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**SENATE COMMITTEE ON HOUSING**  
**Senator Scott Wiener, Chair**  
**2021 - 2022 Regular**

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**Bill No:** SB 63 **Hearing Date:** 4/29/2021  
**Author:** Stern  
**Version:** 12/7/2020  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Erin Riches

**SUBJECT:** Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones: forest management

**DIGEST:** This bill makes multiple changes to existing law to enhance fire prevention efforts by the state Department of Fire and Forestry Protection (CalFIRE), including, among other things, expanding the areas where enhanced fire safety building standards apply.

**ANALYSIS:**

*Existing law:*

*Fire hazard severity zones*

- 1) Requires the Board of Fire and Forestry Protection (Board) to identify lands for which the state is responsible for prevention and suppression of fires. These lands are known as the State Responsibility Area (SRA).
- 2) Requires local agencies to designate, upon CalFIRE recommendation, areas not in the SRA where a local agency, city, county, or district is responsible for fire protection. These areas are known as Local Responsibility Areas (LRAs).
- 3) Requires CalFIRE to identify moderate, high, and very high fire hazard severity zones in the SRA, as well as very high fire hazard severity zones (VHFHSZ) in LRAs.

*Building standards*

- 4) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

- 5) Requires the Office of the State Fire Marshal (SFM), by January 31, 2020, in consultation with CalFIRE and the state Department of Housing and Community Development (HCD), to propose updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk in LRA designated VHFHSZ. Requires the CBSC to adopt the proposed standards during the next regularly occurring code adoption cycle.

*Fire prevention*

- 6) Requires an individual 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 LRA designated VHFHSZ, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. Vegetation clearance on an adjacent property shall only be conducted following the written consent of the adjacent property's owner.
- 7) Requires CalFIRE to establish a local assistance program for fire prevention activities, as specified.
- 8) Requires the SFM to develop a model defensible space program that must be available for use by a city or county in the enforcement of defensible space provisions.
- 9) Appropriates certain funds to CalFIRE for purposes of healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas (GHG) emissions caused by uncontrolled wildfires and to complete prescribed fire and other fuel reduction projects, as specified.
- 10) Requires CalFIRE to provide grants to, or enter into contracts or other agreements with, private or non-governmental entities, Native American tribes, or local, state, and federal public agencies for the implementation of projects and programs to improve forest health and reduce GHG emissions.

**This bill:**

*Fire hazard severity zones*

- 1) Requires CalFIRE to also identify moderate and high fire hazard severity zones in LRAs and requires local agencies to make information regarding these zones available for public review and comment within 30 days, as specified.

*Building standards*

- 2) Requires the SFM and HCD to propose that the building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk, be expanded to also apply to high fire severity zones. Requires the CBSC to adopt the expanded building standards in the regularly occurring code adoption cycle.
- 3) Requires the SFM and HCD to consider whether it is appropriate to also expand the building standards in (2) to moderate fire severity zones and, if so, to recommend such an expansion to the CBSC.

*Fire prevention*

- 4) Revises the definition of “fuel” to include cultivated landscape plants, grasses, and weeds.
- 5) Provides that fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain the 100 feet of defensible space.
- 6) Requires CalFIRE to include in its fuels management guidance the minimization of flammable non-native grasses and weeds, as well as suggestions for fuel modification beyond the property line in order to maintain 100 feet of defensible space from a structure.
- 7) Requires the model defensible space program to include provisions for fuel modification beyond the property line, including on unimproved lots, in order to maintain 100 feet of defensible space from a structure.
- 8) Requires CalFIRE, on or before January 1, 2023, in consultation with the state Air Resources Board and the California Forest Management Task Force, to report to the Legislature on Greenhouse Gas Reduction Fund monies spent pursuant to SB 901 (Dodd, Chapter 626, Statutes of 2018), as specified.
- 9) Expands eligible activities for CalFIRE’s local assistance grant program, as specified, and increases the percentage of advance payments that CalFIRE is authorized to provide for this program, from 25% to 50%.
- 10) Requires CalFIRE, until January 1, 2026, to develop a statewide defensible space assessment program by trained representatives of Fire Safe Councils,

University of California fire advisors, registered professional foresters, and resource conservation districts in the SRA.

