

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2048**

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**Introduced by Assembly Members Dahle, Chesbro, and Gordon**  
(Principal coauthor: Senator Gaines)

February 20, 2014

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An act to amend Sections 4211, 4212, 4213, 4214, ~~4220~~, 4221, and 4225 of, *and to add Sections 4213.1 and 4220.1 to*, the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 2048, as amended, Dahle. Fire prevention fees: state responsibility areas.

Existing law requires the State Board of Forestry and Fire Protection, on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount not to exceed \$150 to be charged on each structure, defined as a building used or intended to be used for human habitation, on a parcel that is within a state responsibility area.

This bill would delete the definition of “structure” for purposes of the fire prevention fee and instead use “habitable structure,” which the bill would define to mean a building that contains one or more dwelling units that can be occupied for residential use, as provided. The bill would also include the definition of “person” and “owner of a structure,” as provided.

The bill would require the fee to be levied upon the owner of a habitable structure identified by the department as located within the

state responsibility area if that person owns the habitable structure on July 1 of the year for which the fee is due. The bill would authorize the board to exempt from the fire prevention fee any habitable structure that is subsequently deemed uninhabitable as a result of a natural disaster during the year the fee is due if certain conditions are met.

Existing law requires the board to adjust the fire prevention fee annually using prescribed methods.

This bill would instead authorize the board to adjust the fee using those methods.

Existing law establishes the State Responsibility Area Fire Prevention Fund and requires the board to report to the Legislature every January 1 on the status and uses of the fund.

This bill would instead require the board to report to the Legislature every January 31.

Existing law authorizes a person from whom the fire prevention fee is determined to be due to petition for a redetermination of whether the fee applies to that person within 30 days after service upon the person of a notice of determination. Existing law requires the petition for redetermination to be in writing and be sent to the department, the board, and the State Board of Equalization.

This bill would, if a petition for redetermination is filed after the expiration of the 30-day time period, authorize the petition to be treated as an administrative protest or claim for refund if the department determines that the facts presented indicate that the fire prevention fee originally determined may have been excessive or the amount or the application of the fee may have been the result of an error by the department, its agent, or the State Board of Equalization. This bill would delete the requirements that the petition for redetermination be sent to the board and the State Board of Equalization.

Existing law requires a penalty of 20% of the fee determined to be due to be added to the amount due and payable for each 30-day period in which the fee remains unpaid.

This bill would prohibit the above penalty from being imposed or added after January 1, 2015, to any fee that remains unpaid or any fee that is not paid when due and payable. The bill would instead add a penalty of 10% to the amount due in accordance with existing law relating to late fee payments.

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

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

1 SECTION 1. Section 4211 of the Public Resources Code is  
2 amended to read:

3 4211. For the purposes of this chapter, the following terms  
4 shall have the following meanings:

5 (a) “Habitable Structure” means a building that contains one or  
6 more dwelling units or that can be occupied for residential use.  
7 Buildings occupied for residential use include single family homes,  
8 multidwelling structures, mobile and manufactured homes, and  
9 condominiums. Habitable structures do not include commercial,  
10 industrial, or incidental buildings such as detached garages, barns,  
11 outdoor sanitation facilities, and sheds.

12 (b) “State responsibility area” means state responsibility area  
13 as defined in Section 4102.

14 (c) “Person” means an individual, trust, joint stock company,  
15 business concern, or corporation, including, but not limited to, a  
16 government corporation, partnership, limited liability company,  
17 or association. “Person” also includes any city, county, city and  
18 county, district, commission, the state or any department, agency,  
19 or political subdivision thereof, any interstate body, and the United  
20 States and its agencies and instrumentalities to the extent permitted  
21 by law.

22 (d) “Owner of a habitable structure” means the person that is  
23 the owner of record of a habitable structure in the county tax  
24 assessor rolls or as recorded in the records of the Department of  
25 Housing and Community Development on July 1 of the state fiscal  
26 year for which the fee is due.

27 SEC. 2. Section 4212 of the Public Resources Code is amended  
28 to read:

29 4212. (a) (1) By September 1, 2011, the board shall adopt  
30 emergency regulations to establish a fire prevention fee for the  
31 purposes of this chapter in an amount not to exceed one hundred  
32 fifty dollars (\$150) to be charged on each habitable structure on a  
33 parcel that is within a state responsibility area.

