



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

Date Amended:	04/20/09	Bill No:	SB 231
Tax:	Generator Fee	Author:	Lowenthal
Related Bills:			

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

BILL SUMMARY

This bill would replace the existing tiered fee structure for generation of hazardous waste with a simple rate-per-ton fee.

CURRENT LAW

Under current law, Health and Safety Code Section 25205.5 requires each generator who generates five tons or more of hazardous waste to pay a generator fee for each generator site for each calendar year unless the generator has paid a facility fee¹ or the waste is exempt.

Exemptions from the generator fee include used oil removed from motor vehicles that is recycled by a recycler permitted by the Department of Toxic Substances Control (DTSC); waste that is generated, recycled, and used onsite and not transferred offsite at any time; and aqueous waste treated in a treatment unit operating, or which subsequently operates, under a permit by rule, conditional authorization, or conditional exemption. However, hazardous waste generated by the treatment unit is subject to the generator fee.

The generator fee is adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the California Consumer Price Index (CCPI). The fee rates for the 2010 calendar year are as follows:

Waste Generated	Fee
Less than 5 tons	\$0
5 – 24.9 tons	197.00
25 – 49.9 tons	1,580.00
50 – 249.9 tons	3,949.00
250 – 499.9 tons	19,745.00
500 – 999.9 tons	39,490.00
1,000 – 1,999.9 tons	59,235.00
2,000 – more tons	78,980.00

The annual fee is paid to the Board and deposited into the state’s Hazardous Waste Control Account.

¹ The facility fee applies to an owner or operator of a site that is permitted by the Department of Toxic Substances Control to treat, store, or dispose of hazardous waste.

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PROPOSED LAW

This bill amends Health and Safety Code Section 25205.5 to delete the tiered generator fee structure calculated according to the amount of waste generated during the prior calendar year and replace it with an unspecified flat rate amount per ton of hazardous waste. The bill also makes other non-substantive, technical corrections within Sections 25205.5 and 25205.9.

This bill would become effective January 1, 2011.

BACKGROUND

In enacting Senate Bill 1222 (Ch. 638, Stats. 1995), the Legislature required the Secretary for Environmental Protection to convene a task force to review the existing hazardous waste fee structure and provide recommendations to the Legislature no later than January 1, 1997. The task force was directed to propose a new fee system for providing financial support to California's hazardous waste and hazardous substance regulatory programs which would: (1) provide protection for public health and safety and the environment; (2) provide adequate funding to ensure remediation of contaminated sites; (3) not impose a disproportionate burden on any sector of California's economy; (4) provide a level of funding that enables the DTSC to appropriately implement programs authorized by the Legislature in a manner consistent with the objectives of those programs; and (5) provide a means of funding consistent with the objectives of the DTSC's programs.

Senate Bill 660 (Ch. 870, Stats. 1997), the Environmental Cleanup and Reform Act of 1997, enacted many of the recommendations of the Fee Reform Task Force by amending various sections of the Health and Safety Code. Among its provisions, that bill amended Section 20205.5 to decrease the generator fee to its current base rate of \$2,748. It was estimated at the time that the revenue losses resulting from the decreased generator fee, various repealed fees, and implementation of fees-for-services would be offset by an increase in the environmental fee, which was imposed on corporations at that time, based on its number of employees.

COMMENTS

1. **Sponsor and purpose.** The author is sponsoring this measure to provide a more stable source of funding for the DTSC's programs. The current fee structure encourages some generators to stop the processing of their sites for fear of being pushed into a much higher fee category.
2. **The Board's contract with the DTSC would need to be renegotiated.** This bill proposes to revise the imposition of the generator fee, commencing on January 1, 2011. The generator fee, which is an annual fee, is payable on the last day of February for the preceding calendar year. Certain generators are also required to make a prepayment of the fee which is due and payable in August each calendar year.

If this bill were successfully signed into law, the first prepayment under the revised rate structure would be due and payable on August 31, 2011. This would require the Board to rewrite computer programs, notify feepayers, and revise prepayment returns during the latter part of the 2010-11 fiscal year. As such, the Board would have to renegotiate its contract with the DTSC to cover the Board's start-up costs that are not included in the 2010-11 contract.

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3. **Board staff does not foresee any administrative problems with this bill.**
Revising the generator fee rate structure from a tiered rate to a flat rate based on the amount of hazardous waste generated would not be problematic for the Board.

COST ESTIMATE

The Board would incur administrative costs for informing the fee payers, computer programming, revising returns and publications, and answering inquiries from the public. A cost estimate of this workload is pending; however, it is estimated that these costs would be insignificant (under \$10,000).

REVENUE ESTIMATE

The bill does not specify a rate for the proposed generator fee; therefore, a revenue estimate could not be prepared.

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