



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**AB-642 Wildfires.** (2021-2022)

SHARE THIS:  

Date Published: 09/29/2021 02:00 PM

**Assembly Bill No. 642**

**CHAPTER 375**

An act to amend Sections 51178 and 51178.5 of, and to amend the heading of Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of, the Government Code, to amend Section 13140.5 of the Health and Safety Code, and to amend Sections 4114.3, 4477, 4483, 4493, and 4494 of, to add Sections 703, 4002.4, 4002.6, and 4742 to, and to add and repeal Section 4204.1 of, the Public Resources Code, relating to wildfires.

[ Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 642, Friedman. Wildfires.

(1) Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones, as provided. Existing law requires a local agency, within 30 days of receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information available for public review.

This bill would require the director to also identify areas in the state as moderate and high fire hazard severity zones. The bill would modify the factors the director is required to use to classify areas into fire hazard severity zones, as provided. The bill would instead require a local agency, within 30 days of receiving a transmittal from the director that identifies fire hazard severity zones, to make the information available for public review and comment. Because the bill would impose additional duties on local agencies, this bill would impose a state-mandated local program.

(2) Existing law creates in the Office of the State Fire Marshal a State Board of Fire Services to succeed to all the powers, duties, and responsibilities of the former State Fire Advisory Board. Existing law requires the board to consist of members, including, among others, the State Fire Marshal, the Chief Deputy Director of the Department of Forestry and Fire Protection, the Director of Emergency Services, and the Chairperson of the California Fire Fighter Joint Apprenticeship Program.

This bill would require the Director of Forestry and Fire Protection to appoint a cultural burning liaison. The bill would require the cultural burning liaison to, among other duties, serve on the State Board of Fire Services and to advise the Department of Forestry and Fire Protection on developing increased cultural burning activity.

(3) Existing law authorizes the Director of Forestry and Fire Protection to enter into an agreement, including a grant agreement, for prescribed burning operations or other hazardous fuel reduction efforts, with any person for specified purposes. Existing law requires the agreement to designate an officer of the Department of Forestry and Fire Protection or a certified burn boss with the final authority regarding the prescribed burn operation and to specify the duties of, and the precautions taken by, the person contracting with the department and any personnel furnished by that person. Existing law requires the State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, to develop a curriculum for a certification program for burn bosses.

This bill would require the State Fire Marshal, on or before July 1, 2023, to develop a proposal to establish a prescribed fire training center, as provided.

This bill would require the department, on or before July 1, 2023, to make recommendations on how to understand and model wildfire risk for a community and specific parcels. The bill would require the department to establish an advisory workgroup and would require the department to consult with the advisory workgroup, as specified, in the development of the recommendations. The bill would require the department to post the recommendations on the department's internet website. The bill would repeal these provisions on January 1, 2025.

Existing law requires the department to actively engage certain entities to enhance its public education efforts regarding fire prevention and public safety.

This bill would additionally require the department to actively engage those entities, relevant California State Universities, California Native American tribes, tribal organizations, and cultural fire practitioners to enhance its public education efforts regarding restoring fire processes and function, and cultural burning, as defined.

Existing law authorizes an entity that controls brush-covered land, forest lands, woodland, grassland, shrubland, or a combination of those types of land within a state responsibility area to apply to the department for permission to use prescribed burning for certain public purposes.

This bill would require the department, in issuing the permit, to consider the availability of nondepartmental contingency resources when determining whether to require department contingency resources as part of the required precautions for the prescribed burn. The bill would require the department, to the extent feasible, to employ burn suspensions at the unit level and not at the state or regional level to not unreasonably restrict prescribed burnings that are within prescription. The bill would require the department to develop and deploy an automated system for issuing burn permits.

Existing law authorizes prescribed burning, mastication, herbicide application, mechanical thinning, or other vegetative treatments of chaparral or sage scrub only if the department finds the activity will not cause "type conversion" away from the chaparral and coastal sage scrub currently on site.

This bill would authorize the department to order remediation for any type conversion caused in violation of the above provision.

This bill would require the department to take into consideration the salary, classification, and recruitment efforts for its personnel that conducts fuel reduction to fill vacancies and retain seasoned fuel reduction experts, and engage in recruitment efforts with California Native American tribes, tribal organizations, and cultural fire practitioners to fill vacancies in positions that engage in fuel reduction on behalf of the department.

