

AMENDED IN ASSEMBLY JUNE 9, 2008

AMENDED IN SENATE MAY 27, 2008

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 prevention fees.

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, on or before July 1, 2009, to adopt emergency regulations to establish a fire prevention fee of \$50 to be charged on each structure on a parcel that is subject to property taxes and is within a state responsibility area. The board would be required to adjust the fire prevention fee annually using the prescribed methods.

The bill would require the fire prevention fee to be included on all secured property tax bills issued for the 2009–10 fiscal year and for each fiscal year thereafter, as prescribed. Because the bill would require local governments to collect the fire prevention fees through annual secured property tax bills, as prescribed, a state-mandated local program would be imposed.

This bill would require the fire prevention fee to include an amount sufficient, as determined by the board, to reimburse each county’s actual and reasonable costs for levying and collecting the fee consistent with a cost recovery agreement entered into between the county and the Department of Forestry and Fire Protection. The county would be authorized to retain that portion of the \$50 fire prevention fee the board authorized.

The bill would establish the State Responsibility Area Fire Prevention Fund and would require the fire prevention fees collected to be deposited into the fund, to be available, upon appropriation by the Legislature, for certain specified fire prevention activities in state responsibility areas and attributable to benefits conferred on structures subject to the fire prevention fee, including, but not limited to, recoupment of startup costs, and for the *costs of administration of this bill, as specified*.

This bill would require the board, on and after January 1, 2011, to submit an annual written report to the Legislature on the status and uses of the fund.

This bill would permit a person from whom a fire prevention fee is determined to be done to use an appeals process that would be established by the bill.

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:

1 CHAPTER 1.5. STATE RESPONSIBILITY AREA FIRE PREVENTION
2 FEES

3
4 *Article 1. General Provisions*
5

6 4210. The Legislature finds and declares all of the following:

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

14 (b) The presence of structures within state responsibility areas
15 can pose an increased risk of fire ignition and an increased potential
16 for fire damage within the state's wildlands and watersheds. The
17 presence of structures within state responsibility areas can also
18 impair wildland firefighting techniques that could result in greater
19 damage to state lands caused by wildfires.

20 (c) The costs of fire prevention activities aimed at reducing the
21 exacerbating effects of structures in state responsibility areas should
22 be borne by the owners of these structures.

23 (d) Individual owners of structures within state responsibility
24 areas receive a disproportionately larger benefit from fire
25 prevention activities than that realized by the state's citizens
26 generally.

27 (e) It is the intent of the Legislature that the economic burden
28 of fire prevention activities that are associated with structures in
29 state responsibility areas shall be equitably distributed among the
30 citizens of the state who generally benefit from those activities
31 and those owners of structures in the state responsibility areas who
32 receive a specific benefit other than that general benefit.

33 (f) It is necessary to impose a fire prevention fee to pay for fire
34 prevention activities in the state responsibility areas that benefit
35 owners of structures in the state responsibility area.

36 (g) All revenues generated by state responsibility area fire
37 prevention fees imposed under this chapter and used for the
38 purposes for which they are imposed, are not proceeds of taxes
39 subject to Article XIII B, C, or D of the California Constitution.

1 4211. For the purposes of this chapter, “structure” means a
2 building that has a certificate of occupancy issued pursuant to
3 Section 9591 of the Health and Safety Code.

4 4212. (a) (1) By July 1, 2009, the board shall adopt emergency
5 regulations to establish a fire prevention fee for the purposes of
6 this chapter of fifty dollars (\$50) to be charged on each structure
7 on a parcel that is subject to property taxes and is within a state
8 responsibility area.

9 (2) The Legislature finds and declares that this fire prevention
10 fee is a reasonable amount for the necessary fire prevention
11 activities that are appropriate and attributable to the presence of a
12 structure within a state responsibility area.

13 (b) On July 1, 2010, and annually thereafter, the board shall
14 adjust the fire prevention fees imposed pursuant to this chapter to
15 reflect the percentage of change in the average annual value of the
16 Implicit Price Deflator for State and Local Government Purchases
17 of Goods and Services for the United States, as calculated by the
18 United States Department of Commerce for the 12-month period
19 in the third quarter of the prior calendar year, as reported by the
20 Department of Finance.

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

28 4213. (a) (1) A fire prevention fee, pursuant to Section 4212,
29 shall be included on all secured property tax bills issued for the
30 2009–10 fiscal year for all structures described in subdivision (a)
31 of Section 4212.

32 (2) The department shall ~~notify~~ *transmit to* the county auditor
33 by August 10 to have a fire prevention fee assessed as a direct
34 ~~charge on the 10~~ *the appropriate fire prevention fee to be assessed,*
35 *as authorized by this article, as a direct charge on the* annual
36 secured property tax bills issued by the county for the 2009–10
37 fiscal year, and at the same time the department shall provide to
38 the county auditor a contact telephone number for the board to be
39 printed on the secured property tax bill to respond to questions
40 about the fee.

1 (b) For each fiscal year after the 2009–10 fiscal year, if there
2 are not sufficient amounts of money in the State Responsibility
3 Area Fire Prevention Fund to finance the costs of the programs
4 under subdivision (e) of Section 4214 for that fiscal year, the
5 ~~department shall notify the county auditor by August 10 to have~~
6 ~~a fire prevention fee assessed as a direct charge on the annual~~
7 *department shall transmit to the county auditor by August 10 the*
8 *appropriate fire prevention fee to be assessed, as authorized by*
9 *this article, as a direct charge on the annual secured property tax*
10 *bills issued by the county, and at the same time the department*
11 *shall provide to the county auditor a contact telephone number for*
12 *the board to be printed on the secured property tax bill to respond*
13 *to questions about the fee.*

14 (c) The board shall determine an amount sufficient to reimburse
15 each county’s actual and reasonable costs for levying and collecting
16 the fee consistent with a cost recovery agreement entered into by
17 the department and each county.

