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California Catastrophic Wildfire Insurance Fund: Concept Paper

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Summary

The California Catastrophic Wildfire Insurance Fund is designed to spread the risk of property damage from climate driven catastrophes by setting up a reinsurance pool funded by revenue from a dedicated surcharge on property insurance policies. The funds collected would be used to offset a portion of insurance claims due to wildfire property damage, regardless of whether the fire is utility related, or caused by other ignition sources such as vehicles, lightning, camping, lawn equipment, or fireworks. However, utility shareholders and other corporations must be required to repay the fund, and unpaid claims of uninsured and underinsured individuals, if it is determined at a later date finds that the wildfire was caused by their negligence or imprudence.

Similar to the Florida Catastrophic Hurricane Fund, which has been in operation and covering billions in losses since the mid-1990's, the California Catastrophic Wildfire Insurance Fund would be able to leverage its dedicated funding stream to securitize its assets through issuing bonds, so that claims can be paid that may exceed existing principle at any given time.

How Does a Property Insurance Surcharge Promote Equity?

- 1) A surcharge on property insurance is the most equitable method to share wildfire risk.
 - a. Taxing wealth is the most equitable method of distributing costs, and property is one of the places in which generational accumulated wealth is stored. The disparity of wealth is far greater than the disparity of consumption.
 - b. Taxing electricity consumption is extremely regressive because the difference in energy use between high income and low income households is not that large. Recognition of unfairness of taxing consumption of essential goods and services is why groceries are exempt from sales tax.
- 2) It just plain makes sense to fund property losses through the property insurance sector.
- 3) Utility ratepayers are being asked to invest several billion dollars in tree trimming, wire insulation, pole hardening and other measures to prevent wildfires.
- 4) It is far better for ratepayers to pay to prevent wildfires and minimize property losses than to serve as funders of last resort for wildfire victims.

California Catastrophic Wildfire Insurance Fund: Key Features

- 1) Provides insurance companies with an alternative to Inverse Condemnation.
 - a. Recovering 50% of losses/payouts for all wildfires within 3–4 months might be more attractive than waiting 3–4 years to collect 60% of losses/payouts (after deducting 50% attorney fees) for only utility related wildfires.
 - b. Insurance companies choosing to be reimbursed by the Wildfire Fund would voluntarily agree not to seek recovery through Inverse Condemnation.
 - c. Properly designed, this approach avoids rampant litigation over whether the state constitution prohibits statutory changes to Inverse Condemnation.
- 2) Provides a new option to cities, towns, counties, and municipal utility agencies.
 - a. Public entities that are self-insured who wanted the ability to recover a portion of losses for all wildfires could decide to contribute to the Wildfire Fund.
 - b. Public entities that are self-insured could decide to not contribute to the Wildfire Fund, and continue to apply for recovery of lost property through Inverse Condemnation for utility related wildfires.
- 3) Preserves bedrock legal principle of holding utilities, or other entities, accountable when their negligence or imprudence has been determined.
 - a. If a CPUC investigation/decision determines that utility negligence or imprudence was the cause of a wildfire years after funds have been dispersed, then shareholders are responsible for reimbursing the fund.
 - b. If shareholders are unable to pay the entire amount immediately, they can agree to an extended payment plan, just like customers who fall behind in their bills.
- 4) Options that might be considered for uninsured or underinsured.
 - a. Provide minimum coverage to all uninsured renters and homeowners, e.g., 40% of losses capped at \$25,000.
 - b. For underinsured renters and homeowners, provide a percentage of the difference between their insured amount and actual damages.
 - c. Structural inclusion—Require landlords to pay into the wildfire fund on behalf of their renters.
 - d. Individual responsibility—You don't buy insurance, you can't claim compensation from the Fund.

Transforming Catastrophic Wildfire Fund Concept into a Proposal

- 1) Draft legislative language to enact California Catastrophic Wildfire Insurance Fund.
 - a. Determine mechanics of applying and collecting surcharge.
 - b. Define if Wildfire Fund should be free standing agency or administered by existing state agency such as Insurance Commission.
 - c. Design a structure for custodianship of the Wildfire Fund that protects it from being raided by the State of California during budget deficits.
 - d. Define eligibility criteria for eligibility for reimbursement for insurance companies, municipal entities, and uninsured or underinsured individuals.
 - e. Determine mechanics of distributing funds.