(4) This bill would incorporate additional changes to Sections 51178 and 51178.5 of the Government Code proposed by AB 9 to be operative only if this bill and AB 9 are enacted and this bill is enacted last.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

---

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to property, infrastructure, and ecosystems. In 2020, wildfires burned more than 4.1 million acres. The August Complex Fire in northern California, the largest fire in California's modern history, burned over one million acres. In total, wildfires caused 33 deaths and destroyed over 10,000 structures in 2020. The land area burned in 2020 more than doubled the previous record, roughly 1.8 million acres, which was set in 2018. Furthermore, seven of the state's deadliest fires have occurred since 2017, with over 100 fatalities in 2017 and 2018. The Department of Forestry and Fire Protection keeps records of the largest and most destructive wildfires in the state's history. Each year, those records continue to be broken.

(2) Fire has always been present in California landscapes, ignited either by lightning strikes or by Native Americans to enhance certain useful plants, enhance hunting success, perform religious rites, prevent larger fires, and other reasons. Lower-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of trees and other plants. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity. However, climate change, an

epidemic of dead and dying trees, a century of fire exclusion, and the proliferation of new homes in the wildland-urban interface have magnified the threat of high-intensity wildfires and substantially reduced California's fire resiliency.

(3) Chapter 624 of the Statutes of 2018 made important steps to increase the use of prescribed burns. However, much more must be done to increase the pace and scale of prescribed and cultural burns to meet the state goals and increase fire resiliency, including increasing partnerships with California Native American tribes, tribal organizations, and cultural fire practitioners.

(4) Partnering with California Native American tribes, tribal organizations, and cultural fire practitioners to expand the practice of cultural burnings upon landscape provides an opportunity to restore landscape resilience while preserving Native American cultural identity and also improving forest health, ecosystem abundance, maintaining species diversity, and decreasing the risk of catastrophic wildfires.

(5) To limit the threat of catastrophic wildfires and to improve forest health and air quality, it is a priority of the state to have an effective prescribed burning program that is developed and crafted collaboratively with federal agencies, prescribed burning experts at state public universities, public agencies, California Native American tribes, tribal organizations, cultural fire practitioners, nonprofit entities, private landowners, and other relevant organizations.

(b) It is the intent of the Legislature that the State Air Resources Board, in consultation with the local air quality management and air pollution control air districts, review established guidance and policies related to prescribed fire with the goal of maximizing acreage and opportunities to implement prescribed fire in order to reduce the air pollution associated with high-severity wildfire.

(c) It is the intent of the Legislature that the Department of Insurance and the Department of Forestry and Fire Protection develop or facilitate innovative solutions within the next year to ensure certified burn bosses, Native American tribes, tribal organizations, and cultural fire practitioners and the organizations they work for have access to appropriate insurance to enable them to contribute to the fire resilience of the state.

**SEC. 2.** The heading of Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code is amended to read:

**CHAPTER 6.8. Moderate, High, and Very High Fire Hazard Severity Zones**

**SEC. 3.** Section 51178 of the Government Code is amended to read:

**51178.** The director shall identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Department of Forestry and Fire Protection as a major cause of wildfire spread.

**SEC. 3.5.** Section 51178 of the Government Code is amended to read:

**51178.** The State Fire Marshal shall identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

**SEC. 4.** Section 51178.5 of the Government Code is amended to read:

**51178.5.** Within 30 days after receiving a transmittal from the director that identifies fire hazard severity zones pursuant to Section 51178, a local agency shall make the information available for public review and comment. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

**SEC. 4.5.** Section 51178.5 of the Government Code is amended to read:

**51178.5.** Within 30 days after receiving a transmittal from the State Fire Marshal that identifies fire hazard severity zones pursuant to Section 51178, a local agency shall make the information available for public review and comment. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

**SEC. 5.** Section 13140.5 of the Health and Safety Code is amended to read:

**13140.5.** (a) The board shall be composed of the following voting members: the State Fire Marshal, the Chief Deputy Director of the Department of Forestry and Fire Protection who is not the State Fire Marshal, the Director of Emergency Services, the Chairperson of the California Fire Fighter Joint Apprenticeship Program, one representative of the insurance industry, one

volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, one cultural burning liaison pursuant to Section 703 of the Public Resources Code, and one representative from county government.

