



# Fact Sheet

## **Allocation of Three Mills of the Petroleum Storage Fee Senate Bill (SB) 445 (Chapter 547, Statutes of 2014)**

SB 445 (Hill, 2014) requires that the State Water Resources Control Board (State Water Board) annually provide an informational presentation at a State Water Board meeting, with opportunity for public comment, before determining how funds generated from 3 mills (\$0.003) of the two cent (\$0.02) petroleum storage fee will be allocated among three purposes specified in statute:

1. Providing additional funding to the Petroleum Underground Storage Tank Financing Account for loans and grants to assist small business Underground Storage Tank (UST) owners and operators in complying with UST regulatory requirements. These loans and grants would be made through the Replacing, Removing, or Upgrading Underground Storage Tanks program. That assistance includes complying with the phase out of single-walled tanks;
2. Providing additional funding, as needed, to the School District Account to reimburse school districts for their costs associated with cleaning up leaking USTs; and
3. Funding the new Site Cleanup Subaccount for the investigation and remediation of harm caused by contaminated surface or groundwater.

### **Annual State Water Board Meetings for Public Comment**

The purpose of the annual informational item at a State Water Board meeting is to provide the public with an opportunity to comment on the allocation of the 3 mills, and no action is required at the meeting by the State Water Board. The State Water Board will seek comment from interested stakeholders.

The State Budget for the fiscal year will appropriate the amounts in three different accounts for the three different purposes. The State Budget process begins with publication of the Governor's Budget in January, followed by Legislative hearings, and adoption some time thereafter.



## Background

SB 445 is an urgency measure that makes substantial changes to the UST Cleanup Fund program, including:

1. Extending the sunset date of the Cleanup Fund until January 1, 2026;
2. Increasing the assessment on petroleum stored in USTs from \$0.014 per gallon to \$0.02 per gallon;
3. Dedicating 3 mills (\$0.003) of the \$0.02 assessment for the State Water Board to use, upon appropriation by the Legislature, for three specific purposes; and
4. Requiring the removal of all single walled USTs.

## Three Purposes of the 3 Mills

The 3 mills are estimated to generate approximately \$39.5 million annually. This funding can be allocated among the three purposes discussed below in any proportion, and this proportion can change each fiscal year.

### Removing, Replacing or Upgrading USTs Loans and Grants

The Petroleum Underground Storage Tank Financing Account provides funds for grants and loans to assist small businesses, UST owners, and operators to come into compliance with UST regulatory requirements by removing, replacing, or upgrading USTs, and funds administration costs. It is expected that there will be an increased demand for these loans and grants to eligible owners and operators of single-walled USTs.

### School District Account

The School District Account within the Underground Storage Tank Cleanup Fund provides funding for claims filed by school districts for the reimbursement of eligible corrective action costs regardless of priority class of the claim. The account was created exclusively to assist school districts with site cleanup for contamination caused by releases from USTs.

## Site Cleanup Subaccount

The Site Cleanup Subaccount was created by SB 445 for investigation and remediation of the harm to human health, safety, and the environment caused by surface water or groundwater contamination. This funding may be used for regulatory agency expenditures to identify the source and remediate surface or groundwater contamination. The State Water Board may also issue grants for remediation where the responsible parties lack sufficient financial resources to pay for required response actions. The State Water Board must review grant applications and adopt lists of applicants to be award grants. The State Water Board must consider the degree to which human health, safety, and the environment are threatened; whether the location is in a small or financially disadvantaged community; the cost and potential environmental benefit of the investigation or cleanup; whether there are other potential sources of funding for the investigation or cleanup; and any other information the board identifies as necessary for consideration.

### **Sources:**

USTCF SB 445 info:

[SB 445 \(Chapter 547, Statutes of 2014\) text](#)

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/sb445/](http://www.waterboards.ca.gov/water_issues/programs/ustcf/sb445/)

RUST:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.shtml)

SDA:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/schooldistrict\\_account.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/schooldistrict_account.shtml)

## Relevant SB 445 Language

**Health & Safety Code section 25299.43 (g) (1)** On and after the first day of the first calendar quarter commencing more than 90 days after the effective date of the act adding this paragraph, the storage fee increased under subdivision (e) shall be increased by an additional six mills (\$0.006) for each gallon of petroleum placed in an underground storage tank. The increase provided for in this subdivision shall be effective until January 1, 2026, at which time the increase provided for in this section shall not be operative.

(2) Three mills (\$0.003) of the six mill (\$0.006) for each gallon of petroleum placed in an underground storage tank collected pursuant to this subdivision shall be available for expenditure by the board only for purposes provided in subdivision (o) of Section 25299.51.

