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OPINION	:	No. 83-609
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of	:	<u>DECEMBER 30, 1983</u>
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THE HONORABLE JERRY PARTAIN, DIRECTOR, CALIFORNIA DEPARTMENT OF FORESTRY, has requested an opinion on the following question:

What is the meaning of the phrase "direct cost of fire protection" that is found in Public Resources Code section 4132 and does it include such items as administrative overhead, fire prevention activities, capital improvements and equipment purchases?

CONCLUSION

The phrase "direct cost of fire protection" as used in section 4132 of the Public Resources Code refers to that amount which the Board of Forestry determines, from the state's perspective in conformity with its plan for statewide fire protection, would be necessary, directly attributable, and reasonably allocable to provide the established level of fire protection for the particular types of land in the state responsibility areas within a county. Calculation of that amount would include monies that would be so allocated for

capital improvements, equipment purchases and fire prevention activities for those areas but would not include expenditures for administrative overhead.

ANALYSIS

Division 4 of the Public Resources Code (§ 4001 et seq.) defines a comprehensive system for the protection of forest, range and forage lands from forest fires. (Stats. 1965, ch. 1144, p. 2828, § 9.6, as amended by Stats. 1976, ch. 1300, p. 5825, § 34.) Under it the Board of Forestry (hereinafter "Board") (§ 4002) classifies all lands in the state, depending on their vegetative cover and natural resource value, for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. (§ 4125, cf. §§ 4126, 4102.) Pursuant to section 4126, the following types of land are included in these "state responsibility areas":

"(a) Lands covered wholly or in part by *forests* or trees producing or capable of producing forest products.

"(b) Lands covered wholly or in part by timber, brush, undergrowth, or grass, whether of commercial value or not, which protect the soil from excessive erosion, retard runoff of water or accelerate water percolation, if such lands are sources of water which is available for irrigation or for domestic or industrial use [i.e., *watersheds*].

"(c) Lands in areas which are principally used or useful for *range* or forage purposes, which are contiguous to the lands described in subdivisions (a) and (b)." (§ 4126.) (Emphases added.)

(See also 5 Ops.Cal.Atty.Gen. 69, 70-72, 74-75 (historic policy of Board regarding statewide interest and responsibility in fire protection).) Other types of land (i.e., land with other cover), as well as land of whatever kind that is owned by the federal government or by a federal agency or that lies within the exterior boundaries of any city, are not included in state responsibility areas. (§ 4127.)

Generally speaking, the state's efforts are directed to the suppression, protection, and prevention of "forest fires" or "wildland fires," as distinguished from "structural" fires on state responsibility areas. (See 55 Ops.Cal.Atty.Gen. 45, 47 & 47, fns. 4, 5 (1972); 5 Ops.Cal.Atty.Gen. 69, 72; cf. §§ 4127, 4143(a).) And so, again generally speaking, the responsibility with respect to combatting structural fires, as well as with preventing and suppressing fires on lands not classified as state responsibility areas, is primarily that of the federal government (or agency) or local agency as the case may be. (55 Ops.Cal.Atty.Gen., *supra*.)

Once state responsibility areas are determined¹ the Board classifies all lands within them into *types* (based on cover, beneficial use of water from watersheds, probable damage from erosion, and fire risks and hazard) and "determine[s] the intensity of protection to be given to each such *type* of land." (§ 4130.) A plan is prepared for adequate statewide fire protection of state responsibility areas "in which all lands of each type [are] assigned the *same intensity of protection*, and the estimated cost of such intensity . . . [is] determined." (*Ibid.*; cf. § 4131 (maintenance of uniform consideration for all lands in each type should a reduction or withdrawal of intensity of protection be necessary because of lesser availability of funds).) In effecting the plan the state is suitably divided into administrative districts, each headed by a supervising forest officer. (§§ 4112, 4113.) Fire prevention and firefighting implements and apparatus are provided, fire crews and patrols are organized, observation stations and other necessary structures are established, persons are employed, and communications are constructed and maintained. (§ 4114.)