- 11) Requires CalFIRE, until January 1, 2026, to develop and implement a training pilot program to train individuals to support and augment CalFIRE's defensible space and home hardening assessment and public education efforts.
- 12) Requires CalFIRE to establish a program to conduct landscape scale ecological restoration and fire resiliency projects on national forest lands, as specified.

## COMMENTS

- 1) *Author's statement.* "The 2020 wildfire season made clear that the risk of deadly fire seasons means communities in the wildland-urban interface (WUI) face a treacherous future. California's population is estimated to reach 44 million by 2030 and developments continue to build out into more rural and high-fire-risk areas. As fire risk across the state begins to rise, our building standards must be improved. SB 63 ensures homes in high and moderate fire hazard risk areas meet existing very high fire hazard building standards to set up California homeowners for success and safety. By pairing building standards with proactive community wildfire risk mitigation, we can thwart the wildfire risk facing the most vulnerable communities. Managing and monitoring vegetation on each residential property will help slow or stop an active wildfire from growing, working in tandem with strong building standards. As fire risk grows each day, we must implement consistent fire building standards to protect all homes in all categories of fire risk. By utilizing vegetation management, creating defensible spaces, and strengthening building standards, California can deploy proven and cost-effective tools to reduce fire danger in California."
- 2) *Where can we build?* California is currently experiencing a serious housing crisis and it is essential to expedite construction of critically needed housing units. In order to make this happen, it is important for every jurisdiction to meet its full regional housing obligation and to create an environment where housing is available to Californians of all income levels. Toward this end, the Legislature has enacted multiple bills over the past several years to provide both funding and incentives to help increase compliance with housing element law. The state faces a difficult policy question in that it must balance the protection of its residents from wildfires, sea level rise, floods, earthquakes, and other risks, against meeting the need for more housing.

- 3) *Fire hazard severity zones.* Every five years, the Board designates the SRA. Within SRA lands, CalFIRE designates moderate, high, and very high fire hazard severity zones. After the 1991 Oakland-Berkeley fires, the Legislature required CalFIRE to also designate VHFHSZ in LRAs. Although these maps are required to be updated every five years, current maps date back to 2007. Landowners in the SRA and in LRA designated VHFHSZ must follow specified fire prevention practices and meet standards developed by the Board. These practices and standards include maintaining defensible space of 100 feet around structures, performing certain activities to reduce the amount of flammable material near and on structures, and meeting specific building standards developed by CalFIRE and HCD that help structures withstand ignition and reduce fire risk (see Comment #5 below).

This bill would direct CalFIRE to also designate moderate and high fire hazard severity zones in LRAs.

- 4) *Board of Forestry and Fire Protection regulations.* Recent legislation (SB 901, Dodd, Chapter 626, Statutes of 2018) required the Board to update its State Fire Safe Regulations. In addition, as of July 1, 2021, the regulations will expand beyond the SRA to also apply to LRA designated VHFHSZ. The March 15, 2021 draft Board regulations propose to apply a set of stringent road standards to all new roads, as well as existing public and private roads, when approval is sought for the creation of three or more new parcels, zoning changes that increase the intensity of land use, or application for a change in use permit that proposes to increase use intensity or density. The draft regulations also entirely prohibit construction where access is provided by a road that does not meet the minimum standards for a 14-foot width or does not have turnouts every 400 feet, among other conditions. Many local agencies are deeply concerned that the final Fire Safe Regulations will require prohibitively expensive upgrades to many miles of existing roads. They are concerned that, lacking information on how many roads qualify as substandard, the Board may adopt regulations that effectively render large swaths of the state off-limits to construction, including wildfire rebuilds.

