

AMENDED IN SENATE SEPTEMBER 1, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 24

Introduced by Assembly Member Blumenfield

May 19, 2011

~~An act relating to the Budget Act of 2011.~~ *An act to amend Sections 4210, 4211, 4212, 4213, 4214, 4220, and 4221 of, to amend and renumber Section 4222.5 of, to amend, renumber, and add Sections 4226 and 4227 of, to add Sections 4215, 4222.1, 4222.2, and 4222.3 to, to repeal Sections 4224, 4225, and 4228 of, and to repeal and add Sections 4222 and 4223 of, the Public Resources Code, and making an appropriation therefor, to take effect immediately, bill relating to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 24, as amended, Blumenfield. ~~Budget Act of 2011.~~ *State responsibility areas: fire protection 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 (SRAs).

Existing law requires the board, on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount that does not exceed \$150 to be charged on each structure on a parcel that is within a state responsibility area to be deposited into the State Responsibility Area Prevention Fund to finance the costs of specified fire prevention activities.

The bill would revise and recast these SRA fee provisions instead to, among other things, require the board to adopt emergency regulations

to establish and administer fire protection fees in specified amounts, but not in an amount that would exceed the reasonable costs of providing fire protection services. The bill would require a fee of \$1 per acre owned for the first 100 contiguous acres, and lesser amounts per acre for land over 100 contiguous acres, but a total amount not to exceed \$3,000 for 10,000 or more acres owned. In addition, the bill would require a fee of not less than \$175 for one building or structure on land in an SRA and \$25 for each subsequent building or structure, with a \$25 credit for those property owners who are located in an established fire protection district. The bill would rename the fund the State Responsibility Area Protection Fund and require this money to be deposited into the fund to provide for fire protection activities, including, but not limited to, the portion of the Department of Forestry and Fire Protection's costs associated with fire protection that benefit owners of property in a state responsibility area. The bill would authorize the Director of Finance to make a loan from the General Fund to the department and State Board of Equalization to meet cash needs resulting from the delay in receipt of revenues in the fund, as provided.

Existing law requires the State Board of Equalization to collect the fee except existing law prohibits the collection in fiscal years, commencing with the 2012–2013 fiscal year, where there is sufficient amounts of money in the fund to finance the costs of fire prevention activities for the fiscal year.

This bill would delete this prohibition.

Existing law establishes a procedure for a person subject to the fee to file a petition for redetermination of whether the fee applies to that person within 30 days of service upon the owner of a notice of determination. Existing law requires the department to reconsider whether the fee is due and authorizes the department to eliminate the fee upon determining the fee provisions do not apply to the person filing the petition.

This bill would instead authorize the department to eliminate or change the fee based on a determination that the fee provisions do not apply or applies differently to the person. The bill would provide that the determination is final and is not subject to review by the State Board of Equalization.

The bill would require the State Board of Equalization to use all means available to it to collect past due liabilities, as provided.

Among other things, the bill would require the board, the department, and the State Board of Equalization to disclose to each other any and

all information obtained for purposes of the state responsibility area fire protection fee, as necessary to administer these provisions.

The bill would appropriate \$4,372,000 from the State Responsibility Area Protection Fund to the department and the board to implement these provisions. The bill would appropriate \$4,900,000 from the fund to the State Board of Equalization for administrative costs to administer these provisions.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.~~

~~This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4210 of the Public Resources Code is
- 2 amended to read:

1 4210. The Legislature finds and declares all of the following:

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

9 ~~(b) The presence of structures within state responsibility areas~~
10 ~~can pose an increased risk of fire ignition and an increased potential~~
11 ~~for fire damage within the state's wildlands and watersheds. The~~
12 ~~presence of structures within state responsibility areas can also~~
13 ~~impair wild land firefighting techniques and could result in greater~~
14 ~~damage to state lands caused by wildfires.~~

15 ~~(c) The costs of fire prevention activities aimed at reducing the~~
16 ~~effects of structures in state responsibility areas should be borne~~
17 ~~by the owners of these structures.~~

