

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
AB 692 (Jim Patterson) – As Introduced February 13, 2023

Policy Committee: Natural Resources

Vote: 9 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill exempts from the California Environmental Quality Act (CEQA) egress route projects to improve emergency access to and evacuation from a subdivision without a secondary egress route if specified conditions are met.

Specifically, this bill, among other things:

- 1) Exempts from CEQA an egress route project to improve emergency access to and evacuation from a subdivision without a secondary egress route if (a) the BOF has identified the subdivision as being located in the state responsibility area (SRA) or a very high fire hazard severity zone (VHFHSZ) without a secondary egress route and at significant fire risk, (b) the BOF has recommended the creation of a secondary access route to the subdivision, and (c) other specified conditions are met.
- 2) Requires the lead agency, before determining that a project is exempt from CEQA, to hold a noticed public meeting to hear and respond to public comments and to file a notice of exemption with the Office of Planning and Research (OPR) and the county clerk in the county in which the project is located.
- 3) Sunsets on January 1, 2030.

FISCAL EFFECT:

- 1) The Department of Forestry and Fire Protection (CAL FIRE) estimates a one-time cost of approximately \$1 million for staff resources and equipment in year one and ongoing annual costs of approximately \$858,000 (General Fund) until January 1, 2030, for four new positions in the Forest Practice Program to accommodate the additional workload needed to implement this bill.
- 2) The California Department of Fish and Wildlife (CDFW) estimates costs of approximately \$1.7 million in fiscal year (FY) 2023-24 and \$1.6 million in FY 2024-25 and ongoing (General Fund) for seven positions to provide policy coordination support and coordinate project notices and discretionary permitting needs with the department's regional offices. CDFW notes projects exempted from CEQA would not be subject to the department's environmental document filing fees, resulting in a decrease in revenue that funds CDFW's CEQA program. CDFW notes it does not know how many communities would qualify for the exemption proposed in this bill as efforts to survey potentially qualified subdivisions are

ongoing. However, CAL FIRE's Subdivision Review Program has, as of January 2022, identified close to 300 subdivisions throughout the state, as demonstrated on CAL FIRE's Subdivision Survey Reports map.

COMMENTS:

1) **Purpose.** According to the author:

California continues to see a rise in deadly wildfires, with 33 lives lost in 2020 alone. In 2018, the Board of Forestry was tasked with identifying communities at high risk of experiencing a wildfire who also lack sufficient egress (exit) routes from their communities. AB 692 builds upon this process by exempting from CEQA these critical projects that are identified by the Board. By doing so, the Legislature will be appropriately expediting projects that could prove vital to saving lives in future fires.

2) **Background.** Existing law requires BOF, in consultation with the State Fire Marshal and local jurisdictions, to identify each existing housing subdivision with more than 30 dwelling units located in the SRA or VHFHSZ without a secondary egress route that is at significant fire risk, and to develop recommendations to improve the subdivisions' fire safety.

Cities and counties are required to adopt comprehensive general plans with various elements including a safety element for protection of the community from unreasonable risks associated with various hazards, including wildfires. Local jurisdictions with land in the SRA and VHFHSZ must revise their general plan safety elements to include information relating to the protection of the planning area from wildfire, and update that information whenever their housing elements are amended. Since April 2013, BOF has reviewed 45 safety elements, and has received letters back from 11 jurisdictions explaining which recommendations they did or did not incorporate. AB 2911 (Friedman), Chapter 641, Statutes of 2018, provided more tools for the BOF to collaborate with local governments and enhanced its ability to recommend changes based on best practices.

Many developments in the SRA and VHFHSZ were constructed prior to building standards and fire prevention regulations developed by BOF, including limits on dead-end roads. These older nonconforming developments are not required to take proactive steps to reduce their fire risk and could be in jeopardy because their homes are not fire resistant and they do not have secondary access roads. The author notes the lack of secondary roads is a serious problem that could leave people trapped and unable to escape a wildfire.

3) **Support and Opposition.** Writing in support, the Rural County Representatives of California states:

While CEQA provides public disclosure and environmental mitigation benefits, it can also add considerable costs and delay project completion, especially if the project's compliance is challenged through litigation. Many communities lacking secondary egress routes are located in rural counties where scarce resources are needed for project construction. Furthermore, the increasing risk of catastrophic wildfires justifies expediting projects that may be vital for saving lives

in future fires. It should be noted that AB 692 is narrowly tailored to apply to subdivisions of 30 units or more and prohibits use of the CEQA exemption when a project contains a wetland or riparian area or would harm species protected by federal, state, or local laws.

Writing in opposition, a coalition of environmental organizations states:

Our organizations strongly support good planning and fire preparedness, including the construction of secondary egress routes. However, we do not believe that CEQA is a barrier to constructing well-sited and well-designed secondary egress routes. In this case, as noted in your committee analysis of AB 1154, CEQA already provides for statutory exemptions for work to repair, maintain, or make minor alterations to existing roadways if certain conditions are met; categorical exemptions; negative declarations; and abbreviated review if a road project has been considered in a local planning environmental impact report. Carefully planned road projects that do not trigger “significant environmental impacts” will result in expeditious projects. However, a CEQA exemption, such as the one proposed in AB 692, eliminates any incentive for a public agency to plan and implement an egress project that avoids, minimizes, and mitigates environmental impacts.

- 4) **Prior Legislation.** AB 1154 (Patterson), of the 2021-2022 Legislative Session, was similar to this bill. AB 1154 was held on the Senate Appropriations Committee’s suspense file.

AB 394 (Oberholte), of the 2019-2020 Legislative Session, was similar to this bill. AB 394 was vetoed by the Governor, who stated:

California's devastating wildfires of 2017 and 2018 amplified the urgent imperative to mitigate risk and build robust community emergency plans, especially for our most vulnerable in the Wildland-Urban Interface (WUI). However, the CEQA exemption provided in this bill is premature and may result in unintended consequences. Without better information on the number, location and potential impacts of future fire safety road construction projects, it is not clear whether statutory changes are needed. Furthermore, it is important that we build solutions around the unique and targeted needs of each community.

Analysis Prepared by: Nikita Koraddi / APPR. / (916) 319-2081