

AMENDED IN SENATE APRIL 1, 2008

AMENDED IN SENATE MARCH 24, 2008

**SENATE BILL**

**No. 1617**

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**Introduced by Senator Kehoe**

February 22, 2008

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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. 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 of 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.

Vote: 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 the  
11 state. Unimproved lands covered in whole or in part by a diverse  
12 plant community prevent excessive erosion, retard runoff, reduce  
13 sedimentation, and accelerate water percolation to maintain critical  
14 sources of water for the environment, irrigation, domestic, or  
15 industrial uses.

16 (b) The presence of homes and other structures, ~~including those~~  
17 ~~under construction~~, within state responsibility areas poses an added  
18 burden to the state’s firefighting resources, the incremental cost  
19 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

1 greater than that realized by the state's citizens generally, from  
2 fire prevention and suppression services provided by the state.

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

5 It is not the intent of the Legislature to substitute the state's  
6 firefighting capability for these existing services or to supplant  
7 them. However, these entities often do not possess sufficient  
8 equipment, personnel, and other necessary resources to meet the  
9 demand placed upon them in the event of large fires, and the state  
10 must at times provide additional firefighting resources to protect  
11 structures.

12 (e) It is the intent of the Legislature to provide for the equitable  
13 distribution of the economic burden of fire prevention and  
14 suppression in state responsibility areas among the citizens of the  
15 state who generally benefit from those activities and those  
16 landowners who receive a specific benefit other than that general  
17 benefit.

18 (f) It is necessary to impose a fee based upon the reasonable  
19 value of the specific benefit received by landowners within state  
20 responsibility areas. Furthermore, the fire hazard severity zone  
21 level where a building or structure is located constitutes a  
22 reasonable relationship to fire prevention and suppression benefits  
23 received.

24 (g) County tax bills for landowners are currently not uniform.  
25 Therefore, the addition of these fees will not be burdensome on a  
26 county. In order to limit the amount of overhead a county may  
27 incur for the first year, for the purposes of this chapter, bills for  
28 these fees will be sent to owners of improved property with  
29 improvements valued at one hundred thousand dollars (\$100,000)  
30 or more.

31 (h) Imposition of these fees is necessary to sustain service levels  
32 associated with fire protection and prevention and to maintain the  
33 ability to provide state assistance under various mutual aid  
34 arrangements.

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

1 (j) This chapter does not require the state to provide fire  
2 prevention and suppression services beyond those set forth in this  
3 chapter.

4 ~~4211. The State of California shall assess a fire prevention and~~  
5 ~~protection fee on the construction of buildings and structures within~~  
6 ~~a state responsibility area when the building permit is issued. A~~  
7 ~~fee of \_\_\_\_\_ dollars (\$\_\_\_\_\_) shall be collected by the appropriate~~  
8 ~~local agency, comparable to sewer and water connection fees levied~~  
9 ~~on a development.~~

10 ~~4212.~~

11 ~~4211.~~ (a) (1) A 2009–10 property tax bill issued by a county  
12 auditor for land in a state responsibility area that has improvements  
13 valued at one hundred thousand dollars (\$100,000) or more shall  
14 include the appropriate minimum fire protection and prevention  
15 benefit fee established in paragraph (1) of subdivision (d).

16 (2) For a property tax bill issued for 2010–11, if, upon inspection  
17 pursuant to Section 4119, the department finds that a home or  
18 structure exists that would require structural fire protection services  
19 beyond those provided to otherwise unimproved lands, the  
20 department shall notify the county auditor to have the appropriate  
21 benefit fee included in the annual property tax bill. The department  
22 shall assess a benefit fee on land with structures retroactive to the  
23 2009–10 tax year.

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

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

34 (2) The emergency regulations adopted pursuant to paragraph  
35 (1) shall be adopted in accordance with the Administrative  
36 Procedures Act (Chapter 3.5 (commencing with Section 11340)  
37 of Part 1 of Division 3 of Title 2 of the Government Code). The  
38 adoption of emergency regulations shall be deemed an emergency  
39 and necessary for the immediate preservation of the public peace,  
40 health, and safety, or general welfare.

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

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

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

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

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

16 (A) In a low fire hazard severity zone, \_\_\_\_\_ dollars (\$\_\_\_\_\_).

17 (B) In a medium fire hazard severity zone, \_\_\_\_\_ dollars  
18 (\$\_\_\_\_\_).