18 ~~(d) Individual owners of structures within state responsibility~~
19 ~~areas receive a disproportionately larger benefit from fire~~
20 ~~prevention activities than that realized by the state's citizens~~
21 ~~generally.~~

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

28 ~~(f) It is necessary to impose a fire prevention fee to pay for fire~~
29 ~~prevention activities in the state responsibility areas that~~
30 ~~specifically benefit owners of structures in the state responsibility~~
31 ~~areas.~~

32 ***(b) Owners of property within state responsibility areas receive***
33 ***a disproportionately larger benefit from fire protection activities***
34 ***than the public trust benefit realized by all Californians generally.***
35 ***A portion of the cost of fire protection activities in state***
36 ***responsibility areas should be borne by the owners of these***
37 ***properties through the establishment of a fire protection fee.***

38 ***(c) It is the intent of the Legislature that this fire protection fee***
39 ***cover the specific benefit conferred upon the owners of property***
40 ***within state responsibility areas and that it does not exceed the***

1 reasonable cost to the state of conferring the benefit of fire
2 protection to the payor.

3 SEC. 2. Section 4211 of the Public Resources Code is amended
4 to read:

5 4211. For the purposes of this chapter, the following terms
6 shall have the following meanings:

7 (a) ~~“Structure” means a building used or intended to be used~~
8 ~~for human habitation. For purposes of this subdivision, a building~~
9 ~~includes, but is not limited to, a mobilehome or manufactured~~
10 ~~home. The board shall exclude from this definition building types~~
11 ~~that require no structural fire protection services beyond those~~
12 ~~provided to otherwise unimproved lands.~~

13 (a) “Board” means the State Board of Forestry and Fire
14 Protection as defined in Section 4002.

15 (b) “Department” means the Department of Forestry and Fire
16 Protection as defined in Section 4003.

17 (c) “Owner” means a person who owns property in a state
18 responsibility area.

19 (d) “Person” has the same meaning as used in Section 55002
20 of the Revenue and Taxation Code.

21 (e) “Property” includes land and buildings or structures, as
22 defined by the board, in state responsibility areas.

23 (f) “Fire protection,” as used in this chapter means providing
24 fire suppression and fire prevention services.

25 (g) “Fire protection fee” means a charge imposed on owners
26 of property in state responsibility areas for a specific fire protection
27 benefit received in state responsibility areas.

28 (h) “Fire suppression” includes, but is not limited to, all work
29 and activities connected with fire control and extinguishing
30 operations, beginning with discovery and continuing until the fire
31 is completely extinguished.

32 (i) “Fire prevention activities” include, but are not limited to,
33 the following:

34 (1) Fire prevention education.

35 (2) Hazardous fuel reduction and vegetation management.

36 (3) Fire investigation.

37 (4) Civil cost recovery.

38 (5) Forest and fire law enforcement.

39 (6) Fire prevention engineering.

40 (7) Prefire planning.

1 (8) Risk analysis.

2 (9) Volunteer programs and partnerships.

3 (b)

4 (j) “State responsibility area” means state responsibility area as
5 defined in Section 4102.

6 SEC. 3. Section 4212 of the Public Resources Code is amended
7 to read:

8 4212. (a) (1) ~~By September 1, 2011, the board shall adopt~~
9 ~~emergency regulations to establish a fire prevention fee for the~~
10 ~~purposes of this chapter in an amount not to exceed one hundred~~
11 ~~fifty dollars (\$150) to be charged on each structure on a parcel that~~
12 ~~is within a state responsibility area. An owner of property in a state~~
13 ~~responsibility area shall pay an annual fire protection fee as~~
14 ~~established and required under this chapter.~~

15 (2) The fire protection fee shall apply to all owners of property
16 within state responsibility areas as of July 1, 2011, and as of every
17 July 1 thereafter, and the owner is liable for the payment of the
18 fee as of that date for the full fiscal year.

19 (b) (1) Within 60 days of the effective date of the act that is
20 amending this subdivision, as provided in the first year of the
21 2011–2012 Regular Session, the board shall adopt emergency
22 regulations to establish and administer a fire protection fee in an
23 amount as specified in paragraph (2), but in an amount that shall
24 not be more than the reasonable costs of providing fire protection
25 services to an owner.

