

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1617

Introduced by Senator Kehoe

February 22, 2008

~~An act to amend Sections 51175, 51177, 51178, 51182, 51183, and 51189 of, and to add Sections 8682.10 and 8682.11 to, the Government Code, and to amend Section 4291 of, and to add Article 3.6 (commencing with Section 4140) to Chapter 1 of Part 2 of Division 4 of, the Public Resources Code, relating to public resources. An act to add Chapter 1.5 (commencing with Section 4210) to Part 2 of Division 4 of the Public Resources Code, relating to public resources.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1617, as amended, Kehoe. ~~Public resources: fire protection: fuels management. State responsibility areas: fire-related benefit fees.~~

(1) Existing law requires the state to have the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas.

This bill would place a fee on developers of buildings and structures in state responsibility areas to be collected by the appropriate local agency when the building permit is issued. Because this bill would require local governments to collect these fees, it would impose a state-mandated local program.

This bill would require the board to adopt emergency regulations to establish a fee for fire-related services to be charged to an owner of a building or structure within a state responsibility area. The fee would be based on the fire hazard severity zone in which the building or structure is located, and include a specified amount to cover the county's

costs for levying and collecting the fee. The bill would specify the minimum fees to be imposed. The fee for an owner would be reduced if the owner complies with certain requirements. The fees also would be reduced communitywide by an amount set by the board if the board determines that the appropriate local land use authority has met certain conditions. The fees would be eliminated communitywide if the board determines that there is sufficient structural fire protection service already provided by a county or special district, and the fees would be eliminated for an owner if the department determines the improvements to the land do not require fire protection services beyond those provided to otherwise unimproved land.

This bill would require that property tax bills for the year 2009–10 issued for all lands in the state responsibility areas that have improvements valued at \$100,000 or more include the appropriate minimum fire protection and prevention benefit fee established by the board. For property tax bills for the year 2010–11, if the Department of Forestry and Fire Protection, upon inspection, finds a home or structure exists that would require structural fire protection services beyond those provided to otherwise unimproved lands, the department would be required to notify the county to have the appropriate benefit fee included in the annual property tax bill. This would be retroactive to the 2009–10 tax year. If, upon inspection, the department finds that the improved lands do not include a building or structure that requires fire protection services beyond those provided to otherwise unimproved lands, the department would be required to notify the county to remove the benefit fee from the property tax bill.

The bill would require local governments to collect the benefit fees, as prescribed, thereby imposing a state-mandated local program. The bill would also require the board to increase the amount of the benefit fees collected through property tax bills, in an amount to cover the county's costs for levying and collecting the benefit fees. The county would be authorized to retain the portion of the fee authorized by the board.

The bill would create the State Responsibility Area Fire Protection and Prevention Fund and would require the fees collected to be deposited in the fund, to be available, upon appropriation by the Legislature, for fire prevention and suppression activities and support of the board in those activities within the applicable state responsibility area, with a priority on activities that improve fire prevention and fire

risk reduction. At least 50% of the moneys appropriated would be required to be allocated to fire prevention activities.

The bill would require that the fees collected be adjusted yearly to reflect the percentage of change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as calculated by the United States Department of Commerce for the 12-month period in the 3rd quarter of the prior calendar year, as reported by the Department of Finance, and that the fees not exceed the reasonable cost covering the county's cost of collection and of providing fire-related services to an owner of a building or structure in an applicable state responsibility area.

(2) 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 no reimbursement is required by this act for a specified reason.

~~(1) Existing law requires the state to have the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas.~~

~~This bill would place a fee on developers of buildings and structures when the building permit is issued and a fee annually on property owners with residential structures within the state responsibility areas. The property owner fee would be reduced if a property owner complies with specified fire prevention requirements. Because the moneys generated from the fee would fund, among other things, fuels management on public lands, year-round fire inspections of compliance with state law, and public education on fire prevention and emergency response, the bill would impose a tax.~~

~~Because this bill would impose new duties on local government to collect money when a permit is issued, the bill would create a state-mandated local program.~~

~~(2) Existing law requires that a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining certain terrains that is within a very high fire hazard severity zone, as designated by a local agency, maintain at all times a firebreak by removing all brush, flammable vegetation, or other combustible growth for a prescribed number of feet from the occupied~~

