

AMENDED IN SENATE APRIL 24, 2008
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 *actual and reasonable* costs for levying and collecting the benefit fee. The ~~Department of Forestry and Fire Protection~~ *board* 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 *for structures* 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 *to* wildlands, the department would be required to notify the county to have the appropriate benefit fee included in the annual *secured* 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 *to* wildlands, the department would be required to notify the county to remove the benefit fee from the *secured* property tax bill.

The bill would require local governments to collect the benefit fees *through annual secured property tax bills*, 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 *from the fund* 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.

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, *when not sufficiently protected by a local*
19 *agency*, poses an added burden to the state’s firefighting resources,
20 the incremental cost of which should be borne by the owners of
21 these ~~homes and~~ structures.

22 (c) Individual owners of structures within state responsibility
23 areas, *that are not sufficiently protected by a local agency*, receive
24 a disproportionate benefit, that is greater than that realized by the

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

3 (d) In most cases, local firefighting entities are available to
4 provide structural fire protection and prevention and other
5 emergency services that are attributable to the presence of
6 structures within state responsibility areas. It is not the intent of
7 the Legislature to substitute the state's firefighting capability for
8 these existing services or to supplant them. However, these local
9 entities often do not possess sufficient equipment, personnel, and
10 other necessary resources to meet the demand placed upon them,
11 and the state must at times provide additional firefighting resources
12 to protect structures.

13 (e) It is the intent of the Legislature that the economic burden
14 of general fire prevention and suppression associated with
15 wildlands, structural fire protection and prevention, and other
16 emergency services that are attributable to the presence of
17 structures in state responsibility areas be equitably distributed
18 among the citizens of the state who generally benefit from those
19 activities and those landowners who receive a specific benefit other
20 than that general benefit.

21 (f) It is necessary to impose a benefit fee based upon the fair
22 and reasonable value of the specific ~~benefit~~ *benefits* received by
23 landowners within state responsibility areas. Furthermore, the fire
24 hazard severity zone level where a structure is located, maintenance
25 of defensible space, proximity to fire stations, *the presence of*
26 ~~structural community investments that serve a structure that may~~
27 *assist with fire protection response*, compliance with the most
28 current version of the California Building Standards Code with
29 respect to materials and construction methods for exterior wildfire
30 exposure, and compliance with fire prevention-related planning
31 laws constitute a fair and reasonable relationship to the benefits
32 received from the structural fire protection and prevention and
33 other emergency services that are attributable to the presence of
34 structures.

35 (g) Imposition of benefit fees is necessary to provide structural
36 fire protection and prevention and other emergency services that
37 are attributable to the presence of structures and to maintain the
38 ability to provide state assistance under various mutual aid
39 arrangements.

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

5 4211. (a) (1) For all property tax bills issued commencing
6 with the 2010–11 fiscal year, if, upon inspection pursuant to
7 Section 4119, the department finds that a structure exists that would
8 require fire protection services beyond those provided otherwise
9 to wildlands, the department shall notify the county auditor to have
10 the appropriate benefit fee included as a direct charge in the annual
11 *secured* property tax bill.

12 (2) If, upon inspection pursuant to Section 4119, the department
13 finds that the lands do not include a structure that requires fire
14 protection services beyond those provided to otherwise *otherwise*
15 to wildlands, it shall notify the county auditor to remove the benefit
16 fee from the *secured* property tax bill.

17 (b) (1) On or before July 1, 2009, the board shall adopt
18 emergency regulations to establish a benefit fee to be charged to
19 any owner of a structure within a state responsibility area. The
20 benefit fees shall be developed in consultation with the department
21 ~~and~~, *including* the Office of the State Fire Marshal.

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

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

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

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

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

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

7 (f) (1) The board's regulations shall include criteria by which
8 an owner of a structure shall qualify to receive a reduction in the
9 base benefit fee established in paragraph (1) of subdivision (d) by
10 meeting guidelines that reduce the structure's potential fire risk.
11 Compliance with the criteria shall be determined by the department,
12 after an inspection performed pursuant to authority granted by
13 Section 4119.

