DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date:	**08/20/12**	Bill No:	**Senate Bill 1192**
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 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, the maximum amount of the rate would drop to the currently scheduled five cents ($0.05).

Summary of Amendments

The amendments since the previous analysis drop the proposed January 1, 2015, rate cap from five and three-tenth cents ($0.053) to five cents ($0.05) per barrel of crude oil or petroleum product.

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.

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 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 until January 1, 2015. Beginning January 1, 2015, the cap would be decreased to five cents ($0.05) per barrel of crude oil or petroleum product.

This bill would also amend Government Code Section 8670.48 to insert a sunset date of January 1, 2015. Previous amendments were unrelated to the BOE functions but affected the authorized transfers of moneys into funds. Section 8670.48, the Oil Spill Response Fee, is reenacted effective January 1, 2015, to mirror current statutory provisions.

Unrelated to the BOE, this bill would also establish a sunset date of January 1, 2015, for the nontank vessel fee of $3,500 charged by the Administrator. That fee would also be reenacted effective January 1, 2015, but with the Administrator establishing an unspecified “reasonable fee.” 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.

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 20, 2012 amendments,** among other things, provide a sunset date of January 1, 2015, for the increase in the cap to six and eight-tenth cents ($0.068). The section is reenacted as of January 1, 2015, to cap the Oil Spill Prevention and Administration fee at five cents ($0.05) per barrel of crude oil or petroleum product. The current Oil Spill Response fee is also reenacted effective January 1, 2015; previous amendments were unrelated to the BOE. The **August 7, 2012, amendments** were 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 and subsequent decrease 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. Similarly, the BOE will be able to handle a subsequent decrease in the fee amount.

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 feepayers, and working with the Administrator to explain future fee changes related to the sunset and reenactment date. 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 million x .$065/.$0.05 = $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 $0.05 (a reduction of 26%) per barrel of crude oil or petroleum products.

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% × $34.1 million = $1.6 million).
- Beginning January 1, 2015, the proposed decrease in the cap rate from $0.068 to $0.05 (or 26%) would reduce revenue to the fund by $9.3 million (26% x $35.7 million = $9.3 million).

Analysis prepared by:	John Cortez	916-445-6662	08/28/12
Revenue estimate by:	Vanessa Shum	916-445-0840	
Contact:	Robert Ingenito	916-322-2376	

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