~~dwelling or occupied structure, with exceptions, as well as take other required fire prevention actions:~~

~~A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material, within a state responsibility area, is required to maintain at all times a firebreak by removing all brush, flammable vegetation, or other combustible growth for a prescribed number of feet from the dwelling or structure, with exceptions, as well as take other required fire prevention actions. A violation of these provisions is a crime.~~

~~This bill would delete certain terrain qualifications, thereby applying these provisions to any land within a very high fire severity zone as designated by a local agency without regard to the type of terrain. The bill would also change the current brush clearance requirements, and would instead require the owner or person in control of a qualified property to reduce the risk of ignition by managing fuel materials within a certain number of feet from the above-described dwellings, buildings, or structures. The bill would require that fuel found in vegetation, in manmade objects, and in connection with improvements attached to the structure be managed by collecting and disposing of combustible matter and irrigating living plants as required to sustain the species during exposure to a wildfire. Local agencies would be authorized to place alternative requirements in effect in areas where water shortages exist.~~

~~This bill would add to the criteria under which the Director of Forestry and Fire Protection designates an area as a very high fire hazard severity zone. The bill would also define various terms for purposes of these provisions and revise legislative findings and declarations concerning fire risks and site fuel management.~~

~~Because this bill would change the definition of a crime, it would impose a state-mandated local program:~~

~~(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~

so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(4) This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.5 (commencing with Section 4210) is
2 added to Part 2 of Division 4 of the Public Resources Code, to
3 read:

4
5 CHAPTER 1.5. STATE RESPONSIBILITY AREA FIRE-RELATED
6 BENEFIT FEES
7

8 4210. The Legislature finds and declares the following:

9 (a) Fire protection of the public trust resources on unimproved
10 lands in the state responsibility areas remains a vital interest to
11 the state. Unimproved lands covered in whole or in part by a
12 diverse plant community prevent excessive erosion, retard runoff,
13 reduce sedimentation, and accelerate water percolation to maintain
14 critical sources of water for the environment, irrigation, domestic,
15 or industrial uses.

16 (b) The presence of homes and other structures, including those
17 under construction, within state responsibility areas poses an
18 added burden to the state’s firefighting resources, the incremental
19 cost of which should be borne by the owners of these homes and
20 structures.

21 (c) Individual owners of improved property within state
22 responsibility areas receive a disproportionate benefit, that is
23 greater than that realized by the state’s citizens generally, from
24 fire prevention and suppression services provided by the state.

25 (d) In most cases, local firefighting entities are available to
26 provide structural fire protection within state responsibility areas.

27 It is not the intent of the Legislature to substitute the state’s
28 firefighting capability for these existing services or to supplant
29 them. However, these entities often do not possess sufficient

1 *equipment, personnel, and other necessary resources to meet the*
2 *demand placed upon them in the event of large fires, and the state*
3 *must at times provide additional firefighting resources to protect*
4 *structures.*

5 *(e) It is the intent of the Legislature to provide for the equitable*
6 *distribution of the economic burden of fire prevention and*
7 *suppression in state responsibility areas among the citizens of the*
8 *state who generally benefit from those activities and those*
9 *landowners who receive a specific benefit other than that general*
10 *benefit.*

11 *(f) It is necessary to impose a fee based upon the reasonable*
12 *value of the specific benefit received by landowners within state*
13 *responsibility areas. Furthermore, the fire hazard severity zone*
14 *level where a building or structure is located constitutes a*
15 *reasonable relationship to fire prevention and suppression benefits*
16 *received.*

17 *(g) County tax bills for landowners are currently not uniform.*
18 *Therefore, the addition of these fees will not be burdensome on a*
19 *county. In order to limit the amount of overhead a county may*
20 *incur for the first year, for the purposes of this chapter, bills for*
21 *these fees will be sent to owners of improved property with*
22 *improvements valued at one hundred thousand dollars (\$100,000)*
23 *or more.*

24 *(h) Imposition of these fees is necessary to sustain service levels*
25 *associated with fire protection and prevention and to maintain the*
26 *ability to provide state assistance under various mutual aid*
27 *arrangements.*

