

THE SRA FEE AND THE IMPACT ON THE STATE'S FIRE PROTECTION SERVICES

At the end of the 2011 budget session, the California Legislature adopted ABX1 29. This legislation established Public Resources Code Sections 4210 through 4228. The established statutes, among other items, directed the Board of Forestry and Fire Protection (Board) to adopt emergency regulations (14 CCR Chapter 13 Section 1665) implementing a Fire Prevention Fee on structures within State Responsibility Areas (SRA). ABX1 29 was a "Trailer Bill" to the Budget Act of 2011. This bill was adopted in the final days of the budget session and was adopted without benefit of legislative hearings or public comment.

As required by the legislation, the Board adopted emergency regulations during its August meeting. Recognizing the substantial impact that the fee would have on local agencies, the Board mitigated the fee through the adoption of several provisions for fee deductions. Most significant was a fee deduction for those parcels that were within the boundary of a local fire protection agency. At the Board's November meeting, after the Governor's appointment of 4 new members, the Board voted to amend the proposed regulations to increase the fee to the maximum allowed under the enabling legislation (\$150 per habitable structure). The amended regulations included a single deduction of \$35 for those structures that were within the external boundaries of a local fire protection agency. Following the second submission to the Office of Administrative Law the emergency regulations became effective.

The genesis of the legislation can be traced back several years. In 2003-04 the Legislature enacted SB 1049 that imposed an annual SRA fire protection fee. This legislation was the direct result of the legislature's belief that Cal Fire was providing a significant benefit, beyond wildland fire protection, to rural communities. This fee was repealed in the following year and was never implemented. In almost every subsequent year, a bill has been introduced to reestablish some form of SRA fee. Unfortunately the Legislature has little understanding about how emergency services are provided in California. This is especially true in the rural areas that are primarily designated SRA. The Legislature has a very distorted view of the relationship between Cal Fire and local emergency service providers. What understanding the Legislature does have appears to be derived from reports prepared by Cal Fire and the Legislative Analyst Office.

Over the last several years, the Legislative Analyst Office has addressed the continuing escalation of costs associated with fire protection activities of the Department of Forestry. The following are three of those reports prepared by the LAO:

http://www.lao.ca.gov/analysis_2007/resources/resource_anl07.pdf#page=77

http://www.lao.ca.gov/analysis/2010/resources/res_anl10.pdf

http://www.lao.ca.gov/handouts/resources/2011/Proposed_Realignment_of_Fire_and_Emergency_Response_020211.pdf.

In each of these reports the LAO has made reference to Cal Fire's increasing number of non-wildland fire emergency responses. Over the last several years the LAO has referenced the 2006 Cal Fire Red Book (http://www.fire.ca.gov/downloads/redbooks/2006_BW.pdf) which summarizes Cal Fire's Emergency Activity. The state totals are summarized in the table entitled, 2006 Incident Totals – Statewide. The incident totals are broken down by state, local or federal responsibility. The totals are further broken down by 6 incident types. The 2007-08 analysis by the LAO states:

“As shown in Figure 1, in the calendar year 2006, the department responded to more than 340,000 separate incidents—including vegetation fires, structure fires, and emergency medical incidents. (The figure shows the number of responses by the department, the type of incidents, and in which area of responsibility the incident occurred, even though the department responded. As mentioned above, the state is only responsible for vegetation fires in SRA, though the department may respond to other incidents if it has resources available.) Approximately 70 percent of the department’s responses were for medical emergencies, while only 1 percent of total calls were for vegetation fires in SRA (about 4,500 incidents). Also, roughly 65 percent of department responses were to incidents outside of SRA in local responsibility areas. On the other hand, the federal government and local agencies also respond to incidents in SRA. In 2006, federal fire agencies responded to roughly 750 vegetation fires in SRA, while local governments responded to about 5,500 vegetation fires in SRA.”