26 (2) (A) A fee shall be assessed in the amount of one dollar (\$1)
27 per acre for the first 100 contiguous acres owned, fifty cents
28 (\$0.50) per acre for the next 900 contiguous acres owned, and
29 twenty-five cents (\$0.25) per acre for each additional contiguous
30 acre owned, not to exceed a total of three thousand dollars (\$3,000)
31 for 10,000 acres or more owned.

32 (B) In addition to the fee assessed pursuant to subparagraph
33 (A), a fee shall be assessed in an amount of not less than one
34 hundred seventy-five dollars (\$175) for one building or structure
35 and twenty-five dollars (\$25) for each subsequent building or
36 structure on land owned. The board may authorize a reduction in
37 the amount imposed pursuant to this subparagraph of
38 twenty-five dollars (\$25) for those property owners who are located
39 within an established fire protection district.

~~(2) The Legislature finds and declares that a fire prevention fee of not more than one hundred fifty dollars (\$150) is a reasonable amount for the necessary fire prevention activities of the state that benefit the owner of a structure within a state responsibility area.~~

~~(b) On July 1, 2013, and annually thereafter, (c) For the 2012–13 fiscal year and each fiscal year thereafter, on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, the board shall adjust the fire prevention protection fees imposed pursuant to this chapter 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 third quarter of the prior calendar year, as reported by the Department of Finance and those rates shall be effective during the state’s next fiscal year.~~

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

~~(d) The board shall adopt any regulations or emergency regulations necessary to implement this chapter in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The board may readopt any emergency regulations authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section. The initial adoption of emergency regulations and the one readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State~~

1 *and each shall remain in effect for no more than 180 days, by*
2 *which time final regulations may be adopted.*

3 *SEC. 4. Section 4213 of the Public Resources Code is amended*
4 *to read:*

5 4213. (a) ~~(1)~~—Commencing with the 2011–12 fiscal year, the
6 fire ~~prevention~~ *protection* fee imposed pursuant to Section 4212
7 shall be collected annually by the State Board of Equalization in
8 accordance with the Fee Collection Procedures Law (Part 30
9 (commencing with Section 55001) of Division 2 of the Revenue
10 and Taxation Code).

11 ~~(2)~~ Notwithstanding the appeal provisions in the Fee Collection
12 Procedures Law, a determination by the department that a person
13 is required to pay a fire prevention fee, or a determination by the
14 department regarding the amount of that fee, is subject to review
15 under Article 2 (commencing with Section 4220) and is not subject
16 to a petition for redetermination by the State Board of Equalization.

17 ~~(3) (A)~~ Notwithstanding the refund provisions in the Fee
18 Collection Procedures Law, the State Board of Equalization shall
19 not accept any claim for refund that is based on the assertion that
20 a determination by the department improperly or erroneously
21 calculated the amount of the fire prevention fee, or incorrectly
22 determined that the person is subject to that fee, unless that
23 determination has been set aside by the department or a court
24 reviewing the determination of the department.

25 ~~(B)~~ If it is determined by the department or a reviewing court
26 that a person is entitled to a refund of all or part of the fire
27 prevention fee, the person shall make a claim to the State Board
28 of Equalization pursuant to Chapter 5 (commencing with Section
29 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.

30 (b) The annual fire ~~prevention~~ *protection* fee shall be due and
31 payable 30 days from the date of assessment by the State Board
32 of Equalization.

33 (c) ~~Within 30 days of the effective date of this chapter, Not later~~
34 ~~than January 1, 2012, and not later than each January 1 thereafter,~~
35 the department shall transmit to the State Board of Equalization;
36 ~~and each January 1 thereafter, the appropriate name and address~~
37 ~~of each person owner of property who is liable for the fire~~
38 ~~prevention~~ *protection* fee and the amount of the fee to be assessed,
39 as authorized by this article, and at the same time the department
40 shall provide to the State Board of Equalization a contact telephone

number for the board to be printed on the bill to respond to questions about the fee.

