DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/22/13**	Bill No:	**Assembly Bill 881**
Tax Program:	**Oil Spill Prevention and Administration Fee**	Author:	**Chesbro**
Sponsor:	**SF Baykeepers**	Code Sections:	**GC 8670.40**
Related Bills:		Effective Date:	**01/01/14**

BILL SUMMARY

Among other things, this bill increases the current oil spill prevention and administration fee rate cap from $0.065 to $0.08 per barrel and increases the fee rate cap currently scheduled to go into effect January 1, 2015, from $0.05 to $0.08 per barrel. The bill also authorizes the Administrator to annually adjust the cap for inflation.

ANALYSIS

CURRENT LAW

Existing law[1] imposes an oil spill prevention and administration fee upon crude oil received at a marine terminal from within or outside the state, and upon petroleum products received at a marine terminal from outside the state. Marine terminal operators collect the fee from the owner of the crude oil or petroleum product based on each barrel the terminal receives from a vessel operating in, through, or across the state's marine waters. Additionally, a pipeline operator pays the fee for each crude oil barrel that originates from marine-based production facilities and is transported across, under, or through the state's marine waters by pipeline.

The current fee rate cap is as follows:

Rate Period	Rate Cap
01/01/12 – 12/31/14	$0.065
01/01/15 – ongoing	$0.05

As a governor's appointee in the Department of Fish and Game, the Administrator sets the fee rate annually. The Administrator is required to prepare a plan that projects revenues and expenses over three fiscal years. The amount of the fee is set so that the projected revenue will meet current and proposed state budget needs. The Administrator may also allow for a surplus if revenues will not be adequate to meet contingencies and shortfalls.

Marine terminal and pipeline operators pay the fee monthly to the Board of Equalization (BOE). Fees are deposited into the Oil Spill Prevention and Administration Fund to pay for oil spill prevention programs and studies. However, the fee does not fund oil spill response activities.[2]

[1] Government Code Section 8670.40

[2] The BOE also collects an **oil spill response fee** as required by Government Code Section 8670.48. Certain marine terminal operators, pipeline operators, and refiners pay a uniform oil spill response fee, in

PROPOSED LAW

This bill increases the current oil spill prevention and administration fee rate cap from $0.065 to $0.08 per barrel of crude oil or petroleum product. The bill also changes the ongoing fee rate cap that is scheduled to go into effect January 1, 2015, from $0.05 to $0.08. The proposed law authorizes the Administrator to adjust the maximum fee based on the percentage increase in the California Consumer Price Index (CPI).[3] Finally, this bill transfers $0.003 of the fee revenues to fund certain Oiled Wildlife Care Network activities. The following table illustrates the proposed rate changes:

Rate Period	Current Rate Cap	Proposed Rate Cap
01/01/14 – 12/31/14	$0.065	$0.08
01/01/15 – ongoing	$0.05	$0.08[4]

BACKGROUND

In 1990, two bills[5] enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, which added several provisions[6] that address all marine oil spill prevention, administration, and response activities in California.

In 2010, the Legislature passed Assembly Bill (AB) 234 (Huffman), which would have increased the maximum amount of the fee to $0.06. Governor Schwarzenegger vetoed the bill.

AB 1112 (Ch. 583, Stats. 2011) temporarily increases the fee cap from $0.05 to $0.065, from January 1, 2012, to January 1, 2015. Thereafter, the fee rate cap decreases to $0.05.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the San Francisco Baykeepers to maintain revenues to fund the Oiled Wildlife Care Network and various oil spill prevention programs.

2. **A possible increase in the oil spill prevention and administration fee would not create administrative difficulties for the BOE.** As previously explained, the Administrator sets the fee rate in accordance with an annual plan. Currently, the BOE administers and collects this fee, set at the maximum of $0.065. The BOE would not have administrative difficulties either with an increase to a maximum rate of $0.08 or with subsequent annual inflationary adjustments.

COST ESTIMATE

Specifically related to the proposed rate changes, the BOE's administrative costs are minor and absorbable.

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an amount not exceeding $0.25 per barrel of petroleum product or crude oil. The fee is only collected when the funds in the Oil Spill Response Trust Fund fall below the specified level.

[3] As determined pursuant to Revenue and Taxation Code (RTC) Section 2212.

[4] The Administrator may adjust the maximum fee annually based on the percentage increase in the California CPI.

[5] Senate Bill (SB) 2040 (Chapter 1248, Keene) added and SB 7 (Chapter 10, Keene) amended Government Code Section 8670.40 to impose the Oil Spill Prevention and Administration Fee.

[6] Government Code (§8670.1 et seq.), Public Resources Code (§8750 et seq.), and RTC (§46001 et seq.).

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

The BOE collected approximately $32.1 million in oil spill prevention and administration fees in calendar year 2012 at the maximum rate of $0.065 per barrel of crude oil or petroleum products. We expect calendar year 2013 collections will approximate the 2012 revenues.

This bill increases the maximum fee by 23%,[7] to $0.08. Further, the bill allows the maximum fee to be adjusted annually for inflation, as measured by the California CPI. The Department of Finance estimates the CPI to increase by an average of 2% over the next three calendar years.[8]

REVENUE SUMMARY

- Based on the $32.1 million collected in calendar year 2012, oil spill prevention and administration fee revenue is estimated to increase by $7.4 million (23% × $32.1 million = $7.4 million) in calendar year 2014.
- Beginning in calendar year 2015, revenues may increase by an additional $0.8 million [($32.1 million + $7.4 million = $39.5 million) x 2%] per calendar year if the Administrator makes the CPI fee adjustments.
- Beginning January 1, 2015, current law sets the fee cap at $0.05. Therefore, this bill would increase overall estimated revenue by $13.3 million [($39.5 million + $0.8 million = $40.3 million) - $27 million[9]].

The following table depicts the revenue changes:

Rate Period	Current Rate Cap Amount	Proposed Rate Cap Amount	Revenue Increase	Total Revenues
01/01/14 – 12/31/14	$0.065	$0.08	$7.4 million	$39.5 million
01/01/15 – ongoing	$0.05	$0.08[10]	$13.3 million[11]	$40.3 million[12]

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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7 ($.08/$.065) – 1
8 The Department of Finance provides CPI forecasts, unlike the Department of Industrial Relations (DIR). RTC Section 2212 relies upon the CPI as determined by the DIR.
9 At the rate of $.05 per barrel of oil, the average annual amount collected, during the 5-year period ending June 30, 2011, amounted to $27 million.
10 CPI is estimated to increase by an average of 2% over the next three calendar years.
11 Accounts for the CPI adjustment and the difference in the fee rate cap reduction.
12 Accounts for the CPI adjustment and the difference in the fee rate cap reduction.