



# **FACT SHEET**

JAY OBERNOLTE  
Assemblyman, 33<sup>rd</sup> District



## **Assembly Bill 203 – Fire Prevention Fee Due Dates**

### **SUMMARY**

AB 203 (Obernolte) would extend the period for paying or disputing a fire prevention fee from 30 days to 60 days from the date of assessment.

### **BACKGROUND**

The fire prevention fee is assessed annually on owners of habitable structures located on a parcel within a State Responsibility Area (SRA). The SRA does not include lands within city boundaries or in federal ownership. Generally speaking, the SRA is comprised of rural areas, including the state's wildlands and watersheds.

Under Public Resources Code (PRC) Section 4213, the annual fire prevention fee is due and payable to the Board of Equalization (BOE) 30 days from the date of assessment. Additionally, PRC Section 4220 provides a 30-day period to dispute the fee by filing a petition for redetermination.

If a taxpayer misses the filing deadline to appeal the assessed liability, they must first pay the fee in full and file a claim for refund. However, if a taxpayer files a timely petition they are not required to pay the fee until BOE makes a final ruling in regard to the dispute.

### **PROBLEM**

Despite the efforts of BOE and the Department of Forestry and Fire Protection (CalFire) to clarify the fire fee billings, improve communications and publications, and educate fee payers about the petition process, many homeowners have expressed concern that the 30-day period does not allow them sufficient time to pay or dispute the fee.

The reasons given generally include mail delays in rural areas, difficulty understanding fire fee bills, financial stress on fixed-income property owners, and a lack of time to obtain assistance and documentation.

### **SOLUTION**

AB 203 would give property owners 60 days to pay or dispute the fire prevention fee, rather than the 30 days allowed under existing law. This would allow sufficient time for those residents to review their assessments and account for any delays.

### **SUPPORT**

Please see attached document.

### **STAFF CONTACT INFORMATION**

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*As Introduced on January 29, 2015*

## **ORGANIZATIONS IN SUPPORT OF AB 271**

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- George Runner – Vice Chair, California State Board of Equalization [**Sponsor**]
- Diane Harkey – Member, California State Board of Equalization
- Jerome Horton – Member, California State Board of Equalization
- Butte County Board of Supervisors
- California Farm Bureau Federation
- California Fire Chiefs Association
- California Taxpayers Association
- County of San Bernardino
- Del Norte County Board of Supervisors
- Fire Districts Association of California
- Howard Jarvis Taxpayers Association
- Inyo County Board of Supervisors
- Kern County Taxpayers Association
- Nevada County Board of Supervisors
- Plumas County Board of Supervisors
- San Diego County Board of Supervisors
- Sonoma County Board of Supervisors
- Tehama County Board of Supervisors

**ASSEMBLY BILL**

**No. 203**

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**Introduced by Assembly Member Obernolte  
(Coauthor: Assembly Member Gipson)**

January 29, 2015

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An act to amend Sections 4213, 4220, and 4222 of the Public Resources Code, relating to forestry and fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 203, as introduced, Obernolte. State responsibility areas: fire prevention 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, as defined. Existing law requires that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area, collected annually by the State Board of Equalization, in accordance with specified procedures, and specifies that the annual fee shall be due and payable 30 days from the date of assessment by the state board. Existing law authorizes a petition for redetermination of the fee to be filed within 30 days after service of a notice of determination, as specified.

This bill would extend the time when the fire prevention fee is due and payable from 30 to 60 days from the date of assessment by the State Board of Equalization and would authorize the petition for redetermination to be filed within 60 days after service of the notice of determination, as specified.

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 4213 of the Public Resources Code is  
2 amended to read:

3 4213. (a) (1) ~~Commencing with the 2011–12 fiscal year, the~~  
4 *The* fire prevention fee imposed pursuant to Section 4212 shall be  
5 collected annually by the State Board of Equalization in accordance  
6 with the Fee Collection Procedures Law (Part 30 (commencing  
7 with Section 55001) of Division 2 of the Revenue and Taxation  
8 Code).

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

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

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

28 (b) The annual fire prevention fee shall be due and payable ~~30~~  
29 60 days from the date of assessment by the State Board of  
30 Equalization.

31 (c) On or before each January 1, the department shall annually  
32 transmit to the State Board of Equalization the appropriate name  
33 and address of each person who is liable for the fire prevention  
34 fee and the amount of the fee to be assessed, as authorized by this  
35 article, and at the same time the department shall provide to the  
36 State Board of Equalization a contact telephone number for the  
37 board to be printed on the bill to respond to questions about the  
38 fee.

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

7 SEC. 2. Section 4220 of the Public Resources Code is amended  
8 to read:

9 4220. A person from whom the fire prevention fee is  
10 determined to be due under this chapter may petition for a  
11 redetermination of whether this chapter applies to that person  
12 within ~~30~~ 60 days after service upon him or her of a notice of the  
13 determination. If a petition for redetermination is not filed within  
14 the ~~30-day~~ 60-day period, the amount determined to be due  
15 becomes final at the expiration of the ~~30-day~~ 60-day period.