(d) ~~Commencing with the 2012-13 fiscal year, if in any given fiscal year there are sufficient amounts of money in the State Responsibility Area Fire Prevention Fund created pursuant to Section 4214 to finance the costs of the programs under subdivision (d) of Section 4214 for that fiscal year, the fee may not be collected that fiscal year. Notwithstanding subdivision (c), upon finding that the owner on the notice of determination was incorrect, the department may resubmit the correct name and address and fee amount to the State Board of Equalization for issuance of a new notice of determination.~~

SEC. 5. Section 4214 of the Public Resources Code is amended to read:

4214. (a) ~~Fire-prevention protection~~ fees collected pursuant to this chapter shall be expended, upon appropriation by the Legislature, as follows:

(1) The State Board of Equalization shall retain moneys necessary for the payment of refunds pursuant to ~~Section 4228~~ 4222.3 and reimbursement of the State Board of Equalization for expenses incurred in the collection of the fee.

(2) The moneys collected, other than that retained by the State Board of Equalization pursuant to paragraph (1), shall be deposited into the State Responsibility Area ~~Fire-Prevention Protection~~ Fund, which is hereby created in the State Treasury, and shall be available to the board and the department to ~~expend for administer this chapter and for fire-prevention protection activities specified in subdivision (d) that benefit the owners of structures property within a state responsibility area who are required to pay the fire prevention fee areas.~~ The amount expended to benefit the moneys owners of structures property within a state responsibility area shall be commensurate with the amount collected from the owners within that state responsibility area. ~~All moneys in excess of the costs of administration of the board and the department shall be expended only for fire prevention activities in counties with state responsibility areas.~~

(b) ~~(1) The fund may also be used to cover the costs of administering this chapter. Notwithstanding any other provision of law, the Director of Finance may authorize a loan from the General Fund to the department and the State Board of~~

1 *Equalization to meet cash needs resulting from the delay in receipt*
2 *of revenues into the State Responsibility Area Fire Protection*
3 *Fund, provided the loan is repaid from the State Responsibility*
4 *Area Fire Protection Fund by December 31 of the second fiscal*
5 *year following that in which the loan was authorized. Interest*
6 *charges shall be waived pursuant to subdivision (e) of Section*
7 *16314 of the Government Code. The Director of Finance shall*
8 *notify the Chairperson of the Joint Legislative Budget Committee*
9 *and the chairperson of the committees in each house of the*
10 *Legislature that consider appropriations no later than 30 days*
11 *after authorizing the loan.*

12 ~~(2) The fund shall cover all startup costs incurred over a period~~
13 ~~not to exceed two years.~~

14 (c) It is the intent of the Legislature that the moneys in this fund
15 be fully appropriated to the board and the department ~~each year~~
16 *in the annual Budget Act* in order to effectuate the purposes of this
17 chapter.

18 (d) Moneys in the fund shall be used only for the following fire
19 ~~prevention~~ *protection activities in descending order of priority,*
20 *which shall benefit owners of structures property within the state*
21 *responsibility areas who are required to pay the annual fire*
22 *prevention protection fee pursuant to this chapter:*

23 (1) ~~Local assistance grants pursuant to subdivision (e).~~ *The cost*
24 *to administer this chapter, including, but not limited to, mapping*
25 *of state responsibility area boundaries and related hazard and*
26 *risk.*

27 (2) ~~Grants to Fire Safe Councils, the California Conservation~~
28 ~~Corps, or certified local conservation corps for fire prevention~~
29 ~~projects and activities in the state responsibility areas.~~ *The portion*
30 *of the department's fire protection costs that benefit owners of*
31 *property in state responsibility areas.*

32 (3) ~~Grants to a qualified nonprofit organization with a~~
33 ~~demonstrated ability to satisfactorily plan, implement, and complete~~
34 ~~a fire prevention project applicable to the state responsibility areas.~~
35 ~~The department may establish other qualifying criteria.~~ (A) *Local*
36 *assistance grants and other activities pursuant to this subdivision*
37 *starting on July 1, 2012, and each year thereafter.*

38 (4) ~~Inspections by the department for compliance with defensible~~
39 ~~space requirements around structures in state responsibility areas~~
40 ~~as required by Section 4291.~~

(B) Grants shall be made to a qualified nonprofit organization or local agency with a demonstrated ability to satisfactorily plan, implement, complete, and maintain a fire prevention project applicable to the state responsibility areas consistent with the requirements of Sections 4130 and 4144. This shall include, but not be limited to, adoption of community wildfire protection plans, fire hazard severity zones, and local hazard mitigation plans. In the event applicants do not meet these qualifications, grant funds must first be used for the purpose of meeting qualifications. The board shall establish other qualifying criteria.

