



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

**DRAFT**

Date Amended	<b>As proposed</b>	Bill No:	<b>SB 1522</b>
Tax:	<b>Diesel Fuel</b>	Author:	<b>Aanestad</b>
Related Bills:			

**BILL SUMMARY**

As proposed to be amended, this bill would provide a refund for and an exemption from excise taxes paid on diesel fuel delivered into the fuel tank of a diesel-powered vehicle owned and operated by a local emergency service provider.

**ANALYSIS**

**Current Law**

Under the Diesel Fuel Tax Law (Part 31 (commencing with section 60001) of Division 2 of the Revenue and Taxation Code (RTC)), an excise tax of \$0.18 is imposed on each gallon of diesel fuel, unless specifically exempted.

Generally, local governments are required to pay the state excise tax on diesel fuel to the same extent as any other person in this state.

The diesel fuel tax is paid to the State Board of Equalization (Board) and deposited into the Transportation Tax Fund.

**Proposed Law**

This bill would amend RTC section 60501 to allow a refund of excise tax paid on diesel fuel delivered into the fuel tank of a diesel-powered highway vehicle that is owned and operated by a local emergency service provider.

This bill would also amend section 60100 to provide an exemption from the diesel fuel backup tax for a local emergency service provider that owns and operates a diesel-powered highway vehicle. Generally, backup tax is imposed when diesel fuel on which the excise tax has not been paid or a refund has been allowed is delivered into the fuel supply tank of a diesel-powered highway vehicle. This amendment precludes the imposition of the backup tax on a local emergency service provider if it purchases fuel on which the taxes have not been paid or a refund has been allowed.

In addition, the bill adds section 60043.1, which defines “local emergency service provider” as any of the following:

- A fire department maintained by a city or town, a fire company in an unincorporated town organized pursuant to Section 14825 of the Health and

*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 Board’s formal position.*

Safety Code, or a fire protection district formed pursuant to the Fire Protection District Law of 1987.

- A police department or a sheriff department maintained by a city, county, or city and county.

Further, this bill amends section 60101 to allow a local emergency service provider to operate or maintain a motor vehicle on any public highway in this state with dyed (untaxed) diesel fuel in the fuel supply tank. Finally, the bill would amend section 60043 to specify that a local emergency service provider is not included in the definition of “government entity.”

### Background

In 1994, Senate Bill 840 (Chapter 912) enacted the Diesel Fuel Tax Law and moved the imposition of the excise tax on diesel fuel from the wholesale distributor level up the distribution chain to the supplier, upon the removal of the fuel from the terminal rack, for purposes of conforming the state imposition of the tax to federal law.

During the 1995 Legislative Session, Senate Bill 1131 (Chapter 34) made a number of changes to the Diesel Fuel Tax Law. Among other things, SB 1131 defined state and local governments, required those agencies to obtain a fuel tax license, file a tax return, and pay their state excise tax liability, and allowed those agencies to use dyed diesel fuel on the highway. More recently, Assembly Bill 1765 (Stats. 2005, Ch. 519) provided that the licensing and return requirements do not apply to government entities that purchase tax-paid diesel fuel that is used solely for the operation of a diesel-powered highway vehicle in California.

### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to help local emergency service providers mitigate their constantly increasing operating costs and maintain necessary emergency services. The author’s office indicates that the refund of the diesel fuel excise tax would allow funds that would otherwise be spent to pay the excise tax to be re-circulated within the emergency service departments to help pay for other necessary priorities and ensure that emergency services stay accessible to all communities statewide.
2. **Precedent for exemptions for other public services.** It could be argued that the provisions proposed by this bill, which is narrowly targeted at excise taxes paid on diesel fuel by local emergency service providers, is warranted because of the high priority of those services. However, there may be many other worthy services provided at the state level or by private companies that may have equally persuasive arguments for such an exemption, such as ambulance companies, the California Highway Patrol, or the State Department of Forestry.
3. **To administer the refund, local emergency service providers would not be considered government entities.** Current diesel fuel tax law, section 60043, which defines “government entity,” requires government entities to obtain a license and file

*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 Board’s formal position.*

a return, pursuant to sections 60146 and 60205.5, unless the government entity purchases tax-paid diesel fuel that is used solely for the operation of a diesel-powered highway vehicle in this state. However, since, under this bill, a local emergency service provider would not be included in the definition of "government entity," and since sections 60146 and 60205.5 are applicable only to government entities, local emergency service providers would not be subject to the licensing and return provisions of these sections.

4. **The backup tax.** The Diesel Fuel Tax Law contains a backup tax, which, in general, is a "catch-all" tax that is imposed when fuel on which the tax has not been paid or a claim for refund has been allowed, is placed in the fuel tank of a diesel-powered vehicle operated on the highway.

This bill provides that the backup tax would not apply to local emergency service providers that purchase diesel fuel on which the tax has not been paid or a claim for refund has been allowed. Without this exemption, local emergency service providers would still be required to pay the tax imposed under the backup provisions if the untaxed fuel placed in the fuel tank of a diesel-powered vehicle is operated on the highway.

## **COST ESTIMATE**

The administrative workload associated with this bill would include advising and answering inquiries from the public, informing Board staff, revising forms, and processing additional claims for refund. A cost estimate of this workload is pending.

## **REVENUE ESTIMATE**

### **Background, Methodology, and Assumptions**

A local emergency service provider is defined as a fire department maintained by a city or town, a fire company in an unincorporated town, or a fire protection district. It also includes a police department or a sheriff department maintained by a city, county or city and county. The police departments we contacted indicated that most police vehicles are gasoline powered; there are very few diesel-powered police trucks or buses. Therefore, for the purpose of this estimate, we did not include police or sheriff departments.

The State Controller's Cities Annual Report reported \$2.6 billion in fire expenditures for fiscal year 2002-03; the most recent report available. The Special Districts Annual (table 9) reported \$1.8 billion in fire expenditures by the fire protection districts for fiscal year 2002-03. Fire expenditures for cities and fire protections districts add up to \$4.4 billion (\$2.6 billion + \$1.8 billion = \$4.4 billion).

Through a telephone survey, we contacted three city fire departments (San Diego, Los Angeles, and Modesto). They indicated that city fire department diesel fuel expenditures in relation to overall city fire department expenditures is approximately 0.5%. If we assume that this ratio reflects diesel fuel expenditures for fire departments around the state, then it is estimated that diesel fuel expenditures incurred by fire

*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 Board's formal position.*

departments in the state would be approximately \$22 million ( $0.5\% \times \$4.4 \text{ billion} = \$22 \text{ million}$ ).

The average price per gallon of diesel fuel in 2002-03 was \$1.58. Based on this price and the estimated local fire department diesel expenditures, we estimate that the gallons consumed would be around 13.9 million gallons ( $\$22 \text{ million} / \$1.58 \text{ per gallon} = 13.9 \text{ million gallons}$ ).

Allowance of a refund of the excise tax paid by city fire departments and fire protection districts, combined with an exemption from the diesel fuel backup tax, would result in an estimated revenue loss of \$2.5 million annually ( $\$0.18 \text{ excise tax per gallon} \times 13.9 \text{ million gallons} = \$2.5 \text{ million}$ ).

### Revenue Summary

The revenue loss from exempting city fire department and fire protection district diesel powered vehicles from the diesel fuel back up tax is estimated to be \$2.5 million annually.

Analysis prepared by:	John Cortez	445-6662	04/25/06
Revenue estimate by:	Ronil Dwarka	445-0840	
Contact:	Margaret S. Shedd	322-2376	

mcc 1522-1jc.DOC

*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 Board's formal position.*