



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

DRAFT

Date:	08/07/12	Bill No:	<u>Senate Bill 1192</u>
Tax Program:	Oil Spill Prevention and Administration Fee	Author:	Evans
Sponsor:	Author	Code Sections:	GC 8670.40
Related Bills:		Effective Date:	01/01/13

BILL SUMMARY

Among other things, this bill increases the cap on the Oil Spill Prevention and Administration fee as follows:

- From the current six and five-tenths cents (\$0.065) to six and eight-tenth cents (\$0.068) per barrel of crude oil or petroleum product beginning January 1, 2013 through December 31, 2014.
- Beginning January 1, 2015, from the currently scheduled amount of five cents (\$0.05) to five and three-tenths (\$0.053).

Summary of Amendments

The amendments since the previous analysis are unrelated to the BOE provisions.

ANALYSIS

CURRENT LAW

Under existing law, Government Code Section 8670.40 imposes an **oil spill prevention and administration fee**, currently set at a rate of six and five-tenths cents (\$0.065) per barrel, 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. The current cap of six and five-tenths cents (\$0.065) is in effect from January 1, 2012, to January 1, 2015, after which time the cap on the fee would be reduced to five cents (\$0.05) per barrel of crude oil or petroleum product.

The fee is collected by the marine terminal operator from the owner of the crude oil or petroleum product based on each barrel that is received from a vessel operating in, through, or across the state’s marine waters. Additionally, a pipeline operator pays the fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state through a pipeline operating across, under, or through the state’s marine waters.

The fee amount is set annually by the Administrator, an appointee of the Governor in the Department of Fish and Game. The Administrator annually prepares a plan that projects revenue and expenses over three fiscal years and uses the projections to set the fee, not to exceed six and five-tenths cents (\$0.065) per barrel from January 1, 2012, through December 31, 2014, and, beginning January 1, 2015 not to exceed five cents (\$0.05) per barrel of crude oil or petroleum products, to meet the current and proposed state budget. The Administrator may allow for a surplus if revenues are expected to be exhausted or for possible contingencies.

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 BOE’s formal position.

The Administrator is required to provide the State Board of Equalization (BOE) with sufficient notice when the fee is set each year, with the new fee to be effective on the first day of the month beginning no fewer than 30 days following such notification, and that the new fee rate is to be rounded to no more than four decimal places.

The fee is paid to the BOE on a monthly basis and deposited into the Oil Spill Prevention and Administration Fund. The moneys in this fund are not used for responding to an oil spill but, rather, are used to fund oil spill prevention programs, Oiled Wildlife Care Network activities, and various studies related to oil spills.

The BOE also collects an **oil spill response fee** as required by Government Code Section 8670.48. A uniform oil spill response fee is paid by specified marine terminal operators, pipeline operators, and refiners, in an amount not exceeding \$0.25 per barrel of petroleum product or crude oil. The BOE is not presently collecting the oil spill response fee as it only collects the fee when the funds in the Oil Spill Response Trust Fund fall below the specified level, which is not presently the case.

PROPOSED LAW

This bill would amend Government Code Section 8670.40 to increase the cap on the Oil Spill Prevention and Administration fee from six and five-tenths cents (\$0.065) to six and eight-tenths cents (\$0.068) per barrel of crude oil or petroleum product beginning January 1, 2013 through December 31, 2014. Beginning January 1, 2015, the cap would be increased from currently scheduled amount of five cents (\$0.05) to five and three-tenths cents (\$0.053).

Unrelated to the BOE, this bill would also increase the nontank vessel fee charged by the Administrator to a proposed flat rate of \$3,500 per nontank vessel (currently set to a maximum of \$2,500 per vessel). The rate is related to the Administrator's costs, and all revenues are deposited in the Oil Spill Prevention and Administration Fund.

