

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2380 (Aguiar-Curry) – As Amended March 22, 2018

SUBJECT: Fire protection: privately contracted private fire prevention resources

SUMMARY: Requires the Governor’s Office of Emergency Services (Cal OES), in collaboration with the Department of Forestry and Fire Protection (Cal FIRE), to develop standards and regulations for any privately contracted private fire prevention resources (private fire resource) operating in the state. Specifically, **this bill:**

1. Requires Cal OES, in collaboration with Cal FIRE, to develop standards and regulations for any privately contracted private fire prevention resources operating in California. Regulations shall include the following requirements:
 - a. A private fire resource shall heed all evacuation warnings and leave the evacuation area when prompted.
 - b. A private fire resource shall register with incident command or the local fire department before entering an area.
 - c. A private fire resource shall be equipped with Global Positioning System (GPS) tracking device so incident command can locate the resource in the event of an evacuation.
 - d. A private fire resource shall have a liaison at incident command that is available to incident command at all times and can contact the privately contracted private fire prevention resource at any time.
 - e. A private fire resource shall monitor incident command radio frequencies. However, shall be prohibited from communicating on incident command radio frequencies.
 - f. A private fire resource shall focus on prefire treatment activities and pretreatment of values-at-risk and other nonemergency activities outside of a restricted area to ensure safety, clear command and control, and minimize potential liability issues
2. Requires Cal OES, in collaboration with Cal FIRE, to develop regulations to govern the use of equipment used by private fire resources. The regulations shall include, but not be limited to, the following:
 - a. All equipment shall be clearly labeled “nonemergency”.
 - b. Emergency vehicles shall not use lights or sirens.
 - c. Emergency vehicles shall not have any labeling that indicates emergency personnel or fire department.
3. Authorizes Cal OES consult with both private sector entities that provide privately contracted private fire prevention resources and public sector fire agencies before developing the regulations.

4. Authorizes Cal OES to levy a fine not to exceed \$5,000 per violation of the provisions or regulations adopted pursuant to this bill.
5. Requires Cal OES to adopt regulations establishing procedures for notices, appeals, and hearings for fines.

EXISTING LAW:

1. Establishes Cal OES by the Governor's Reorganization Plan No.2, operative July 1, 2013.
2. Requires Cal OES to perform a variety of duties with respect to specified emergency preparedness, mitigation, and response activities in the state, including emergency medical services.
3. Specifies that the State Emergency Plan (SEP) shall be in effect in each political subdivision of the state, and the governing body of each political subdivision shall take such action as may be necessary to carry out the provisions thereof.
4. Requires the Governor to coordinate SEP and those programs necessary to mitigate the effects of an emergency.
5. Requires the Governor to coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of the State of California, such plans and programs to be integrated into and coordinated with the State Emergency Plan and the plans and programs of the federal government and of other states to the fullest possible extent.
6. Establishes the FIRESCOPE Program, administered by Cal OES, to maintain and enhance the efficiency and effectiveness of managing multiagency firefighting resources in responding to an incident.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the author: "The devastation that took place in the fall of 2017 only highlights the increasing risk of major wildfires in our state caused by climate change, extreme weather, and recent droughts. California must work to ensure that its system of emergency response is fine-tuned to enable the best firefighting and mutual aid systems for any and all emergency situations in the future. AB 2380 requires our state's experts from OES and CAL FIRE establish standards for privately contracted firefighting resources that balance the important rights of home and landowners with the broader interests of local public safety. By developing regulations, this bill will put an end to confusion and strengthen emergency aid to benefit all Californians."

Background: California's 2017 wildfire season will go down as one of the worst in the state's history. From January 1, 2017, through December 31, 2017, over 9,000 fires burned more than 1.2 million acres, an increase from the previous year which brought 6,986 fires burning around 564,000 acres, according to Cal Fire. The total acreage in 2017 included nearly 300,000 acres

burned solely by the Thomas Fire, which grew to the largest wildfire in state history in late December.