(b) (1) The following members shall be appointed by the Governor: one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government.

(2) Each member appointed shall be a resident of this state.

(3) The volunteer firefighter shall be selected from a list of names submitted by the California State Firefighters Association. One fire chief shall be selected from a list of names submitted by the California Fire Chiefs' Association; one fire chief shall be selected from a list of names submitted by the Fire Districts Association of California; and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. One fire service labor representative shall be selected from a list of names submitted by the California Labor Federation; one fire service labor representative shall be selected from a list of names submitted by the California Professional Firefighters; one fire service labor representative shall be selected from a list of names submitted by the International Association of Fire Fighters; one fire service labor representative shall be selected from a list of names submitted by the California Department of Forestry Firefighters; and one fire service labor representative shall be selected from a list of names submitted by the California State Firefighters Association. The city government representative shall be selected from elected or appointed city chief administrative officers or elected city mayors or council members. The fire district representative shall be selected from elected or appointed directors of fire districts. The county government representative shall be selected from elected or appointed county chief administrative officers or elected county supervisors.

(4) The appointed members shall be appointed for a term of four years.

(5) Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.

**SEC. 6.** Section 703 is added to the Public Resources Code, to read:

**703.** The director shall appoint a cultural burning liaison who shall do all of the following:

(a) Advise the department on developing increased cultural burning activity.

(b) Engage with California Native American tribes, tribal organizations, and cultural fire practitioners, as defined in Section 4002.6, on opportunities to partner with the department.

(c) Make recommendations to the director on ways to reduce barriers to cultural burning, as defined in Section 4002.4.

(d) Serve on the State Fire Marshal's State Board of Fire Services, as established by Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code.

(e) Work with unit chiefs across the state to ensure prescribed fire and cultural burning objectives are understood and supported by the department.

**SEC. 7.** Section 4002.4 is added to the Public Resources Code, to read:

**4002.4.** "Cultural burn" or "cultural burning" means the intentional application of fire to land by California Native American tribes, tribal organizations, or cultural fire practitioners to achieve cultural goals or objectives, including for subsistence, ceremonial activities, biodiversity, or other benefits.

**SEC. 8.** Section 4002.6 is added to the Public Resources Code, to read:

**4002.6.** "Cultural fire practitioner" means a person associated with a California Native American tribe or tribal organization with experience in burning to meet cultural goals or objectives, including for subsistence, ceremonial activities, biodiversity, or other benefits.

**SEC. 9.** Section 4114.3 of the Public Resources Code is amended to read:

**4114.3.** (a) (1) The department shall actively engage University of California Cooperative Extension, relevant California State Universities, fire safe councils, California Native American tribes, tribal organizations, cultural fire practitioners, resource conservation districts, and any other entity with demonstrated expertise to enhance its public education efforts regarding any of the following:

- (A) Restoring fire processes and functions.
- (B) Cultural burning.
- (C) Fire prevention.
- (D) Public safety.

(2) These public education efforts shall include, but are not limited to, educational activities regarding community wildfire protection plans, community fire safe councils, community and private chipping days, defensible space, prescribed fires, cultural burning, hardened residences, compliance with building standards, evacuation routes, activities that promote fire resiliency or achieve carbon-sequestration benefits in the wildland-urban interface and other forest lands, and activities that promote public safety. When engaging with Native American tribes, tribal organizations, and cultural fire practitioners, the department shall respect tribal sovereignty, customs, and culture.

(b) The department shall also support, to the extent feasible, the programs of California Native American tribes, tribal organizations, and cultural fire practitioners that develop the knowledge and skills needed to establish and maintain the diverse workforce that is required to achieve activities described in this section.