This bill would not impact the Board regulations.

- 5) *Chapter 7A standards.* In 2005, the CBSC approved the SFM's emergency regulations that amended the California Building Code to establish Chapter 7A, Materials and Construction Methods for Exterior Wildfire Exposure (Chapter 7A standards). These mandatory standards took effect on July 1, 2008 and have been periodically updated since then. Any new building constructed in any level of fire hazard severity zone within the SRA, or in any LRA designated

VHFHSZ, must comply with the Chapter 7A standards. In addition, local agencies can choose to require ancillary buildings, ancillary structures, and detached accessory structures to meet the Chapter 7A standards. These standards are intended to ensure that the exterior of the structure is ignition-resistant and can resist the entry of flying embers and fire radiation during a wildfire. Requirements include measures such as fire-retardant-treated wood and shingles; wire mesh coverings on all ventilation openings; exterior glazing on all windows; and non-combustible decking material.

It is clear that the Chapter 7A standards are making a difference. A 2019 *Sacramento Bee* analysis noted that in the Camp Fire, about 51% of the single-family homes built after 2008 were undamaged; in contrast, only 18% of those built prior to 2008 were undamaged.<sup>1</sup> In addition, data provided to the committee by CalFIRE indicates that of the homes affected by the seven largest 2017 and 2018 wildfires (Atlas, Camp, Carr, Nuns, Thomas, Tubbs, and Woolsey), about 46% of homes built prior to 2009 were undamaged, compared to about 62% of homes built after 2009.

This bill would require the Chapter 7A standards to be expanded beyond the SRA, and LRA designated VHFHSZ, to LRA high fire severity zones. It would also require the SFM and HCD to consider expanding the standards even further, to LRA moderate fire severity zones.

- 6) *Committee amendments.* The author proposes two amendments to this bill to address opposition concerns but was unable to finalize them prior to the committee deadline. **Therefore, the committee will adopt the following amendments:**
- a) Clarify that VHFHSZ means an area designated as a VHFHSZ that is not in the SRA.
  - b) Delete authorization for a local fuel modification ordinance to require notification of the adjacent landowner prior to the fuel modification, to clarify that fuel modification on an adjacent property shall only be conducted following written consent by the adjacent landowner.
- 7) *Double referral.* This bill passed out of the Senate Natural Resources & Wildlife Committee on an 8-0 vote on March 16, 2021.

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<sup>1</sup> Dale Kasler and Philip Reese, “‘The Weakest Link:’ Why Your House May Burn While Your Neighbor’s Survives the Next Wildfire,” *Sacramento Bee* (April 11, 2019), <https://www.sacbee.com/news/california/fires/article227665284.html>.

**RELATED LEGISLATION:**

**SB 12 (McGuire, 2021)** — imposes certain fire hazard planning responsibilities on local governments; requires cities and counties to make specified findings on fire standards prior to permitting development in LRA designated VHFHSZ; and incorporates fire hazard planning into regional housing needs allocation objectives and methodology. *This bill will also be heard in Housing Committee today.*

**SB 55 (Stern, 2021)** — prohibits residential development in VHFHSZ unless local agencies adopt a wildfire prevention strategy that mitigates significant risks of loss, injury, or death. *This bill was heard in the Governance & Finance Committee on April 15, 2021 for testimony only.*

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: Yes

**POSITIONS:** (Communicated to the committee before noon on Friday, April 23, 2021.)

**SUPPORT:**

American Planning Association, California Chapter  
Building Owners and Managers Association of California  
California Apartment Association  
California Building Industry Association  
California Business Properties Association  
California Fire Chiefs Association  
City of Thousand Oaks  
Fire Districts Association of California  
International Council of Shopping Centers  
NAIOP of California, Commercial Real Estate Development Association  
National Fire Protection Association  
Pacific Gas and Electric Company  
Southern California Edison  
Tree Care Industry Association

**OPPOSITION:**

None received