28 *(i) All revenues generated by state responsibility area*
29 *fire-related benefit fees imposed under this chapter, and used for*
30 *the purposes for which they are imposed, are not proceeds of taxes*
31 *subject to Article XIII B of the California Constitution.*

32 *(j) This chapter does not require the state to provide fire*
33 *prevention and suppression services beyond those set forth in this*
34 *chapter.*

35 *4211. The State of California shall assess a fire prevention*
36 *and protection fee on the construction of buildings and structures*
37 *within a state responsibility area when the building permit is*
38 *issued. A fee of ____ dollars (\$____) shall be collected by the*
39 *appropriate local agency, comparable to sewer and water*
40 *connection fees levied on a development.*

1 4212. (a) (1) A 2009–10 property tax bill issued by a county
2 auditor for land in a state responsibility area that has
3 improvements valued at one hundred thousand dollars (\$100,000)
4 or more shall include the appropriate minimum fire protection
5 and prevention benefit fee established in paragraph (1) of
6 subdivision (d).

7 (2) For a property tax bill issued for 2010–11, if, upon
8 inspection pursuant to Section 4119, the department finds that a
9 home or structure exists that would require structural fire
10 protection services beyond those provided to otherwise unimproved
11 lands, the department shall notify the county auditor to have the
12 appropriate benefit fee included in the annual property tax bill.
13 The department shall assess a benefit fee on land with structures
14 retroactive to the 2009–10 tax year.

15 (3) If, upon inspection pursuant to Section 4119, the department
16 finds that the improved lands do not include a building or structure
17 that requires fire protection services beyond those provided to
18 otherwise unimproved lands, it shall notify the county auditor to
19 remove the benefit fee from the property tax bill.

20 (b) (1) On or before January 1, 2009, the board shall adopt
21 emergency regulations to establish a fee to be charged to any
22 owner of a building or structure within a state responsibility area.
23 The fees shall be developed in consultation with the department
24 and the Office of the State Fire Marshal.

25 (2) The emergency regulations adopted pursuant to paragraph
26 (1) shall be adopted in accordance with the Administrative
27 Procedures Act (Chapter 3.5 (commencing with Section 11340)
28 of Part 1 of Division 3 of Title 2 of the Government Code). The
29 adoption of emergency regulations shall be deemed an emergency
30 and necessary for the immediate preservation of the public peace,
31 health, and safety, or general welfare.

32 (c) (1) The fee shall be established consistent with subdivision
33 (d) at a level commensurate with the fire-related services that are
34 provided for buildings and structures in developed areas within
35 a state responsibility area, including, but not limited to, fire
36 prevention, structural fire suppression, rescue, first aid, and other
37 emergency services attributable to the presence of buildings and
38 structures within the state responsibility area.

39 (2) The fee shall include a specified amount to cover the county's
40 costs for levying and collecting the benefit fee.

1 (d) The fee charged to the owner of a building or structure
2 subject to this chapter shall be calculated as follows:

3 (1) A base service fee shall be established based on the fire
4 hazard severity zone level, as determined by the board pursuant
5 to Section 4202, where the building or structure is located.

6 (2) At a minimum, base fees shall be as follows:

7 (A) In a low fire hazard severity zone, ____ dollars (\$____).

8 (B) In a medium fire hazard severity zone, ____ dollars
9 (\$____).

10 (C) In a high fire hazard severity zone, ____ dollars (\$____).

11 (D) In a very high fire hazard severity zone, ____ dollars
12 (\$____).

13 (e) (1) The board's regulations shall include criteria by which
14 a building or structure owner shall qualify to receive a reduction
15 in the base fee by meeting guidelines that reduce the building's or
16 structure's potential fire hazard. Compliance with the criteria
17 shall be certified by the department in an inspection performed
18 pursuant to authority granted by Section 4119, before the annual
19 reduction is granted no later than June 15 of each year. The base
20 fee shall not be reduced below a minimum of one hundred dollars
21 (\$100), except as provided in paragraphs (4) and (5).

22 (2) The criteria for fee reductions for an owner of an individual
23 building or structure shall include fire risk reducing guidelines in
24 the following categories:

25 (A) Maintenance of defensible space around the building or
26 structure, as required by Section 4291.

27 (B) (i) Full compliance of a building or structure with the
28 California Building Code with respect to materials and
29 construction methods for exterior wildfire exposure (Chapter 7A
30 (commencing with Section 701A.1) of Title 24 of the California
31 Code of Regulations).