16 SEC. 3. Section 4222 of the Public Resources Code is amended  
17 to read:

18 4222. If a petition for redetermination of the application of this  
19 chapter is filed within the ~~30-day~~ 60-day period, the department  
20 shall reconsider whether the fee is due and make a determination  
21 in writing. The department may eliminate the fee based on a  
22 determination that this chapter does not apply to the person who  
23 filed the petition.

Date of Hearing: March 23, 2015

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Das Williams, Chair

AB 203 Obernolte – As Amended March 17, 2015

**SUBJECT:** State responsibility areas: fire prevention fees

**SUMMARY:** Extends the deadline to file a petition for redetermination of the state responsibility area fire prevention fee from 30 days to 60 days.

**EXISTING LAW:**

- 1) Requires the Board of Forestry (Board) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state (these areas are known as “state responsibility area” or “SRA.”).
- 2) Declares that it is necessary to impose a fire prevention fee to pay for fire prevention activities in the SRA that specifically benefit owners of structures in the SRA.
- 3) Requires the Board to adopt regulations to establish a fire prevention fee in an amount not to exceed \$150 (which must be adjusted every year for inflation) to be charged on each “structure” on a parcel that is within the SRA. Defines “structure” as a building used or intended to be used for human habitation, including a mobile home or manufactured home. Reduces the fire prevention fee by \$35 if the structure is also within the boundaries of a local agency that provides fire protection services (this reduction applies to most structures).
- 4) Requires the fire prevention fees to be deposited in the State Responsibility Area Fire Prevention Fund, which is available to the Board and the Department of Forestry and Fire Protection (CAL FIRE) to expend for fire prevention activities that benefit the owners of structures within the SRA. Limits fire prevention activities to the following: a) local assistance grants established by the Board; b) grants to Fire Safe Councils, the California Conservation Corps, or certified local conservation corps for fire prevention projects and activities in the SRA; c) grants to a qualified nonprofit organization with a demonstrated ability to satisfactorily plan, implement, and complete a fire prevention project applicable to the SRA; d) inspections by CAL FIRE for compliance with defensible space requirements around structures in the SRA; e) public education to reduce fire risk in the SRA; f) fire severity and fire hazard mapping by CAL FIRE in the SRA; and, g) other fire prevention projects in the SRA that are authorized by the Board.
- 5) Allows a person to petition CAL-FIRE for a redetermination of whether the fire prevention fee applies to him or her within 30 days after being served with a notice of determination (i.e., the notice from CAL FIRE stating that a person must pay the fire prevention fee).
- 6) Imposes a 10% penalty for each 30-day period in which the fee remains unpaid after the fee becomes final.

- 7) Allows the Board to exempt from the fee any habitable structure that is subsequently deemed uninhabitable as a result of a natural disaster during the year for which the fee is due, as well as one subsequent year if the habitable structure has not been repaired or rebuilt.

**FISCAL EFFECT:** Board of Equalization (BOE) estimates the annual revenue loss to be about \$497,961 (special funds). Additionally, BOE will incur minor one-time costs for computer programming and revising publications (special funds).

**COMMENTS:**

- 1) **Fire Prevention Fee (ABX1 29).** In early 2011, the state was facing a \$25.4 billion budget deficit (which grew to \$26.6 billion after the governor cancelled the sale of several state buildings) and an annual structural deficit of up to \$21.5 billion was projected into the future. In March 2011, the Legislature passed \$13.4 billion in “solutions” (consisting mostly of spending cuts) to address the deficit; however, there was still a shortfall of \$10.8 billion. To help address the budget shortfall, the Legislature passed, among other bills, ABX1 29, which required the Board to adopt emergency regulations to establish a “fire prevention fee” not to exceed \$150 for each structure on a parcel that is within the SRA. The fee was intended to fill a hole created by a \$50 million General Fund cut to CAL FIRE in the 2011 budget bill. The 2014–15 Budget appropriated \$76.3 million from SRA revenues to enhance statewide fire prevention work including, for the first time, \$10 million for local assistance grants to be used in locations where the effects of drought, fuel loading and structure development converge.
- 2) **Appeals.** Under existing law, a person may appeal a fire prevention fee billing notice through a petition for a redetermination if that petition is filed within 30 days of receiving the billing notice. This bill extends the 30 day deadline to 60 days.
- 3) **Prior Legislation.**

AB 2048 (Dahle, Chesbro, and Gordon), Chapter 895, Statutes of 2014, among other things, reduced the penalties for each 30 day the fee is unpaid and simplified the appeals process.

SB 1413 (Wyland, 2014) was almost identical to this bill and was held in Assembly Appropriations.