A standing fire protection organization has thus been developed on a statewide basis to fight forest fires on state responsibility areas. That "organization" provides local "striking forces" that have individual ability (geared to the type of land involved) to respond to a fire initially and to provide, in their totality, statewide depth resources which can be utilized should the need arise to marshal a larger force to fight a major conflagration. This overall fire control system currently includes 219 forest fire stations, 72 lookouts, eight helitack units, 13 primary air attack bases and back-up crews located at 33 conservation camps and six California Conservation Corp centers. (1983-1984 *Governor's Budget*, 3540: *Department of Forestry*, Component 10.10.020 at R-63.)

A county's board of supervisors though may elect to assume the state's responsibility for the prevention and suppression of wildland fires on state responsibility areas within the county. (§ 4129.) Should it enact an ordinance so electing, the Department of Forestry, with the concurrence of its director and the approval of the Department of General Services, will enter annual contracts with the county for it to do so. (§ 4133; cf. § 4129.)² At present there are six such "contract counties" in the state, to wit, Los Angeles (636,000 acres of state responsibility area), Ventura (361,000 acres), Santa Barbara (691,000 acres), Kern (2,144,000 acres), Marin (205,000 acres) and, most recently, Orange (for 206,000 acres).

¹ The boundaries of the state responsibility areas, as revised, are delineated upon a series of maps on file in the department's Sacramento office. (14 Cal. Admin. Code, § 1220.)

² The department may also enter cooperative agreements for the purpose of preventing and suppressing forest fires or other fires on any lands within any county, city or district which makes an appropriation for such purpose. (§ 4142; but see § 4144 (limits on cooperative agreements).

There are two vehicles by which those counties may be compensated, either through a direct appropriation by the Legislature under section 4134³ or by an allocation from the department's budget pursuant to section 4132. The second method is the concern of this opinion, the section founding it providing as follows:

"In those counties assuming responsibility pursuant to Section 4129 for fire protection and suppression in the lands thus classified within the respective counties, there shall be budgeted sums to be allocated to those counties at least equal *to the direct cost of fire protection which is determined pursuant to Section 4130* and which shall include the salaries and wages of suppression crews and lookouts and maintenance of firefighting facilities." (§ 4132.)

We are asked about the meaning of the term "direct cost of fire protection" and whether it includes reimbursement for such items as administrative overhead, fire prevention activities, capital improvements and capital and expendable equipment purchases. We conclude as follows: The phrase "direct cost of fire protection" in section 4132 refers to that amount which the Board of Forestry determines, from the state's perspective, is necessary, directly attributable and reasonably allocable to provide the state responsibility areas in the county with the same intensity of fire protection as is provided like types of lands in other state responsibility areas under the overall state fire protection plan. Calculation of such amount would not include the costs of state administrative overhead, but it would include an appropriate allocation of those monies for capital improvements, equipment purchases and fire prevention activities that the state would have had to expend in the county had it retained responsibility for fire protection over the state responsibility areas therein.

Turning to the wording of the section of concern (cf. *California Teacher's Assn. v. San Diego Community College Dist.* (1981) 28 Cal.3d 692, 698; *People v. Belleci* (1979) 24 Cal.3d 879, 884), we see that section 4132 requires contract counties to be paid,

³ Under section 4133 the State Forester is vested with authority to enter into annual contracts with counties that elect to assume responsibility for the prevention and suppression of fires on the state responsibility areas within the county. Section 4134 provides that:

"Any such contract shall provide for payment to such county, as compensation for the assumption of the duty, power, authority and responsibility for fire protection and suppression as provided in Section 4129 of such sum as may be specifically allocated in the appropriation made by the Legislature for that purpose or, if no specific appropriation is made for it, the sum allocated for expenditure in such county pursuant to Sections 4131 and 4132."

