

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 24, 2008
POSITION: Oppose

BILL NUMBER: SB 1617
AUTHOR: C. Kehoe

BILL SUMMARY: State Responsibility Areas: Fire-Related Benefit Fees

Existing law and regulation separates the state into Local Responsibility Areas (LRAs), State Responsibility Areas (SRAs), and Federal Responsibility Areas (FRAs) to define who is financially responsible for providing specific fire protection services. This bill would institute a fee on residents in SRAs to fund a portion of the Department of Forestry and Fire Protection's (CAL FIRE's) fire protection program.

FISCAL SUMMARY

This bill would require the Board of Forestry (Board) to adopt emergency regulations by July 1, 2009 to establish the fee. CAL FIRE would be authorized to add or remove property owners from the list of fee payers beginning with the 2010-11 property tax bill based on inspections performed to determine whether a property requires structural fire protection services beyond those provided to otherwise unimproved lands. The bill would require a minimum fee of \$100 per qualifying property owner, would authorize the Board to adjust the fee based on fire severity zone, defensible space, building standards compliance, and other factors, and establish an appeals process. Consequently, it is unclear exactly how much revenue would be generated by the fee. We note that there are approximately 811,000 residential structures in SRAs, and a minimum fee of \$100 would generate \$81.1 million annually.

The bill would create the State Responsibility Area Fire Protection and Prevention Fund (SRA Fund) and require that fee revenue be deposited into the fund. The bill would also require that at least 50 percent of expenditures from the SRA Fund be dedicated to fire prevention activities. However, the bill does not specify or define fire prevention activities, and therefore could result in a significant program expansion.

The establishment of a new inspection program at CAL FIRE would be necessary to determine compliance with defensible space and building standards, and to determine which properties should be subject to the fee. Inspecting all properties in SRAs could cost tens of millions annually. Costs would be borne by the General Fund until fee revenue is generated.

The bill would not result in a reimbursable state mandate because counties would be authorized to pass their collection and enforcement costs to the fee payer.

COMMENTS

Finance opposes this bill for the following reasons:

- The bill would require that an SRA fee be assessed based on the need for structural fire protection. Consequently, the bill could have the effect of making CAL FIRE responsible for structural fire protection. Under existing law, CAL FIRE is responsible for wildland fire protection only.
Although the fee would be assessed based on fire hazard severity zone level, CAL FIRE's fire severity zone maps are based on historical fire patterns. Consequently, the tiered structure of the SRA fee would not reflect an accurate assessment of future fire risk.

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Analyst/Principal Date Program Budget Manager Date
(0634) M. Almy Karen Finn

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

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ANALYSIS

A. Programmatic Analysis

Existing law and regulation separates the state into LRAs, SRAs, and FRAs to define who is financially responsible for providing specific fire protection services. The Board is authorized to designate lands as LRA or SRA. The Board uses a structure density of three per acre as a general guideline. Areas with a density greater than three structures per acre are typically designated as LRA and areas with a lower density are designated SRA. However, the Board also considers other factors such as the size of a community, proximity to other communities, and the ability to support a fire district responsible for both structure and wildland fires. Regardless of density and size, all incorporated land is automatically designated as LRA. Federal land is designated as FRA.

Currently, no special fees or assessments are charged to residents of SRAs to support CAL FIRE's fire protection program. In the current fiscal year, the General Fund provides \$518 million for CAL FIRE's baseline fire protection program. To address the significant budget shortfall, the Legislative Analyst Office has recommended establishing an SRA fee to offset General Fund support for CAL FIRE's fire protection program. The policy rationale for this approach is that an SRA fee would provide for a more appropriate cost-share to fund CAL FIRE's fire protection operations. Specifically, those who live in SRA receive a greater benefit from CAL FIRE's services because their homes and property are at immediate risk from wildfires. Furthermore, the presence of homes in SRA has an adverse impact on CAL FIRE's ability to suppress wildfires.

This bill would establish a fee on property owners in SRAs. Specifically, the bill would require the Board to create a fee structure based on fire hazard severity zones, defensible space, building code compliance, the level of fire protection services provided by a local fire district, compliance with fire-related planning laws, community investments in fire prevention such as fuel break/reduction projects, and a structure's proximity to a fire station. The minimum fee would be \$100. The differentiation in the fee based on severity zones and the other fire risk factors would be determined by the Board. The bill would create a new SRA Fund and require that fee revenue be deposited into the fund. The bill would also require that at least 50 percent of expenditures from the SRA Fund be dedicated to fire prevention activities.

