

SAMPLE RESPONSE TO REVIEW OF PROPOSED LEGISLATION (0500)

No. 1 Jan. 1998

RESPONSE TO REVIEW OF PROPOSED LEGISLATION

RESOURCES AGENCY

Sponsoring Department FORESTRY AND FIRE PROTECTION (CDF)	Proposal Number RA-90-05
Subject: Fire Suppression Cost Rates	
Response to Concerns submitted by: State and Consumers Services Agency	

Comments:

Upon reviewing the State and Consumer Services Agency's "Legislative Proposal Review" of RA-90-05, the following discrepancies are noted:

- 1) Reference is made to the ten percent administrative cost. This limit was deleted from the subject code section by legislative action in 1987.

- 2) The comment is made "fire jurisdictions may already adopt a fee schedule for this purpose without legislation." Government Code Section 6103, et al, relates to the establishment of fees and schedules. Nowhere in the section does it relate to fee schedules for fire suppression, investigation, cost collection programs, rescue, or emergency medical services. Local fire jurisdictions can establish those fees and schedules under their authority through county ordinances and board actions. There appears to be no method presently available to set a fee schedule by state agencies for activities covered by Health and Safety Code Section 13009 or 13009.1. Administratively established fee schedules appear to be allowed because the law is silent on the issue.

The State and Consumer Services Agency indicates an "Oppose" position since the interpretation is that it "Can be done Administratively". The legislation was requested to answer foreseeable legal challenges of "Where does it allow you, in law, to establish a rate schedule?" The question has been asked before, with no clear answer available. It appears to be allowable only because the law is silent on the issue and places "The burden of proof as to the amount of costs recoverable shall be the plaintiff..." The proposed legislation was requested to clarify this issue.

Additionally, it has come to our attention that the initial proposal's reference to the appropriate code section has been misstated. The proposal shows "Health and Safety Code 13009.1 (a) (2) (c)". It should read "Health and Safety Code 13009.1 (c)" The alpha subsections stand alone and subsection (c) should not be referenced to item (2) or subsection (a).

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Date: October 1, 1991
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Department Director	Date	Agency Secretary	Date
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