as a minimum, a sum equal to the "direct cost of fire protection which is determined pursuant to section 4130." That *entire* phrase must be considered to answer our question, but when that is done an ambiguity is at once apparent since it is not altogether clear from the wording of the section whether the relative pronoun "which" and the subordinate (or adjective) clause "which is determined pursuant to section 4130" refers to the antecedent "direct cost" or to the antecedent "fire protection" or to both of them. (Compare *Board of Port Commrs. v. Williams* (1937) 9 Cal.2d 381, 389, *County of Los Angeles v. Graves* (1930) 210 Cal. 21, 26, and *Addison v. Department of Motor Vehicles* (1977) 69 Cal.App.3d 486, 496 (a limiting clause is to be confined to the last antecedent so that qualifying words, phrases, or clauses are construed to refer to the words, phrases or clauses immediately preceding them and not more remote ones, unless context requires a different construction) with *Porto Rico etc. Co. v. Mor* (1920) 253 U.S. 345, 348 and *Wholesale T. Dealers v. National, etc. Co.* (1938) 11 Cal.2d 634, 659 (when several words are followed by a clause which is applicable as much to the first . . . as to the last, the natural construction of the language demands that the clause be read as applicable to [both]).) The use of the singular "is determined" for the relative ("which") does not clarify the matter for either antecedent, being singular, can govern it. Nor, unfortunately, does the reference to a determination made pursuant to section 4130 resolve the ambiguity because under that section determinations are made both with regard to the intensity of fire protection to be given a particular area *and* with regard to the estimated cost thereof.⁴

The existence of the ambiguity in the section invites statutory construction so that we may ascertain the intent of the Legislature in its regard and effectuate the purpose of the law. (*Sand v. Superior Court* (1983) 34 Cal.3d 567, 570.) "To discern [that] legislative intent, we must examine the legislative history and statutory context of the act under scrutiny." (*Ibid.*)

Standing back to look at the statutory contextual forest, we see section 4132 as but part of a "stepped" legislative scheme, set forth in sections 4125 through 4135, to fund fire protection costs in state responsibility areas throughout the state. As noted introductorily, the first step in that endeavor is for the Board to determine and establish the boundaries of the "*state responsibility areas*" for fire protection throughout the state.

⁴ Section 4130 reads in full:

"The board shall classify all lands within state responsibility areas into types of land based on cover, beneficial use of water from watersheds, probable damage from erosion, and fire risks and hazards, and *shall determine the intensity of protection to be given to each such type of land.* A plan for adequate statewide fire protection of state responsibility areas shall be prepared by the board in which all land of each type shall be assigned the same intensity of protection, and the *estimated cost of such intensity of protection shall be determined.*" (Emphasis added.)

(§§ 4125-4128; 14 Cal. Admin. Code, § 1220.) Once that is done, the second step is for the Board to classify all lands within the state responsibility areas into "*types*" based on cover, water use, erosion potential and fire hazard. (§ 4130.) There the Board determines the "type" classifications to be used and, following "a careful analytic study . . . made of the state area by area" (5 Ops.Cal.Atty.Gen., *supra*, at 75), "assigns" all land in the state responsibility to one of the classified "types." (§ 4130.) The third step in the scheme is for the Board to determine the degree or *intensity of protection* to be given each type of land within state responsibility areas. (§ 4130.) This is a priority mechanism to allocate available funding for fire protection for *all* the state responsibility areas based on the relative level of "importance" of the several *types* of land each contains. (Cf. 5 Ops.Cal.Atty.Gen., *supra*, at 75.) (For example, we are told that lands with valuable vegetation, high erosion hazards, significant watersheds, or close proximity to sensitive areas need and should receive a higher level of protection than flat, relatively barren, or isolated lands.) Once the lands are thus typed and their levels of protection are determined, with all lands of each type having been assigned the *same intensity of protection*, the fourth step of the statutory scheme is for the Board to determine the "estimated cost of [providing that] intensity of protection" within the parameters of an overall "plan for adequate statewide fire protection of statewide responsibility areas." (§ 4130.) It is that Plan that provides the basis for the Board's budget in which available funds are allocated accordingly to provide appropriate protection to all state responsibility areas and equal protection to all lands of a particular type within them. (§ 4131.)⁵ And it is that allocation from which we perceive the cost allocation formula of section 4132 to proceed: Under the statutory scheme the *intensity of protection* and the *cost of that protection* for the types of land comprising a particular state responsibility area are thus determined pursuant to section 4130. By its very terms section 4132 predicates the amount to be allocated to a contract county upon the calculation of that amount.