The Board would be required to adopt emergency regulations by July 1, 2009 to establish the fee to be charged to structure owners in SRAs. However, the bill would require that if, upon inspection, CAL FIRE determines that a home or structure exists that would not require structural fire protection services beyond those provided to otherwise unimproved lands, CAL FIRE should notify the county auditor to have the fee removed from the owner's property tax bill. Furthermore, the bill specifies that the fee not be charged to property owners in jurisdictions that the Board determines provide a sufficient level of structural fire protection or to property owners whose improvements do not require fire protection services beyond the services required by unimproved lands. Local agencies would be authorized to request a review of the adequacy of their fire protection services upon request, but an agency would be required to pay a fee if it requests more than one review per year. Consequently, the fee would be assessed based on the need for structural fire protection. Under existing law, the state is not responsible for structure protection in SRAs, and most SRA lands have local fire protection districts for this purpose. CAL FIRE provides assistance as resources allow, but is not required to protect structures in SRA. By requiring that an SRA fee be assessed based on the need for structural fire protection, the bill could have the effect of making CAL FIRE responsible for structural fire protection. Under existing law, CAL FIRE is responsible for wildland fire protection only.

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ANALYSIS (continued)

A. Programmatic Analysis (continued)

The fee would also be assessed based on fire hazard severity zone level. The director of CAL FIRE designates lands in SRA as low, medium, high, and very high fire hazard severity zones. CAL FIRE's fire severity zone maps are based on historical fire patterns and not future risk factors. Basing the fee on the hazard designations as presently constituted would likely result in a legal challenge. Additionally, CAL FIRE's current maps are not refined enough to set a severity zone for each property. Developing that level of detail would require a major IT project that would delay the implementation of the fee by several years.

The bill would also establish an appeal process. A property owner would be required to petition CAL FIRE and the Board for a redetermination of his fee level within 30 days of receiving his property tax bill. CAL FIRE would notify the Board and the petitioner of its decision, and the petitioner would have 30 days from that point to file an appeal with the Board. The petitioner would be granted an oral hearing before the Board, and the fee level would be considered final 30 days after the petitioner received the notice of determination from the Board.

B. Fiscal Analysis

This bill would require the Board of Forestry (Board) to adopt emergency regulations by July 1, 2009 to establish the fee. CAL FIRE would be authorized to add or remove property owners from the list of fee payers beginning with the 2010-11 property tax bill based on inspections performed to determine whether a property requires structural fire protection services beyond those provided to otherwise unimproved lands. The bill would require a minimum fee of \$100 per qualifying property owner, would authorize the Board to adjust the fee based on fire severity zone, defensible space, building standards compliance, and other factors, and establish an appeal process. The Board would be required to update the fee every two years. Consequently, it is unclear exactly how much revenue would be generated by the fee. We note that there are approximately 811,000 residential structures in SRAs, and a minimum fee of \$100 would generate \$81.1 million annually.

At least 50 percent of expenditures would be restricted to fire prevention activities. However, it is unclear what would qualify as fire prevention activities. The Governor's Budget proposes \$31.1 million for CAL FIRE's Fire Prevention program (program element 11:10) in 2008-09, including \$18.9 million General Fund. The Budget also includes \$89.4 million for the Conservation Camp program, including \$88.6 million General Fund. Fuel break and treatment projects are one of the primary functions of Conservation Camps. However, unless the Conservation Camps are considered 'fire prevention' for the purpose of expending SRA fee revenue, the institution of the fee may not result in a significant General Fund offset within CAL FIRE's budget. In that case, the primary programmatic impact of the fee would be an expansion of CAL FIRE's fire prevention program.

Although the bill would not expressly create new inspection programs at CAL FIRE for defensible space, building standards compliance, and determination of fee applicability, a new program would be necessary to account for these factors in determining whether to charge the fee and the fee level. Inspecting all 811,000 residences plus commercial property in SRA could cost tens of millions annually. The cost of the appeals process could also be significant. Costs would be borne by the General Fund until fee revenue is generated.

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ANALYSIS (continued)

B. Fiscal Analysis (continued)

The bill would also result in a need to improve CAL FIRE's fire severity zone mapping to the point that it could be used as the basis for the different SRA fee tiers. To achieve the mapping upgrade, CAL FIRE would likely need to develop an information technology application that could have a major fiscal impact and delay the implementation of an SRA fee indefinitely.

To the extent that basing the requirement to pay the fee on the need for structural fire protection results in a program expansion at CAL FIRE to respond to structure fires, there could be a significant fiscal impact. Specifically, it could cost hundreds of millions annually for CAL FIRE to become a full service fire department in SRA.

The bill would not result in a reimbursable state mandate because counties would be authorized to pass their collection and enforcement costs to the fee payer.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year)			Fund Code
				2007-2008	2008-2009	2009-2010	
				FC	FC		
1317/Misc Rev-Loc	RV	No		-----	See Fiscal Summary	-----	0499
3540/Forest&Fire	SO	No		-----	See Fiscal Summary	-----	0001
<u>Fund Code</u>	<u>Title</u>						
0001	General Fund						
0499	Pending New Special Funds						