



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

Date:	<b>01/06/14</b>	Bill No:	<b><a href="#">Senate Bill 832</a></b>
Tax Program:	<b>Fire Prevention Fee</b>	Author:	<b>Gaines</b>
Sponsor:	<b>Author</b>	Code Sections:	<b>PRC Section 4212</b>
Related Bills:	<b>AB 1519 (Donnelly)</b>	Effective Date:	<b>01/01/15</b>

**BILL SUMMARY**

This bill exempts property owners from payment of the fire prevention fee with respect to a structure on the property that has been destroyed, or significantly damaged, as a result of a natural disaster.

**ANALYSIS**

**CURRENT LAW**

**Fire Prevention Fee.** Existing law<sup>1</sup> requires the Board of Equalization (BOE) to collect an annual fire prevention fee in accordance with the Fee Collection Procedures Law (FCPL).<sup>2</sup> The fee benefits the California Department of Forestry and Fire Protection (CAL FIRE), which is responsible for fire prevention and suppression in areas the State Board of Forestry and Fire Protection (Fire Board) has determined are state responsibility areas (SRA's). As required,<sup>3</sup> the Fire Board adopted emergency regulations to establish a fire prevention fee. The fee amount is not permitted to exceed \$150 per habitable structure on a parcel located within an SRA. Public Resources Code (PRC) Section 4102 defines an SRA as an area over which the Fire Board determines that the prevention and suppression of fires is primarily the financial responsibility of the state. PRC Section 4125 requires the Fire Board to classify all state lands and then determine when the state has financial responsibility for fire prevention and suppression.

Beginning July 1, 2013, the Fire Board must annually adjust the fire prevention fee.<sup>4</sup> The adjustment reflects 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. While the Fire Board set the 2013-14 fiscal year (FY) fee at \$152.33, most bills will be for \$117.33 as most owners will receive a \$35 reduction in the fee.<sup>5</sup>

**Collection and Administration.** Commencing with the 2011-12 FY, the BOE collects the fire prevention fee annually. The FCPL governs the BOE's collection function.

The FCPL generally provides for the BOE's administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals

<sup>1</sup> PRC Section 4213.

<sup>2</sup> Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

<sup>3</sup> PRC Section 4212(a).

<sup>4</sup> PRC Section 4212(b).

<sup>5</sup> If a habitable structure is also within the boundaries of a local agency that provides fire protection services, the property owner will receive a \$35 reduction for each habitable structure. Over 90% of habitable structures in an SRA are also covered by a local fire protection agency.

*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.*

procedures, as well as the BOE's authority to adopt regulations related to the FCPL's administration and enforcement.

By each January 1, CAL FIRE transmits to the BOE the name, address, and assessment amount of each person liable for the fee. In addition, CAL FIRE provides to the BOE a telephone number that fee payers may use to obtain responses to their fee questions.

Annual fire prevention fee assessments are due and payable to the BOE 30 days after assessment. The amount assessed becomes final at the end of the 30-day period, unless a fee payer files a petition for redetermination within that period. If a fee payer files a timely petition for redetermination, all legal collection actions are held until CAL FIRE's final determination.

The BOE lacks authority to decide or review any petition for redetermination or claim for refund that CAL FIRE determines. CAL FIRE handles all appeals, and for those cases that CAL FIRE determines the person is entitled to a refund, that person may file a refund claim with the BOE.<sup>6</sup>

The fire prevention fee may not be collected if, in any given fiscal year, the SRA Fire Prevention Fund has sufficient funds to finance specified prevention activities. The law requires the fee revenues to be used to cover any startup costs incurred over a two-year period.

#### PROPOSED LAW

This bill amends PRC Section 4212 to exempt property owners from payment of the fire prevention fee with respect to a structure on the property that has been destroyed or significantly damaged as a result of a natural disaster.

The bill would become effective January 1, 2015.

#### BACKGROUND

On July 7, 2011, Governor Brown signed ABx1 29,<sup>7</sup> which required the BOE to collect the new fire prevention fee, commencing with FY 2011-12. However, collection of the fee was delayed due to several factors, including adoption of the emergency regulations, and the costs of implementation.

Governor Brown's signing message for ABx1 29 states, 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."

Since then, numerous unsuccessful bills have been introduced to repeal, replace, or provide a fire fee exemption. Bills introduced during the last two legislative sessions include:

---

<sup>6</sup> PRC Section 4213(a)(3)(A) and (B) does not allow BOE to accept claims on the basis that the person is not subject to the fee, or that the fee is improperly calculated. However, the BOE may directly process certain administrative refund claims (e.g. overpayments).

<sup>7</sup> Chapter 8, Stats. 2011.

Bill No.	Session	Author	Fire Fee Bills
AB 23	2013-14	Donnelly	Proposed repeal of the fire prevention fee.
AB 124	2013-14	Morrell	Proposed repeal of the fire prevention fee.
AB 468	2013-14	Chesbro	Would have repealed the fire prevention fee and replaced it with a 4.8% surcharge on commercial and residential fire and multi-peril insurance policy premiums.
AB 929	2013-14	Jones	Was intended to implement reimbursement procedures for persons who have paid a fire prevention fee covering a structure that was previously in an SRA, but that was determined to no longer be within a SRA's boundaries.
SB 17	2013-14	Gaines	Legislative intent to repeal the fire prevention fee.
SB 125	2013-14	Gaines	A proposed exemption from the fire prevention fee for those properties with a habitable structure that lies within both an SRA and the boundaries of a local fire district that provides fire protection service.
SB 147	2013-14	Gaines	A proposed exemption from the fire prevention fee for those property owners with income of less than 200% of the federal poverty level.
ABx1 24	2011-12	Blumenfield	Proposed a fire protection fee to fund fire suppression and prevention and emergency response efforts in SRAs.
ABx1 45	2011-12	Jeffries	Proposed repeal of the fire prevention fee.
AB 1506	2011-12	Jeffries and Cook	Proposed repeal of the fire prevention fee.
SB 1040	2011-12	Evans	Proposed repeal of the fire prevention fee.
AB 2474	2011-12	Chesbro	Proposed a credit of up to \$150 against the fire prevention fee of amounts paid to a local agency for fire protection services.

