

AMENDED IN SENATE JUNE 12, 1995
AMENDED IN ASSEMBLY MAY 17, 1995
AMENDED IN ASSEMBLY MARCH 27, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 645

Introduced by Assembly Member Frusetta

February 21, 1995

An act to amend Section 25205.2 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 645, as amended, Frusetta. Hazardous waste facilities: fees.

Existing law requires each operator of a hazardous waste facility to pay the State Board of Equalization a facility fee for each reporting period, for deposit in the Hazardous Waste Control Account in the General Fund, and authorizes the funds in the account to be expended, upon appropriation by the Legislature, for specified purposes, including for expenditure by the Department of Toxic Substances Control to administer a hazardous waste control program and the Carpenter-Presley-Tanner Hazardous Substance Account Act.

Under existing law, a person is entitled to a refund of the facility fees if the person ceased actual treatment, storage, or disposal of hazardous waste before ~~January~~ *July* 1, 1986, *whether generated onsite or received from offsite*, paid

facility fees for any reporting period after that date pursuant to a decision of the board, and filed a claim for refund of those fees on or before January 1, 1994.

~~This bill would limit the refund to hazardous waste generated onsite and would additionally entitle a person to a refund of those fees if the person paid those fees after protesting the validity of the fee assessment to a tax auditor of the board exclude, from the requirement that the fee was paid pursuant to a board decision, a refund paid to a person with regard to waste generated onsite, if timely claims were filed for all payments.~~

Vote: majority. 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 25205.2 of the Health and Safety
2 Code is amended to read:
3 25205.2. (a) Except as provided in subdivisions (c),
4 (e), (f), (h), and (i), in addition to the fees specified in
5 Section 25174.1, each operator of a facility shall pay a
6 facility fee for each reporting period, or any portion
7 thereof, to the board based on the size and type of the
8 facility, as specified in Section 25205.4. On or before
9 January 31 of each calendar year, the department
10 annually shall notify the board of all known facility
11 operators by facility type and size. The department shall
12 also notify the board of any operator who is issued a
13 permit or grant of interim status within 30 days from the
14 date that a permit or grant of interim status is issued to the
15 operator. The fee specified in this section does not apply
16 to facilities exempted pursuant to Section 25205.12.
17 (b) The board shall deposit all fees collected pursuant
18 to subdivision (a) in the Hazardous Waste Control
19 Account in the General Fund. The fees so deposited may
20 be expended by the department, upon appropriation by
21 the Legislature, for the purposes specified in subdivision
22 (b) of Section 25174.
23 (c) Notwithstanding subdivision (a), a person who is
24 issued a variance by the department from the



1 requirement of obtaining a hazardous waste facilities
2 permit or grant of interim status is not subject to the fee,
3 for any reporting period following the reporting period
4 in which the variance was granted by the department.

5 (d) Operators subject to facility fee liability pursuant
6 to this section shall pay the following amounts:

7 (1) The operator shall pay the applicable facility fee
8 for each reporting period in which the facility actually
9 engaged in the treatment, storage, or disposal of
10 hazardous waste.

11 (2) The operator shall pay the applicable facility fee
12 for one additional reporting period immediately
13 following the final reporting period in which the facility
14 actually engaged in that treatment or storage. For the
15 1994 reporting period and thereafter, the facility's size for
16 that additional reporting period shall be deemed to be the
17 largest size at which the facility has ever been subject to
18 the fee. If the department previously approved a unit or
19 portion of the facility for a variance, closure, or
20 permit-by-rule, the facility's size for that reporting period
21 shall be deemed to be its largest size since the department
22 granted the approval.

23 (3) The operator of a disposal facility shall pay twice
24 the applicable facility fee for one additional reporting
25 period immediately following the final reporting period
26 in which the facility actually engaged in disposal of
27 hazardous waste.

28 (4) For the 1994 reporting period and thereafter, a
29 facility shall not be deemed to have stopped treating,
30 storing, or disposing of hazardous waste unless the facility
31 has actually ceased that activity and has notified the
32 department of its intent to close.

33 (5) If the reporting period which immediately
34 followed the final reporting period in which a facility
35 actually engaged in the treatment, storage, or disposal of
36 the hazardous waste was the six-month period from July
37 1, 1991, through December 31, 1991, the operator shall be
38 subject to twice the fee otherwise applicable to that
39 operator for that reporting period under paragraphs (2)
40 and (3).



1 (e) No facility shall be subject to a facility fee for
2 treatment, storage, or disposal, if that activity ceased
3 before July 1, 1986, and if the fee for the activity was not
4 paid prior to January 1, 1994.

5 (f) Notwithstanding any other provision of this
6 section, a person who ceased actual treatment, storage, or
7 disposal of hazardous waste, ~~generated onsite whether~~
8 *generated onsite or received from offsite*, before July 1,
9 1986, and who paid facility fees for any reporting period
10 after ~~that date either pursuant to a decision of the State~~
11 ~~Board of Equalization or after protesting the validity of~~
12 ~~the fee assessment to a tax auditor of the State Board of~~
13 ~~Equalization pursuant to Part 22 (commencing with~~
14 ~~Section 43001) of Division 2 of the Revenue and Taxation~~
15 ~~Code, and who filed a claim for refund of those fees on or~~
16 ~~before January 1, 1994, shall be entitled to a refund of~~
17 ~~those amounts.~~ *that date, shall be entitled to a refund of*
18 *those amounts if the person meets both of the following*
19 *conditions:*

20 (1) *The person filed a claim for refund on or before*
21 *January 1, 1994.*

22 (2) *The fee was either paid pursuant to a decision of*
23 *the State Board of Equalization, or, if the waste was*
24 *generated solely onsite, the person files a timely claim for*
25 *all payments.*

26 (g) Facility operators who treated, stored, or disposed
27 of hazardous waste on or after July 1, 1986, shall be subject
28 to the provisions of this section which were in effect prior
29 to January 1, 1994, as to payments which their operators
30 made prior to January 1, 1994. The operators shall be
31 subject to subdivision (d) as to any other liability for the
32 facility fee.

33 (h) A treatment facility is not subject to the facility fee
34 established pursuant to this section, if the facility engages
35 in treatment exclusively to accomplish a removal or
36 remedial action or a corrective action in accordance with
37 an order issued by the Environmental Protection Agency
38 pursuant to the federal act or in accordance with an order
39 issued by the department pursuant to Section 25187, if the
40 facility was put in operation solely for purposes of



1 complying with that order. The department shall instead
2 assess a fee for that facility for the actual time spent by the
3 department for the inspection and oversight of that
4 facility. The department shall base the fee on the
5 department's work standards and shall assess the fee on
6 an hourly basis.

7 (i) Notwithstanding subdivision (a), a facility
8 operating pursuant to a standardized permit or grant of
9 interim status, as specified in Section 25201.6, is exempt
10 from the annual facility fee imposed by this section for a
11 period of time equal to the number of years that the
12 facility lawfully operated prior to September 21, 1993,
13 pursuant to a hazardous waste facilities permit or other
14 grant of authorization and paid facility fees for the
15 operation of the facility pursuant to this section.

