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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 that for each fiscal year after the 2009–10 fiscal year, the board charge the fire prevention fee of \$50, except as provided, only if there are not sufficient amounts of money in the State Responsibility Area Fire Prevention Fund to finance the costs of specified fire prevention activities for that fiscal year.

~~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, 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~~ *specified topics*.

This bill would permit a person from whom a fire prevention fee is determined to be ~~done~~ *due* 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-no*.

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 PREVENTION
6 FEES

7
8 Article 1. General Provisions
9

10 4210. The Legislature finds and declares all of the following:

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

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

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

27 (d) Individual owners of structures within state responsibility
28 areas receive a disproportionately larger benefit from fire
29 prevention activities than that realized by the state's citizens
30 generally.

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

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

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

8 4211. For the purposes of this chapter, “structure” means a
9 building that has a certificate of occupancy issued pursuant to
10 Section 9591 of the Health and Safety Code.

11 4212. (a) (1) By July 1, 2009, the board shall adopt emergency
12 regulations to establish a fire prevention fee for the purposes of
13 this chapter of fifty dollars (\$50) to be charged on each structure
14 on a parcel that is subject to property taxes and is within a state
15 responsibility area.

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

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

28 (c) Emergency regulations adopted pursuant to subdivision (a)
29 shall be adopted in accordance with the rulemaking provisions of
30 the Administrative Procedure Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code). The adoption of emergency regulations shall be deemed
33 an emergency and necessary for the immediate preservation of the
34 public peace, health, and safety, or general welfare.

35 ~~4213. (a) (1) A fire prevention fee, pursuant to Section 4212,~~
36 ~~shall be included on all secured property tax bills issued for the~~
37 ~~2009–10 fiscal year for all structures described in subdivision (a)~~
38 ~~of Section 4212.~~

39 ~~(2) The department shall transmit to the county auditor by~~
40 ~~August 10 the appropriate fire prevention fee to be assessed, as~~

1 authorized by this article, as a direct charge on the annual secured
2 property tax bills issued by the county for the 2009–10 fiscal year,
3 and at the same time the department shall provide to the county
4 auditor a contact telephone number for the board to be printed on
5 the secured property tax bill to respond to questions about the fee.

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

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

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

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

37 ~~(f) A county auditor shall, in the same manner and at the same
38 time as secured property taxes are distributed in each county, remit
39 all fire prevention fees, except that portion retained pursuant to
40 subdivision (c), to the Treasurer for deposit in the State~~

1 ~~Responsibility Area Fire Prevention Fund established pursuant to~~
2 ~~Section 4214.~~

3 *4213. For each fiscal year after the 2009–10 fiscal year, the*
4 *board shall charge a fire prevention fee of fifty dollars (\$50),*
5 *except as provided in subdivision (b) of Section 4212, only if there*
6 *are not sufficient amounts of money in the State Responsibility*
7 *Area Fire Prevention Fund to finance the costs of the programs*
8 *under subdivision (e) of Section 4214 for that fiscal year.*

9 4214. (a) Fire prevention fees collected pursuant to this chapter
10 shall be deposited into the State Responsibility Area Fire
11 Prevention Fund, which is hereby established in the State Treasury.

12 (b) Moneys in the fund shall be available to the board and
13 department, upon appropriation by the Legislature, for fire
14 prevention activities specified in subdivision (e), in state
15 responsibility areas, attributable to benefits conferred on structures
16 subject to the fire prevention fee.

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

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

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

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

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

29 (3) *Grants to a qualified nonprofit organization with a*
30 *demonstrated ability to satisfactorily plan, implement, and*
31 *complete a fire prevention project applicable to the state*
32 *responsibility areas. The department may establish other qualifying*
33 *criteria.*

34 ~~(3)~~

35 (4) Inspections by the department for compliance with defensible
36 space requirements around structures in state responsibility areas
37 as required by Section 4291.

38 ~~(4)~~

39 (5) Public education to reduce fire risk in the state responsibility
40 areas.

1 ~~(5)~~
2 (6) Fire severity and fire hazard mapping by the department in
3 the state responsibility areas.

4 ~~(6)~~
5 (7) Recoupment of startup costs incurred over a period not to
6 exceed one year.

7 ~~(7) Other prevention projects in the state responsibility areas,~~
8 (8) *Other fire prevention projects in the state responsibility*
9 *areas*, authorized by the board.

10 (f) (1) The board shall establish a local assistance ~~grants~~ *grant*
11 program for fire prevention activities relating to the presence of
12 structures within state responsibility areas, including public
13 education, that are provided by counties and other local agencies,
14 including special districts, with state responsibility areas within
15 their jurisdictions.

16 (2) The amount of each grant shall be based on the number of
17 structures in state responsibility areas for which the applicant is
18 legally responsible and the amount of moneys made available in
19 the annual Budget Act for this local assistance grant program.

20 (g) By January 1, 2011, and annually thereafter, the board shall
21 submit to the Legislature a written report on the status and uses of
22 the fund pursuant to this chapter. *The written report shall also*
23 *include an evaluation of the effectiveness of the board's grant*
24 *programs, the number of defensible space inspections in the*
25 *reporting period, the degree of compliance with defensible space*
26 *requirements, measures to increase compliance, if any, and any*
27 *recommendations to the Legislature.*

28
29 Article 2. Appeals Process
30

31 4220. A person from whom the fire prevention fee is
32 determined to be due under this chapter may petition for a
33 redetermination of that fee within 30 days after receipt of the
34 ~~secured property tax bill~~ *charge*. If a petition for redetermination
35 is not filed within the 30-day period, the amount determined to be
36 due becomes final at the expiration of the 30-day period.

37 4221. Each petition for redetermination of the fire prevention
38 fee shall be in writing and be sent to both the department and the
39 board. The petition shall state the specific grounds upon which the
40 petition is founded and include supporting documentation. The

1 petition may be amended to state additional grounds or provide
2 additional documentation at any time prior to the date that the
3 department issues its order or decision with regard to the petition
4 for redetermination.

5 4222. If a petition for redetermination of the fire prevention
6 fee is filed within the 30-day period, the department shall
7 reconsider the fee determined to be due and make a determination
8 in writing. The department may eliminate the fee.

9 4223. Notice of the determination of the department pursuant
10 to Section 4222 shall be served, on the same date, to both the board
11 and the person who filed the petition.

12 4224. The order or decision of the department upon a petition
13 for redetermination of the fire prevention fee shall become final
14 30 days after service upon the petitioner of notice of the
15 determination.

16 4225. The fire prevention fee determined to be due by the
17 department under this article is due and payable at the time it
18 becomes final, and if it is not paid when due and payable, a penalty
19 of 10 percent of the fee determined to be due shall be added to the
20 amount due and payable.

21 4226. Written notice required by this article shall be served as
22 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. The giving of notice shall be
26 deemed complete at the time of the deposit of the notice in a United
27 States Post Office, or a mailbox, subpost office, substation, mail
28 chute, or other facility regularly maintained or provided by the
29 United States Postal Service without extension of time for any
30 reason.

31 (b) In lieu of mailing, a notice may be served personally by
32 delivering it 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 fire prevention fee imposed by
38 this chapter shall be resolved pursuant to this article only, ~~and not~~
39 ~~by 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.~~

O