## COMMENTS

- 1. Sponsor and Purpose.** The author is sponsoring this bill to clarify that the fire prevention fee should not be collected if a property owner no longer has use of their home.
- 2. Agency responsible for the exemption should be clarified.** This bill exempts property owners from payment of the fire prevention fee with respect to a structure on the property that has been destroyed, or significantly damaged, as a result of a natural disaster. Although this bill does not specify which agency would administer the proposed fire fee exemption, the BOE is responsible for collection of the fee. The bill should be amended to clearly designate administrative responsibility to

---

*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.*

either CAL FIRE or the BOE so that those property owners who believe they are exempt from *payment* of the fee would then be able to file an exemption with the designated agency.

**3. Which FY billings would be exempt from payment?** To date, billings for FY 2011-12 and FY 2012-13 have been issued. The FY 2013-14 billing cycle could begin this April. The BOE receives the billing information from CAL FIRE around January for FY billings which reflect property ownership on July 1 of the previous calendar year. Therefore, it is unclear if the author intends for a property owner to be exempt from payment for any outstanding FY, the most recent FY, or the FY in which the structure was destroyed or significantly damaged.

**4. Technical suggestions.** BOE staff suggest the bill clarify the following issues:

- A grammatical correction would clarify that the exemption applies to a structure *that* is destroyed or significantly damaged. Without an amendment, the exemption could be interpreted to mean that if any structure on the property is destroyed or significantly damaged, then the property owner would be exempt from payment for all other structures on the property subject to the fee. Subdivision (d) of Section 4212 of this bill should be amended as follows:

(d) Notwithstanding any other law or regulation, the owner of a property that is within a state responsibility area shall be exempt from the payment of the fire prevention fee imposed pursuant to this section with respect to a structure on the property that has been destroyed, or significantly damaged, as a result of a natural disaster.

- This bill should define the term “significantly damaged” as it would substantially improve administration of the exemption. The author may wish to address other administrative issues, including, but not limited to, how a property is determined to be either “destroyed, or significantly damaged.”
- While the damage or destruction of a structure must be by a “natural disaster,” the term is not defined and should be limited to wildfires, rather than meaning all types of natural disasters, including floods and earthquakes.
- BOE staff suggests the exemption from payment be clarified so that feepayers would ultimately be *relieved* of the liability. The author may also want to consider adding related refund provisions.

BOE staff are available to assist the author’s office with any suggested amendments.

**5. Related bills.** AB 1519 (Donnelly) would delete the 20% fire prevention fee penalty that is added to final redeterminations for each 30-day period the fee remains unpaid.

## **COST ESTIMATE**

The administrative concerns expressed previously may impact BOE’s administrative costs. As issues are addressed, we can better identify any potential administrative costs related to the proposed fire prevention fee exemption.

**REVENUE ESTIMATE****BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Owners of habitable structures within both the SRA and the boundaries of a local fire district that provides fire protection service receive a fee reduction of \$35 per habitable structure, bringing the \$152.33 fee down to \$117.33 per habitable structure. CAL FIRE estimates that over 90% of all structures subject to the fee qualify for this reduction. The weighted statewide average of the full fee and the reduced fee is as follows:

$$(\$152.33 \times 0.1) + (\$117.33 \times 0.9) = \$120.82 \text{ per habitable structure}$$

Each year, CAL FIRE provides feepayer information to the BOE. FY 2012-13 fee revenue totaled \$75.2 million. CAL FIRE collects data on structures destroyed by wildfire back to 1989. Staff estimates that wildfires destroy less than 500 habitable structures statewide on average each year. As such, revenue loss is computed as follows:

$$500 \times \$120.82 = \$60,410$$

**REVENUE SUMMARY**

Based on our analysis of CALFIRE data, the average annual revenue loss would be \$60,410.<sup>8</sup>

**Qualifying Remarks.** For the purposes of preparing this estimate, BOE staff made the following assumptions:<sup>9</sup>

- Structure, as defined, means habitable structure.
- Natural disaster only means wildfire.
- “Significantly damaged” will be defined to conform to the author’s stated intent, and not include homes damaged but still habitable.
- The exemption from payment would include only one FY bill.

The data collected by CAL FIRE for structures destroyed by wildfires includes not only habitable structures, but also commercial buildings, detached garages, barns, sheds, etc. The existing fire fee only applies to habitable structures, something staff considered when analyzing the CAL FIRE data.

During the 22 years CAL FIRE has collected data on the number of structures destroyed by wildfire, structure damage varies significantly. In 2003, over 5,000 structures were destroyed. In 1991, only 54 structures were destroyed. It is difficult to predict which years will bring an increase in wildfires, where they will occur, and how many habitable structures will be lost.

Analysis prepared by:	John Cortez	916-445-6662	02/25/14
Revenue estimate by:	Chris Butler	916-445-0840	
Contact:	Michele Pielsticker	916-322-2376	
ls			0832sb010614jc.docx

<sup>8</sup> The average annual revenue loss would be affected by the Fire Board adjustments to the fire prevention fee, which reflects 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.

<sup>9</sup> To the extent any of the revenue assumptions are incorrect, the revenue estimate will be affected.

*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.*