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

17 (3) The board shall establish criteria for benefit fee reductions
18 for an owner of an individual structure, which shall include, but
19 are not limited to, fire risk reduction guidelines in the following
20 categories:

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

23 (B) The extent of compliance with the most current version of
24 the California Building Standards Code with respect to materials
25 and construction methods for exterior wildfire exposure (Chapter
26 7A (commencing with Section 701A.1) of Title 24 of the California
27 Code of Regulations) through new construction or retrofit of an
28 existing structure.

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

32 ~~(D) Structural community investments that serve the structure,~~

33 *(D) The presence of structural community investments that may*
34 *assist with fire protection response to the structure, including, but*
35 *not limited to, emergency water sources, multiple escape routes,*
36 *fuel breaks, fuel reduction projects, and turnaround points for fire*
37 *engines, exist to assist with fire response.*

38 ~~(4) The Eligibility for the reductions described in paragraph (3)~~
39 ~~shall be reviewed annually unless otherwise specified in the board's~~
40 ~~regulations.~~

1 (g) (1) (A) The benefit fee charged to an owner of a structure
2 within a county shall be eliminated if the board determines that
3 there is sufficient structural fire protection and prevention and
4 other emergency services that are attributable to the presence of
5 structures already being provided by a county, special district, or
6 volunteer fire department directly or through a contract. For the
7 purposes of determining the adequacy of service by a local agency,
8 the board shall consider, at a minimum, emergency service training,
9 access to high fire hazard areas, and ordinances for vegetation fire
10 hazard reduction. The board may also utilize criteria by which it
11 reviews the safety elements of general plans pursuant to Section
12 65302.5 of the Government Code.

13 (B) ~~A-Structures, in a county that has contracted to provide fire~~
14 ~~protection services pursuant to Sections 4129 and 4133 in state~~
15 ~~responsibility areas may be exempt from the benefit fee so long~~
16 ~~as the state is not paying for the structural fire protection and~~
17 ~~prevention and other emergency services that are attributable to~~
18 ~~the presence of structures at the same level provided under~~
19 ~~subparagraph (A) of paragraph (1) of subdivision (g).~~

20 (2) A local agency may request a review of the sufficiency of
21 their structural fire protection at any time, and the board shall
22 review the request at its next regularly scheduled meeting. If a
23 local agency requests more than one review in any given year, the
24 board may charge a review fee.

25 4212. (a) The department shall notify the county auditor by
26 August 10 of each year to have the benefit fee included as a direct
27 charge in the annual secured property tax bills issued by the county,
28 and at the same time the department shall provide to the county a
29 telephone number for the board to be printed on the secured
30 property tax bill.

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

36 (c) All laws relating to the levy, collection, and enforcement of
37 county ad valorem taxes apply to the benefit fees imposed pursuant
38 to this article, except that if any real property to which the lien
39 would attach has been transferred or conveyed to a bona fide
40 purchaser for value, or if a lien of a bona fide encumbrancer for

1 value has been created and attached to the real property, prior to
2 the date on which the first installment of those taxes would become
3 delinquent, then the lien that would otherwise be imposed by this
4 section shall not attach to that real property, and the cost bill
5 relating to that real property shall be transferred to the unsecured
6 roll for collection.

7 4213. A county auditor shall, in the same manner and at the
8 same time as secured property taxes are distributed in each county,
9 remit all benefit fees, except that portion retained pursuant to
10 Section 4212, to the Treasurer for deposit in the State
11 Responsibility Area Fire Protection and Prevention Fund
12 established pursuant to Section 4214.

13 4214. (a) Benefit fees collected pursuant to this article shall
14 be deposited into the State Responsibility Area Fire Protection and
15 Prevention Fund, which is hereby created in the State Treasury.

