



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	04/18/13	Bill No:	Senate Bill 17
Tax Program:	Fire Prevention Fee	Author:	Gaines
Sponsor:	Author	Code Sections:	PRC Chap. 1.5 of Part 2 of Div. 4
Related Bills:	AB 23 (Gaines) AB 124 (Morrell) AB 468 (Chesbro) AB 929 (Jones) SB 125 (Gaines) SB 147 (Gaines)	Effective Date:	01/01/14

BILL SUMMARY

This bill states the Legislative intent to repeal the State Responsibility Area (SRA) fire prevention fee.

Summary of Amendments

Since the previous analysis, this bill was amended to state the Legislature's intent to repeal the fire prevention fee, instead of the actual repeal of the fee.

ANALYSIS

CURRENT LAW

Assembly Bill (AB)x1 29 (Ch. 8, Stats. 2011) added Chapter 1.5 (commencing with Section 4210) to Part 2 of Division 4 of the Public Resources Code (PRC) to, among other things, require the BOE annually to assess and collect a fire prevention fee in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). The law requires the State Board of Forestry and Fire Protection (Fire Board), on or before September 1, 2011, to adopt emergency regulations to establish a fire prevention fee in an amount not to exceed \$150 per habitable structure on a parcel that is within a "state responsibility area" (SRA). PRC Section 4102 defines a SRA as an area over which the Fire Board has determined the state has financial responsibility for preventing and suppressing fires. PRC Section 4125 requires the Fire Board to classify all lands within the state to determine areas in which the financial responsibility for preventing and suppressing fires is primarily the state's responsibility.

Under the PRC, the California Department of Forestry and Fire Protection (CAL FIRE) is responsible for preventing and suppressing fires in areas that the Fire Board has determined are SRA's.

Beginning July 1, 2013, the fire prevention fee will be adjusted annually by the Fire Board to reflect the percentage 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.

Collection and Administration. Commencing with the 2011-12 fiscal year (FY), the BOE is required annually to assess and collect the fire prevention fee in accordance with the Fee Collection Procedures Law (FCPL).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

The FCPL generally provides for the BOE's administration of fee programs. It was added to the Revenue and Taxation Code so that bills establishing a new fee may reference this law in lieu of setting forth administrative provisions specific to the new fee. Among other things, the FCPL provides for collection, reporting, refund, and appeals procedures, as well as the BOE's authority to adopt regulations relating to the FCPL's administration and enforcement.

By each January 1, CAL FIRE is required to transmit to the BOE the name and address of each person liable for the fee and the amount of the fee assessment. In addition, CAL FIRE must also provide to the BOE its telephone number to respond to fee-payer questions about the fee. The BOE prints this number on each assessment.

The annual fire prevention fee is due and payable to the BOE 30 days from the date of assessment. If a timely petition for redetermination has not been filed within the 30-day period, then the amount determined to be due becomes final at the end of the 30-day period. However, if a petition for redetermination is filed within the 30-day period, then all legal actions to collect the fee must be held pending CAL FIRE's decision on the petition.

The BOE will not handle any petition for redetermination or claim for refund resulting from CAL FIRE's determination of liability for, or the amount of the fee. All appeals must be handled by CAL FIRE. Only if CAL FIRE determines that a person is entitled to a refund may that person make a claim for refund to the BOE.

The fire prevention fee may not be collected if, in any given FY, the State Responsibility Area Fire Prevention Fund has sufficient funds to finance prevention activities for that FY without collection of the fee. The law also requires the fee revenues to be used to cover any startup costs incurred over a two-year period.

PROPOSED LAW

This bill states the Legislative intent to repeal the fire prevention fee.

If passed, this bill takes effect January 1, 2014.

BACKGROUND

On July 7, 2011, the Governor signed ABx1 29 (Ch. 8, Stats. 2011). This bill was effective immediately and required a new fee to be collected annually by the BOE commencing with the 2011-12 FY. However, as the BOE did not receive an appropriation, implementation was delayed.

The Governor provided a signing message with ABx1 29, which reads, in part, "A fee consistent with the 'beneficiary pays principle,' such as the one intended in this bill, can achieve significant General Fund savings. However, as currently drafted, the revenues may not materialize. I am directing the Department of Finance and CAL FIRE to work with the Legislature during the remaining legislative session to identify necessary clean-up language to realize these revenues."

ABx1 24 (Blumenfeld), amended September 1, 2011, was the Governor's bill intended to impose a fire protection fee to fund fire suppression and prevention services and emergency response efforts in SRAs. The Governor's bill differed from ABx1 29 by proposing a per acre fee along with a structure fee and using funds for fire suppression instead of prevention. It was held in the Senate Budget & Fiscal Review Committee.

ABx1 45 (Jeffries), introduced September 2, 2011, would have repealed the fire prevention fee enacted by the Legislature on July 7, 2011. The bill died at the Assembly desk.

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On December 15, 2011 the BOE approved an Inter-Agency Agreement with the Fire Board to administer the fire prevention fee; the contract was effective until June 30, 2012.

In 2012, AB 1506 (Jeffries and Cook) and SB 1040 (Evans), as amended August 27, 2012, also would have repealed the fire prevention fee. AB 1506 was held in the Assembly Appropriations Committee, while SB 1040 was held by the Budget Committee.

Last year's failed AB 2474 (Chesbro) would have required the fire prevention fee's emergency regulations to be amended by July 1, 2013 so that an owner of a structure within an SRA that also pays a local agency for fire protection services would receive a credit against the fire prevention fee. Those owners that pay \$150 or more to a local agency would not be required to pay the fire prevention fee. Those owners that pay less than \$150 to a local agency would be credited up to the amount they paid. The bill was held in the Assembly Appropriations Committee.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author and is intended to repeal a fee that is currently being challenged in court as an illegal tax and that the author contends is an unfair and undue burden on rural property owners.
2. **The April 18, 2013 amendments** makes this bill an intent only bill. **The April 11, 2013 amendments** added co-authors and clarified the bill's intent to repeal the fire prevention fee.
3. **This bill is intent only**, therefore there are not costs or revenues associated with its enactment.
4. **Related bills.** AB 23 (Donnelly) and AB 124 (Morrell) repeal the fire prevention fee. AB 468 (Chesbro) repeal the fee and replace it with an insurance tax surcharge. AB 929 (Jones) requires the Fire Board, in collaboration with the BOE, to develop a procedure for reimbursement of persons who have paid a fire prevention fee covering a structure that was previously in a SRA, but that was determined to no longer be within a SRA's boundaries. SB 125 (Gaines) exempts property owners from payment of the fire prevention fee if they have a habitable structure that lies within both a SRA and the boundaries of a local fire district that provides fire protection service. SB 147 (Gaines) exempts property owners from payment of the fire prevention fee if they have income of less than 200% of the federal poverty level.

COST ESTIMATE

The BOE would not incur any costs from enactment of this bill.

REVENUE ESTIMATE

This bill does not impact revenues.

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