**SEC. 10.** Section 4204.1 is added to the Public Resources Code, to read:

**4204.1.** (a) On or before July 1, 2023, the department, in consultation with the State Fire Marshal and the Insurance Commissioner, shall make recommendations on how to understand and model wildfire risk for a community and specific parcels within the local responsibility area or state responsibility area through the input of mitigating factors. The department's recommendations shall include all of the following:

- (1) Identification of mitigation factors that must be included to determine risk.
- (2) Cost-effective ways to gather data on mitigation factors.
- (3) A discussion on how parcels can affect the risk of other parcels in close proximity.
- (4) An evaluation of the effectiveness of using natural infrastructure as a community buffer.
- (5) A review of other jurisdictions' applicable wildfire risk models.
- (6) Identification of barriers to determining the wildfire risk of a community and specific parcels.

(b) (1) The department shall establish, and consult with, an advisory workgroup to develop the recommendations required pursuant to subdivision (a).

(2) The advisory workgroup established pursuant to paragraph (1) shall include all of the following members:

- (A) The State Fire Marshal, or the State Fire Marshal's designee.
- (B) The Director of Emergency Services, or the director's designee.
- (C) The Insurance Commissioner, or the Insurance Commissioner's designee.
- (D) The Director of State Planning and Research, or the director's designee.
- (E) The Director of Housing and Community Development, or the director's designee.
- (F) Two representatives from insurers and insurance research organizations that have appropriate expertise in wildfire risk modeling, such as exposure measurement, risk modeling, and actuarial expertise, to be appointed by the department.
- (G) Two representatives, one a fire chief, or the fire chief's designee, and the other a fire prevention officer, to be appointed by the department in consultation with the California Fire Chiefs Association and the Fire Districts Association of California.
- (H) A representative from the California Professional Firefighters, to be appointed by the department.
- (I) A representative from the California Fire Science Consortium, to be appointed by the department.
- (J) A representative from the California Building Industry Association, to be appointed by the department.
- (K) Two representatives from a local government, with one from a rural city or county, to be appointed by the department.

(3) The appointed members of the advisory workgroup shall serve at the pleasure of the department.

(4) The members of the advisory workgroup shall serve without compensation, but each member shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(5) The chairperson of the advisory workgroup shall be the State Fire Marshal, or the State Fire Marshal's designee.

(6) The vice chairperson of the advisory workgroup shall be the fire chief specified in subparagraph (F) of paragraph (2), or the fire chief's designee.

(c) The department shall post the recommendations required by subdivision (a) on the department's internet website.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

**SEC. 11.** Section 4477 of the Public Resources Code is amended to read:

**4477.** (a) The State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, shall develop a curriculum for, or amend into an existing curriculum, a certification program for burn bosses, who, pursuant to Section 4476, possess authority to engage in a prescribed burning operation and to enter into the necessary contracts related to a prescribed burning operation. The curriculum shall provide for the initial certification as well as the continuing education of burn bosses. It is the intent of the Legislature that this curriculum become a regular part of the training of firefighters conducted by the Department of Forestry and Fire Protection and all other appropriate accredited training providers.

(b) In addition to the curriculum and certification program developed pursuant to subdivision (a), the department shall develop a training program for prescribed fire users to certify professionals in any agency or organization as burn bosses. The department shall certify these individuals to a common standard. It is the intent of the Legislature that the department use its discretion to ensure that burn bosses are thoroughly qualified to engage in prescribed burning operations prior to issuing certifications.

(c) On or before July 1, 2023, the State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, in consultation with the California Conservation Corps, the Regional Forest and Fire Capacity program, a statewide intertribal organization or indigenous stewardship network, and the Sierra Nevada Conservancy, shall develop a proposal to establish a prescribed fire training center. In developing the proposal, the State Fire Marshal shall do all of the following:

(1) Collaborate with the University of California Cooperative Extension, fire safe councils, relevant California State Universities, California Native American tribes, tribal organizations, cultural fire practitioners, resource conservation districts, and other relevant stakeholders on the development of the proposal.

(2) Identify potential funding sources for the proposal, including, but not limited to, federal funds, and consider the proposal's eligibility for those funding sources.

(3) Identify potential locations for a prescribed fire training center.

(4) Identify opportunities for satellite learning landscapes to support the work of the prescribed fire training center.

(5) Ensure that cultural fire practitioners are engaged in the development and ongoing leadership of the prescribed fire training center.

(d) On or before January 1, 2023, the State Fire Marshal shall post and update on its internet website the number of burn bosses with an active burn boss certification.

