



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/08/08	Bill No:	<a href="#">AB 2866</a>
Tax:	Integrated Waste Management	Author:	De Leon
Related Bills:	AB 712 (De Leon) AB 2640 (Huffman)		

***This analysis will only address the bill's provisions which impact the State Board of Equalization (Board).***

## **Bill SUMMARY**

This bill would do the following:

- Establish a fixed Integrated Waste Management (IWM) fee amount equal to \$2.00 per ton; and
- Require the Board of Equalization (Board) to deposit sixty cents of the IWM fee imposed in the Solid Waste Mitigation Account, which this bill would create in the Integrated Waste Management Fund (Fund).

## **AMENDMENTS**

Since the previous version of the bill, the amendments 1) delete the requirement for the California Integrated Waste Management Board (CIWMB) to establish the amount of the IWM fee, not to exceed \$2.00 per ton, 2) establish, on and after July 1, 2009, a fixed IWM fee amount equal to \$2.00 per ton, and 3) require sixty cents of that fee imposed after that date to be deposited in the newly created Solid Waste Mitigation Account.

## **CURRENT LAW**

Under current law, Section 48000 of the Public Resources Code imposes an IWM fee on each operator of a disposal facility based on the amount, by weight or volumetric equivalent, as determined by the CIWMB, of all solid waste disposed of at each disposal site. The amount of the fee is established by the CIWMB at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but shall not exceed \$1.40 per ton. The fee is currently set at \$1.40 per ton of solid waste disposed.

The IWM fee is collected by the Board and, after payment of refunds and administrative costs of collection, deposited in the Integrated Waste Management Account within the Fund. The money in the account is used by the CIWMB, upon appropriation by the Legislature, for the following purposes:

- The administration and implementation of the *California Integrated Waste Management Act of 1989*, and

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- The state water board's and regional water board's administration and implementation of the *Porter-Cologne Water Quality Control Act* at solid waste disposal sites.

#### PROPOSED LAW

This bill would amend Section 48000 of the Public Resources Code to, on and after July 1, 2009, establish a fixed IWM fee at an amount equal to \$2.00 per ton and require the Board to deposit an amount of sixty cents of that fee in the Solid Waste Mitigation Account, which this bill would establish in the Fund.

The bill would also add Section 48001.5 to the Public Resources Code to provide that the revenues deposited in the Solid Waste Mitigation Account would be continuously appropriated to the CIWMB for expenditure in accordance with a specified schedule.

This bill would become effective January 1, 2009, but the IWM fee increase and deposit of sixty cents of that fee in the new Solid Waste Mitigation Account would become operative on and after July 1, 2009.

#### BACKGROUND

Assembly Bill 939 (Chapter 1095, Statutes of 1989) enacted the *California Integrated Solid Waste Management Act of 1989*. Among other things, AB 939 added Section 48000 to the Public Resources Code to require each operator of a solid waste landfill to pay a quarterly fee, in addition to the solid waste fee, to the Board based on all solid waste disposed of at each disposal site on or after January 1, 1990. The fee was initially set at \$0.50 per ton of waste disposed of during the period of January 1, 1990, through June 30, 1990. The fee for waste disposed of during the period of July 1, 1990, through June 30, 1991, was to be set by the CIWMB at an amount sufficient to generate revenues equivalent to the approved budget for the 1990-91 fiscal year, including a prudent reserve, but not to exceed \$0.75 per ton.

In 1993, AB 1220 (Chapter 656) consolidated the solid waste fee and the IWM fee into a single IWM fee. The IWM fee was set at \$1.34 per ton for the 1994-95 fiscal year. That bill also provided that commencing with the 1995-96 fiscal year the amount of the fee established by the CIWMB be an amount sufficient to generate adequate revenues, as specified, but in an amount not to exceed \$1.40 per ton.

In 2007, Assembly Member Nunez introduced AB 1610 which contained provisions to increase the statutory cap to \$2.00 per ton. The provisions to increase the statutory cap of the IWM fee were removed from the June 6, 2007, version of the bill.