An examination of the legislative history and the wider historical circumstances surrounding the enactment of the section (cf. *Sand v. Superior Court, supra, California Mfrs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 844; *Grannis v. Superior Court* (1905) 146 Cal. 245, 247-248; *Steilberg v. Lackner* (1977) 69 Cal.App.3d 780, 785) convince us that the reference to "the direct costs of fire protection that is determined pursuant to section 4130" refers to the sum of the individual amounts which the Board determines are necessary to provide the various levels of fire protection for each of the types of lands in the state responsibility areas in the county. In other words, we will see that under the section the basis of the Board's allocation of funds to a contract county

⁵ If budget cuts are made and available funds are less than anticipated, the Board may reduce (or withdraw) particular levels of protections, but in making such adjustment it must maintain the "uniform consideration for all lands in each type." (§ 4131.) This prevents concentration of funding for particular areas based on considerations other than the type of land involved.

is the *state*-budget appropriations for the types of land which comprise the state responsibility area(s) in the county at the funding levels provided for such types of land throughout the state.

Prior to 1945 the Public Resources Code did not contain provision for contracts to be made between the state and counties under which the latter would assume the duties, responsibilities and authority of fighting forest fires on areas of state responsibility. Nonetheless, on December 2, 1944, acting upon the authority of its power to determine general policies to be followed in the expenditures of funds appropriated for the suppression and prevention of forest fires (cf. former § 505), the Board adopted a policy whereby sums could be allocated to counties which provided fire protection to forests and watersheds of statewide interest through their own independent organization. (5 Ops.Cal. Atty.Gen. 69, 73 (1945).)⁶

In 1945 the Legislature ratified that policy when it adopted former section 4050, subdivisions (a) and (b) of which provided, *in one section*, the salencies presently found in sections 4129 through 4132. Subdivision (a) provided authority for counties to elect to assume responsibility for the suppression of fires on "state responsibility areas" within them (now § 4129), and subdivision (b) provided that the Board classify all lands within the statewide responsibility areas into types and that it "*determine the intensity of protection* to be given to each such type of land." (Former § 4050, subd. (b), now § 4130.) Subdivision (b) continued:

⁶ The Policy Statement, as quoted in 5 Ops.Cal. Atty.Gen. 69, 73, reads in part as follows:

"During the last twenty years the State of California in its Division of Forestry has developed the largest and best equipped State fire protection organization in the United States. Starting prior to this development and contemporaneously with it, certain counties, to-wit: Los Angeles, Ventura, Santa Barbara, San Mateo, and Marin have developed and now operate very effective county fire protection organizations of their own. These independent county organizations are providing fire protection for certain forests and watersheds in their respective counties that are of statewide interest. It is the judgment of the *State Board of Forestry* that it is proper for the State of California to appropriate to these respective counties certain sums in the biennial budget to recompense them for services performed that might otherwise have to be performed by the State. The State Board of Forestry, upon the recommendation of the Division after study of the conditions in these independent counties, shall recommend to the legislature certain sums for the above purpose, and if such sums are appropriated, they are to be allocated to those counties to be used in the protection of lands of state-wide interest. It is understood that if all the funds asked for the support of the Division of Forestry for forest fire suppression costs are not made available, such items as may be included for these independent counties should be cut proportionately to similar items in the budget of the Division."

