

AMENDED IN SENATE APRIL 21, 2008

AMENDED IN SENATE APRIL 1, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1617

Introduced by Senator Kehoe

February 22, 2008

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 require the board to adopt emergency regulations to establish a benefit fee for fire-related services to be charged to an owner of a building or structure within a state responsibility area. The base benefit fee would be based, among other things, on the fire hazard severity zone in which the building or structure is located, and include an amount sufficient to cover each county's costs for levying and collecting the benefit fee. The Department of Forestry and Fire Protection would be required to update the base benefit fee every 2 years. The bill would specify the amount of the minimum benefit fee to be imposed and the criteria by which it could be eliminated.

The board would be required to establish criteria for benefit fee reductions for an owner of an individual structure, including, but not limited to, certain prescribed fire risk reduction guidelines for the owner and the county where the property is located. The benefit fees, including the minimum benefit fees, would be eliminated within a county if the board determines that there is sufficient structural fire protection and prevention and other emergency services already provided by a county, special district, or a volunteer fire department, or the county has contracted to provide fire protection services in the state responsibility area. The benefit fees would also 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 wildlands.

This bill would require that for property tax bills for the year 2010–11, if the Department of Forestry and Fire Protection, upon inspection, finds a structure exists that would require structural fire protection services beyond those provided to otherwise wildlands, the department would be required to notify the county to have the appropriate benefit fee included in the annual property tax bill. If, upon inspection, the department finds that the lands do not include a structure that requires fire protection services beyond those provided to otherwise wildlands, 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 benefit fee authorized by the board.

The bill would create the State Responsibility Area Fire Protection and Prevention Fund and would require the benefit fees collected to be deposited in the fund, to be available, upon appropriation by the Legislature, for structural fire protection and prevention activities and other emergency services attributable to the presence of structures in state responsibility areas, and for the administration of this act. At least 50% of the moneys appropriated would be required to be allocated to fire prevention activities that benefit owners of structures in state responsibility areas.

(2) *This bill would permit a person disputing the benefit fees imposed on his or her real property to use an appeals process that would be established by the bill.*

(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 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 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 *Article 1. General Provisions*
9

10 4210. *The Legislature finds and declares the following:*

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

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

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

25 (d) *In most cases, local firefighting entities are available to*
26 *provide structural fire protection and prevention and other*
27 *emergency services that are attributable to the presence of*
28 *structures within state responsibility areas. It is not the intent of*
29 *the Legislature to substitute the state's firefighting capability for*
30 *these existing services or to supplant them. However, these local*
31 *entities often do not possess sufficient equipment, personnel, and*
32 *other necessary resources to meet the demand placed upon them,*
33 *and the state must at times provide additional firefighting resources*
34 *to protect structures.*

35 (e) *It is the intent of the Legislature that the economic burden*
36 *of general fire prevention and suppression associated with*
37 *wildlands, structural fire protection and prevention, and other*
38 *emergency services that are attributable to the presence of*

1 structures in state responsibility areas be equitably distributed
2 among the citizens of the state who generally benefit from those
3 activities and those landowners who receive a specific benefit
4 other than that general benefit.

5 (f) It is necessary to impose a benefit fee based upon the fair
6 and reasonable value of the specific benefit received by landowners
7 within state responsibility areas. Furthermore, the fire hazard
8 severity zone level where a structure is located, maintenance of
9 defensible space, proximity to fire stations, structural community
10 investments that serve a structure, compliance with the most
11 current version of the California Building Standards Code with
12 respect to materials and construction methods for exterior wildfire
13 exposure, and compliance with fire prevention-related planning
14 laws constitute a fair and reasonable relationship to the benefits
15 received from the structural fire protection and prevention and
16 other emergency services that are attributable to the presence of
17 structures.

18 (g) Imposition of benefit fees is necessary to provide structural
19 fire protection and prevention and other emergency services that
20 are attributable to the presence of structures and to maintain the
21 ability to provide state assistance under various mutual aid
22 arrangements.

23 (h) All revenues generated by state responsibility area
24 fire-related benefit fees imposed under this article, and used for
25 the purposes for which they are imposed, are not proceeds of taxes
26 subject to Article XIII B, C, or D of the California Constitution.

27 4211. (a) (1) For all property tax bills issued commencing
28 with the 2010–11 fiscal year, if, upon inspection pursuant to
29 Section 4119, the department finds that a structure exists that
30 would require fire protection services beyond those provided
31 otherwise to wildlands, the department shall notify the county
32 auditor to have the appropriate benefit fee included as a direct
33 charge in the annual property tax bill.

34 (2) If, upon inspection pursuant to Section 4119, the department
35 finds that the lands do not include a structure that requires fire
36 protection services beyond those provided to otherwise wildlands,
37 it shall notify the county auditor to remove the benefit fee from the
38 property tax bill.

39 (b) (1) On or before July 1, 2009, the board shall adopt
40 emergency regulations to establish a benefit fee to be charged to

1 any owner of a structure within a state responsibility area. The
2 benefit fees shall be developed in consultation with the department
3 and the Office of the State Fire Marshal.