The numbers as reported and used by LAO, are totally misleading and do not reflect the actual responses by Cal Fire. Using Mendocino County as an example, Cal Fire has contracted to provide 911 emergency dispatching for all but two fire agencies within the county. In Mendocino County the Red Book reports 9886 total incidents in 2006. As a normal practice, each incident is given an MEU number. Each fire agency in California is assigned a 3 letter designator. MEU is the 3 letter designator for Cal Fire’s Mendocino Unit. This is a sequential numbering of incidents as handled by Howard Forest, the Cal Fire Mendocino Unit Command Center. Each incident is assigned an MEU number even if Cal Fire’s only action is to dispatch the responsible local agency. As an example, if the Howard Forest Command Center dispatches the Willits Ambulance to a traffic collision on Highway 20 the incident is given an MEU number even if no Cal Fire units are assigned to the incident.

On a statewide basis, the LAO has identified as significant the number of medical aids that Cal Fire reportedly responds to. For Mendocino County the Red Book reports 2762 medical aids within the SRA. These are almost totally handled by local agencies with Cal Fire’s actual response limited to mutual aid or as a secondary responder. Only a small percentage of the incidents include a response by Cal Fire personnel. The Red Book also shows 4116 responses to Medical Aids within Local Responsibility Areas. These responses are almost exclusively handled by local agencies with only a very minor response by Cal Fire. Unfortunately, the Red Book does not provide enough detail to accurately identify the actual commitment of Cal Fire resources to an incident. When analyzing the numbers, it becomes very clear that the actual responses by Cal Fire to emergency incidents is significantly less than what appears to be indicated in the Red Book. What is clear is that the report is misleading as to the actual number and the LAO has relied upon these misleading numbers to provide its analysis to the legislature.

In addition, the numbers also seem to include incidents in areas where local agencies have contracted with Cal Fire to provide emergency services. In these cases (Schedule A or Amador Contracts) Cal Fire is paid by the local agency to provide the service. Under these contracts Cal Fire may respond to all types of incidents within either SRA or LRA. Because these responses are covered by local contracts, where by law Cal Fire must be fully reimbursed for the additional cost, they should not be used to calculate any fiscal impact to the state as it relates to development in the SRA.

The recently enacted SRA fee is clearly a reaction to the misrepresented numbers and a lack of understanding on the part of the legislature. The rapidly-expanding Cal Fire budget is the result of several factors, responding to incidents outside its primary mission does not appear to be a significant factor. It is certainly not a \$50 million factor. (\$50 million being an estimate of the fee to be collected.)

The LAO reports identify the escalating costs of fire suppression as a factor of expanding development into the SRA. There is no argument that there has been a significant expansion of development in the SRA. Neither Cal Fire nor the LAO, however, has ever provided a detailed analysis of the relationship of suppression costs and the presence of structures in the wildland environment. The protection of life and

property in the rural setting is a complicated matrix of responsible agencies and mutual aid agreements. This is further complicated by changing fuel conditions, climate change and environmental restrictions. The LAO's 2011 report on the "Governor's Proposed Realignment of Fire and Emergency Response Activities" states that there are several reasons why the state's expenditure for fire protection have grown so substantially over the last decade. One of the 3 identified reasons is stated as:

"Increasing Workload Due to Increasing Development in the Wildland Urban Interface. There has been increasing development in SRAs over the last several decades. Increasing development makes human-caused fires more likely. The presence of people and homes also limits the department's available fire-fighting tactics—such as controlled burns and aircraft use—which require CalFire to rely on more costly methods of fire protection."

One might assume that this is a significant factor. However, data has not been presented that supports these findings; in fact, it certainly could be argued that environmental restrictions have played a more significant roll in limiting firefighting tactics. There may in fact be other overriding beneficial consequences of development in the SRA. These might include early detection of fire starts, regardless of cause. The establishment of local fire suppression resources may increase the number of responding units and reduce response times. Additionally, the establishment of road systems provides better access, roads and landscaped areas provide fuel breaks, and water systems provide ready access to water utilized in suppression. Certainly in most areas, but admittedly not in all, fire suppression resources have been enhanced in relationship to rural development. An analysis that has not been done is what additional resources are available for use under the state mutual aid system as a result of the enhancement of rural fire departments. One would need to look no further than the fire storms of 2003 or the lightning fires of 2008 to see what impact the resources originating from rural fire departments had on the state's ability to combat these fires.

