

**Introduced by Senator Evans
(Principal coauthor: Senator Jackson)
(Coauthors: Senators Beall, Block, DeSaulnier, Hancock, Leno,
and Liu)**

February 12, 2013

An act to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 241, as introduced, Evans. Oil severance Tax Law.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an oil severance tax on and after January 1, 2014, upon any producer for the privilege of severing oil from the earth or water in this state for sale, transport, consumption, storage, profit, or use, as provided, at the rate of 9.9% of the gross value of each barrel of oil severed. The tax would be administered by the Department of Conservation and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the department to deposit all tax revenues, penalties, and interest collected pursuant to these provisions into the Oil Severance Fund, a continuously appropriated fund created by this bill, for allocation to the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the Department of Parks and Recreation, as provided.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

This bill would include 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 2/3 of the membership of each house of the Legislature.

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: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Part 21 (commencing with Section 42001) is
2 added to Division 2 of the Revenue and Taxation Code, to read:

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4

PART 21. OIL SEVERANCE TAX LAW

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6 42001. This part shall be known and may be cited as the Oil
7 Severance Tax Law.

8 42002. For purposes of this part, the following definitions shall
9 apply:

10 (a) "Barrel of oil" means 42 United States gallons of 231 cubic
11 inches per gallon computed at a temperature of 60 degrees
12 Fahrenheit.

13 (b) "Department" means the Department of Conservation.

14 (c) "Gross value" means the sale price at the mouth of the well
15 in the case of oil, including any bonus, premium, or other thing of
16 value paid for the oil. If there is no sale at the time of severance,
17 "gross value" means the sale price when the oil is sold, including
18 any bonus, premium, or other thing of value paid for the oil. If oil
19 is exchanged for something other than cash, or if the relation
20 between the buyer and the seller is such that the consideration
21 paid, if any, is not indicative of the true value or market price, then
22 the department shall determine the value of the oil subject to the

1 tax based on the cash price paid to producers for like quality oil
2 in the vicinity of the well.

3 (d) “Oil” means petroleum, or other crude oil, condensate, casing
4 head gasoline, or other mineral oil that is mined, produced, or
5 withdrawn from below the surface of the soil or water in this state.

6 (e) “Producer” means any person or entity that takes oil from
7 the earth or water in this state in any manner; any person that owns,
8 controls, manages, or leases any oil well in the earth or water of
9 this state; any person that produces or extracts in any manner any
10 oil by taking it from the earth or water in this state; any person
11 that acquires the severed oil from a person or agency exempt from
12 property taxation under the United States Constitution or other
13 laws of the United States or under the California Constitution or
14 other laws of the State of California; and any person that owns an
15 interest, including a royalty interest, in oil or its value, whether
16 the oil is produced by the person owning the interest or by another
17 on the person’s behalf by lease, contract, or other arrangement.

18 (f) “Production” means the total gross amount of oil produced,
19 including the gross amount attributable to a royalty or other
20 interest.

21 (g) “Severed” or “severing” means the extraction or withdrawing
22 from below the surface of the earth or water of any oil, regardless
23 of whether the extraction or withdrawal shall be by natural flow,
24 mechanical flow, forced flow, pumping, or any other means
25 employed to get the oil from below the surface of the earth or
26 water, and shall include the extraction or withdrawal by any means
27 whatsoever of oil upon which the tax has not been paid, from any
28 surface reservoir, natural or artificial, or from a water surface.

29 (h) “Stripper well” means a well that has been certified by the
30 department as an oil well incapable of producing an average of
31 more than 10 barrels of oil per day during the entire taxable month.
32 Once a well has been certified as a stripper well, that stripper well
33 shall remain certified as a stripper well until the well produces an
34 average of more than 10 barrels of oil per day during an entire
35 taxable month.

36 42003. On and after January 1, 2014, for the privilege of
37 severing oil from the earth or water in this state for sale, transport,
38 consumption, storage, profit, or use, a tax is hereby imposed upon
39 all producers at the rate of 9.9 percent of the gross value of each

1 barrel of oil severed. The tax shall be applied equally to all portions
2 of the gross value of each barrel of oil severed.

3 42004. Except as otherwise provided in this part, the tax shall
4 be upon the entire production in this state, regardless of the place
5 of sale or to whom sold or by whom used, or the fact that the
6 delivery may be made to points outside the state.

