

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: March 25, 2010
POSITION: Oppose
SPONSOR: California Independent Oil Marketers Association

BILL NUMBER: AB 2224
AUTHOR: I. Ruskin

BILL SUMMARY: Hazardous Substances: Underground Storage Tanks

Existing law will require all regulated businesses and all regulated local government agencies, called Certified Unified Program Agencies (CUPAs) or Participating Agencies (PAs), to use the Internet to file required Unified Program information no later than January 1, 2013.

This bill would require the California Environmental Protection Agency (CalEPA), by June 30, 2011, to implement a process by which a local agency can verify annually the accuracy of the underground storage tank (UST) Storage Fee Account Number (i.e., the tank number per the bill) issued by the Board of Equalization (BOE) to determine that the tank number is the correct number for the permitted underground storage tank (UST) facility.

The bill would require CalEPA to consult with the BOE, local agencies, and regulated parties, in the development of the verification process and would require the local agency to annually verify that the BOE issued tank number for the permitted tank facility is correct.

FISCAL SUMMARY

CalEPA estimates a cost of \$48,000 Unified Program Account (UPA) and 0.35 position over the 2011 calendar year to develop regulations pursuant to the bill's provisions and to hold three public hearings on the proposed regulation, as required by law.

COMMENTS

While supporting the bill's apparent intent, to ensure that all appropriate UST permitting fees are collected and submitted to the BOE, the Department of Finance is opposed to this bill for the following reasons:

- According to CalEPA program staff, the required funding to promulgate a regulation by June 30, 2011, cannot be absorbed and will require another fee increase on covered businesses. The bill's deadline also does not provide time or authority to hire needed staff.

Continued

Analyst/Principal (0623) K. DaRosa Date Program Budget Manager Karen Finn Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

I. Ruskin

March 25, 2010

AB 2224

COMMENTS Continued

- Given the state's 117 separate local agencies, the bill's requirement will impose administratively burdensome requirements on these local entities, as each required local agency fee increase would require a calculation of the amount of local oversight fee increase necessary and either city council or county board of supervisors approval.

ANALYSIS**A. Programmatic Analysis**

Chapter 571, Statutes of 2008 (AB 2286) requires, no later than January 1, 2013, all regulated businesses and all regulated local government agencies, called Certified Unified Program Agencies (CUPAs) or Participating Agencies (PAs), to use the Internet to file required Unified Program information now filed by paper forms. This information will include facility data regarding hazardous material regulatory activities, chemical inventories, underground and aboveground storage tanks, and hazardous waste generation. It will also include local agency data such as inspections and enforcement actions. (Note: AB 2286 required the CalEPA Secretary to assist businesses to comply with the electronic reporting requirements and increased the CalEPA oversight surcharge, which funds the UPA, from \$24 to \$49 annually for three years, for that purpose.)

The earliest electronic filers started using the statewide system, called the California Environmental Reporting System (CERS) in September 2009. CERS is currently up and running on a limited basis with full implementation scheduled in the 2012-13 fiscal year. Once CERS is fully functional, according to CalEPA, the system will be capable of collecting, verifying and analyzing data collected and reported by the UPAs, including the UST Tank numbers issued by BOE.

However, during the ongoing implementation of AB 2286, specifically, in February of 2010, Sjoberg Evashenk Consulting, working on behalf of the State Water Resources Control Board, completed a performance audit of the UST program. Included within the audit's recommendations was the suggestion that a program be established by the CalEPA and the California Certified Unified Program Agencies Forum to develop procedures that require and ensure all California UST permitting agencies verify tank owners have established accounts with BOE to remit the required BOE UST maintenance fee before approving or renewing UST permits.

This bill seeks to statutorily require a process by which a local agency must verify annually that the tank number issued by BOE to a property owner of a covered facility location (i.e. property which contains USTs that contain qualified petroleum products) is correctly reported to BOE. It does not address any of the other 59 recommendations of the performance audit report related to the Water Board's Underground Storage Tank Cleanup Fund.

B. Fiscal Analysis

CalEPA estimates a cost of \$48,000 Unified Program Account (UPA) and 0.35 position over the 2011 calendar year to develop regulations pursuant to the bill's provisions and to hold three public hearings on the proposed regulation, as required by law. The Board of Equalization has not yet provided a cost estimate, however the Department of Finance estimates costs related to its consultative role to be minor and absorbable within existing resources. The bill would impose a state-mandated local program by requiring a local agency, pursuant to the CalEPA process, once established, to annually verify that the tank number issued by the BOE is correct and accurate. However, the mandate would not be state-reimbursable, as the local agencies have the authority to charge fees to pay for the level of service the bill would require. The bill contains an appropriate self-financing authority mandate disclaimer.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

AMENDMENT DATE

BILL NUMBER

I. Ruskin

March 25, 2010

AB 2224

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
1256/Othr Reg Fee	RV	No		--	U	\$24	U	\$24	0028
0555/Environ Prot	SO	No		--	C	\$24	C	\$24	0028
0555/Environ Prot	SO	No		----- See Fiscal Summary -----					0028

<u>Fund Code</u>	<u>Title</u>
0028	Unified Program Account