16 (b) (1) Moneys in the fund shall be available, upon
17 appropriation by the Legislature, for structural fire protection and
18 prevention and other emergency services that are attributable to
19 the presence of structures in state responsibility areas, which
20 services benefit owners of structures in those state responsibility
21 areas and for the administration of this chapter.

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

24 4215. Notwithstanding any other provision of this chapter, the
25 benefit fee charged pursuant to this article shall not exceed the fair
26 and reasonable cost of covering the county's cost of collecting the
27 benefit fee and of state-provided structural fire protection and
28 prevention and other emergency services that are attributable to
29 the presence of structures in a state responsibility area. The benefit
30 fee shall bear a fair and reasonable relation to the fire prevention
31 and suppression services provided to that owner.

32 4216. For the purposes of this article, "structure" means a
33 building that has a certificate of occupancy issued pursuant to
34 Section 9591 of the Health and Safety Code.

35

36 Article 2. Appeals Process

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38 4220. A person from whom the benefit fee is determined to be
39 due under this chapter may petition for a redetermination of that
40 benefit fee within 30 days after receipt of the secured property tax

1 bill. If a petition for redetermination is not filed within the 30-day
2 period, the amount determined to be due becomes final at the
3 expiration of the 30-day period.

4 4221. Each petition for redetermination of the benefit fee shall
5 be in writing and be sent to both the department and the board.
6 The petition shall state the specific grounds upon which the petition
7 is founded and include supporting documentation. The petition
8 may be amended to state additional grounds or provide additional
9 documentation at any time prior to the date that the department
10 issues its order or decision with regard to the petition for
11 redetermination.

12 4222. (a) If a petition for redetermination of the benefit fee is
13 filed within the 30-day period, the department shall reconsider the
14 amount determined to be due and make a determination in writing.
15 Notice of the determination shall be served, on the same date, to
16 both the board and the person who filed the petition.

17 (b) Within 30 days of being served with the notice of the
18 determination by the department, a second appeal may be filed
19 with the board, and the board shall grant the petitioner an oral
20 hearing and shall give him or her 10 days notice of the time and
21 place of the hearing. The board may continue the hearing from
22 time to time as may be necessary.

23 4223. The department, in the case of the first appeal, or board,
24 in the case of a second appeal, may decrease or increase the amount
25 of the determination before it becomes final, but the amount may
26 be increased only if a claim for the increase is asserted by the
27 department or the board at or before the hearing.

28 4224. (a) The order or decision of the department upon a
29 petition for redetermination of the benefit fee shall become final
30 30 days after service upon the petitioner of notice of the
31 determination if it has not been appealed to the board.

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

35 4225. All benefit fees determined to be due by the board under
36 this article are due and payable at the time they become final, and
37 if not paid when due and payable, a penalty of 10 percent of the
38 amount determined to be due shall be added to the amount due
39 and payable.

1 4226. Written notice required by this article shall be served as
2 follows:

3 (a) The notice shall be placed in a sealed envelope, with postage
4 paid, addressed to the petitioner at his or her address as it appears
5 in the records of the department or the board. The giving of notice
6 shall be deemed complete at the time of the deposit of the notice
7 in a United States Post Office, or a mailbox, subpost office,
8 substation, mail chute, or other facility regularly maintained or
9 provided by the United States Postal Service without extension of
10 time for any reason.

11 (b) In lieu of mailing, a notice may be served personally by
12 delivering to the person to be served and service shall be deemed
13 complete at the time of delivery. Personal service to a corporation
14 may be made by delivery of a notice to any person designated in
15 the Code of Civil Procedure to be served for the corporation with
16 summons and complaint in a civil action.

17 4227. A dispute regarding the benefit fee imposed by this
18 chapter shall be resolved pursuant to this article only, and not by
19 the local secured property tax appeals process.

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

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27
28 CORRECTIONS: _____

29 Text–Page 3.

30 _____