



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/21/03	Bill No:	AB 433
Tax:	Ballast Water Fee	Author:	Nation
Board Position:		Related Bills:	

This analysis will only address the bill's provisions that impact the Board.

BILL SUMMARY

Among other things, this bill would:

- Extend the sunset date for the Ballast Water Management Fee from January 1, 2004 to January 1, 2010, and
- Require the Board to collect the Ballast Water Management Fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California, as specified.

Summary of Amendments

The amendments to this bill since the introduced version revise the imposition of the Ballast Water Management Fee to require the Board to collect the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California.

ANALYSIS

Current Law

Under existing law, Section 71215 of the Public Resources Code requires the State Lands Commission (Commission) to establish a reasonable and appropriate fee to carry out the California Ballast Water Management for Control of Nonindigenous Species Act in an amount not to exceed one thousand dollars (\$1,000) per vessel voyage. This fee is known as the Ballast Water Management Fee. The Commission has sole rate setting authority to raise and lower the fee in addition to adjusting the fee for inflation every two years. The fee is currently set at \$200 per qualifying voyage.

The Board collects the Ballast Water Management Fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the exclusive economic zone (EEZ). The Board administers and collects the Ballast Water Fee in accordance with the Ballast Water Management Fee Law. The fees collected are deposited in the State Treasury to the credit of the Exotic Species Control Fund.

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.

The Ballast Water Fee and the Ballast Water Management Fee Law will be repealed as of January 1, 2004, unless a later enacted statute deletes or extends that date.

Proposed Law

This bill would revise and recast the provisions of Division 36 (commencing with Section 71200) of the Public Resources Code, which would be known as the "Marine Invasive Species Act."

Among other things, this bill would amend Section 71215 to require the Commission to assess a reasonable and appropriate fee on vessels, not to exceed \$1,000 for each voyage for which a vessel arrives at a California port or place from a port or place outside of California.

The Board would collect the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The fee would not be assessed on any vessel arriving at a California port or place if:

- That vessel comes directly from another California port or place, and
- During that transit has not arrived at a port or place outside California or moved outside the EEZ prior to arrival at the subsequent California port or place.

The Exotic Species Control Fund would be renamed the Marine Invasive Species Control Fund. The fees imposed would be deposited into this newly named fund.

This bill would also add Section 71215.1 to the Public Resources Code to incorporate the Board's fee collection and other administrative provisions, which are contained in the Ballast Water Management Fee Law (Part 22.5 of Division 2 of the Revenue and Taxation Code).

This bill would amend Section 44007 of the Ballast Water Management Fee Law to provide that the Board transmit payments of the fee to the Treasurer to be deposited in the State Treasury to the credit of the Marine Invasive Species Control Fund.

This bill would also amend Section 71271 of the Public Resources Code and Section 44008 of the Revenue and Taxation Code to extend, from January 1, 2004 to January 1, 2010, the sunset date of the Marine Invasive Species Act and Ballast Water Management Fee Law, respectively.

This bill would become operative January 1, 2004.

Background

In 1999, Assembly Bill 703 (Ch. 849, Stats. 1999) added Division 36 (commencing with Section 71200) to the Public Resources Code to address the introduction of nonindigenous aquatic species. Among other things, that bill requires the Board to collect a fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ.

Assembly Bill 2380 (Ch. 110, Stats. 2000) added the Ballast Water Management Fee Law to provide necessary fee collection and other administrative provisions required for the Board to comply with the requirement to collect the Ballast Water Management Fee

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COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Ocean Conservancy and is intended to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable.
2. **Summary of the April 21, 2003 amendments.** The previous version of the bill required the Board to collect the Ballast Water Management Fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ. This would have been consistent with existing law. However, the amendments would now require the Board to collect the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The amendments also duplicate the Board's collection and administrative provisions from the Ballast Water Management Fee Law into the Public Resources Code. The remaining amendments to the bill do not affect the Board's administration of the Ballast Water Management Fee program.
3. **Suggested technical amendments.** Board staff is working with the author's office in drafting appropriate amendments to address the following concerns:
 - Proposed Section 71215(b)(2) provides that the Commission shall "assess" a reasonable and appropriate fee. However, it should be clarified that the Commission would establish, rather than assess, a fee, as provided.
 - Section 71215(b)(2) provides that the fee may not exceed one thousand dollars for each voyage for which a vessel, as specified. However, this language is not consistent with the imposition of the fee pursuant to Section 71215(c). As such, Section 71215(b)(2) should be amended for purposes of consistency.
 - The language amended into proposed Section 71215.1 of the Public Resources Code appears to be duplicative of the language contained in the Ballast Water Management Fee Law (Part 22 of Division 2 of the Revenue and Taxation Code).
 - This measure does not define the term "California port or place." In order to avoid any ambiguity in administering the provisions of this measure, it is recommended that a precise definition be incorporated into the bill.
4. **Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board's administration of the Ballast Water Fee.

COST ESTIMATE

The Board would incur costs to revise forms and publications, develop computer programs, and process additional returns and payments. A cost estimate of this workload is pending.

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REVENUE ESTIMATE

With its inception on January 1, 2000, the Ballast Water Management for Control of Nonindigenous Species Act of 1999 established a statewide, multi-agency program to prevent or reduce the introduction and spread of nonindigenous aquatic species into the state waters. The owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ is required to pay a fee not exceeding \$1000 per vessel (may be adjusted for inflation every two years). The fee is established by the Commission and collected by the Board.

Based on Board's annual report, the following depicts revenues generated since the program's inception:

1999 – 00 (1/2 year)	\$1.50 million
2000 – 01	\$2.62 million
2001 – 02	\$2.35 million

With the assistance of the Board's Excise Tax and Fees Division, the Commission provided pertinent statistics. The Commission estimated 5,700 qualifying voyages under the existing program. Under this bill, "vessel" would be defined to mean a vessel of 300 gross registered tons or more and "voyage" would be defined to mean any transit by a vessel destined for any California port or place from a port or place outside of the coastal waters of the state. The Commission estimated that additional 1800 voyages would qualify under these new definitions.

The Commission assumed a 95% compliance rate with the fee submission. The total number of voyages is estimated to be around 7,125 ((5700 + 1800) × 95% = 7,125). Based on this and other assumptions, the States Land Commission calculated a per voyage fee of \$500 effective January 1, 2004.

It is estimated that revenue generated in the first year would be about \$3.6 million (\$500 × 7,125 voyages = \$3.6 million).

Revenue Summary

This bill would expand the number of vessels subject to the Ballast Water Management Fee and extend the repeal date of the Ballast Water Management Program until January 1, 2010. The fee is estimated to raise about \$3.6 million annually.

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