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

1 (b) On July 1, 2013, and annually thereafter, the board may  
2 adjust the fire prevention fees imposed pursuant to this chapter to  
3 reflect the percentage of change in the average annual value of the  
4 Implicit Price Deflator for State and Local Government Purchases  
5 of Goods and Services for the United States, as calculated by the  
6 United States Department of Commerce for the 12-month period  
7 in the third quarter of the prior calendar year, as reported by the  
8 Department of Finance.

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

16 ~~SEC. 3. Section 4213 of the Public Resources Code is amended~~  
17 ~~to read:~~

18 ~~4213. (a) (1) Commencing with the 2011-12 fiscal year, the~~  
19 ~~fire prevention fee imposed pursuant to Section 4212 shall be~~  
20 ~~collected annually by the State Board of Equalization in accordance~~  
21 ~~with the Fee Collection Procedures Law (Part 30 (commencing~~  
22 ~~with Section 55001) of Division 2 of the Revenue and Taxation~~  
23 ~~Code).~~

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

30 ~~(3) (A) Notwithstanding the refund provisions in the Fee~~  
31 ~~Collection Procedures Law, the State Board of Equalization shall~~  
32 ~~not accept any claim for refund that is based on the assertion that~~  
33 ~~a determination by the department improperly or erroneously~~  
34 ~~calculated the amount of the fire prevention fee, or incorrectly~~  
35 ~~determined that the person is subject to that fee, unless that~~  
36 ~~determination has been set aside by the department or a court~~  
37 ~~reviewing the determination of the department.~~

38 ~~(B) If it is determined by the department or a reviewing court~~  
39 ~~that a person is entitled to a refund of all or part of the fire~~  
40 ~~prevention fee, the person shall make a claim to the State Board~~

1 of Equalization pursuant to Chapter 5 (commencing with Section  
2 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.

3 ~~(b) The annual fire prevention fee shall be due and payable 30~~  
4 ~~days from the date of assessment by the State Board of~~  
5 ~~Equalization.~~

6 ~~(c) The fire prevention fee shall be levied upon the owner of a~~  
7 ~~habitable structure identified by the department as located within~~  
8 ~~the state responsibility area, if that person owns the habitable~~  
9 ~~structure on July 1 of the year for which the fee is due.~~

10 ~~(1) The board may exempt from the fire prevention fee any~~  
11 ~~habitable structure that is subsequently deemed uninhabitable as~~  
12 ~~a result of a natural disaster during the year for which the fee is~~  
13 ~~due, as well as one subsequent year if the habitable structure has~~  
14 ~~not been repaired or rebuilt. The board shall only consider granting~~  
15 ~~an exemption if the following conditions are met:~~

16 ~~(A) The owner of the habitable structure certifies that the~~  
17 ~~structure is not habitable as a result of a natural disaster.~~

18 ~~(B) The owner of the habitable structure either can document~~  
19 ~~that the habitable structure passed a defensible space inspection~~  
20 ~~conducted by the department or by one of its agents within one~~  
21 ~~year of the date the structure was damaged or destroyed or certifies~~  
22 ~~that clearance as required under Section 4291 was in place at the~~  
23 ~~time that the structure was damaged or destroyed as a result of a~~  
24 ~~natural disaster.~~

25 ~~(2) The board shall prepare forms for purposes of the~~  
26 ~~certification requirements in paragraph (1).~~

27 ~~(d) Within 30 days of the effective date of this chapter, the~~  
28 ~~department shall transmit to the State Board of Equalization, and~~  
29 ~~no later than January 1 each year thereafter, the appropriate name~~  
30 ~~and address of each person who is liable for the fire prevention~~  
31 ~~fee and the amount of the fee to be assessed, as authorized by this~~  
32 ~~article, and at the same time the department shall provide to the~~  
33 ~~State Board of Equalization a contact telephone number for the~~  
34 ~~board to be printed on the bill to respond to questions about the~~  
35 ~~fee.~~

36 ~~(e) Commencing with the 2012-13 fiscal year, if in any given~~  
37 ~~fiscal year there are sufficient amounts of money in the State~~  
38 ~~Responsibility Area Fire Prevention Fund created pursuant to~~  
39 ~~Section 4214 to finance the costs of the programs under subdivision~~

1 (d) of Section 4214 for that fiscal year, the fee may not be collected  
2 that fiscal year.