(e) Adherence to the best practices outlined in the curriculum and certification process established pursuant to this section shall constitute prima facie evidence of due diligence.

**SEC. 12.** Section 4483 of the Public Resources Code is amended to read:

**4483.** (a) To the extent feasible, the board's Vegetation Treatment Program Programmatic Environmental Impact Report shall serve, in addition to any identified entities in the report, as the programmatic environmental document for prescribed fires initiated by a third party for a public purpose pursuant to Section 4491. This subdivision does not apply to a prescribed fire activity that is exempt from the requirements of Division 13 (commencing with Section 21000).

(b) (1) It is the intent of the Legislature that additional consideration be provided for chaparral and coastal sage scrub plant communities that are being increasingly threatened by fire frequency in excess of their natural fire return patterns due to climate change and human-caused fires.

(2) Prescribed burning, mastication, herbicide application, mechanical thinning, or other vegetative treatments of chaparral or sage scrub shall occur only if the department finds that the activity will not cause "type conversion" away from the chaparral and coastal sage scrub currently on site.

(3) This subdivision shall be in addition to the requirements in the Vegetation Treatment Program Programmatic Environmental Impact Report.

(c) The department may order remediation for any type conversion caused in violation of paragraph (2) of subdivision (b).

**SEC. 13.** Section 4493 of the Public Resources Code is amended to read:

**4493.** (a) Upon receipt of an application, the department shall inspect the land in company with the applicant to determine whether a permit shall be granted, shall prescribe the manner in which the site for the prescribed burning shall be prepared, and shall require any precautions to be taken by the applicant as may be considered reasonable to prevent damage to the property of others by reason of the burning. The precautions shall, if deemed necessary, include the advance preparation of firebreaks and the firefighting equipment and personnel desirable to conduct the prescribed burning.

(b) In issuing the permit, the department shall consider the availability of nondepartmental contingency resources when determining whether to require department contingency resources as part of the required precautions.

(c) The department shall, to the extent feasible, employ burn suspensions at the unit level, and not at the state or regional level, to not unreasonably restrict prescribed burning operations that are within prescription.

**SEC. 14.** Section 4494 of the Public Resources Code is amended to read:

**4494.** (a) Upon the conclusion of the examination provided for in Section 4493, the department may issue to the applicant a burning permit that shall specify the site preparation requirements and required precautions to be exercised before and during the burning. The issuance of a permit by the department does not relieve the permit holder from the duty of exercising due diligence to avoid damage to property of others in conducting the burning of vegetation as authorized by the permit.

(b) Compliance with a permit issued pursuant to this article shall constitute prima facie evidence of due diligence.

(c) The department shall develop and deploy an automated system for burn permits issued pursuant to this article.

**SEC. 15.** Section 4742 is added to the Public Resources Code, to read:

**4742.** (a) The state recognizes the problem of recruitment and retention of foresters who engage in fuel reduction at the department. Due to the continuing need to recruit new foresters to fill vacancies, retain seasoned fuel reduction experts, reduce turnover rates, and provide comparability in pay to effectively compete with other positions at the department and ensure necessary staffing levels, salaries and classifications should be improved and maintained by the department.

(b) To carry out the intent of subdivision (a), the department shall take into consideration the salary, classification, and recruitment efforts for its personnel that conducts fuel reduction to fill vacancies and retain seasoned fuel reduction experts.

(c) The department shall, to the extent feasible, engage in recruitment efforts with California Native American tribes, tribal organizations, and cultural fire practitioners to fill vacancies in positions that engage in fuel reduction on behalf of the department.

**SEC. 16.** Section 3.5 of this bill incorporates amendments to Section 51178 of the Government Code proposed by both this bill and Assembly Bill 9. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 51178 of the Government Code, and (3) this bill is enacted after Assembly Bill 9, in which case Section 3 of this bill shall not become operative.

**SEC. 17.** Section 4.5 of this bill incorporates amendments to Section 51178.5 of the Government Code proposed by both this bill and Assembly Bill 9. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 51178.5 of the Government Code, and (3) this bill is enacted after Assembly Bill 9, in which case Section 4 of this bill shall not become operative.

**SEC. 18.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.