



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

DRAFT

Date:	06/10/13	Bill No:	<u>Senate Bill 788</u>
Tax Program:	Sales Tax	Author:	Transportation and Housing Committee
Sponsor:	Author	Code Sections:	RTC 6480.1
Related Bills:		Effective Date:	01/01/14

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

BILL SUMMARY

Among its provisions, this bill:

- Amends the sales tax prepayment provision¹ to make the aircraft jet fuel and diesel fuel statutory language consistent with the language for motor vehicle fuel (gasoline), and
- Contains a technical correction to align rate setting dates for the jet fuel sales tax prepayment rate.

Summary of Amendments

Since the previous analysis, this bill was amended to clarify that the BOE bases its prepayment rate for aircraft jet fuel and diesel fuel on the sales price of those fuels published in industry reports.

ANALYSIS

CURRENT LAW

Existing law² requires a supplier of gasoline, diesel fuel, or aircraft jet fuel to collect a sales tax prepayment from the retailer that buys the fuel. The BOE determines and sets the sales tax prepayment rates by March 1 of the same year as the effective date of the rates. BOE notifies every supplier, wholesaler, and retailer of gasoline, diesel fuel, and aircraft jet fuel by May 1. The adjusted prepayment rates are effective for the following July 1 through June 30.

The per-gallon gasoline, aircraft jet fuel and diesel fuel prepayment rate is based upon 80% of the combined state and local sales tax rate on the average selling price of the fuel, excluding sales tax, as determined by industry publications. The BOE currently uses the sales price data reported by the United States Energy Information Administration, a petroleum and fuel industry publication.

In 2010, two “fuel tax swap” measures³ changed the imposition and rates of state taxes on gasoline and diesel fuel, and required the BOE to determine the appropriate excise

¹ Revenue and Taxation Code (RTC) Section 6480.1.

² RTC Section 6480.1.

³ [ABx8 6](#), (Ch. 11, Stats. 2010) and [SB 70](#) (Ch. 9, Stats. 2010). These provisions were reenacted in 2011 by [AB 105](#) (Ch. 6, Stats 2011).

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tax rate adjustments to maintain revenue neutrality. The gasoline tax changes became operative on July 1, 2010, and the diesel fuel tax changes became operative July 1, 2011.

The fuel tax swap provisions require the BOE to maintain revenue neutrality, so that the revenues derived from the increased gasoline excise tax and the increased diesel sales and use tax equals the revenues that would have been derived had the gasoline sales and use tax partial exemption and the diesel fuel excise tax reduction, respectively, not occurred.

The BOE determines the excise tax rate adjustments by March 1 of each year, and the adjusted rate applies on the following July 1.

PROPOSED LAW

This bill clarifies that the average sales price of aircraft jet fuel and diesel fuel is based on published industry reports, which is used to compute the sales tax prepayment rate for those fuels. This change conforms the references to that used for gasoline.

This bill also makes a technical change in order to correct a drafting error.

BACKGROUND

Last year the BOE sponsored legislation⁴ that aligned the sales tax prepayment dates with the fuel tax swap excise tax rate adjustment dates. There were two words in the jet fuel sales tax prepayment language that were inconsistent with the changes made to both the gasoline and diesel fuel provisions.

Additionally, last year's bill deleted a reference to a specified publication, the "Quarterly Oil Report," as reported by the State Energy Resources Conservation and Development Commission. That report is no longer published or used by the BOE to obtain the selling price of the respective fuels. The BOE currently uses the data reported by the United States Energy Information Administration, a petroleum and fuel industry publication.

COMMENT

- 1. Sponsor and Purpose.** This Senate Transportation and Housing Committee bill contains multiple, non-controversial changes to statutes so that the Legislature can make minor amendments in a cost-effective manner. The amendment to RTC Section 6480.1 is one such provision.
- 2. The June 10, 2013 amendments** clarify that the average sales price of aircraft jet fuel and diesel fuel is based on published industry reports, which is used to compute the sales tax prepayment rate for those fuels.
- 3. BOE staff has no administrative concerns.** This bill makes two minor changes to the sales tax prepayment of fuels provisions. One is a minor clean-up to last year's BOE sponsored bill, which ensures the rate setting is done in March of the **same year** that the rate change takes effect. The other is a revision that simplifies the aircraft jet fuel and diesel fuel statutory language and makes it consistent with the language for gasoline.

⁴ AB 2679 (Ch. 769, Stats. 2012), effective January 1, 2013.

COST ESTIMATE

There are no costs related to this bill.

REVENUE ESTIMATE

There is no revenue impact related to this bill.

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