"A plan for adequate state-wide fire protection of such areas shall be prepared by the State Board of Forestry in which all land in each type shall be assigned the same intensity of protection and the estimated cost *thereof* shall be determined. [Now § 4130.]⁷ In the preparation of budgets for fire protection the total funds available or estimated to be available shall be allocated to the areas to be protected in conformance to such fire protection plan, and if the funds so available are less than the estimated adequate cost of such plan the Board of Forestry shall determine whether the intensities of fire protection shall be reduced or withdrawn, maintaining uniform consideration for all lands in each type. [Now § 4131.] In those counties assuming responsibility under subdivision (a) of this section for fire protection and suppression of the lands thus classified within the respective counties, *there shall be budgeted sums to be allocated to those counties at least equal to the direct cost of fire protection thus determined* to include the salaries and wages of suppression crews and lookouts and maintenance of fire fighting facilities. [Now § 4132.]" (Stats. 1945, ch. 1266, § 1, p. 2383.) These particular provisions were unaffected when section 4050 was amended in 1965 (Stats. 1965, ch. 371, § 262, p. 1591) before division 4 of the code (Forests, Forestry and Range and Forage Lands) was amended and recodified later that year. (Stats. 1965, ch. 1144, § 9.6, p. 2829.) Thus, before that recodification and amendment, under former section 4050, subdivision (b), the sums to be budgeted for allocation to contracting counties were to be equal to the direct cost of fire protection "thus determined," i.e., determined under that subdivision. While the latency of our aforementioned ambiguity may be perceived in that formulation—the subdivision calling for a determination of both the intensity of fire protection to be given each type of land in state responsibility areas, as well as its cost—at least it was more clear, from the structure of the subdivision, that the allocation of funds for a contracting county was to be based on the *cost* of fire protection that would be determined *in accordance with the overall state plan* as presented or revised for the individual types of land in the state responsibility areas within its boundaries. As a general matter then the total of such amounts would have been the "direct cost of fire prevention thus determined" under the former section.

⁷ Under section 4050, subdivision (b), it was uncertain as to what "thereof" referred and therefore the estimate of what cost was to be determined, that of the plan or that of the intensity of protection required for each type of land in a state responsibility area, the totality of which would be the ultimate cost of state responsibility for fire protection. Section 4030 now makes it clear that it is the estimate of the cost of the component intensities of protection which the Board must determine.

In the 1965 amendment and recodification of the code, the operative provisions of subdivisions (a) and (b) of section 4050 were dispersed to sections 4129 through 4132 where they are currently found. (See § 4129 (counties assuming responsibility to fight fires on state responsibility area lands), § 4130 (Board classifying lands into types, assigning intensity of protection of each type, preparing a plan for adequate statewide fire protection with all land of each type being assigned the same intensity of protection, and determining the estimated cost of such intensity of protection), § 4131 (allocating total budget funds available in accordance with plan, with appropriate reduction) and § 4132 (allocation of funds to county assuming responsibility).) However, we do not believe their being so renumbered changed the overall purport of the legislative scheme for the allocation of funds to contracting counties. Given its provenance, we find that the formula for that allocation currently found in section 4132—i.e., "the direct cost of fire prevention which is determined pursuant to section 4130"—refers, again as a general matter, to the total of the individual amounts the Board determines would be necessary in conformance with the overall *state plan* of fire protection to provide intensities of protection for the various types of land in the state responsibility areas in a county.

The cost allocation formula of section 4132 thus operates from the perspective of the *state*, and not from that of a contract-county. In other words it is based on what it would have generally *cost the state* to provide the fire protection in the state responsibility areas had the county not assumed that responsibility, and not what it may now cost the county to do so. Any consideration then of an allocation of budgeted monies under the section based on specific *county expenses* such as administrative overhead, fire prevention activities, capital improvements and equipment purchases is not contemplated by the statutory scheme and is irrelevant to it. Insofar then as the present inquiry comes with that coloration and asks whether those items are to be considered within the rubric of direct costs of fire protection, the answer to it is "no." However, it is another matter to ask whether the cost of what would have been *state* administrative overhead, state capital improvements, state equipment purchases and the state's fire prevention activities had it retained fire fighting responsibility in the county's areas is to be considered when calculating the "*direct cost* of fire protection as determined pursuant to section 4130."