19 (C) In a high fire hazard severity zone, \_\_\_\_\_ dollars (\$\_\_\_\_\_).

20 (D) In a very high fire hazard severity zone, \_\_\_\_\_ dollars  
21 (\$\_\_\_\_\_).

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

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

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

36 (B) (i) Full compliance of a building or structure with the  
37 California Building Code with respect to materials and construction  
38 methods for exterior wildfire exposure (Chapter 7A (commencing  
39 with Section 701A.1) of Title 24 of the California Code of  
40 Regulations).

1 (ii) Retrofit of an existing structure to bring it into full  
2 compliance with the most current version of the California Building  
3 Code with respect to materials and construction methods for  
4 exterior wildfire exposure (Chapter 7A (commencing with Section  
5 701A.1) of Title 24 of the California Code of Regulations).

6 (3) The fee charged to an owner of a building or structure within  
7 an appropriate local jurisdiction providing fire protection services  
8 shall be reduced communitywide by an amount set by the board  
9 if the board determines that all of the following conditions have  
10 been met:

11 (A) The appropriate local land use authority is in compliance  
12 with fire prevention related planning laws, including Section  
13 65302.5 of the Government Code, in regard to the safety element  
14 of the county's or city's general plan.

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

17 (4) The fee charged to an owner of a building or structure within  
18 an appropriate local jurisdiction shall be eliminated  
19 communitywide if the board determines that there is sufficient  
20 structural fire protection already being provided by a county or  
21 special district.

22 (5) The department, consistent with those regulations adopted  
23 by the board, shall eliminate the fee if the department determines  
24 the improvements to the land do not require fire protection services  
25 beyond those provided to otherwise unimproved lands.

26 ~~4213.~~

27 ~~4212.~~ (a) The department shall notify the county auditor by  
28 August 10 of each year of the fee and specify the fee to be included  
29 in the annual property tax bills issued by the county.

30 (b) The fee shall be collected by each county in the same manner  
31 and at the same time as secured property taxes. The county  
32 collecting the benefit fees may retain the portion of the fee  
33 authorized by the board pursuant to Section ~~4212~~ 4211 to cover  
34 the county's reasonable cost of levying and collecting the fee.

35 (c) All laws relating to the levy, collection, and enforcement of  
36 county taxes apply to the benefit fees imposed pursuant to this  
37 chapter.

38 ~~4214.~~

39 ~~4213.~~ A county auditor shall, in the same manner and time as  
40 secured property taxes are distributed in each county, remit all

1 fees, except that portion retained pursuant to Section ~~4213~~ 4212,  
2 to the Treasurer for deposit in the State Responsibility Area Fire  
3 Protection and Prevention Fund established pursuant to Section  
4 ~~4215~~ 4214.

5 ~~4215:~~

6 4214. (a) Fees collected pursuant to this chapter shall be  
7 deposited into the State Responsibility Area Fire Protection and  
8 Prevention Fund, which is hereby created in the State Treasury.

9 (b) Moneys in the fund shall be available, upon appropriation  
10 by the Legislature, for fire prevention and suppression activities  
11 and support of the board for those activities in the applicable state  
12 responsibility area, with a priority on activities that improve fire  
13 prevention and fire risk reduction, including, but not limited to,  
14 cost-share agreements with owners of improved property within  
15 state responsibility areas that may be at risk from dead, diseased,  
16 or dying trees, including those damaged by bark beetle infestations  
17 or sudden oak death.

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

20 ~~4216:~~

21 4215. (a) On January 1 of each year, the board shall adjust the  
22 fees imposed pursuant to this chapter to reflect the percentage of  
23 change in the average annual value of the Implicit Price Deflator  
24 for State and Local Government Purchases of Goods and Services  
25 for the United States, as calculated by the United States Department  
26 of Commerce for the 12-month period in the third quarter of the  
27 prior calendar year, as reported by the Department of Finance.

28 (b) Notwithstanding any other provision of this chapter, the fee  
29 charged pursuant to this chapter shall not exceed the reasonable  
30 cost of covering the county's cost of collecting the fee and of  
31 providing fire-related services to an owner of a building or structure  
32 in an applicable state responsibility area, and the fee shall bear a  
33 fair and reasonable relation to the fire prevention and suppression  
34 services provided to that owner.

35 SEC. 2. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 a local agency or school district has the authority to levy service  
38 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O