#### IN GENERAL

Effective July 1, 1994, the IWM fee was set at \$1.34, pursuant to AB 1220. The CIWMB approved an increase in the fee at their June 2001, Board Meeting to \$1.40 per ton, the maximum allowed by statute, effective July 1, 2002.

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**COMMENTS**

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to provide incentives to encourage local jurisdictions and solid waste landfill operators to participate in greenhouse gas reduction efforts, which will assist in the state in meeting established clean air standards.
2. **How would refund payments and administrative costs be funded?** Under existing law, Section 48001 requires that the IWM fee revenues paid shall, after payment of refunds and administrative costs of collection, be deposited in the Integrated Waste Management Account. This bill would add subdivision (e) to Section 48000 to require an amount of sixty cents of the IWM fee imposed for each ton of solid waste disposed be deposited in the Solid Waste Mitigation Account, which this bill creates. Since the newly created Solid Waste Mitigation Account would receive sixty cents per ton regardless of the Board's costs or payments for refunds, the refund payments and administrative costs would be funded by IWM fee revenues that would otherwise be deposited in the Integrated Waste Management Account. If it is the author's intent that a portion of the payments for refund payments and administrative costs be funded with the revenue deposited in the new account, the bill should be amended to specify that intent.
3. **This bill should contain a specific appropriation to the Board.** This bill proposes to increase the IWM fee and to deposit sixty cents of that fee into a new account on and after July 1, 2009. To implement the proposed fee program, the Board would need to revise reporting forms and publications and program the Integrated Revenue Information System (IRIS), the Board's primary tax administration system, at the end of 2008 and beginning of 2009, which is in the middle of the State's 2008-09 fiscal year. To cover these administrative start-up costs, the Board would need an adequate appropriation that would not already be identified in the Board's 2008-09 budget.

As an alternative to an appropriation, the author may want to consider amending the bill to move the operative date of the fee from July 1, 2009, to January 1, 2010. This would allow the Board to obtain funding for administrative start-up costs through the Budget Change Proposal process.

4. **Related bills.** AB 712 (De Leon) would impose, on and after April 1, 2009, a fifty-cent (\$0.50) per ton fee upon a person disposing of solid waste at a disposal facility to be paid to the Board in a manner consistent with the IWM Fee Law. The revenues would be used to assist an operator of an off-road solid waste, composting, and recycling vehicle in complying with regulations to reduce diesel particulate matter (PM) and criteria air pollutant emissions from in-use off-road vehicles. That bill is currently held under submission in the Senate Appropriations Committee.

AB 2640 (Huffman) would exclude from the imposition of the IWM fee all green material, as defined, used for beneficial reuse. Instead, all green material used for beneficial reuse would be subject to a one dollar and forty cents (\$1.40) per ton fee with revenues from the fees deposited in the newly established Organics Management Account in the Fund. It should be noted that double joining language

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may be necessary since AB 2866 and AB 2640 both amend Section 48000 of the Public Resources Code.

**COST ESTIMATE**

The Board would incur non-absorbable administrative costs for informing the feepayers, reprogramming IRIS, revising returns and publications, and accounting functions related to the fee revenues that would be deposited into a new account. A cost estimate of this workload is pending.

**REVENUE ESTIMATE**

**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

This bill would, on and after July 1, 2009, increase the IWM fee to \$2.00 per ton. The Board’s Environmental Fees section indicated that solid waste disposal in fiscal year 2006-07 was 40.5 million tons.

- With the current fee of \$1.40 per ton, estimated revenue amounts to \$56.7 million (\$1.40 × 40.5 million tons = \$56.7 million)
- With the proposed fee of \$2.00 per ton, estimated revenue amounts to \$81 million (\$2 × 40.5 million tons = \$81 million)

The proposed fee increase would result in a revenue increase of \$24.3 million (\$81 million - \$56.7 million = \$24.3 million).

**REVENUE SUMMARY**

It is estimated this bill would result in a revenue increase of \$24.3 million, which would be deposited in the newly created Solid Waste Mitigation Account.

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