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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**  
**Senator Ben Hueso, Chair**  
**2019 - 2020 Regular**

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**Bill No:** AB 1516 **Hearing Date:** 7/10/2019  
**Author:** Friedman  
**Version:** 7/3/2019 As Amended  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Nidia Bautista

**SUBJECT:** Fire prevention: wildfire risk: defensible space and fuels reduction management

**DIGEST:** This bill makes various changes to improve defensible space requirements, vegetation clearance requirements of electrical transmission and distribution lines, and the technical assistance requirements of the Department of Forestry and Fire Protection (Cal FIRE) to help local governments improve the fires safety of communities.

**ANALYSIS:**

Existing law:

- 1) Requires, except as specified, any electrical transmission or distribution line owner in the State Responsibility Area (SRA) to maintain around and adjacent to any pole or tower that supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole, a firebreak that consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. (Public Resources Code §4292)
- 2) Requires electrical transmission or distribution line owners in the SRA to maintain clearances in all directions between all vegetation and all conductors of varying voltages as specified. Requires dead trees, old decadent or rotten trees, trees weakened by decay or disease, and trees or portions thereof that are leaning toward a line that may contact the line from the side or may fall on the line to be felled, cut, or trimmed to remove the hazard by the electric utility. (Public Resources Code §4293)
- 3) Permits electric utilities with transmission or distribution lines, in a high fire threat district (HFTD) or the SRA, to traverse land as necessary, regardless of land ownership or express permission from the landowner, after providing notice, to prune trees to maintain clearances and to remove any hazardous, dead, rotten, diseased, or structurally defective live trees. (Public Resources Code §4295.5)

This bill:

- 1) Establishes numerous provisions and changes to address defensible space requirements, including, among other provisions:
  - a) Makes Resource Conservation Districts eligible within counties to receive loans from a county, in line with other special districts, to perform its functions and meet their obligations.
  - b) Requires a noncombustible zone within specified distance from a structure in the SRA or a Very High Fire Hazard Severity Zone (VHFHSZ).
  - c) Requires Cal FIRE to update the guidance documents to include suggestions for creating a noncombustible zone.
  - d) Requires each local agency enforcing defensible space requirements within the VHFHSZ to annually report to Cal FIRE the number of inspections, enforcement actions, and estimated compliance rates within its jurisdiction.
  - e) Requires Cal FIRE to ensure the inspection of each known structure within the SRA at least once every three years.
  - f) Requires Cal FIRE to develop a wildland-urban interface risk model to determine the risk for a community or a parcel within local or SRA.
- 2) Requires Cal FIRE in consultation with the California Public Utilities Commission (CPUC) and any person who owns, controls, operates, or maintains any electrical transmission or distribution lines, on or before July 1, 2021, to develop a guidebook of vegetation, including tree and shrub species, that, if planted in the vicinity of electrical transmission and distribution lines, cannot encroach within the vicinity of overhead conductors as provided.
- 3) Defines person to mean, among other things, a county, city, district, or other local public agency for purposes of this provision, and other specified provisions related to firebreaks and vegetation clearance around electrical transmission or distribution lines, as provided.
- 4) Requires the guidebook to include, but not be limited to, guidelines for planting underneath and to the side of conductors of varying voltages, as provided.
- 5) Requires Cal FIRE, the CPUC, an electrical corporation, and a local publicly owned electric utility to make available on their respective internet websites the above-described guidebook.

- 6) Prohibits landowners, on or after July 1, 2021, from planting vegetation, including tree and shrub species, in the vicinity of electrical transmission and distribution lines that are inconsistent with, or in a location that would be inconsistent with, the provisions of that guidebook. This bill would prohibit landowners, on or after January 31, 2021, from planting vegetation near electrical transmission and distribution lines and towers that can encroach within 10 feet of overhead conductors at any time. Because a violation of those prohibitions on landowners would be a crime, this bill would impose a state-mandated local program.
- 7) Authorizes, upon completion of the guidebook, San Diego Gas and Electric Company (SDG&E), until July 1, 2026, to enforce the provisions above, as provided, within their service territory. Makes legislative findings and declarations as to the necessity of a special statute for SDG&E. Specifies that these provisions apply in both a HFTD, as determined by the CPUC, and an SRA.

