities to support and augment CAL FIRE in its defensible space and home hardening assessment and education efforts. Qualified entities participating in the program are authorized by the director to conduct defensible space assessments to assess compliance with defensible space requirements within the SRA (the area in the state where the California has the primary financial responsibility for the prevention and suppression of wildland fires), 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. CAL FIRE maintains a common reporting platform that allows defensible space and home hardening assessment data, collected by the qualified entities, to be reported to CAL FIRE. (The defensible space collector app data are included in the common reporting platform.)

The Legislative Analyst's Office (LAO) September 2021 report, *Reducing the Destructiveness of Wildfires: Promoting Defensible Space in California*, reported, however, that 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 local responsibility areas or by other local agencies in the SRA.

In addition, there are many gaps in the data. CAL FIRE has identified about 768,000 parcels within the SRA subject to defensible space inspections, and its goal is to inspect each of these parcels once every three years. But, not all areas of the state are inspected regularly, resulting in uninspected parcels and uneven data across the state. The LAO reported that local agencies vary widely in their inspection rate of properties in the high fire risk areas in the local responsibility area, with inspection rates ranging from 3 percent to 100 percent across the state.

LAO recommends, to address the lack of consistent statewide data to inform policymakers, increasing state support for a shared collector application and ensure agencies feed data into a centralized system, and recommending requiring public reporting of data. A lack of consistent statewide data on defensible space inspections and compliance makes it difficult to identify where gaps in or overlapping inspection programs are occurring, fully understand the extent to which homeowners are out of compliance with defensible space regulations in different communities, and assess the effectiveness of programs at improving compliance.

SB 896 will require a qualified local governmental entity to conduct defensible space assessments in very high and high fire hazard severity zones and report that information to CAL FIRE through the common reporting platform.

The bill also requires CAL FIRE, starting on December 31, 2023, and annually thereafter, to report to the Legislature all defensible space data collected pursuant to this bill with the intent of facilitating comparisons of community compliance with the requirements of Section 4291 between local governmental entities qualified to conduct defensible space assessments and local governmental entities that are not.

- 5) **Local assistance grant program.** CAL FIRE's Wildfire Prevention Grants Program provides funding for fire prevention projects and activities in and near fire threatened communities that focus on increasing the protection of people, structures, and communities. Funded activities include hazardous fuels reduction, wildfire prevention planning, and wildfire prevention education with an emphasis on improving public health and safety while reducing greenhouse gas emissions.

The proposed budget for Fiscal Year (FY) 2022-23 includes \$800 million from the General Fund over two years—\$400 million annually in FYs 2022-23 and 2023-24. The largest share of these funds is for forest resilience and fuel breaks. More than half of the funds over the two years—\$582 million—would support programs designed to promote healthy forests and landscapes, generally by removing hazardous fuels. Another one-third of the funds—\$382 million—would support installation and maintenance of wildfire fuel breaks. The remaining funds—totaling \$236 million—are proposed for projects to provide regional capacity for forest health projects, as well as to encourage forest sector economic stimulus, science-based forest management, and community hardening. Of these amounts, \$115 million proposed for FY 2022-23, \$117 million for FY 23-24, and \$232 million for the fire prevention grant program this bill proposes to amend.

SB 896 would require CAL FIRE, when reviewing applications for this grant program, to give priority to any local governmental entity qualified to perform defensible space assessments in very high and high fire hazard severity zones, or by a local agency pursuant for using the common reporting platform to report that information.

**6) Related legislation.**

AB 2672 (Flora) would require the Director of CAL FIRE, on or before July 1, 2023, to procure or establish a statewide defensible space and home hardening platform that would allow property owners to support and augment CAL FIRE in defensible space inspection requests. This bill was held in the Assembly Appropriations Committee.

AB 9 (Wood, Chapter 225, Statutes of 2021) established the Deputy Director of Community Wildfire Preparedness and Mitigation to be responsible for fire preparedness and mitigation missions of CAL FIRE and is responsible for defensible space requirements, among other fire prevention responsibilities.

SB 63 (Stern, Chapter 382, Statutes of 2021) enhances fire prevention efforts by CAL FIRE, including, among other things, improved vegetation management and expanding the area where fire safety building standards apply.

AB 3074 (Friedman, Chapter 259, Statutes of 2020) establishes an ember-resistant zone within five feet of a structure as part of revised defensible space requirements for structures located in high fire hazard areas.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Association of California Water Agencies  
California Forestry Association  
Personal Insurance Federation of California  
Solano County Board of Supervisors

**Opposition**

None on file.

**Analysis Prepared by:** Paige Brokaw / NAT. RES. /