The answer to *that* question is not easy since it requires a specific refinement of the phrase "direct cost of fire protection" and it invites a venture into the realm of cost accounting and budgetary analysis. Furthermore as has been said:

"... the word 'cost' is a word of variable meaning and ... it must be construed according to the circumstances in which it is used. A review of the authorities is of little value, except to illustrate the fact just stated that, in order to arrive at the intent with which it was used in the particular case, the

word is to be construed in the light of all attending circumstances." (*Meyers v. The Texas Co.* (1936) 6 Cal.2d 610, 619-620.)

If we proceed on that tack resolution of the question becomes less fearsome. We have seen that the "circumstances" surrounding the statute's operation show that the starting point for determining what costs are involved is the Board's calculation of what it would have cost the state to provide an appropriate level of fire protection over state responsibility areas of the county had the latter not assumed responsibility for fire protection and suppression thereon. Calculation of that amount should be relatively easy since the statute requires all lands of the same type to receive the same intensity of protection, and budgeted funds are allocated accordingly. But not all expenses of that endeavor are involved in section 4132's cost allocation formula. In stating it, the Legislature has used the term "*direct*" to modify "cost", thus implying that there are "indirect costs" involved as well which are *not* to be factored when making a calculated allocation under section 4132, and that term must be considered in interpreting the section. (*City and County of San Francisco v. Farrell* (1982) 32 Cal.3d 47, 55; *Wells v. Marina City Properties, Inc.* (1981) 29 Cal.3d 781, 788; *Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101, 114.)

The adjective "direct" is generally understood to mean that which is "immediate" or "proximate" and operates "by an immediate connection or relation, instead of operating through a medium." (Black's Law Dict. (4th ed 1951) at 546; accord Webster's Third New Internat. Dict. (1971 ed.) at 640.) Where monies are involved "direct" has been defined as meaning an amount that can be clearly and readily ascertained with reasonable certainty. (*Walker v. Phillips* (1962) 205 Cal.App.2d 26, 31; *Dunn v. Mackey* (1889) 80 Cal. 104, 107-110; *Hathaway v. Davis* (1867) 33 Cal. 161, 167-168.) In the technical realm of cost accounting "direct costs" are defined as those costs that can be specifically identified with a project in the sense that they would not have been incurred otherwise. (Meigs, et al., *Intermediate Accounting* (3rd ed. 1974) at 411; see also Davidson & Weil, *Handbook of Modern Accounting* (2d ed. 1977) at 41-43 ("costs which can be traced to individual . . . segments of [an] enterprise").)⁸ As good as any understanding of the term may be filched from a recent opinion in which we described what "costs" were reimbursable to a county under Penal Code section 4016.5 for its detaining a parole violator in county jail, the section providing for "the county [to] be reimbursed for the costs of such detention." (See 62

⁸ "Lest we be misled by a preoccupation with cost accounting theory" (*Lockheed Aircraft Corp. v. County of L.A.* (1962) 207 Cal.App.2d 119, 128) it should be noted that the notion of direct costing "has been a controversial subject among accountants . . . because there is a question about its theoretical propriety for external reporting." (Horngren, *Cost Accounting* (4th ed. 1977) at 295.) Thus "it does not qualify as a generally accepted accounting principle" (Black & Edwards, *The Managerial and Cost Accountant's Handbook* (1979 ed.) at 141) and "is not acceptable by the Internal Revenue Service for tax reporting purposes" (*Ibid.*)