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

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

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

(e) ~~(1)~~ The board shall establish a local assistance grant program for fire prevention activities designed to benefit ~~structures~~ properties within state responsibility areas, including public education, that are provided by counties and other local agencies, including special districts, with state responsibility areas within their jurisdictions.

~~(2) In order to ensure an equitable distribution of funds, the amount of each grant shall be based on the number of structures in state responsibility areas for which the applicant is legally responsible and the amount of moneys made available in the annual Budget Act for this local assistance grant program.~~

~~(f) By January 1, 2013, and annually thereafter, the board shall submit to the Legislature a written report on the status and uses of the fund pursuant to this chapter. The written report shall also include an evaluation of the benefits received by counties based on the number of structures in state responsibility areas within their jurisdictions, the effectiveness of the board's grant programs, the number of defensible space inspections in the reporting period, the degree of compliance with defensible space requirements, measures to increase compliance, if any, and any recommendations to the Legislature.~~

~~(g) (1) The requirement for submitting a report imposed under subdivision (f) is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.~~

~~(2) A report to be submitted pursuant to subdivision (f) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(h) It is essential that this article be implemented without delay. To permit timely implementation, the department may contract for services related to the establishment of the fire prevention fee collection process. For this purpose only, and for a period not to exceed 24 months, the provisions of the Public Contract Code or any other provision of law related to public contracting shall not apply.~~

SEC. 6. *Section 4215 is added to the Public Resources Code, to read:*

4215. The fire protection fee collection and appeal processes outlined in this chapter are new state functions. It is essential that this chapter be implemented without delay and that the moneys in the fund be used as prescribed in Section 4214. To permit timely implementation, the department and the State Board of Equalization may contract for services related to the establishment, implementation, and administration of the fire protection fee. For this purpose only, and for a period not to exceed 24 months or until the program is fully implemented, whichever is longer, the provisions and approvals set forth in the Public Contract Code, the Government Code, any other provision of law, or policies governing administrative procedures related to public contracting, shall not apply. Notwithstanding these exemptions, the department and the State Board of Equalization shall submit standard project status reports to the California Technology Agency for information technology-related contracts.

SEC. 7. *Section 4220 of the Public Resources Code is amended to read:*

~~4220. A person~~ *An owner of property from whom the fire prevention protection fee is determined to be due under this chapter may petition for a redetermination of whether this chapter, including the amount of the fee determined, applies to that person within 30 days after service upon him or her of a notice of the determination. If a owner. The petition for redetermination is not shall be filed within the 30-day period, the amount determined to be due becomes final at the expiration of the 30-day period not later than 30 days after service upon the owner of a notice of determination.*

SEC. 8. Section 4221 of the Public Resources Code is amended to read:

4221. Each petition for redetermination of the application of this chapter shall be in writing and be sent to the department, the board, and the State Board of Equalization filed with the department, in a form prescribed by the board. The petition shall provide the name, mailing address, and any other pertinent information as determined by the board. ~~The petition~~ It shall state the specific grounds upon which the petition is founded ~~and include, contain supporting documentation documentation, and provide any other information required by the regulations implementing this chapter. The petition may be amended to state additional grounds or provide additional documentation at any time prior to the date that the department issues its order or decision with regard to the petition for redetermination.~~

SEC. 9. Section 4222 of the Public Resources Code is repealed.

4222. If a petition for redetermination of the application of this chapter is filed within the 30-day period, the department shall reconsider whether the fee is due and make a determination in writing. The department may eliminate the fee based on a determination that this chapter does not apply to the person who filed the petition.