3 *SEC. 3. 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 fee imposed pursuant to Section 4212 shall be  
7 collected annually by the State Board of Equalization in accordance  
8 with the Fee Collection Procedures Law (Part 30 (commencing  
9 with Section 55001) of Division 2 of the Revenue and Taxation  
10 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 fee shall be due and payable 30  
31 days from the date of assessment by the State Board of  
32 Equalization.

33 (c) ~~Within 30 days of the effective date of this chapter, the~~  
34 ~~department shall~~ *On or before each January 1, the department*  
35 *shall annually* transmit to the State Board of ~~Equalization, and~~  
36 ~~each January 1 thereafter, Equalization~~ the appropriate name and  
37 address of each person who is liable for the fire prevention fee and  
38 the amount of the fee to be assessed, as authorized by this article,  
39 and at the same time the department shall provide to the State

1 Board of Equalization a contact telephone number for the board  
2 to be printed on the bill to respond to questions about the fee.

3 (d) Commencing with the 2012–13 fiscal year, if in any given  
4 fiscal year there are sufficient amounts of money in the State  
5 Responsibility Area Fire Prevention Fund created pursuant to  
6 Section 4214 to finance the costs of the programs under subdivision  
7 (d) of Section 4214 for that fiscal year, the fee may not be collected  
8 that fiscal year.

9 *SEC. 4. Section 4213.1 is added to the Public Resources Code,*  
10 *to read:*

11 *4213.1. (a) The fire prevention fee imposed pursuant to Section*  
12 *4212 shall be levied upon the owner of a habitable structure*  
13 *identified by the department as located within the state*  
14 *responsibility area, if that person owns the habitable structure on*  
15 *July 1 of the year for which the fee is due.*

16 *(b) The board may exempt from the fire prevention fee any*  
17 *habitable structure that is subsequently deemed uninhabitable as*  
18 *a result of a natural disaster during the year for which the fee is*  
19 *due, as well as one subsequent year if the habitable structure has*  
20 *not been repaired or rebuilt. The board shall consider granting*  
21 *an exemption only if both of the following conditions are met:*

22 *(1) The owner of the habitable structure certifies that the*  
23 *structure is not habitable as a result of a natural disaster.*

24 *(2) The owner of the habitable structure either documents that*  
25 *the habitable structure passed a defensible space inspection*  
26 *conducted by the department or by one of its agents within one*  
27 *year of the date the structure was damaged or destroyed or certifies*  
28 *that clearance as required under Section 4291 was in place at the*  
29 *time that the structure was damaged or destroyed as a result of a*  
30 *natural disaster.*

31 *(c) The board shall prepare forms for purposes of the*  
32 *certification requirements in subdivision (b).*

33 ~~SEC. 4.~~

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

36 *4214. (a) Fire prevention fees collected pursuant to this chapter*  
37 *shall be expended, upon appropriation by the Legislature, as*  
38 *follows:*

39 *(1) The State Board of Equalization shall retain moneys*  
40 *necessary for the payment of refunds pursuant to Section 4228 and*

1 reimbursement of the State Board of Equalization for expenses  
2 incurred in the collection of the fee.

3 (2) The moneys collected, other than those retained by the State  
4 Board of Equalization pursuant to paragraph (1), shall be deposited  
5 into the State Responsibility Area Fire Prevention Fund, which is  
6 hereby created in the State Treasury, and shall be available to the  
7 board and the department to expend for fire prevention activities  
8 specified in subdivision (d) that benefit the owners of habitable  
9 structures within a state responsibility area who are required to  
10 pay the fire prevention fee. The amount expended to benefit the  
11 owners of habitable structures within a state responsibility area  
12 shall be commensurate with the amount collected from the owners  
13 within that state responsibility area. All moneys in excess of the  
14 costs of administration of the board and the department shall be  
15 expended only for fire prevention activities in counties with state  
16 responsibility areas.

17 (b) (1) The fund may also be used to cover the costs of  
18 administering this chapter.

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

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

24 (d) Moneys in the fund shall be used only for the following fire  
25 prevention activities, which shall benefit owners of habitable  
26 structures within the state responsibility areas who are required to  
27 pay the annual fire prevention fee pursuant to this chapter:

28 (1) Local assistance grants pursuant to subdivision (e).

29 (2) Grants to Fire Safe Councils, the California Conservation  
30 Corps, or certified local conservation corps for fire prevention  
31 projects and activities in the 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.