Ops.Cal.Atty.Gen. 372 (1979); see also 59 Ops.Cal.Atty.Gen. 260 (1976); cf. 65 Ops.Cal.Atty.Gen. 313 (1982) and 53 Ops.Cal.Atty.Gen. 180 (1970) (costs of district attorney under Pen. Code, § 4700); and 56 Ops.Cal.Atty.Gen. 141 (1973) (costs of cities under Pen. Code, § 4700.2).) There we observed that "indirect expenses" (such as depreciation of facilities and auditing, budgeting and accounting) were not reimbursable (62 Ops.Cal.Atty.Gen., *supra*, at 374) and although not using the word "direct", said that "added costs", i.e., those which were "directly attributable and reasonably allocable" to the county's activity would be. (*Id.*, at 377.) By "*directly attributable*" we meant that "there must be an immediate connection between the reimbursable function and the expense incurred" (*Id.*); by "*reasonably allocable*" we meant that "in addition to an immediate connection between the reimbursable function and the expense, there must be a rational way of determining that a particular proportion of the expense is related to that function." (*Id.*)

The object of the legislative scheme with which we are presently concerned is to reimburse a county for taking over fire protection in the state responsibility areas, for those *direct costs* the state would have otherwise itself incurred to provide it. In making that reimbursement we remember that by using the term "direct" to modify "costs" the Legislature meant to narrow the types of costs of fire protection for which an allocation should be made thereunder. We glean that narrowing from the above references and conclude that the phrase "direct cost of fire protection which is determined pursuant to section 4130" refers to that amount which the Board of Forestry would determine, from the state's perspective in conformity with its plan for statewide fire protection, is necessary, directly attributable and reasonably allocable to provide an appropriate level of fire protection for the particular types of land in the state responsibility areas within a contract county. Viewing the four items in question through that glass, we now see that calculation of that reimbursed amount would include monies that would be so allocated for capital improvements, equipment purchases and fire prevention activities for those areas but that it would not include expenditures for state administrative overhead.

Turning to the last item first, we observe that administrative overhead is rarely considered a "direct cost" since it can only on an arbitrary basis be specifically allocated to a particular activity to which it would bear a logical and direct relationship. (See, e.g., *The Managerial and Cost Accountant's Handbook*, *supra*, at 141, 660, 809; Montgomery's *Auditing* (8th (Lenhart & Deflisese) ed. 1957) at 198; Davidson & Weil, *Handbook of Modern Accounting*, *supra*, at 41-43; Meigs, et al., *Intermediate Accounting*, *supra*, at 411.) Indeed, when the Legislature has meant to include overhead as a cost item, it has specifically so stated. (See, e.g., Bus. & Prof. Code, § 17025 ("cost of production").) But in the unitary statewide fire protection and suppression operation, which is organized as an interrelated and integrated whole, it would be very difficult, if not impossible, to

assign aspects of the cost of administrative overhead to providing fire protection to a *particular* state responsibility area.⁹

Accordingly, we conclude that it would not come within the ambit of the phrase "the direct cost of fire protection" as it is found in section 4132.

The cost of capital expenditures, equipment purchases and fire prevention activities is another matter and we find that those costs are proper factors to be considered in the calculus of section 4132. To begin with, each of those factors, unlike administrative overhead, *is* directly related to fire fighting in the field, and each can be directly attributable to, or immediately connected with, that activity. Then, in addition to that immediate connection, there exists a rational way to allocate an appropriate proportion of those state expenses to what is necessary to combat fires in the state responsibility areas of a particular county. It is found in the Board's budget which, as we have seen, is predicated on a calculation of that very cost—i.e., the determinations of the cost of providing an appropriate intensity of protection to the various types of land comprising the state responsibility areas of a county. Since all lands of the same type must receive an equal intensity of protection and since the cost of providing that protection—which presumably includes the cost of the equipment, the capital expenditures and fire prevention activities to provide it—is known, the cost (with those components) of providing fire protection to the various types of land in any particular county can readily be extrapolated from the overall state plan. However that extrapolation may be made, this much is clear: a rational way does exist to determine what particular portion of the state's expenses for equipment purchases, for capital expenditures and for fire prevention activities is necessary (or would have been necessary had the state retained the responsibility) for fire protection activities in a particular county. We conclude that such amounts would be included in the "direct costs of fire protection" to be allocated the contract-county under section 4132.