## Background

*Right tree, right place.* National and international education effort to elevate the import of proper planning for the choice and placement of trees that grow well in the soil and moisture of the region. The public awareness effort, which includes the Arbor Day Foundation and many electric utilities and municipalities, is intended to deter the planting of trees which obstruct power lines. The wrong tree, growing rapidly under electric wires, is at best a nuisance requiring constant, expensive trimming, and, at worst, a hazard leading to power outages and electrical fires. Many utilities across the country have developed campaigns.

The concept of "right tree, right place" offers an opportunity to replace vegetation under electric powerlines with vegetation that at maturity will not grow into the lines. This will reduce conflict with utility lines, costs to the utility, and improve safety. When vegetation is replaced it can also provide important habitat to monarch butterflies, bees, and other at-risk species. This bill requires "right tree, right place" for future planning of trees under the utility lines. Both SDG&E, Pacific Gas & Electric Company (PG&E), and California State University San Luis Obispo offer resources to property owners on which trees and shrubs to plant under utility lines.

*Cal FIRE 45-Day Report.* In a 45-Day Report to Governor Gavin Newsom in response to Executive Order N-05-19, Cal FIRE systematically identified high priority fuels reduction projects and other measures to immediately begin to protect over 200 of California's most wildfire-vulnerable communities and put the state on

a path toward long-term wildfire prevention and forest health. The Community Wildfire Prevention & Mitigation Report, released in February, recommends immediate, medium and long-term actions to help prevent destructive wildfires including the identification of priority projects that can be implemented immediately to help protect the state's most vulnerable communities.

The report specifically included recommendations for improving defensible space requirements including:

- Review the penalty for non-compliance with defensible space code, establishing a fixed compliance date in lieu of three-inspection process. Include vacant land provisions;
- Review enforcement the full 100 feet of defensible space around a structure when the structure is closer than 100 feet from the parcel line;
- Consider the home and the first 0-5 feet as the most critical and hardened aspect of home hardening and defensible space. Consider requiring ignition resistant building material, only allow bark and hardscape, not trees or shrubs in the area; and,
- Consider science-based regulation of wood piles and wood fences.

*General Order 95 and Electric Rule 11.* Rule 11 allows an investor-owned electric utility (IOU) to disconnect service to customers and property owners who obstruct access to overhead electric powerlines when there is a breach of minimum vegetation clearances, or when a dead, rotten, diseased, leaning, or overhanging tree poses an imminent or immediate risk for falling onto a powerline. The vegetation management requirements are established via General Order 95.

## Comments

*AB 1516.* This bill would authorize a pilot program within SDG&E's service territory to enforce the requirements of the updated guidebook on properties within the HFTDs identified by the CPUC. Currently, SDG&E conduct an outreach and education program to inform property owners about the proper type of vegetation that should be planted in, and around, electric power lines. In this case, SDG&E would be authorized to take remove the improper vegetation, providing adequate notice and opportunity for the landowner to be heard. In light of the recent catastrophic wildfires, including those that have been sparked by electric lines making contact with grasses and trees in SDG&E territory, such a pilot program may be useful as an additional strategy to reduce wildfire risk. However, considering the different landscape in SDG&E service territory, as compared to the territory of the other two large electric IOUs, the applicability for the specific vegetation may not be useful. Nonetheless, the opportunity to increase

collaboration with landowners in order to address wildfire risks would seem beneficial model for other utilities. To that end, the language requiring the CPUC to review, as part of SDG&E's wildfire mitigation plan, the enforcement efforts would be helpful. To the extent, additional due process protections are necessary, the Legislature may wish to notify the CPUC to take action requiring more protections for customers.