(3) The board shall annually provide an informational presentation at a board meeting, with the opportunity for public comment, before determining how the funds collected pursuant to this subdivision will be allocated among the purposes provided in subdivision (o) of Section 25299.51.

### 3 Purposes

**Health & Safety Code section 25299.51.** The board may expend the money in the fund for all the following purposes:

...

(k) For transfer to the Petroleum Underground Storage Tank Financing Account, for purposes of Chapter 6.76 (commencing with Section 25299.100).

...

(m) For transfer to the Site Cleanup Subaccount to pay for expenditures by the board pursuant to Section 25299.50.6, including costs for regulatory oversight of sites funded pursuant to that section.

...

(o) (1) For transfer to the School District Account to pay for expenditures by the board pursuant to Section 25299.50.3 or for transfer pursuant to subdivision (k) or (m).

(2) This subdivision shall apply only to the moneys collected pursuant to paragraph (2) of subdivision (g) of Section 25299.43.

### Site Cleanup Subaccount

**Health & Safety Code section 25299.50.6.** (a) The Site Cleanup Subaccount is hereby established in the State Treasury. Moneys shall be deposited in the subaccount pursuant to subdivision (m) of Section 25299.51.

(b) The board may expend the funds in the Site Cleanup Subaccount, upon appropriation by the Legislature, for the following purposes:

(1) To pay for reasonable and necessary expenditures that the board, a regional board, or a local agency incurs to identify the source of surface or groundwater contamination.

(2) To pay for reasonable and necessary expenditures that the board, a regional board, or a local agency incurs to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination. The board shall consider the following factors when approving expenditures for specific locations:

(A) The degree to which human health, safety, and the environment are threatened by contamination at the location.

(B) Whether the location is located in a small or financially disadvantaged community.

(C) The cost and potential environmental benefit of the investigation or cleanup.

(D) Whether there are other potential sources of funding for the investigation or cleanup.

(E) Any other information the board identifies as necessary for consideration.

- (3) To issue grants pursuant to this section for the reasonable and necessary costs of actions to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination at a location that meets both of the following conditions:
- (A) The board, a regional board, or local agency requires the responsible parties to undertake or contract for investigation or cleanup, pursuant to an oral or written order, directive, notification, or approval issued pursuant to Section 25296.10, or pursuant to a cleanup and abatement order issued under Section 13304 of the Water Code. The board may waive this requirement if the board finds that it is infeasible for an order to be issued before initiation of remediation.
  - (B) The responsible parties lack sufficient financial resources to pay for the required response actions.
- (4) For payments to the Attorney General by the board pursuant to subdivision (g).
- (c) At least annually, the board shall review grant applications and adopt a list of applicants to be awarded grants pursuant to paragraph (3) of subdivision (b). In addition to the conditions specified in paragraph (3) of subdivision (b), the board shall consider all of the following factors when awarding grants:
- (1) The degree to which human health, safety, and the environment are threatened by surface water or groundwater contamination at the location.
  - (2) Whether the location is located in a small or financially disadvantaged community.
  - (3) The cost and potential environmental benefit of the investigation or cleanup.
  - (4) Whether there are other potential sources of funding for the investigation or cleanup.
  - (5) Any other information the board identifies as necessary for consideration.
- (d) (1) The board shall specify the information that shall be included in a grant application, consistent with this section, including, but not limited to, a provision requiring the applicant to make a sworn verification of the information in the application to the best of the applicant's knowledge.
- (2) The board may adopt procedures to implement this section.
  - (3) The board shall post any procedures or information requirements adopted pursuant to this section on its Internet Web site.
- (e) (1) The recipient of grant moneys shall expend those funds only for the reasonable costs necessary to protect human health, safety, and the environment, incurred on or after the effective date of the act adding this section.
- (2) The board shall not issue a grant for any costs for which the applicant has been, or will be, paid by another source.
  - (3) The board may terminate a grant and may bar the applicant from receiving any future grants from the Site Cleanup Subaccount if the board finds that the applicant has made a misrepresentation or false claim.
- (f) (1) Any funds in the Site Cleanup Subaccount that are not expended in a fiscal year shall remain in the subaccount until they are encumbered.
- (2) Notwithstanding Section 16304.1 of the Government Code, the board shall encumber the funds appropriated pursuant to this section within three years of the appropriation and the board may make a disbursement in liquidation of an encumbrance before or during the three years following the last day the appropriation is available for encumbrance.
  - (3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money in the Site Cleanup Subaccount shall be deposited in the Site Cleanup Subaccount.
- (g) The Attorney General may recover the actual, reasonable costs of investigation or cleanup undertaken pursuant to this section in a civil action, upon request from the board, from any responsible party. All money recovered by the Attorney General pursuant to this section shall be deposited in the Site Cleanup Subaccount.