7 42005. The tax imposed by this part shall be in addition to any
8 ad valorem taxes imposed by the state, or any of its political
9 subdivisions, or any local business license taxes that may be
10 incurred as a privilege of severing oil from the earth or water or
11 doing business in that locality. There shall be no exemption from
12 payment of an ad valorem tax related to equipment, material, or
13 property by reason of the payment of the gross severance tax
14 pursuant to this part.

15 42006. Two or more producers that are corporations and are
16 owned or controlled directly or indirectly, as defined in Section
17 25105, by the same interests shall be considered as a single
18 producer for purposes of application of the tax prescribed in this
19 part.

20 42007. (a) There shall be exempted from the imposition of
21 the oil severance tax imposed pursuant to this part oil produced
22 by a stripper well in which the average value of oil as of January
23 1 of the prior year is less than thirty dollars (\$30) per barrel.

24 (b) For oil produced in this state from a well that qualifies under
25 Section 3251 of the Public Resources Code or which has been
26 inactive for a period of at least the preceding five consecutive
27 years, the imposition of the oil severance tax shall be reduced to
28 zero for a period of 10 years.

29 42008. The tax imposed by this part is due and payable to the
30 department quarterly on or before the last day of the month next
31 succeeding each calendar quarter.

32 42009. (a) Any person who fails to pay any tax within the time
33 required shall pay, in addition to the amount of tax owed, plus
34 interest at the rate of 1 ½ percent per month, or fraction thereof,
35 computed from the delinquent date of the assessment until and
36 including the date of payment.

37 (b) Each payment on a delinquent tax owed pursuant to this part
38 shall be applied as follows:

39 (1) First, to any interest due on the tax.

40 (2) Second, to any penalty imposed by this part.

1 (3) Third, to the balance, if any, of the tax due.

2 42010. On or before the last day of the month following each
3 quarterly period of three months, a return for the preceding
4 quarterly period shall be filed with the department in the form as
5 the department may prescribe.

6 42011. (a) The department shall deposit all tax revenues,
7 penalties, and interest collected pursuant to this part in the Oil
8 Severance Fund, which is hereby established in the State Treasury.

9 (b) Notwithstanding Section 13340 all moneys in the fund are
10 hereby continuously appropriated without regard to fiscal year as
11 follows:

12 (1) Ninety-three percent of the moneys in the fund, in equal
13 shares, to the Regents of the University of California, the Trustees
14 of the California State University, and the Board of Governors of
15 the California Community Colleges for the general support of
16 those institutions.

17 (2) Seven percent of the moneys in the fund to the Department
18 of Parks and Recreation for the maintenance and improvement of
19 state parks.

20 42012. The department may prescribe those forms and reporting
21 requirements as necessary to implement the tax, including, but not
22 limited to, information regarding the location of the well by county,
23 the gross amount of oil produced, the quantity sold and the selling
24 price, the prevailing market price of oil, and the amount of tax
25 due.

26 42013. The department shall administer and collect the tax
27 imposed by this part pursuant to the Fee Collection Procedures
28 Law (Part 30 (commencing with Section 55001) of Division 2).
29 For purposes of this part, the reference in the Fee Collection
30 Procedures Law to “fee” shall include the tax imposed by this part,
31 to “feepayer” shall include a person required to pay the oil
32 severance tax, and to “board” shall mean the Department of
33 Conservation.

34 42014. In addition to the authority granted by Section 55301,
35 the department may prescribe, adopt, and enforce emergency
36 regulations relating to the administration and enforcement of this
37 part. Any emergency regulations prescribed, adopted, or enforced
38 pursuant to this section shall be adopted in accordance with Chapter
39 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
40 Title 2 of the Government Code, and for the purposes of that

1 chapter, including Section 11349.6 of the Government Code, the
2 adoption of these regulations is an emergency and shall be
3 considered by the Office of Administrative Law as necessary for
4 the immediate preservation of the public peace, health and safety,
5 and general welfare. Notwithstanding Chapter 3.5 (commencing
6 with Section 11340) of Part 1 of Division 3 of Title 2 of the
7 Government Code, including subdivision (e) of Section 11346.1
8 of the Government Code, any emergency regulations adopted
9 pursuant to this section shall be filed with, but not be repealed by,
10 the Office of Administrative Law, and shall remain in effect until
11 revised by the director.

12 42015. If any provision of this part or the application to any
13 person or circumstances is held invalid, that invalidity shall not
14 affect other provisions or applications of the part which can be
15 given effect without the invalid provision or application, and to
16 this end, the provisions of this part are severable.