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

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

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

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

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

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

15 (f) By January 31, 2015, and annually thereafter, the board shall  
16 submit to the Legislature a written report on the status and uses of  
17 the fund pursuant to this chapter. The written report shall also  
18 include an evaluation of the benefits received by counties based  
19 on the number of habitable structures in state responsibility areas  
20 within their jurisdictions, the effectiveness of the board's grant  
21 programs, the number of defensible space inspections in the  
22 reporting period, the degree of compliance with defensible space  
23 requirements, measures to increase compliance, if any, and any  
24 recommendations to the Legislature.

25 (g) (1) The requirement for submitting a report imposed under  
26 subdivision (f) is inoperative on January 31, 2017, pursuant to  
27 Section 10231.5 of the Government Code.

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

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

38 ~~SEC. 5. Section 4220 of the Public Resources Code is amended~~  
39 ~~to read:~~

1 4220. ~~(a) A person from whom the fire prevention fee is~~  
2 ~~determined to be due under this chapter may petition for a~~  
3 ~~redetermination of whether this chapter applies to that person~~  
4 ~~within 30 days after service upon him or her of a notice of the~~  
5 ~~determination. If a petition for redetermination is not filed within~~  
6 ~~the 30-day period, the amount determined to be due becomes final~~  
7 ~~at the expiration of the 30-day period.~~

8 (b) ~~If a petition for redetermination is filed after the expiration~~  
9 ~~of the 30-day time period specified in subdivision (a), the untimely~~  
10 ~~petition may be treated as an administrative protest or claim for~~  
11 ~~refund if the department determines that the facts presented indicate~~  
12 ~~that the fire prevention fee originally determined may have been~~  
13 ~~excessive or that the amount or the application of the fee may have~~  
14 ~~been the result of an error by the department, its agent, or the State~~  
15 ~~Board of Equalization. Petitions filed pursuant to this subdivision~~  
16 ~~shall generally be reviewed in the same manner as a timely petition~~  
17 ~~for redetermination.~~

18 *SEC. 6. Section 4220.1 is added to the Public Resources Code,*  
19 *to read:*

20 *4220.1. If a petition for redetermination is filed after the*  
21 *expiration of the time period specified in Section 4220, the untimely*  
22 *petition may be treated as an administrative protest or claim for*  
23 *refund if the department determines that the facts presented*  
24 *indicate that the fire prevention fee originally determined may*  
25 *have been excessive or that the amount or the application of the*  
26 *fee may have been the result of an error by the department, its*  
27 *agent, or the State Board of Equalization. Petitions filed pursuant*  
28 *to this section shall generally be reviewed in the same manner as*  
29 *a timely petition for redetermination.*

30 ~~SEC. 6.~~

31 *SEC. 7. Section 4221 of the Public Resources Code is amended*  
32 *to read:*

33 *4221. Each*~~A~~ *petition for redetermination of the application*  
34 *of this chapter shall be in writing and be sent to the department or*  
35 *its designee. The petition shall state the specific grounds upon*  
36 *which the petition is founded and include supporting*  
37 *documentation. The petition may be amended to state additional*  
38 *grounds or provide additional documentation at any time prior to*  
39 *the date that the department issues its order or decision with regard*  
40 *to the petition for redetermination.*

1 ~~SEC. 7.~~

2 *SEC. 8.* Section 4225 of the Public Resources Code is amended  
3 to read:

4 4225. (a) (1) The fire prevention fee determined to be due by  
5 the department ~~under~~ *pursuant to* this article is due and payable  
6 at the time it becomes final, and if it is not paid when due and  
7 payable, notwithstanding the penalty imposed pursuant to Section  
8 55042 of the Revenue and Taxation Code, a penalty of 20 percent  
9 of the fee determined to be due shall be added to the amount due  
10 and payable for each 30-day period in which the fee remains  
11 unpaid.

12 (2) On and after January 1, 2015, the penalty imposed pursuant  
13 to paragraph (1) shall not be imposed or added to any fee that  
14 remains unpaid or any fee that is not paid when due and payable.

15 (b) On and after January 1, 2015, the fire prevention fee  
16 determined to be due by the department ~~under~~ *pursuant to* this  
17 article is due and payable at the time it becomes final, and if it is  
18 not paid when due and payable, the penalty imposed pursuant to  
19 Section ~~55068~~ 55086 of the Revenue and Taxation Code shall be  
20 applied.

O