The Thomas Fire lasted over 40 days, burning 281,893 acres. The blaze began on December 4 in Ventura County and exploded in growth due to strong Santa Ana winds. It destroyed over 1,000 structures and claimed two lives. While the Thomas Fire became the largest California wildfire in recorded history, it was also the seventh-most destructive, in terms of number of structures destroyed. However, two months prior to the Thomas Fire, a new record was set for most destructive wildfire in state history.

In October, the Tubbs Fire, which burned over 36,000 acres in the state's wine country, destroyed 5,643 structures and claimed 22 lives in Sonoma and Napa counties. The number of structures destroyed from the Tubbs Fire alone is more than half of the 10,780 total structures lost to wildfire in 2017 statewide. The 22 deaths also make it the third deadliest wildfire on record in California. Along with the Tubbs Fire, multiple other destructive blazes damaged critical infrastructure and forced evacuations from October 8 through October 31 across seven counties.

During the Thomas Fire, according to the author, there was a significant presence of privately contracted fire resources. It has been reported that there were 75 private contractors on 41 private engines, and that these contractors and their equipment were "indistinguishable" from that of the public fire agencies.

Cal OES: In 2009, the California Legislature merged the powers, purposes, and responsibilities of the former Cal OES with those of the Office of Homeland Security (OHS) into the newly-created California Emergency Management Agency (CalEMA). On July 1, 2013, Governor Edmund G. Brown Jr.'s Reorganization Plan #2 eliminated CalEMA and restored it to the Governor's Office, renaming it the California Governor's Office of Emergency Services (CalOES), and merging it with the Office of Public Safety Communications. Today, Cal OES is responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities within the state, which includes the development of the State of California Emergency Plan (SEP).

State Emergency Plan: The SEP is a management document intended to be read and understood before an emergency occurs. It is designed to outline the activities of all California jurisdictions within a statewide emergency management system and it embraces the capabilities and resources in the broader emergency management community that includes individuals, businesses, non-governmental organizations, tribal governments, other states, federal government and international assistance.

The concepts presented in the SEP emphasize mitigation programs to reduce the vulnerabilities to disaster and preparedness activities to ensure the capabilities and resources are available for an effective response. To assist communities and governments to recover from the disaster, the plan outlines programs that promote a return to normalcy.

The SEP provides a consistent, statewide framework to enable state, local, tribal governments, federal government and the private sector to work together to mitigate, prepare for, respond to and recover from the effects of emergencies regardless of cause, size, location, or complexity. In

accordance with the California Emergency Services Act (CESA), the plan is in effect at all times and applies to all levels of state government and its political subdivisions.

The plan incorporates and complies with the principles and requirements found in federal and state laws, regulations and guidelines. It is intended to conform to the requirements of California's Standardized Emergency Management System (SEMS), the National Incident Management System (NIMS) and be consistent with federal emergency planning concepts such as the National Response Framework (NRF) and catastrophic concept of operations (CONOPS) documents developed jointly by the Federal Emergency Management Agency (FEMA) Region IX and the State.

Functional Annexes: The SEP implements California Emergency Support Function (CA-ESF) working groups, which develop functional annexes to describe discipline-specific goals, objectives, operational concepts, capabilities, organizational structures and related policies and procedures. The functional annexes developed separately from the basic plan and reference existing agency and department plans and procedures. There 18 CA-ESFs ranging from Fire and Rescue to Cybersecurity. A single state agency is assigned to lead each CA-ESF based on its authorities, resources and capabilities. Each CA-ESF member agency is responsible to assist in coordinating the state's response to emergencies, including provision of mutual aid and the allocation of essential supplies and resources.