At the heart of the matter, however, is the significant adverse impact the SRA fee will have on local agencies' ability to raise operational funds. Local agencies such as fire districts are very limited in their options for raising funds for operations. Most districts receive a small portion of the ad valorem property taxes. More significant are the benefit assessments or special fire taxes that have been implemented in individual districts. A benefit assessment fee requires a 50% + 1 vote of those to be assessed and is very costly to implement. The special fire tax requires a 2/3 vote of the district residents but is less costly than the benefit assessment to implement. Once again using Mendocino County as an example, most of the districts with special fire taxes gained approval in a 1997 election. Each of these tax initiatives established a maximum allowable tax. All of these districts are now facing the need to return to the voters asking for approval to raise the cap on the tax. As the legislature knows, gaining a 2/3 approval for a tax is a very difficult hurdle. Voters who will soon be paying an SRA Fee in addition to a special fire tax, will not be inclined to vote in the affirmative for a tax increase. In essence, the state, by establishing the SRA Fee, has capped the future income for fire districts.

Two specific examples of SRA Fee impacts on the ability of local agencies to raise funds through voter approved taxes can be found in both Mendocino and Humboldt Counties. In Mendocino County, the County Fire Chiefs and local emergency medical providers were working in cooperation with county government to present to the voters a parcel tax which would help fund emergency medical services and supplement local fire agency income. Mendocino County's emergency medical services are at a critical juncture. Roughly half of the county is served by Basic Life Support services only. Approximately 2/3 of the County receives its EMS transports from volunteer fire departments and in approximately 3/4 of the county EMS first responders are from volunteer agencies. Due to the economic conditions of the county, the bulk of the patients receiving emergency medical care are either MediCal or private pay. Collection rates within the county are significantly below state averages. The County effort to place the parcel tax before the voters was on track for a 2012 election. With the passage of ABX1 29, the County

and the Fire Chiefs elected to discontinue the effort. The cost of the election with the now questionable outcome made the effort too risky to pursue.

In southern Humboldt County several volunteer fire companies have been working toward the establishment of a fire protection district. The existing fire companies have no taxing authority and rely almost entirely on community donations. By establishing a fire district, they would then have the ability to place before the voters the question of a benefit assessment or special fire tax. Obviously, once the state begins to collect the SRA fee, the approval of a local fire protection tax will become much more problematic. Without the likelihood of a voter approved tax, the formation of the district has little value. Beyond the impact on the district formation, the fee will likely have a negative impact on voluntary donations.

It is not difficult to imagine that the SRA fee will increase over time. It is also not hard to imagine that the local emergency service providers will be squeezed between rising costs and diminishing revenues. The legislature, with little to no understanding of the California fire service, has passed a bill imposing a fee based on data that is not reflective of reality. Furthermore, the legislature has failed to recognize the defined responsibilities for fire protection as codified in California statute. Identified within the Health and Safety Code, Section 13801, it states that *"the State has recognized that fire protection among other services is best provided at the local level."* In addition, the Health and Safety Code gives local government (Fire Districts) specific authorities and responsibilities to provide emergency services including fire prevention and protection to the areas within their boundaries. In the Board's 2010 Strategic Fire Plan, it states:

"State, local and federal agencies each have a unique responsibility for wildland fire protection. The delivery of wildland fire protection services in California relies on an integrated, multi-agency effort to maximize the use of firefighting resources. This integration is essential to avoid duplication of firefighting resources and to allow the closest available resources to respond to a fire, regardless of jurisdiction. This integration is authorized by statute and guided by interagency agreements under which the state provides services to local and/or federal agencies, and vice versa."

This fee unfortunately puts at risk this long-standing strategy for protecting California's wildlands. In total, the SRA Fee will have a significant long-term adverse impact on the state's multifaceted fire protection system. The potential costs to local fire agencies will far exceed the anticipated revenue received by the state. The available resources available to respond to the state's frequent major events will likely be less, not more. Rural communities that rely on their local fire departments will see an increase in fire protection costs while they receive a reduced level of service.

The SRA fee was promoted on faulty data and a complete lack of understanding as to how the state's fire protection system works. The net result will be that California's wildlands will be at significantly greater risk.

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