



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	02/15/08	Bill No:	AB 2032
Tax:	Oil Spill Response Fee	Author:	Hancock
Related Bills:			

This analysis only addresses the provisions that impact the Board.

BILL SUMMARY

This bill would increase the current cash reserve and financial security in the Oil Spill Response Trust Fund from \$109,750,000 to \$200,000,000, which may trigger the collection of the oil spill response fee. The amounts will also be adjusted for inflation by an index chosen by the administrator.

ANALYSIS

CURRENT LAW

Under existing law, Section 8670.48 of the Government Code imposes a uniform oil spill response fee on marine terminal operators, pipeline operators, and refiners, in an amount not exceeding \$0.25 per barrel of petroleum product or crude oil. The fee applies to those petroleum products that are received at a marine terminal in this state by means of a vessel from outside the state, or transported into this state by means of a pipeline operating across, under, or through marine waters in this state, or for each barrel of crude oil received at a refinery in this state. The State Board of Equalization (Board) collects the fees and deposits all proceeds into the Oil Spill Response Trust Fund (Fund).

The fee is collected at a time when the administrator determines that the amount in the Fund is less than or equal to 95% of the cash reserve, or to pay for authorized purposes. The administrator, an appointee of the Governor in the Department of Fish and Game, is responsible for directing the Board to cease collection of the fee at such time when the administrator has estimated that the Fund has reached the cash reserve portion of the “designated amount” or the money in the Fund is not needed for authorized purposes. The administrator is also authorized by Section 8670.48.5 to increase the fee specified in Section 8670.48 to one dollar (\$1) per barrel. The fee may only be increased in \$0.25 increments and not more frequently than every three months. The administrator may only increase the fee under specified conditions.

Revenue and Taxation Code Section 46012 defines “designated amount” to mean \$109,750,000, subject to the following:

- Subdivision (a) \$54,875,000 retained as cash in the Fund.
- Subdivision (b) \$54,875,000 shall be retained in the Fund in the form of financial security obtained by the Treasurer.

At the time the administrator notifies the Board that the cash reserve is less than or equal to 95% of the designated amount (\$54,875,000), or additional money is required

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for authorized purposes, the Board shall notify affected fee payers that, as of the first of the month following their notification, the oil spill response fee will be imposed.

The Board also collects an oil spill prevention and administration fee as required by Government Code Section 8670.40. The fee is currently set at a rate of five cents (\$0.05) per barrel of crude oil or petroleum product received at a marine terminal or transported by pipeline. The fee is paid to the Board 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 and various studies related to oil spills.

PROPOSED LAW

This bill would amend Section 46012 of the Revenue and Taxation Code to change the “designated amount” to \$200 million, subject to the following:

- \$100 million shall be retained in the Fund as cash.
- \$100 million shall be accessible in the Fund in the form of financial security.

The “designated amounts” would be annually adjusted for inflation by an index chosen by the administrator.

BACKGROUND

In 1990, Senate Bill 2040 (Chapter 1248, Keene) added and Senate Bill 7 (Chapter 10, Keene) amended Section 8670.48 of the Government Code to impose the Oil Spill Prevention and Administration Fee. These bills enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. The Act 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 and response in California.

COMMENTS

- 1. Sponsor and Purpose.** This bill is sponsored by the author in response to the oil spill that occurred after a container ship, the Cosco Busan, struck the Bay Bridge on November 7, 2007. The purpose of this bill is to provide a sufficient source of funds to cover authorized oil spill costs.
- 2. Increasing the cash reserve of the “designated amount” would not create administrative problems for the Board.** An increase of the cash reserve of the “designated amount” would be followed by a determination by the administrator that the Oil Spill Response fee should be collected. The administrator, in consultation with the Board, shall set the amount of the fee. After the Board has been notified by the administrator, the Board would then notify the affected fee payers that, as of the first of the month following their notification, the fee will be imposed.

The Board last collected the fee in 1991-1992 and will work with the Department of Fish and Game, Office of Spill Prevention and Response (OSPR) to ensure that the method of notification between the agencies, and the timeframe of determinations made by the administrator are clearly communicated.

3. The “designated amounts” will be adjusted for inflation by an index chosen by the administrator. Interest earned on the Fund, in excess of \$1,300,000, is deposited back into the Fund to maintain the designated amount. In the event the inflation adjusted amount exceeds the interest earned, then the administrator may determine that the fee would need to be collected by the Board. In that event, the administrator, in consultation with the Board, may set the amount of the oil spill response fee at less than \$0.25. This may occur if the administrator finds that the assessment of a lesser fee will cause the fund to reach the designated amount within four months. However, the fee will not be less than \$0.25 if the Treasurer has borrowed money to pay authorized costs in a timely manner.

COST ESTIMATE

The Board would incur minor costs to administer this measure. These costs would be attributable to, among other things, advising and answering inquiries from the public, identifying and noticing affected feepayers, informing Board staff, and working with the administrator to impose and stop collection of the fee. These costs are expected to be absorbable.

REVENUE ESTIMATE

The “designated amount” in the Fund would be increased to \$200 million. The cash portion of the Fund would be increased from \$54,875,000 to \$100,000,000. According to the Governor’s 2008-09 Proposed Budget the Fund will have an estimated fund balance of \$55,954,000 at the end of the 2007-08 fiscal year. Therefore, the amount of revenue required to meet the \$100 million cash reserve is \$44,046,000. Given that the monthly average barrels of petroleum products subject to the oil spill response fee would be 46.5 million barrels, and given a fee of \$0.25 per barrel, it would take approximately 176 million barrels, or four months, for the cash portion of the designated amount to be reached.

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