



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS**

DRAFT

Date:	Enrolled	Bill No:	<u>Senate Bill 445</u>
Tax Program:	Underground Storage Tank Maintenance Fee	Author:	Hill
Sponsor:	Author	Code Sections:	HSC 25299.43
Related Bills:	AB 282 (Wieckowski)	Effective Date:	Upon enactment, but rate increase 90 days after 1st calendar quarter

This analysis is limited to the provisions which impact the Board of Equalization (BOE)

BILL SUMMARY

This bill increases the underground storage tank maintenance fee rate by six mills (\$0.006) per gallon beginning the first day of the first calendar quarter commencing 90 days after enactment until January 1, 2026.

ANALYSIS

CURRENT LAW

Current law¹ requires underground storage tank (UST) owners to pay a storage fee of six mills (\$0.006) on each gallon of petroleum (including, but not limited to, gasoline and diesel fuel) placed in their underground storage tanks beginning in 1991. In addition, over the period 1995 to 2006, an additional eight mills (\$0.008) was imposed under Health and Safety Code (HSC) Section 25299.43, for a total storage fee of fourteen mills (\$0.014) per gallon of petroleum placed in the tank.

The fees are reported and paid to the BOE, pursuant to the Underground Storage Tank Maintenance Fee Law,² and are deposited into the UST Cleanup Fund. These funds are earmarked for the cleanup of leaking tanks. The HSC provisions, including the storage fee, commonly known as the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989³ (UST Act), sunsets on January 1, 2016.

PROPOSED LAW

This bill increases the UST maintenance fee rate by six mills (\$0.006) per gallon from the first day of the first calendar quarter commencing 90 days after enactment until January 1, 2026. If enacted, the total UST maintenance fees will be twenty mills (\$0.020) on each gallon of petroleum placed in an underground storage tank. This bill also extends the UST Act sunset date from January 1, 2016 to January 1, 2026.

This bill contains an urgency clause and is effective immediately. However, the six mills (\$0.006) per gallon maintenance fee rate increase begins the first day of the first calendar quarter commencing 90 days after enactment.

¹ Health and Safety Code Section 25299.41.

² Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.

³ Chapter 6.75, Petroleum Underground Storage Tank Cleanup, (commencing with Section 25299.40) of Division 20 of the HSC.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

BACKGROUND

The UST Cleanup Fund was originally established in 1989 by Senate Bill 299 (Keene). Subsequent legislation related to fees, fund accounts, repeal dates, and various other provisions.

Assembly Bill 291 (Stats. 2011, Ch. 569), extended the temporary six mills (\$0.006) per gallon UST maintenance fee from January 1, 2012 to January 1, 2014.

Assembly Bill 1188 (Stats. 2009, Ch. 649), among other things, temporarily increased the UST maintenance fee by an additional six mills (\$0.006) per gallon between January 1, 2010, and December 31, 2011.

Senate Bill 1161 (Stats. 2008, Ch. 616), among other things, extended the sunset date of the fee to January 1, 2016.

Assembly Bill 1906 (Stats. 2004, Ch. 774) increased the fee by one mill (\$0.001) effective January 1, 2005, and by another one mill (\$0.001) effective January 1, 2006.

COMMENTS

- 1. Sponsor and Purpose.** This bill is sponsored by the author. According to the author, the additional UST maintenance fee funds will ensure that sites are not abandoned mid-cleanup and the property can be returned to productive use.
- 2. Amendments.** The **August 22, 2014 amendments** clarified that the six mills (\$0.006) increase is inoperative January 1, 2026. **The August 18, 2014 amendments** (1) extended the sunset date for the UST Act and the \$0.006 per gallon increase in the maintenance fee rate to January 1, 2026, instead of the previously proposed sunset date of January 1, 2020, and (2) clarified the proposed increases is operative on and after the first day of the first quarter commencing “more than” 90 days after the effective date. **The June 10, 2014, amendments** increased the UST maintenance fee rate six mills (\$0.006) per gallon from the first day of the first calendar quarter commencing 90 days after enactment until January 1, 2020. The prior version of the bill proposed the increase only for calendar year 2015. The amendments also extended the UST Act sunset date from January 1, 2016, to January 1, 2020.
- 3. This bill would not be problematic for the BOE to administer.** The Legislature authorized a temporary rate increase of six mills (\$0.006) in 2010, and extended the temporary rate for an additional two years. The temporary rate expired January 1, 2014.
- 4. Related bills.** Assembly Bill 282 (Wieckowski) would have extended the temporary underground storage tank maintenance fee rate increase of six mills (\$0.006) per gallon for an additional two years, from January 1, 2014, to January 1, 2016. The bill was held in the Senate Appropriations Committee.

COST ESTIMATE

The BOE would incur absorbable costs to notify fee payers and system programming to change rates. As provided in HSC Section 25299.51, the State Water Resources Control Board is authorized to expend revenues to pay for the BOE’s administrative costs.

REVENUE ESTIMATE

This bill imposes a fee increase, more than 90 days after enactment, in the amount of \$0.006 for each gallon of petroleum stored in underground tanks. We estimate that this fee would increase revenues by an estimated \$104 million ($\0.006×17.3 billion gallons = \$104 million) in 2015. In calendar year 2016, fuel consumption is expected to increase slightly, therefore, we estimate that this fee would increase revenues by \$105.7 million ($\0.006×17.6 billion gallons = \$105.7 million) in 2016, and \$106.2 million ($\0.006×17.7 billion gallons = \$106.2 million) in 2017.

The following depicts estimated revenues for 2015, 2016, and 2017:

Year	Total Consumption	Fee	Additional Revenue
2015	17,325,842,597	\$0.006	\$103,955,056
2016	17,612,332,826	\$0.006	\$105,673,997
2017	17,693,228,998	\$0.006	\$106,159,374

Qualifying Remarks. It should be noted that 2015 revenue will be affected by the operative date, but we assume a January 1, 2015 date in the estimate. This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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