ESF 4 and FIREScope: Emergency Support Function 4 (ESF 4) serves as the annex in the SEP for Fire and Rescue. Fire and Rescue stakeholders organized as **FI**refighting **RE**sources of **Southern California O**rganized for **P**otential **E**mergencies (**FIREScope**) following the disastrous 1970 wildland fires in southern California. The goal of the FIREScope group was to create and implement new applications in fire service management, technology and coordination, with an emphasis on incident command and multi-agency coordination. This dynamic state-wide program continues to serve the needs of the California Fire Service today. Many ESF 4 stakeholders have already organized as FIREScope, and there is some overlap between the FIREScope system and the purpose of EF 4, especially in the area of preparedness planning.

The purpose of the ESF 4 annex to the SEP is to define the actions and roles necessary to provide a coordinated response within the FIREScope community and the emergency management activities of its stakeholders. The mission of FIREScope is to provide recommendations and technical assistance to Cal OES, to maintain the FIREScope Decision Process, and to continue the operation, development, and maintenance of the FIREScope Incident Command System (ICS) and the Multi-Agency Coordination System (MACS).

The FIREScope organization represents all facets of local, rural, tribal and metropolitan fire departments, Cal FIRE, and federal fire agencies. Its stakeholders are primarily responsible for fire protection and urban search and rescue programs throughout the state. The activities of its stakeholders are conducted in all locations and settings including metropolitan, rural, wildland/urban interface, remote areas, airports, military bases, and private enterprise.

In the past, FIREScope has issued guidelines for the use of private fire resources. In particular, the FIREScope Board of Directors approved "Private Resource Utilization Guidelines" in July, 2008. The guidelines were intended to give Incident Command (IC) or Authority Having Jurisdiction (AHJ) the ability to control the command, control, liability and safety issues associated with private fire resources. This bill seeks to codify many of these guidelines into

statute and place cite and fine authority within Cal OES to ensure the guidelines are being followed by private fire resources.

Policy Considerations:

1. This bill requires private fire resources to monitor incident command radio frequencies. However, it also prohibits them from communicating on the same radio frequencies. There may be instances in an emergency where it would be beneficial for a private fire resource to communicate with the IC or AHJ. *The author and Committee may wish to consider whether it is more appropriate to give a private fire resource the ability to communicate on IC radio frequencies as long they coordinate with IC or AHJ and have received authorization to do so.*
2. This bill requires private fire resources to heed all evacuation warnings and leave all evacuation areas when prompted. Similar to policy consideration #1, there may be instances where it would be beneficial for IC or AHJ to use a private fire resource during an emergency to mitigate fire. Additionally, a private fire resource could be contracted by a company to provide fire mitigation on private property. *The author and Committee may wish to consider whether it is more appropriate to give a private fire resource the ability to be present in an evacuated area as long they coordinate with IC or AHJ and have received authorization to do so.*

Support: According to the California Professional Firefighters (CPF): “This bill requires Cal OES in collaboration with Cal FIRE to develop regulations governing the operation of privately contracted private fire prevention resources in California and to develop regulations and standards for equipment that is used by privately contracted private fire prevention resources to ensure clear notification to the public that those resources are on the incident for a contracted purpose and not available for disaster response services for the general public.

This past winter’s Thomas Fire in Ventura and Santa Barbara counties was the largest in recorded history. During the Thomas Fire, the Associated Press reported that there was a significant presence of privately contracted private fire prevention resources. In fact, on Thursday December 21st, it was reported that there were 75 private loss prevention contractors on 41 private engines assigned to the Thomas Fire. Further, the article cites that the equipment used is “indistinguishable” from public agency fire equipment. These privately contracted private fire prevention resources are typically hired by insurers to pre-treat policyholders’ homes in order to help protect them during a wildfire... AB 2380 allows our regulatory experts to establish common sense standards that balance the important rights of home and landowners with the broader interest of community wide and state wide public safety.”

Double-Referral: This bill is double-referred to the Assembly Natural Resources Committee, where it will be heard if passed by this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Professional Firefighters

Opposition

None on file

Analysis Prepared by: Kenton Stanhope / G.O. / (916) 319-2531