SEC. 10. Section 4222 is added to the Public Resources Code, to read:

4222. Upon receipt of a copy of the petition for redetermination that was filed within the 30-day period, the department, based on statute and any implementing regulations, shall reconsider whether the fee is due and make a determination in writing. The department may eliminate or change the fee based on a determination that this chapter does not apply, or applies differently, to the person who filed the petition. Consistent with regulations adopted by the board, the department shall review and decide on the petition and forward the decision to the State Board of Equalization and the petitioner, including, but not limited to, instructions on fee payment requirements. The decision of the department on the petition shall be final and shall not be subject to review by the State Board of Equalization. The order or decision of the department upon a petition for redetermination of the fire protection fee shall become final 30 days after service upon the petitioner of notice of redetermination by the State Board of Equalization.

1 SEC. 11. Section 4222.1 is added to the Public Resources Code,
2 to read:

3 4222.1. Notwithstanding the appeal and settlement provisions
4 in the Fee Collection Procedures Law (Part 30 (commencing with
5 Section 55001) of Division 2 of the Revenue and Taxation Code),
6 a determination by the department that an owner of property is
7 required to pay a fire protection fee, or a determination by the
8 department regarding the amount of that fee, is subject to review
9 under Article 2 (commencing with Section 4220) and is not subject
10 to a petition for redetermination or an offer of settlement with the
11 State Board of Equalization.

12 SEC. 12. Section 4222.2 is added to the Public Resources Code,
13 to read:

14 4222.2. Notwithstanding the refund provisions in the Fee
15 Collection Procedures Law (Part 30 (commencing with Section
16 55001) of Division 2 of the Revenue and Taxation Code), the State
17 Board of Equalization shall not accept any claim for refund that
18 is based on the assertion that a determination by the department
19 improperly or erroneously calculated the amount of the fire
20 protection fee, or incorrectly determined that the owner of property
21 is subject to that fee, unless that determination has been set aside
22 by the department or a court reviewing the determination of the
23 department.

24 SEC. 13. Section 4222.3 is added to the Public Resources Code,
25 to read:

26 4222.3. If it is determined by the department or a reviewing
27 court that an owner of property is entitled to a refund of all or
28 part of the fire protection fee, the owner shall make a claim to the
29 State Board of Equalization pursuant to Chapter 5 (commencing
30 with Section 55221) of Part 30 of Division 2 of the Revenue and
31 Taxation Code.

32 SEC. 14. Section 4222.5 of the Public Resources Code is
33 amended and renumbered to read:

34 ~~4222.5:~~

35 4222.4. If a timely petition for redetermination has been filed
36 pursuant to Section 4220, all legal action to collect the fire
37 ~~prevention~~ protection fee shall be stayed pending the final
38 determination of the department pursuant to Section ~~4224~~ 4222.

39 SEC. 15. Section 4223 of the Public Resources Code is
40 repealed.

~~4223. Notice of the determination of the department pursuant to Section 4222 shall be served, on the same date, to the board, the State Board of Equalization, and the person who filed the petition.~~

SEC. 16. Section 4223 is added to the Public Resources Code, to read:

4223. The State Board of Equalization shall use all means available to it to collect past due liabilities, including, but not limited to, the use of tax liens as prescribed under Section 7170 through 7174 of the Government Code, for any past due liabilities in excess of one hundred dollars (\$100).

SEC. 17. Section 4224 of the Public Resources Code is repealed.

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

SEC. 18. Section 4225 of the Public Resources Code is repealed.

~~4225. The fire prevention fee determined to be due by the department under this article is due and payable at the time it becomes final, and if it is not paid when due and payable, notwithstanding the penalty imposed pursuant to Section 55042 of the Revenue and Taxation Code, a penalty of 20 percent of the fee determined to be due shall be added to the amount due and payable for each 30-day period in which the fee remains unpaid.~~

SEC. 19. Section 4226 of the Public Resources Code is amended and renumbered to read:

~~4226.~~

4224. Written notice required by this article shall be served as follows:

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

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

SEC. 20. Section 4226 is added to the Public Resources Code, to read:

4226. It is the intent of the Legislature that the department, the board, and the State Board of Equalization may administratively establish positions within fiscal year 2011–12 and that ongoing position requests necessary to implement and administer this chapter be part of the regular budget process for the 2012–13 fiscal year, consistent with the requirements of Section 31 of the Budget Act.

