Staff Report on AB 3150 May 15, 2024

Assembly Bill AB-3150 (2023-2024), titled “fire hazard severity zones: defensible space: State Fire Marshal” is a currently active bill under consideration by the Legislature. Information on the bill is available at <https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3150>. The bill was introduced by Assembly Member Quirk-Silva. As well as other changes, the bill makes changes to Public Resources Code (PRC) Section 4290, which addresses minimum fire safety standards, and Section 4291, which addresses defensible space. Some Board members, as well as members of the public, have raised concerns about the proposed changes made to these sections, as the changes would have a significant impact to the Board as well as public input on these topics. Although the Bill makes other statutory changes (amending 51178, 51179, 51182, 51186, and 51189 of the Government Code (GC), and 4124.5, 4204, and 4290.1 of the Public Resources Code), this Staff Report primarily discusses the effect of the proposed changes to Sections 4290 and 4291 of the Public Resources Code involving the transfer of the Board’s existing duties to the Office of the State Fire Marshal.

As of the date of this Staff Report, two Committees have held hearings on the bill – the Assembly Committee on Natural Resources (on April 8, 2024) and the Assembly Committee on Emergency Management (on April 22, 2024) – and both Committees provided written analyses. In each Committee Analysis, the Author’s Statement reads as follows:

“As a state, California faces significant challenges in meeting the demand for “Housing for All.” To address the housing shortage, reduce disparities in home ownership rates, and protect homeowners from the impacts of climate change, California needs to expand housing opportunities across all levels of affordability. Updating and streamlining critical information and processes, such as the Fire Hazard Severity Zone maps addressed by AB 3150, supports the state's goal of increasing housing stock and meeting affordability needs. AB 3150 not only advances housing accessibility and affordability, but moves California toward a safer, more resilient future, where everyone can live, work, and thrive with confidence and security.”

As far as registered Support for or Opposition to the bill, numerous parties are listed in support, primarily building industry groups and business groups. No parties are currently registered as opposing the Bill.

Due to the lack of registered opposition and lack of any “no” votes thus far, AB 3150 qualifies as a consent calendar item under legislative rules. Similar to the Board’s consent calendar, legislative consent calendar items are publicly noticed but action on the item is a formality typically taken without substantive discussion. AB 3150 passed unanimously out of the Natural Resources Committee and also out of the Emergency Management Committee on consent. The bill is now located in the Assembly Appropriations Committee. This committee is responsible for considering the fiscal impacts of the bill, however, that referral recommendation was to move AB 3150 forward yet again as a consent item. Under legislative rules, the Appropriations Committee must take action on AB 3150 on or before May 17, 2024. The next step would be consideration on the Assembly floor, with a legislative deadline for action on or before May 24, 2024. If approved, AB 3150 would then be considered by policy and fiscal bills in the Senate, with an ultimate deadline to send the bill to the Governor for approval before the Legislature adjourns on August 31, 2024. Thus, the bill will move swiftly to meet these deadlines over the next four months.

Fire Hazard Severity Zone and Fire Risk Reduction Community List Changes

The changes to the fire hazard severity zone statutes (FHSZ) (principally, Government Code § 51178 and Public Resources Code § 4204) will have negligible impact on the Board. The State Fire Marshal is already principally responsible for determining the FHSZs. The Board’s only role is that a local agency, after adopting an ordinance to designate fire hazard severity zones within its jurisdiction, must submit a copy of that ordinance to the Board in accordance with GC 51179. AB 3150 would require the copy of the ordinance to go to the SFM rather than the Board. No other changes to the fire hazard severity zone requirements appear to have any effect on the Board. The changes to Public Resources Code Section 4290.1, regarding the Fire Risk Reduction Community list, would transfer the authority for maintaining this list from the Board to the State Fire Marshal.

Minimum Fire Safety Standards and Defensible Space Changes

On its face, with respect to PRC Sections 4290 and 4291, AB 3150 merely transfers the authority from the Board to the State Fire Marshal. However, this would have the most significant impacts to the Board, as well as to public input on these topics, and it is these impacts that form the basis for the concerns raised by some of the Board members and members of the public. The impacts of the changes to 4290 and 4291 are not acknowledged or discussed in AB 3150 or the existing Committee analyses.

At least as far back as 1987, when PRC § 4290 was adopted, and as far back as 1965, when PRC § 4291 was adopted, the authority and responsibility for the minimum fire safety standards and defensible space regulations have resided with the Board. Simply from an historical standpoint, transferring this authority to the State Fire Marshal represents a significant legislative change. Nowhere in the Bill language, the Author’s statement, or in any of the support statements provided, is this mentioned or discussed. And, as previously mentioned, the bill has not had any substantive committee hearings where the rationale and justification for these changes could be discussed or questioned.

The Author’s statement is focused almost exclusively on housing shortages and housing opportunities, stating that AB 3150 “supports the state’s goal of increasing housing stock and meeting affordability needs.” The bill, Author’s statement, or Committee analyses do not discuss how transferring the authority under Public Resources Code Sections 4290 and 4291 to the State Fire Marshal will result in increased housing opportunities and availability. The statutory requirements and obligations under the statutes remains substantively unchanged.