

AMENDED IN SENATE JULY 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 282**

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**Introduced by Assembly Members Wieckowski and Mitchell**

February 11, 2013

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An act to amend ~~Section~~ *Sections 25299.43 and 25299.81* of, and to add *Section 25299.50.1* to, the Health and Safety Code, relating to underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

AB 282, as amended, Wieckowski. Underground storage tanks: petroleum: charges.

Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, ~~which is repealed on January 1, 2016~~, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund and the State Water Resources Control Board is authorized to expend the moneys in the fund, upon appropriation by the Legislature, for various purposes, including the payment of claims to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks, corrective actions undertaken by the board, a California regional water quality board, or a local agency, the cleanup and oversight of unauthorized releases at abandoned tank sites, and grants to small businesses to retrofit certain hazardous substance underground storage tanks. *Existing law repeals the act on January 1, 2016, but specifies that certain associated rights, obligations, and authorities that apply prior to the repeal date do not terminate until the moneys in the fund are exhausted.*

Existing law, until January 1, 2014, provides for an increase in the fee for storage in an underground tank of \$0.006 per gallon of petroleum.

This bill would require payment of the additional \$0.006 per gallon until January 1, 2016. *The bill would extend the repeal date of the fund until January 1, 2018, and make conforming changes. The bill would require the board, no later than January 1, 2015, to make specified information relating to the payment of claims available on its Internet Web site.* This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25299.43 of the Health and Safety Code
- 2 is amended to read:
- 3 25299.43. (a) To implement the changes to this chapter made
- 4 by Chapter 1191 of the Statutes of 1994, and consistent with
- 5 Section 25299.40, effective January 1, 1995, every owner subject
- 6 to Section 25299.41 shall pay a storage fee of one mill (\$0.001)
- 7 for each gallon of petroleum placed in an underground storage
- 8 tank that the person owns, in addition to the fee required by Section
- 9 25299.41.
- 10 (b) On and after January 1, 1996, the storage fee imposed under
- 11 subdivision (a) shall be increased by two mills (\$0.002) for each
- 12 gallon of petroleum placed in an underground storage tank.
- 13 (c) On and after January 1, 1997, the storage fee increased under
- 14 subdivision (b) shall be increased by an additional three mills
- 15 (\$0.003) for each gallon of petroleum placed in an underground
- 16 storage tank.
- 17 (d) On and after January 1, 2005, the storage fee increased under
- 18 subdivision (c) shall be increased by an additional one mill (\$0.001)
- 19 for each gallon of petroleum placed in an underground storage
- 20 tank.
- 21 (e) On and after January 1, 2006, the storage fee increased under
- 22 subdivision (d) shall be increased by an additional one mill

1 (\$0.001) for each gallon of petroleum placed in an underground  
2 storage tank.

3 (f) On and after January 1, 2010, the storage fee increased under  
4 subdivision (e) shall be increased by an additional six mills  
5 (\$0.006) for each gallon of petroleum placed in an underground  
6 storage tank. The increase provided for in this subdivision shall  
7 be effective until January 1, 2016, at which time, the fee shall  
8 revert back to the fee pursuant to subdivision (e).

9 (g) The fee imposed under this section shall be paid to the State  
10 Board of Equalization under Part 26 (commencing with Section  
11 50101) of Division 2 of the Revenue and Taxation Code in the  
12 same manner as, and consistent with, the fees imposed under  
13 Section 24299.41.

14 (h) The State Board of Equalization shall amend the regulations  
15 adopted under Section 25299.41 to carry out this section.

16 *SEC. 2. Section 25299.50.1 is added to the Health and Safety*  
17 *Code, to read:*

18 *25299.50.1. In addition to the requirement in subdivision (d)*  
19 *of Section 25299.81, and to the extent permitted by existing laws*  
20 *protecting the confidentiality of records and the release of personal*  
21 *information, the board shall, no later than January 1, 2015, also*  
22 *make the following information available on its Internet Web site:*

23 (a) *An update on underground storage tank closures, both by*  
24 *the board and by local or regional agencies.*

25 (b) *The projected number of underground storage tank sites,*  
26 *as determined by the board and local or regional agencies, that*  
27 *are ready for closure, but that have not yet been closed.*

28 (c) *A review of the local or regional agency underground*  
29 *storage tank certification process and cases that are no longer*  
30 *under the board's jurisdiction.*

31 (d) *An update on the board's review of cases and related*  
32 *budgets, which shall include estimates of the board's reasonably*  
33 *budgeted amounts, and how those amounts might impact the total*  
34 *financial obligations of the fund.*

35 (e) *The status of open and active claims with projections*  
36 *covering the time period during which all existing claims might*  
37 *be completed.*

38 (f) *The total number of claims that have been processed and*  
39 *are only awaiting reimbursement, with the information segregated*  
40 *by the class of the claimant.*

1 (g) A five-year itemization of administrative expenses paid out  
 2 of moneys in the fund, including payments to local or regional  
 3 agencies. To the extent possible, the itemization shall include a  
 4 five-year projection of annual payments by the board to local or  
 5 regional agencies in connection with administrative expenses.

