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Increase for SRA Fee- background

The Board is required to raise the SRA fee this year by statute and regulation. There is no choice in this, it is mandatory and no regulatory action is required.. Staff will implement this via Section 100. Below is a description of the action and analysis.

I. Public Resources Code

PRC dictates that the Board shall increase the fee beginning in 2013:

4212. (a) (1) By September 1, 2011, the board shall adopt emergency regulations to establish a fire prevention fee for the purposes of this chapter in an amount **not to exceed one hundred fifty dollars (\$150)** to be charged on each structure on a parcel that is within a state responsibility area.

(2) The Legislature finds and declares that a fire prevention fee **of not more than one hundred fifty dollars (\$150)** is a reasonable amount for the necessary fire prevention activities of the state that benefit the owner of a structure within a state responsibility area.

(b) **On July 1, 2013, and annually thereafter, the board shall adjust the fire prevention fees imposed pursuant to this chapter** to reflect 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, as calculated by the United States Department of Commerce for the 12-month period in the third quarter of the prior calendar year, as reported by the Department of Finance.

II. Title 14 CCR

Our regulations repeat this in more or less verbatim language:

§ 1665.6. Fee Structure.

(a) The Board has been directed by the Legislature to impose a Fee that will provide funding necessary for fire prevention activities.

(b) **The Fee shall be one hundred-fifty dollars (\$150.00) per habitable structure.**

(c) Fees shall be deposited in the Fire Prevention Fund.



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(d) On July 1, 2013 and at its June meeting prior to each subsequent July 1, the Board **shall adjust the Fee rate to reflect 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, as calculated by the United States Department of Commerce for the 12-month period in the third quarter of the prior calendar year, as reported by the Department of Finance.

III. Office of Administrative Law

Questions to OAL:

“The fee structure specified in the SRA Fee statutes and regulations is set at a maximum of \$150.00, but this maximum must also be adjusted annually “to reflect the percentage of change in the average annual value of the Implicit Price Deflator” (please refer to attached statutes and Title 14 regulations).

1. Does the Board have to adopt the annual adjustment under the regular rulemaking process, thereby requiring an SRA Fee rule proposal every year?
2. Or, is it implied in both the statute and regulation that the fee amount will be adjusted such that annual rulemaking is not required?
3. Do the \$150 maximum and the annual adjustment requirements of the statute conflict with one another—or is it understood that the fee amount will be adjusted to reflect the \$150 maximum in future dollar values?”

OAL Response:

“In answer to questions 1 and 2, we typically see fees that are statutorily required to be adjusted by some sort of index—here, the percentage of change in the average annual value of the Implicit Price Deflator—submitted as Section 100 actions. (See 1 CCR sec. 100.) This means you can make the change to the CCR text without going through a regular rulemaking action, provided you satisfy the Section 100 requirements. This type of action usually falls under an analysis similar to Section 100(b)(6). In your Section 100 statement, you would want to cite PRC sec. 4212(b) and 14 CCR sec. 1665.6(d), show what the multiplier is that reflects the percentage of change in the average annual value of the Implicit Price Deflator based on the statute and regulation, and show with



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underlining and strikeout the change to the annual fee in Section 1665.6 that reflects the multiplier.

In answer to question 3, I do not see a conflict. The statute allows for the exceedance of the \$150 maximum by the annual adjustment. The \$150 maximum would only apply to the establishing the first annual fee which, in this case, was \$150 in Section 1665.6.”

IV. Calculation of change

“Reflect 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, as calculated by the United States Department of Commerce for the 12-month period in the third quarter of the prior calendar year”

3rd quarter 2012- 126.61

3rd quarter 2011- 124.68

Difference- 1.93

$1.93/124.68 = .0155$

$.0155 \times 150.00 = \$2.33$

New Fee= \$152.33