- 4) **Related legislation.**

AB 301 (Bigelow) Requires the state responsibility area fire prevention fee to be prorated for an owner that owns the habitable structure for only a portion of the year for which the fee is due. This bill is also scheduled to be heard by this committee on March 23<sup>rd</sup>.

AB 1202 (Mayes) requires the Board to reduce the fee to be charged on a habitable structure by an amount equal to the amount paid by the owner of the structure to a local fire district for fire prevention services. Pending in Assembly Rules Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

George Runner, Member, State Board of Equalization (sponsor)  
Board of Equalization Member, Diane L. Harkey, District 4  
California Farm Bureau Federation  
California Fire Chiefs Association  
California Taxpayers Association (Cal Tax)  
County of San Bernardino  
Fire Districts Association of California  
Howard Jarvis Taxpayers Association  
Plumas County Board of Supervisors  
San Diego County Board of Supervisors

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. / (916) 319-2092

Date of Hearing: April 15, 2015

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Jimmy Gomez, Chair

AB 203 (Obernolte) – As Amended March 17, 2015

Policy Committee: Natural Resources Vote: 9 - 0

Urgency: No State Mandated Local Program: No Reimbursable:

**SUMMARY:**

This bill extends the period of time owners of structures have to pay or request redetermination of the fire prevention fee from 30 days to 60 days.

**FISCAL EFFECT:**

- 1) Annual revenue loss (special fund) in the \$375,000 to \$500,000 range.

Annual fee assessments are due and payable to the Board of Equalization (BOE) 30 days from the date of assessment. During FYs 2011-12, 2012-13 and 2013-14, interest and penalties paid totaled \$4,617,894.. Of that amount, \$1,493,882 in interest and penalties was remitted on fees paid between 31 and 60 days from the date of assessment. Under this bill, this amount would not have been paid. Assuming delinquencies were the same over those three years, the annual average revenue loss is therefore computed as:  $\$1,493,882 / 3 = \$497,961$ .

However, BOE staff notes that the payments made after 60 days continues to decline, at an average annual rate of two percent. Meanwhile, timely payments made within the 30-day period have improved, in part due to BOE outreach efforts. Given the continued improvement in timely payments, BOE staff estimates the annual average revenue loss attributable to penalties and interest at \$382,700.

- 2) Unknown, likely minor, one-time costs (special fund) for BOE to reprogram computers and revise information and publications.
- 3) No additional costs to CALFIRE

**COMMENTS:**

- 1) **Purpose.** This bill is sponsored by BOE Member George Runner to provide additional time for fee payers to review their assessments and either dispute the fee or adjust their budgets and pay their fees in a timely manner.
- 2) **Background.** The state is responsible for wildland fire protection in state responsibility areas (SRA) which are generally defined to include most nonfederal timberlands, rangelands and watersheds thinly populated and not within the boundaries of a city. Over 31 million acres, much privately owned, are located in SRA. In the past, SRA lands were largely unpopulated. In recent years, however, local governments have allowed increased housing

development in SRA but at a level of density that maintains the state's obligation to provide wildland fire protection.

As housing development in SRA increased, so did state fire protection costs. In 1996-97, the department spent \$475 million on fire protection; in more recent years, CALFIRE's annual fire protection costs neared or surpassed \$1 billion.

The Legislative Analyst's Office (LAO) attributes much of the increase in CALFIRE's fire protection costs to increased housing development in SRA. The LAO notes that as housing development in SRA has increased, the department has spent greater resources responding to events other than wildfires for which the state is not legally responsible, such as structural fires and medical emergencies. Because the LAO concludes that much of CALFIRE's nonwildfire activities provide private benefits, LAO has long recommended a fee on owners of private land in SRA to pay for a portion of CALFIRE's fire protection costs.

- 3) **SRA Fire Protection Fees.** In 2011 the Legislature passed ABx1 29 (Blumenfield), requiring the Board of Forestry and Fire Protection to adopt emergency regulations to establish a fire prevention fee. The fee, not to exceed \$150 on each structure, was to raise \$50 million to fund CALFIRE fire prevention activities. In January 2012, the board issued its regulation, establishing a fee of \$150 per habitable structure on a parcel located within SRA, with a \$35 reduction for each habitable structure that is also within the boundaries of a local agency that provides fire protection services. Revenues from the fee are to be used exclusively for fire protection. In authorizing the fee, the Legislature recognized that individual owners within SRA received a disproportionately larger benefit from fire prevention activities than realized by the state's residents generally.

As required by law, the fee was adjusted for inflation and is currently \$152.33 per habitable structure outside a fire protection district and \$117.33 for habitable structures within a fire protection district.

- 4) **BOE Tax and Fee Programs.** The BOE administers more than 30 tax and fee programs, none of which provides a 60-day period to pay the tax or fee or file a petition for redetermination.
- 5) **Previous Legislation.** Last year a similar measure, AB 1413 (Wyland) was held on suspense in the Assembly Appropriations Committee.

**Analysis Prepared by:** Jennifer Galehouse / APPR. / (916) 319-2081