The propriety of including the cost of fire *prevention* activities under section 4132 warrants additional attention. Since that section speaks of the "direct cost of fire *protection* which is determined pursuant to section 4130" (and since § 4130 speaks in terms of fire *protection* as well) one might be led to think that including costs of fire *prevention* activities is statutorily impermissible. Clearly though such comes within the section's ambit. In the first place, it cannot be seriously questioned that "fire *protection*" is but an

⁹ The same is not true of costs incurred for such items as "the salaries and wages of suppression crews and lookouts and maintenance of firefighting facilities" that are mentioned in section 4132, and it is interesting to note that such items are considered "direct costs" from a cost accounting standpoint. (See, e.g., *Intermediate Accounting, supra*, at 411; *Handbook of Modern Accounting, supra*, at 41-43; *The Managerial and Cost Accountant's Handbook, supra*, at 141.)

"umbrella" notion that does embrace *fire prevention*.¹⁰ The Legislature has indicated that it considers it to be such both in section 4111 where it directs the Board to "make and enforce such regulations as are necessary for the organization, maintenance, government and direction of the *fire protective system for the prevention and suppression of forest fires*" (§ 4111) and in the other sections of the code that indicate that *fire prevention* is an important, if not inseparable, part of the system of *fire protection* in this state.¹¹ Without doubt too, fire prevention is an activity in which the *state* engages when it provides fire protection to state responsibility areas.¹² When a county elects to take over the state's firefighting tasks on state responsibility areas within its borders under section 4129 it "assume[s] responsibility for the *prevention and* suppression of all fires [structural and wildfire] on all land in such county, including lands within state responsibility areas", and under section 4133 the state contracts with it to do so. A county's assumption of the state's fire prevention responsibilities in the county's state responsibility areas is an integral part of the contract made with the state and the "direct cost" of that activity, i.e., that which would have been budgeted by the state for the county's areas pursuant to section 4130 had it retained responsibility for them, clearly comes within the ambit of, and is compensable under, section 4132.

We therefore conclude as follows: the phrase "direct cost of fire protection" as used in section 4132 refers to that amount which the Board determines, from the state's perspective in conformity with the overall state fire protection plan, would be necessary as

¹⁰ Fire prevention has been defined as "the employment of the most effective methods, material, and procedures in the dissemination of information, the preparation of land and vegetation, and the enforcement of pertinent laws for the reduction of fire incidence." (Gov. Budget, *supra*, Component 10.10.010, at R-62.) We understand that 75 percent of California's human-caused wildfires are preventable. (Gov. Budget, Component 10,10.010, *supra*.)

¹¹ (See, e.g., § 4113 (supervising forest officer charged with the "duty of *preventing* and suppressing forest fires), § 4114 (department charged with providing "*fire prevention* and firefighting implements and apparatus" (subd. (a)) and with constructing such communications "as are necessary to *prevent* and extinguish forest fires (subd. (a)); cf. § 4115 ("powerlines in connection with the prevention and extinguishment of forest fires); § 4143 ("*best possible fire prevention* and suppression); § 4141 (cooperative agreement between state and landowners and federal government "for the *prevention* and suppression of forest fires"); § 4144 (cooperative agreement with county for the purpose of "*preventing* and suppressing forest fire" within it).)

¹² Not surprisingly the allocation of funds for *fire prevention* activities in the department's budget is specifically found as a component within the broader allocation of funds for fire protection. (See, e.g., Gov. Budget, Department of Forestry (3540), Component 10.10.010 (Fire Prevention) of Element 10.10 (Fire Protection, State Responsibility) of Program 10 (Watershed and Fire Protection), *supra*, at R-62.)

directly attributable and reasonably allocable to provide the state responsibility areas in the county with the same intensity of fire protection as is provided like types of land in other state responsibility areas. Calculation of that amount does not include costs of administrative overhead, but would include those monies for fire prevention activities, capital expenditures and equipment purchases that the state would have so allocated to combat fires in the county's state responsibility areas had it retained responsibility for fire protection over them.
