



Senator Scott Wiener, 11th Senate District

Senate Bill 610 – Fire prevention and local discretion

SUMMARY

SB 610 seeks to ensure a consistent application of wildfire mitigations for new development in areas at risk from wildfires. More specifically, the bill realigns various existing mitigations under the State Fire Marshal (SFM) and requires the SFM to use a science-based, and public process to map the area where these mitigations would be required to ensure a resilient California.

BACKGROUND/EXISTING LAW

The State Fire Marshal (SFM) is currently required to classify and map the severity of fire hazard within both the State and Local Responsibility Areas as Moderate, High, or Very High. These maps evaluate hazard, not risk; hazard is based on the physical conditions that create a likelihood and expected fire behavior without considering mitigation measures, whereas risk is the potential damage a fire can do to the area under existing conditions. A new map of Fire Hazard Severity Zones (FHSZs) in the State Responsibility Area (SRA) was adopted earlier this year, but has not been mapped in local jurisdictions since 2008.

Currently, buildings constructed in any FHSZs within the SRA, or in any Local Responsibility Area (LRA) designated Very High FHSZ, are subject to the Chapter 7A standards. SB 63 (Stern, 2021) expanded Chapter 7A standards to LRA

High FHSZ, and requires the SFM and the Department of Housing and Community Development to consider expanding the standards even further to LRA Moderate FHSZ.

Other wildfire mitigations are adopted by the Board of Forestry and Fire Protection (Board). These include vegetation clearance requirements around homes known as Defensible Space. AB 3074 (Freidman 2020) required the Board to develop an ember resistant zone limiting flammable

items and vegetation within the first five feet around a home. While this new zone was required to be in effect January 1, 2023, these regulations remain in development. The Board is also currently responsible for updating development standards in wildfire-prone areas known as the “State Fire Safe Minimum Regulations.” These regulations set standards for roadway widths, water supply, and building addresses.

PROBLEM

The current FHSZ process has numerous problems. Namely, there is currently no Statewide adopted map for LRA FHSZs. The current LRA process lacks a public comment process and results in inconsistent wildfire mitigations that are not science-based due to the current tiering system of FHSZs.

Previous legislation and trailer bill language in this code section amended the CalFIRE FHSZ LRA map process, including attaching new provisions to LRAs, such that this process may be weaponized locally as an anti-housing/development tool. In practice, LRA maps can functionally result in restrictions on growth through imposing costly building standards, increased disaster planning and mitigation requirements, or increasing home insurance premiums.

Once the recommended LRA’s maps are sent to local agencies, jurisdictions can make the LRA maps more restrictive but cannot correct maps to make the zones less restrictive. Unlike SRAs, there is no map appeal process for the LRA maps—any altered LRA maps by local agencies are final and non-rebuttable by the SFM. Local jurisdictions then have the ability to misuse this process and make the majority of their community a High/Very High FHSZ through an LRA map that would impact housing development for 10-20 years until the maps are updated. Additionally, the current LRA process lacks Statewide oversight and enforcement for local ordinance adoptions of FHSZs.

Consequently, the Fire Hazard Severity Zone (FHSZ) maps are often misinterpreted as identifying risk, but the maps were never intended to be used as a deterrent or a moratorium on fire safe housing or as a method to determine insurance rates. The maps are simply intended to identify areas where mitigations are necessary.

These inconsistencies have resulted in a lack of consistent adoption of mitigations in the LRA and the public perception that FHSZ classifications influence insurance availability and pricing, as well as housing prices.

SOLUTION

SB 610 would remedy the issues with the existing FHSZ process by empowering CAL FIRE – Office of the State Fire Marshal to use its science-based hazard model to develop the Wildfire Mitigation Area (WMA). Under SB 610, the SFM would collaboratively develop appropriate and consistent Statewide minimum mitigation requirements for the WMA through a public process.

SB 610 provides for a robust public meeting process and would allow the SFM to review feedback and adjust the WMA Map where warranted. This approach would restrict the ability of expanding or reducing the WMA boundaries to the SFM.

The SFM would also adopt science-based minimum mitigation requirements for the WMA that would be developed collaboratively with appropriate stakeholders and would be consistent throughout the WMA.

Consistent wildfire mitigation requirements for the building industry, as instituted by SB 610, would resolve current concerns over what mitigations are required, which could expedite fire-adapted development.

SUPPORT

SB 610 is a partnership between Senator Wiener and the Office of Governor Gavin Newsom (Source)

FOR MORE INFORMATION

Radhika Gawde, *Senate Fellow*

Email: radhika.gawde@sen.ca.gov

Phone: (916) 651-4011