4 (2) The emergency regulations adopted pursuant to paragraph
5 (1) shall be adopted in accordance with the Administrative
6 Procedures Act (Chapter 3.5 (commencing with Section 11340)
7 of Part 1 of Division 3 of Title 2 of the Government Code). The
8 adoption of emergency regulations shall be deemed an emergency
9 and necessary for the immediate preservation of the public peace,
10 health, and safety, or general welfare.

11 (c) The benefit fee shall be established consistent with
12 subdivision (d) at a level that bears a fair and reasonable
13 relationship to the fire-related structural fire protection and
14 prevention and other emergency services that are attributable to
15 the presence of structures within a state responsibility area.

16 (d) The board shall calculate the benefit fee charged to the
17 owner of a structure subject to this article as follows:

18 (1) A base benefit fee shall be established based on the fire
19 hazard severity zone level, as determined by the board pursuant
20 to Section 4202, proximity to fire stations, and other criteria that
21 may be determined by the board, with respect to where the
22 structure is located.

23 (2) The benefit fee shall include an amount sufficient to
24 reimburse each county's actual and reasonable costs for levying
25 and collecting the benefit fee consistent with a cost recovery
26 agreement entered into by the department and each county.

27 (e) The board shall update the base benefit fee established in
28 paragraph (1) of subdivision (d) at least every two years.

29 (f) (1) The board's regulations shall include criteria by which
30 an owner of a structure shall qualify to receive a reduction in the
31 base benefit fee established in paragraph (1) of subdivision (d) by
32 meeting guidelines that reduce the structure's potential fire risk.
33 Compliance with the criteria shall be determined by the
34 department, after an inspection performed pursuant to authority
35 granted by Section 4119.

36 (2) The base benefit fee established in paragraph (1) of
37 subdivision (d) shall not be reduced below a minimum of one
38 hundred dollars (\$100), except as provided in subdivision (g).

39 (3) The board shall establish criteria for benefit fee reductions
40 for an owner of an individual structure, which shall include, but

1 are not limited to, fire risk reduction guidelines in the following
2 categories:

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

5 (B) The extent of compliance with the most current version of
6 the California Building Standards Code with respect to materials
7 and construction methods for exterior wildfire exposure (Chapter
8 7A (commencing with Section 701A.1) of Title 24 of the California
9 Code of Regulations) through new construction or retrofit of an
10 existing structure.

11 (C) The county is in compliance with fire prevention-related
12 planning laws, including Section 65302.5 of the Government Code,
13 in regard to the safety element of the county's general plan.

14 (D) Structural community investments that serve the structure,
15 including, but not limited to, emergency water sources, multiple
16 escape routes, fuel breaks, fuel reduction projects, and turnaround
17 points for fire engines, exist to assist with fire response.

18 (4) The reductions described in paragraph (3) shall be reviewed
19 annually unless otherwise specified in the board's regulations.

20 (g) (1) (A) The benefit fee charged to an owner of a structure
21 within a county shall be eliminated if the board determines that
22 there is sufficient structural fire protection and prevention and
23 other emergency services that are attributable to the presence of
24 structures already being provided by a county, special district, or
25 volunteer fire department directly or through a contract. For the
26 purposes of determining the adequacy of service by a local agency,
27 the board shall consider, at a minimum, emergency service
28 training, access to high fire hazard areas, and ordinances for
29 vegetation fire hazard reduction. The board may also utilize
30 criteria by which it reviews the safety elements of general plans
31 pursuant to Section 65302.5 of the Government Code.

32 (B) A county that has contracted to provide fire protection
33 services pursuant to Sections 4129 and 4133 in state responsibility
34 areas may be exempt from the benefit fee so long as the state is
35 not paying for the structural fire protection and prevention and
36 other emergency services that are attributable to the presence of
37 structures at the same level provided under subparagraph (A) of
38 paragraph (1) of subdivision (g).

39 (2) A local agency may request a review of the sufficiency of
40 their structural fire protection at any time, and the board shall

1 review the request at its next regularly scheduled meeting. If a
2 local agency requests more than one review in any given year, the
3 board may charge a review fee.

4 4212. (a) The department shall notify the county auditor by
5 August 10 of each year to have the benefit fee included as a direct
6 charge in the annual secured property tax bills issued by the
7 county, and at the same time the department shall provide to the
8 county a telephone number for the board to be printed on the
9 secured property tax bill.

10 (b) The benefit fee shall be collected by each county in the same
11 manner and at the same time as secured property taxes. The county
12 collecting the benefit fees may retain the portion of the benefit fee
13 authorized by the board pursuant to paragraph (2) of subdivision
14 (d) of Section 4211.

15 (c) All laws relating to the levy, collection, and enforcement of
16 county ad valorem taxes apply to the benefit fees imposed pursuant
17 to this article, except that if any real property to which the lien
18 would attach has been transferred or conveyed to a bona fide
19 purchaser for value, or if a lien of a bona fide encumbrancer for
20 value has been created and attached to the real property, prior to
21 the date on which the first installment of those taxes would become
22 delinquent, then the lien that would otherwise be imposed by this
23 section shall not attach to that real property, and the cost bill
24 relating to that real property shall be transferred to the unsecured
25 roll for collection.