SEC. 21. Section 4227 of the Public Resources Code is amended and renumbered to read:

~~4227.~~

4225. A dispute regarding the fire-prevention protection fee imposed by this chapter shall be resolved pursuant to this article only.

SEC. 22. Section 4227 is added to the Public Resources Code, to read:

4227. (a) The board, the department, and the State Board of Equalization shall disclose to each other any and all information obtained pursuant to this chapter, as necessary to administer this chapter.

(b) The board, the department, and the State Board of Equalization may utilize any information obtained pursuant to this chapter to develop data relevant to imposition of the fire protection fee on owners of property located within state responsibility areas.

(c) It shall be unlawful for the board, the department, the State Board of Equalization, or any person having an administrative duty under this part to make known, in any manner whatever, the business affairs, operations, or any other information pertaining to an owner that was obtained by the board, the department, or the State Board of Equalization pursuant to this chapter, or to permit any determination or other document, or copy of any determination or document, or any book containing any abstract or particulars of any abstract to be seen or examined by any person

1 not expressly authorized by subdivision (a) or this subdivision.
 2 However, the Governor may, by general or special order, authorize
 3 examination of records maintained by the board, the department,
 4 or the State Board of Equalization under this chapter by other
 5 state officers, by tax officers of another state, by the federal
 6 government, if a reciprocal arrangement exists, or by any other
 7 person. The information obtained pursuant to the order of the
 8 Governor shall not be made public except to the extent and in the
 9 manner that the order may authorize that it be made public.

10 (d) Notwithstanding subdivision (c), the successors, receivers,
 11 trustees, executors, administrators, assignees, and guarantors, if
 12 directly interested, may be given information regarding the
 13 determination of any unpaid fee or the amount of fees, interest, or
 14 penalties required to be collected or assessed.

15 (e) This section shall not be construed as limiting or increasing
 16 the public's access to information on any aspect of fire prevention
 17 and suppression within a state responsibility area pursuant to
 18 other state or local laws, regulations, or ordinances.

19 SEC. 23. Section 4228 of the Public Resources Code is
 20 repealed.

21 ~~4228. If the department determines that a person is entitled to~~
 22 ~~a refund of all or part of the fire prevention fee paid pursuant to~~
 23 ~~this chapter, the person shall make a claim to the State Board of~~
 24 ~~Equalization pursuant to Chapter 5 (commencing with Section~~
 25 ~~55221) of Part 30 of Division 2 of the Revenue and Taxation Code.~~

26 SEC. 24. This act addresses the fiscal emergency declared and
 27 reaffirmed by the Governor by proclamation on January 20, 2011,
 28 pursuant to subdivision (f) of Section 10 of Article IV of the
 29 California Constitution.

30 SEC. 25. (a) There is hereby appropriated four million three
 31 hundred and seventy three thousand dollars (\$4,373,000) from the
 32 State Responsibility Area Fire Protection Fund to the Department
 33 of Forestry and Fire Protection for administrative costs to
 34 implement this act, including administrative costs of the board.

35 (b) There is hereby appropriated four million nine hundred
 36 thousand dollars (\$4,900,000) from the State Responsibility Area
 37 Fire Protection Fund to the State Board of Equalization for
 38 administrative costs to implement this act.

39 SEC. 26. This act is a bill providing for appropriations related
 40 to the Budget Bill within the meaning of subdivision (e) of Section

1 *12 of Article IV of the California Constitution, has been identified*
2 *as related to the budget in the Budget Bill, and shall take effect*
3 *immediately.*

4 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
5 ~~changes relating to the Budget Act of 2011.~~

6 ~~SEC. 2. This act addresses the fiscal emergency declared and~~
7 ~~reaffirmed by the Governor by proclamation on January 20, 2011,~~
8 ~~pursuant to subdivision (f) of Section 10 of Article IV of the~~
9 ~~California Constitution.~~

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