6 (h) To the extent possible, a current estimate of the claim  
 7 duration in the fund by class and a projection of claim duration  
 8 in the fund for the next five years, segregated by class.

9 SEC. 3. Section 25299.81 of the Health and Safety Code is  
 10 amended to read:

11 25299.81. (a) Except as provided in subdivisions (b) and (c),  
 12 this chapter shall remain in effect only until January 1, ~~2016~~ 2018,  
 13 and as of that date is repealed, unless a later enacted statute, which  
 14 is enacted before January 1, ~~2016~~ 2018, deletes or extends that  
 15 date.

16 (b) Notwithstanding subdivision (a), Article 1 (commencing  
 17 with Section 25299.10), Article 2 (commencing with Section  
 18 25299.11), and Article 4 (commencing with Section 25299.36)  
 19 shall not be repealed and shall remain in effect on January 1, ~~2016~~  
 20 2018.

21 (c) The repeal of certain portions of this chapter does not  
 22 terminate any of the following rights, obligations, or authorities,  
 23 or any provision necessary to carry out these rights and obligations:

24 (1) The filing and payment of claims against the fund, including  
 25 the costs specified in subdivisions (c), (e), and (h) of Section  
 26 25299.51, claims filed under Section 25299.50.3, and claims for  
 27 commingled plumes, as specified in Article 11 (commencing with  
 28 Section 25299.90), until the moneys in the fund are exhausted.  
 29 Upon exhaustion of the fund, any remaining claims shall be invalid.

30 (2) The repayment of loans, outstanding as of January 1, ~~2016~~  
 31 2018, due and payable to the board.

32 (3) The recovery of moneys reimbursed to a claimant to which  
 33 the claimant is not entitled, or the resolution of any cost recovery  
 34 action.

35 (4) The collection of unpaid fees that are imposed pursuant to  
 36 Article 5 (commencing with Section 25299.40), as that article read  
 37 on December 31, 2015, or have become due before January 1,  
 38 ~~2016~~ 2018, including any interest or penalties that accrue before,  
 39 on, or after January 1, ~~2016~~ 2018, associated with those unpaid  
 40 fees.

1 (5) (A) The filing of an application for funds from, and the  
2 making of payments from, the Underground Storage Tank  
3 Petroleum Contamination Orphan Site Cleanup Fund pursuant to  
4 Section 25299.50.2, any action for the recovery of moneys paid  
5 pursuant to Section 25299.50.2 to which the recipient is not  
6 entitled, and the resolution of that cost recovery action.

7 (B) Upon liquidation of funds in the Underground Storage Tank  
8 Petroleum Contamination Orphan Site Cleanup Fund, the obligation  
9 to make a payment from the Underground Storage Tank Petroleum  
10 Contamination Orphan Site Cleanup Fund is terminated.

11 (6) (A) The payment of loans and grants, consistent with the  
12 terms of agreements that were effective prior to January 1, ~~2016~~  
13 *2018*, from the Underground Storage Tank Cleanup Fund, pursuant  
14 to this chapter or the Petroleum Underground Storage Tank  
15 Financing Account pursuant to Chapter 6.76 (commencing with  
16 Section 25299.100). Upon exhaustion of the Underground Storage  
17 Tank Cleanup Fund, any remaining claims for payment of grants  
18 or loans shall be invalid.

19 (B) The amount of money disbursed for grants and loans  
20 pursuant to Chapter 6.76 (commencing with Section 25299.100)  
21 shall not exceed the sum of following:

22 (i) The amount that reverts to the Underground Storage Tank  
23 Cleanup Fund pursuant to Section 25299.111.

24 (ii) Amounts recovered through the repayment of loans granted  
25 pursuant to Chapter 6.76 (commencing with Section 25299.100).

26 (iii) The resolution of any cost recovery action filed prior to  
27 January 1, ~~2016~~ *2018*, or the initiation of an action or other  
28 collection process to recover defaulted loan moneys due to the  
29 board or to recover money paid to a grant or loan recipient pursuant  
30 to Chapter 6.76 (commencing with Section 25299.100) to which  
31 the recipient is not entitled.

32 (d) The board shall continuously post and update on its Internet  
33 Web site, but at a minimum, annually on or before September 30,  
34 information that describes the status of the fund and shall make  
35 recommendations, when appropriate, to improve the efficiency of  
36 the program.

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