BACKGROUND

In 1990, Senate Bill 2040 (Chapter 1248, Keene) added and Senate Bill 7 (Chapter 10, Keene) amended Section 8670.40 to impose the Oil Spill Prevention and Administration Fee. These bills also enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, which added provisions to the Government Code (§8670.1 et seq.), the Public Resources Code (§8750 et seq.), and the Revenue & Taxation Code (§46001 et seq.). The Act covers all aspects of marine oil spill prevention, administration, and response in California.

In 2011, the Legislature passed Assembly Bill 234 (Huffman), which would have increased the maximum fee to six cents (\$0.06). Governor Schwarzenegger vetoed the bill.

Last year the Legislature passed and the Governor signed Assembly Bill 1112 (Ch. 583, Stats. 2011), which temporarily increased the cap on the Oil Spill Prevention and Administration Fee from five cents (\$0.05) to six and five-tenths cents (\$0.065) per barrel of crude oil or petroleum product. The cap may was increased for the period January 1, 2012, through December 31, 2014, and was scheduled to return to the previous level of five cents (\$0.05) per barrel, effective January 1, 2015.

The Administrator set the fee at six and one-half cents (\$0.065) per barrel of crude oil or petroleum product effective January 1, 2012.

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COMMENTS

- 1. Sponsor and Purpose.** This bill is sponsored by the author and is intended to authorize and provide funding to the Oiled Wildlife Care Network. The sponsor contends the increase is needed to ensure that the Oil Spill Prevention and Administration Fund can meet the costs of the Oiled Wildlife Care Network.
- 2. The August 7, 2012 amendments** are related to the funding of the Oiled Wildlife Care Network. A portion of the funds collected would be transferred to this account.
- 3. A possible increase in the oil spill prevention and administration fee would not create administrative problems for the BOE.** The BOE currently administers and collects this fee. As previously explained, the Administrator sets the fee in accordance with an annual plan. The fee is currently set at the maximum rate of six and five-tenths cents (\$0.065) per barrel of crude or petroleum product. If the maximum fee rate should increase to six and eight-tenths cents (\$0.068), the BOE will have no difficulty in administering a fee increase.

COST ESTIMATE

The BOE would incur minor costs to administer this measure, which would be absorbable in the current fiscal year. These costs would be attributable to, among other things, advising and answering inquiries from the public, identifying and noticing affected fee payers, and working with the Administrator to explain fee changes related to the inflation adjustment to the maximum oil spill prevention and administration fee. The BOE is reimbursed for its costs, as provided in statute.

REVENUE ESTIMATE**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Current Revenue. According to the BOE's FY 2010-11 Annual Report, the BOE collected over \$25 million in oil spill prevention and administration fees at the maximum rate of \$0.05 per barrel of crude oil or petroleum products. An analysis of the BOE data did not suggest any obvious trends in recent years; average fees collected over the past four fiscal years amount to \$26.3 million. If we adjust this amount to the current rate, the estimated revenue for calendar year 2012 amounts to \$34.1 million ($\$26.3 \text{ million} \times \frac{\$.065}{\$.05} = \34.1 million).

Proposed Fees Increase. This bill would increase the rate from \$0.065 to \$0.068 (a 4.6% increase) beginning January 1, 2013, then, beginning on January 1, 2015, the rate will be reduced from \$.068 to \$0.053 (a reduction of 22%) per barrel of crude oil or petroleum products.

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REVENUE SUMMARY

- Based on the average fees (\$34 million) collected by BOE over the past few fiscal years and the proposed rate of \$0.068 per barrel, it is estimated that revenues would increase by \$1.6 million ($4.6\% \times \$34.1 \text{ million} = \1.6 million).
- Beginning January 1, 2015, the proposed decrease in the cap rate from \$0.068 to \$0.053 (or 22%) would reduce revenue to the fund by \$7.9 million ($22\% \times \$35.7 \text{ million} = \7.9 million).

*This would be less of a revenue decrease since current law sets the cap at \$0.05 beginning January 1, 2015.

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