18 (d) The fire prevention fee shall be collected by each county in
19 the same manner and at the same time as secured property taxes.
20 The county collecting the fee shall retain, from each fire prevention
21 fee collected, the amount authorized by the board pursuant to
22 subdivision (c).

23 (e) All laws relating to the levy, collection, and enforcement of
24 county ad valorem taxes apply to the fire prevention fees imposed
25 pursuant to this article, except that if any real property to which
26 the lien would attach has been transferred or conveyed to a bona
27 fide purchaser for value, or if a lien of a bona fide encumbrancer
28 for value has been created and attached to the real property, prior
29 to the date on which the first installment of those taxes would
30 become delinquent, then the lien that would otherwise be imposed
31 by this section shall not attach to that real property, and the cost
32 bill relating to that real property shall be transferred to the
33 unsecured roll for collection.

34 (f) A county auditor shall, in the same manner and at the same
35 time as secured property taxes are distributed in each county, remit
36 all fire prevention fees, except that portion retained pursuant to
37 subdivision (c), to the Treasurer for deposit in the State
38 Responsibility Area Fire Prevention Fund established pursuant to
39 Section 4214.

1 4214. (a) Fire prevention fees collected pursuant to this chapter
2 shall be deposited into the State Responsibility Area Fire
3 Prevention Fund, which is hereby established in the State Treasury.

4 (b) Moneys in the fund shall be available to the board and
5 department, upon appropriation by the Legislature, for fire
6 prevention activities specified in subdivision (e), in state
7 responsibility areas, attributable to benefits conferred on structures
8 subject to the fire prevention fee.

9 (c) The fund may also be used to cover the costs of administering
10 this chapter.

11 (d) It is the intent of the Legislature that the moneys in this fund
12 be fully appropriated to the board and the department each year
13 in order to effectuate the purposes of this chapter.

14 (e) Moneys in the fund shall be used only for the following fire
15 prevention activities relating to the presence of structures within
16 the state responsibility areas:

17 (1) Local assistance grants pursuant to subdivision (f).

18 (2) Grants to Fire Safe Councils, the California Conservation
19 Corps, or certified local conservation corps for fire prevention
20 projects and activities *in the state responsibility areas*.

21 (3) Inspections by the department for compliance with defensible
22 space requirements around structures in state responsibility areas
23 as required by Section 4291.

24 (4) Public education to reduce fire risk in the state responsibility
25 areas.

26 (5) Fire severity and fire hazard mapping by the department *in*
27 *the state responsibility areas*.

28 (6) Recoupment of startup costs incurred over a period not to
29 exceed one year.

30 (7) Other prevention projects *in the state responsibility areas*,
31 authorized by the board.

32 (f) (1) The board shall establish a local assistance grants
33 program for fire prevention activities relating to the presence of
34 structures within state responsibility areas, including public
35 education, that are provided by counties and other local agencies,
36 including special districts, with state responsibility areas within
37 their jurisdictions.

38 (2) The amount of each grant shall be based on the number of
39 structures in state responsibility areas for which the applicant is

1 legally responsible and the amount of moneys made available in
2 the annual Budget Act for this local assistance grant program.

3 (g) By January 1, 2011, and annually thereafter, the board shall
4 submit to the Legislature a written report on the status and uses of
5 the fund pursuant to this chapter.

6
7 *Article 2. Appeals Process*
8

9 *4220. A person from whom the fire prevention fee is determined*
10 *to be due under this chapter may petition for a redetermination of*
11 *that fee within 30 days after receipt of the secured property tax*
12 *bill. If a petition for redetermination is not filed within the 30-day*
13 *period, the amount determined to be due becomes final at the*
14 *expiration of the 30-day period.*

15 *4221. Each petition for redetermination of the fire prevention*
16 *fee shall be in writing and be sent to both the department and the*
17 *board. The petition shall state the specific grounds upon which*
18 *the petition is founded and include supporting documentation. The*
19 *petition may be amended to state additional grounds or provide*
20 *additional documentation at any time prior to the date that the*
21 *department issues its order or decision with regard to the petition*
22 *for redetermination.*

23 *4222. If a petition for redetermination of the fire prevention*
24 *fee is filed within the 30-day period, the department shall*
25 *reconsider the fee determined to be due and make a determination*
26 *in writing. The department may eliminate the fee.*

27 *4223. Notice of the determination of the department pursuant*
28 *to Section 4222 shall be served, on the same date, to both the board*
29 *and the person who filed the petition.*

30 *4224. The order or decision of the department upon a petition*
31 *for redetermination of the fire prevention fee shall become final*
32 *30 days after service upon the petitioner of notice of the*
33 *determination.*

34 *4225. The fire prevention fee determined to be due by the*
35 *department under this article is due and payable at the time it*
36 *becomes final, and if it is not paid when due and payable, a penalty*
37 *of 10 percent of the fee determined to be due shall be added to the*
38 *amount due and payable.*

39 *4226. Written notice required by this article shall be served*
40 *as follows:*

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

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

15 4227. *A dispute regarding the fire prevention fee imposed by*
16 *this chapter shall be resolved pursuant to this article only, and*
17 *not by the local secured property tax appeals process.*

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