*Need for amendments.* As drafted, this bill allows SDG&E to enforce the guidebook recommendations in both CPUC identified high fire threat zones and in SRAs. The CPUC high-fire threat zones encompass areas where the risk for fire from the interaction with electric utility infrastructure is highest. As such, narrowing this provision to only the CPUC high fire threat zone seems adequate to address the risk, while not authorizing SDG&E to enter into other areas that do not pose the same level of risk. *Therefore, the author and committee may wish to amend this bill to delete the mention of the SRA in section nine of this bill, Section 4295.6 (c) 2.*

*Dual referral.* This bill passed out of the Senate Committee on Natural Resources and Water June 25<sup>th</sup> on an 8-1 vote.

### **Prior/Related Legislation**

AB 38 (Wood, 2019) establishes the State Wildfire Preparedness Board and 18 wildfire prevention districts to, among other things, enforce specified defensible space requirements. The bill creates a Fire Hardened Homes Revolving Loan Fund (Fund) and transfers \$1 billion from General Fund to the fund to provide no- or low-interest loans for home hardening and defensible space work. The bill is pending consideration in the Senate Committee on Governmental Organization.

SB 190 (Dodd, 2019) requires the Office of the State Fire Marshal (SFM) to develop a model defensible space program, as specified, and requires the SFM to develop a Wildland-Urban Interface Fire Safety Building Standards Compliance training manual.

SB 247 (Dodd, 2019) requires Cal FIRE, on January 1, 2021, to provide a "trim list" to each IOU identifying all trees and other vegetation in the vicinity of electrical lines or equipment owned by the IOU requiring removal or trimming, including the extent of trimming required.

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.

SB 1260 (Jackson, Chapter 624, Statutes of 2018) omnibus fire prevention and forestry management bill with the intent of promoting long-term forest health and wildfire resiliency. Made various changes related to local fire planning, prescribed fire requirements, and broader fire prevention efforts.

SB 901 (Dodd, Chapter 626, Statutes of 2018) established a comprehensive framework to address and prevent catastrophic wildfires including prevention and planning by the state's electric utilities, management of the state's forests, chaparrals, and other lands to prevent and defend against wildfires, and standards to stabilize IOUs in the event of extensive liability resulting from claims under inverse condemnation.

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

**SUPPORT:**

Allstate  
California Association of Realtors  
California Association of Resource Conservation Districts  
California Building Industry Association  
California State Association of Counties  
Center for Biological Diversity  
Insurance Solutions Office  
Midpeninsula Regional Open Space District  
Personal Insurance Federation of California  
Resource Conservation District of Greater San Diego County  
Rural County Representatives of California  
San Diego Gas & Electric  
Sierra Club California  
The Nature Conservancy

**OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** According to the author:

Defensible space is vital for protecting homes and communities from wildfire. Homes complying with the newest building standards are ignition resistant only if defensible space requirements are being met. A

KQED analysis of almost a half- million inspection records shows CAL FIRE's inspection rate was just 17% of properties in 2018, far below the agency's 33% goal. It is believed that homes in recent fires ignited because vegetation was in front of their windows and under their eaves. Creating a noncombustible zone within five feet of a structures for high fire hazard areas is recommended by fire professionals and was referenced in CAL FIRE's 45 day report to the Governor.

AB 1516 will improve compliance for defensible space requirements and institute a noncombustible zone. AB 1516 also requires the use of "right tree right place" for future planting under electrical lines in high fire hazard areas. Landowners could consult a guidebook developed to provide options of vegetation that would never grow into energized conductors and cause fires. This will reduce vegetation management costs, conflicts with landowners, and reduce vegetation contact with lines. Finally, the AB 1516 modernizes CAL FIRE's requirements to provide technical assistance to local governments on fire prevention and appropriate vegetation management.

**-- END --**