26 4213. A county auditor shall, in the same manner and at the
27 same time as secured property taxes are distributed in each county,
28 remit all benefit fees, except that portion retained pursuant to
29 Section 4212, to the Treasurer for deposit in the State
30 Responsibility Area Fire Protection and Prevention Fund
31 established pursuant to Section 4214.

32 4214. (a) Benefit fees collected pursuant to this article shall
33 be deposited into the State Responsibility Area Fire Protection
34 and Prevention Fund, which is hereby created in the State
35 Treasury.

36 (b) (1) Moneys in the fund shall be available, upon
37 appropriation by the Legislature, for structural fire protection and
38 prevention and other emergency services that are attributable to
39 the presence of structures in state responsibility areas, which

1 *services benefit owners of structures in those state responsibility*
2 *areas and for the administration of this chapter.*

3 *(2) At least 50 percent of the moneys appropriated from the*
4 *fund shall be allocated to fire prevention activities.*

5 *4215. Notwithstanding any other provision of this chapter, the*
6 *benefit fee charged pursuant to this article shall not exceed the*
7 *fair and reasonable cost of covering the county's cost of collecting*
8 *the benefit fee and of state-provided structural fire protection and*
9 *prevention and other emergency services that are attributable to*
10 *the presence of structures in a state responsibility area. The benefit*
11 *fee shall bear a fair and reasonable relation to the fire prevention*
12 *and suppression services provided to that owner.*

13 *4216. For the purposes of this article, "structure" means a*
14 *building that has a certificate of occupancy issued pursuant to*
15 *Section 9591 of the Health and Safety Code.*

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Article 2. Appeals Process

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19 *4220. A person from whom the benefit fee is determined to be*
20 *due under this chapter may petition for a redetermination of that*
21 *benefit fee within 30 days after receipt of the secured property tax*
22 *bill. If a petition for redetermination is not filed within the 30-day*
23 *period, the amount determined to be due becomes final at the*
24 *expiration of the 30-day period.*

25 *4221. Each petition for redetermination of the benefit fee shall*
26 *be in writing and be sent to both the department and the board.*
27 *The petition shall state the specific grounds upon which the petition*
28 *is founded and include supporting documentation. The petition*
29 *may be amended to state additional grounds or provide additional*
30 *documentation at any time prior to the date that the department*
31 *issues its order or decision with regard to the petition for*
32 *redetermination.*

33 *4222. (a) If a petition for redetermination of the benefit fee is*
34 *filed within the 30-day period, the department shall reconsider the*
35 *amount determined to be due and make a determination in writing.*
36 *Notice of the determination shall be served, on the same date, to*
37 *both the board and the person who filed the petition.*

38 *(b) Within 30 days of being served with the notice of the*
39 *determination by the department, a second appeal may be filed*
40 *with the board, and the board shall grant the petitioner an oral*

1 hearing and shall give him or her 10 days notice of the time and
2 place of the hearing. The board may continue the hearing from
3 time to time as may be necessary.

4 4223. The department, in the case of the first appeal, or board,
5 in the case of a second appeal, may decrease or increase the
6 amount of the determination before it becomes final, but the amount
7 may be increased only if a claim for the increase is asserted by
8 the department or the board at or before the hearing.

9 4224. (a) The order or decision of the department upon a
10 petition for redetermination of the benefit fee shall become final
11 30 days after service upon the petitioner of notice of the
12 determination if it has not been appealed to the board.

13 (b) The order or decision of the board upon a petition for a
14 second redetermination of the benefit fee shall become final 30
15 days after service upon the petitioner of notice of the determination.

16 4225. All benefit fees determined to be due by the board under
17 this article are due and payable at the time they become final, and
18 if not paid when due and payable, a penalty of 10 percent of the
19 amount determined to be due shall be added to the amount due
20 and payable.

21 4226. Written notice required by this article shall be served
22 as follows:

23 (a) The notice shall be placed in a sealed envelope, with postage
24 paid, addressed to the petitioner at his or her address as it appears
25 in the records of the department or the board. The giving of notice
26 shall be deemed complete at the time of the deposit of the notice
27 in a United States Post Office, or a mailbox, subpost office,
28 substation, mail chute, or other facility regularly maintained or
29 provided by the United States Postal Service without extension of
30 time for any reason.

31 (b) In lieu of mailing, a notice may be served personally by
32 delivering to the person to be served and service shall be deemed
33 complete at the time of delivery. Personal service to a corporation
34 may be made by delivery of a notice to any person designated in
35 the Code of Civil Procedure to be served for the corporation with
36 summons and complaint in a civil action.

37 4227. A dispute regarding the benefit fee imposed by this
38 chapter shall be resolved pursuant to this article only, and not by
39 the local secured property tax appeals process.

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

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, April 1, 2008 (JR11)**

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