

AMENDED IN ASSEMBLY JUNE 1, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Wieckowski

February 8, 2011

~~An act to amend Sections 25299.43 and 25299.117 of, to add Section 25299.51.3 to, and to repeal Article 9 (commencing with Section 25299.81) of Chapter 6.75 of Division 20 of, An act to amend Section 25299.43 of the Health and Safety Code, relating to underground storage tanks.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Wieckowski. Underground storage tanks: petroleum: ~~act extension:~~ charges.

~~(1) Under~~

~~Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, which is repealed on January 1, 2016, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank.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 act, among other things, requires the owners and operators of those tanks to establish and maintain evidence of financial responsibility and authorizes the State Water Resources Control Board, a California regional water quality control board, or a local agency to take corrective action with regard to a release from those tanks. The act requires certain information to be submitted by tank owners or operators under penalty of perjury. The fees are required to be deposited in the Underground Storage Tank~~

Cleanup Fund and the 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 control 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 provides for an increase in *the* fee at a rate of \$0.006 per gallon of petroleum between January 1, 2010, and December 31, 2011, and terminates that increase on January 1, 2012.

~~This bill would delete the repeal of the act, thereby continuing indefinitely the operation of that act, including the requirement for the payment of the fee and the criminal penalties concerned within. The bill would also continue the requirement to pay that increased amount of \$0.006 per gallon until January 1, 2014. By operation of existing law, the revenue resulting from the *increased* fee would be required to be deposited in the fund and be available, upon appropriation, for expenditure for the purposes authorized under existing law for money in the fund. 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.~~

~~By continuing the operation of the criminal penalties of the act, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

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

1 25299.43. (a) To implement the changes to this chapter made
2 by Chapter 1191 of the Statutes of 1994, and consistent with
3 Section 25299.40, effective January 1, 1995, every owner subject
4 to Section 25299.41 shall pay a storage fee of one mill (\$.001)
5 for each gallon of petroleum placed in an underground storage
6 tank that the person owns, in addition to the fee required by Section
7 25299.41.

8 (b) On and after January 1, 1996, the storage fee imposed under
9 subdivision (a) shall be increased by two mills (\$.002) for each
10 gallon of petroleum placed in an underground storage tank.

11 (c) On and after January 1, 1997, the storage fee increased under
12 subdivision (b) shall be increased by an additional three mills
13 (\$.003) for each gallon of petroleum placed in an underground
14 storage tank.

15 (d) On and after January 1, 2005, the storage fee increased under
16 subdivision (c) shall be increased by an additional one mill (\$.001)
17 for each gallon of petroleum placed in an underground storage
18 tank.

19 (e) On and after January 1, 2006, the storage fee increased under
20 subdivision (d) shall be increased by an additional one mill
21 (\$.001) for each gallon of petroleum placed in an underground
22 storage tank.

23 (f) On and after January 1, 2010, the storage fee increased under
24 subdivision (e) shall be increased by an additional six mills
25 (\$.006) for each gallon of petroleum placed in an underground
26 storage tank. The increase provided for in this subdivision shall
27 be effective until January 1, 2014, at which time, the fee shall
28 revert back to the fee pursuant to subdivision (e).

29 (g) The fee imposed under this section shall be paid to the State
30 Board of Equalization under Part 26 (commencing with Section
31 50101) of Division 2 of the Revenue and Taxation Code in the
32 same manner as, and consistent with, the fees imposed under
33 Section 24299.41.

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

36 ~~SEC. 2.— Section 25299.51.3 is added to the Health and Safety~~
37 ~~Code, to read:~~

38 ~~25299.51.3. The board shall continuously post and update on~~
39 ~~its Internet Web site, but at a minimum, annually on or before~~
40 ~~September 30, information that describes the status of the fund~~

1 and shall make recommendations, when appropriate, to improve
 2 the efficiency of the program.

3 ~~SEC. 3. Article 9 (commencing with Section 25299.81) of~~
 4 ~~Chapter 6.75 of Division 20 of the Health and Safety Code is~~
 5 ~~repealed.~~

6 ~~SEC. 4. Section 25299.117 of the Health and Safety Code is~~
 7 ~~amended to read:~~

8 ~~25299.117. (a) Except as provided in subdivision (b), this~~
 9 ~~chapter shall remain in effect only until January 1, 2016, and as~~
 10 ~~of that date is repealed, unless a later enacted statute that is enacted~~
 11 ~~on or before January 1, 2016, deletes or extends that date.~~

12 ~~(b) The repeal of this chapter does not terminate any of the~~
 13 ~~following rights, obligations, or authorities, or any provision~~
 14 ~~necessary to carry out either of the following rights and obligations:~~

15 ~~(1) The repayment of loans, outstanding as of January 1, 2016,~~
 16 ~~due and payable to the board.~~

17 ~~(2) (A) The payment of loans and grants, consistent with the~~
 18 ~~terms of agreements that were effective prior to January 1, 2016,~~
 19 ~~from the Underground Storage Tank Cleanup Fund, pursuant to~~
 20 ~~this chapter or the Petroleum Underground Storage Tank Financing~~
 21 ~~Account pursuant to this chapter.~~

22 ~~(B) The amount of money disbursed for grants and loans~~
 23 ~~pursuant to this chapter shall not exceed the sum of the following:~~

24 ~~(i) The amount that reverts to the Underground Storage Tank~~
 25 ~~Cleanup Fund pursuant to Section 25299.111.~~

26 ~~(ii) Amounts recovered through the repayment of loans granted~~
 27 ~~pursuant to this chapter.~~

28 ~~(iii) The resolution of any cost recovery action filed prior to~~
 29 ~~January 1, 2016, or the initiation of an action or other collection~~
 30 ~~process to recover defaulted loan moneys due to the board or to~~
 31 ~~recover money paid to a grant or loan recipient pursuant to this~~
 32 ~~chapter to which the recipient is not entitled.~~

33 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
 34 ~~Section 6 of Article XIII B of the California Constitution because~~
 35 ~~the only costs that may be incurred by a local agency or school~~
 36 ~~district will be incurred because this act creates a new crime or~~
 37 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
 38 ~~for a crime or infraction, within the meaning of Section 17556 of~~
 39 ~~the Government Code, or changes the definition of a crime within~~

1 ~~the meaning of Section 6 of Article XIII B of the California~~
2 ~~Constitution.~~

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