32 (ii) Retrofit of an existing structure to bring it into full
33 compliance with the most current version of the California Building
34 Code with respect to materials and construction methods for
35 exterior wildfire exposure (Chapter 7A (commencing with Section
36 701A.1) of Title 24 of the California Code of Regulations).

37 (3) The fee charged to an owner of a building or structure within
38 an appropriate local jurisdiction providing fire protection services
39 shall be reduced communitywide by an amount set by the board

1 *if the board determines that all of the following conditions have*
2 *been met:*

3 *(A) The appropriate local land use authority is in compliance*
4 *with fire prevention related planning laws, including Section*
5 *65302.5 of the Government Code, in regard to the safety element*
6 *of the county's or city's general plan.*

7 *(B) The appropriate local land use authority has made structural*
8 *community investments to assist with fire response.*

9 *(4) The fee charged to an owner of a building or structure within*
10 *an appropriate local jurisdiction shall be eliminated*
11 *communitywide if the board determines that there is sufficient*
12 *structural fire protection already being provided by a county or*
13 *special district.*

14 *(5) The department, consistent with those regulations adopted*
15 *by the board, shall eliminate the fee if the department determines*
16 *the improvements to the land do not require fire protection services*
17 *beyond those provided to otherwise unimproved lands.*

18 *4213. (a) The department shall notify the county auditor by*
19 *August 10 of each year of the fee and specify the fee to be included*
20 *in the annual property tax bills issued by the county.*

21 *(b) The fee shall be collected by each county in the same manner*
22 *and at the same time as secured property taxes. The county*
23 *collecting the benefit fees may retain the portion of the fee*
24 *authorized by the board pursuant to Section 4212 to cover the*
25 *county's reasonable cost of levying and collecting the fee.*

26 *(c) All laws relating to the levy, collection, and enforcement of*
27 *county taxes apply to the benefit fees imposed pursuant to this*
28 *chapter.*

29 *4214. A county auditor shall, in the same manner and time as*
30 *secured property taxes are distributed in each county, remit all*
31 *fees, except that portion retained pursuant to Section 4213, to the*
32 *Treasurer for deposit in the State Responsibility Area Fire*
33 *Protection and Prevention Fund established pursuant to Section*
34 *4215.*

35 *4215. (a) Fees collected pursuant to this chapter shall be*
36 *deposited into the State Responsibility Area Fire Protection and*
37 *Prevention Fund, which is hereby created in the State Treasury.*

38 *(b) Moneys in the fund shall be available, upon appropriation*
39 *by the Legislature, for fire prevention and suppression activities*
40 *and support of the board for those activities in the applicable state*

1 responsibility area, with a priority on activities that improve fire
2 prevention and fire risk reduction, including, but not limited to,
3 cost-share agreements with owners of improved property within
4 state responsibility areas that may be at risk from dead, diseased,
5 or dying trees, including those damaged by bark beetle infestations
6 or sudden oak death.

7 (c) At least 50 percent of the moneys appropriated from the fund
8 shall be allocated to fire prevention activities.

9 4216. (a) On January 1 of each year, the board shall adjust
10 the fees imposed pursuant to this chapter to reflect the percentage
11 of change in the average annual value of the Implicit Price Deflator
12 for State and Local Government Purchases of Goods and Services
13 for the United States, as calculated by the United States
14 Department of Commerce for the 12-month period in the third
15 quarter of the prior calendar year, as reported by the Department
16 of Finance.

17 (b) Notwithstanding any other provision of this chapter, the fee
18 charged pursuant to this chapter shall not exceed the reasonable
19 cost of covering the county’s cost of collecting the fee and of
20 providing fire-related services to an owner of a building or
21 structure in an applicable state responsibility area, and the fee
22 shall bear a fair and reasonable relation to the fire prevention
23 and suppression services provided to that owner.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 a local agency or school district has the authority to levy service
27 charges, fees, or assessments sufficient to pay for the program or
28 level of service mandated by this act, within the meaning of Section
29 17556 of the Government Code.

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**All matter omitted in this version of the bill
appears in the bill as introduced in Senate,
February 22, 2008 (JR11)**