

SENATE THIRD READING  
SB 328 (Grayson)  
As Amended August 13, 2026  
Majority vote

## SUMMARY

Requires, no later than December 31, 2029, the Department of Toxic Substances Control (DTSC) to prepare and submit to the Legislature a report regarding the Generation and Handling Fee imposed on affordable housing development projects.

### Major Provisions

- 1) Requires, no later than December 31, 2029, DTSC to prepare and submit to the Legislature a report regarding the Generation and Handling Fee imposed on affordable housing development projects. The report shall include but is not limited to the following:
  - a) The classification and amount of hazardous waste, in tons, generated annually from each affordable housing project;
  - b) The location or county of each affordable housing project;
  - c) Whether each affordable housing project is an infill project, a master development project, or both; and,
  - d) The amount of generation and handling fee assessed on each affordable housing project.

## COMMENTS

*California Hazardous Waste Control Law (HWCL):* The HWCL is the state's program that implements and enforces federal hazardous waste law in California and directs DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. The HWCL covers the entire management of hazardous waste, from the point the hazardous waste is generated, to management, transportation, and ultimately disposal into a state or federal authorized facility.

*Recent history of DTSC's fiscal issues:* DTSC's funding comes primarily from the Hazardous Waste Control Account (HWCA) and Toxic Substances Control Account (TSCA). The HWCA is a repository for revenues from cost recovery activities and fees paid by various hazardous waste generators, transporters, and facilities. The HWCA funds DTSC's regulatory work overseeing hazardous waste management activities in the state. The TSCA is a repository for revenues from cost recovery, penalties, interest, and the Environmental Fee. TSCA funds DTSC's work dealing with cleaning up contaminated properties, including federal Superfund sites and state orphan sites, as well as funding the Safer Consumer Products Program (also known as the Green Chemistry Program).

The HWCA and TSCA had been operating with a structural deficit for several years. The Budget Act of 2019-2020 provided the HWCA with \$27.5 million from the General Fund to backfill the shortfall and maintain existing operations. The Governor's budget for 2020-2021 provided a \$12 million backfill from special funds for TSCA and a backfill of approximately \$19

million for the HWCA (also from special funds), as those accounts were projected to be insolvent in the budget year.

*Final DTSC reform (Senate Bill (SB) 158):* In 2021, as a result of months of negotiation, the Administration and Legislature agreed to a compromise on DTSC reform by enacting SB 158 (Senate Budget Committee), Chapter 73, Statutes of 2021. SB 158 included the creation of the five-member Board of Environmental Safety (Board) that sets policy and prioritizes transparency and accountability for DTSC.

SB 158 also enacted fee reform by eliminating and modifying some fees. This included repealing the generator fee and instead establishing the new generation and handling fee. The bill also created a new hazardous waste facility fee and modified and raised the Environmental Fee. Fees were increased and set at a rate that would eliminate DTSC's operating deficit, provide revenue for anticipated needs in the near-term, fund the Board and the development of a hazardous waste management plan, and provide DTSC with a prudent reserve.

*Generation and Handling Fee:* The Generation and Handling Fee is a flat-rate-per-ton fee that applies to all hazardous waste generators that generate five or more tons of hazardous waste in a calendar year. A generator includes, but is not limited to, a person who is identified on a hazardous waste manifest as the generator.

This Generation and Handling fee is administered and collected by California Department of Tax and Fee Administration (CDTFA). Generators are required to report the amount of hazardous waste generated on a hazardous waste Generation and Handling Fee return provided by CDTFA.

Generators of hazardous waste include businesses that produce hazardous waste such as oil refineries and automobile repair (where used oil is changed), as well as entities that clean up contaminated sites. The entity that removes contamination from a contaminated site is called the generator of that hazardous waste and pays the Generation and Handling Fee. This includes the cleanup of industrial sites, railyards and sites that are being redeveloped into other uses, including for housing.

There has been concern raised by some generators of hazardous waste about the costs of the generation and handling being added to the cleanup of contaminated sites, especially given the fact that the Generation and Handling Fee has increased over the past several years. When SB 158 was enacted in 2021, the Generation and Handling Fee was at \$49.25 per ton, the current Generation and Handling Fee is \$62.24 per ton.

*This bill* requires, no later than December 31, 2029, DTSC to prepare and submit to the Legislature a report regarding the Generation and Handling Fee imposed on affordable housing development projects.

### **According to the Author**

"California is in the midst of a massive housing affordability crisis. Rising costs and high fees have made it difficult to build housing that is affordable. In recent years, certain developers have experienced sharp cost increases, due to how the hazardous waste generator fee was restructured by SB 158 in 2021. Instead of a tiered system, SB 158 replaced this model with a fixed \$49.25 per ton fee. This caused many projects to experience cost overruns, including some projects that were already completed. Builders should not be penalized for opening up land for productive use, especially when they are cleaning up pollution instead of creating it."

**Arguments in Support**

Not relevant to the current version of the bill.

**Arguments in Opposition**

Not relevant to the current version of the bill.

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee, enactment of this bill could result in annual costs, for three years, to DTSC of approximately \$225,000. The costs to implement this bill may result in a minimal increase to the Generation and Handling Fee of less than 1 percent.

**VOTES****SENATE FLOOR: 38-0-2**

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Limón, Reyes

**ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-0**

**YES:** Connolly, Ellis, Bauer-Kahan, Castillo, Lee, McKinnor, Papan

**ASM REVENUE AND TAXATION: 7-0-0**

**YES:** Gipson, Ta, Bains, Carrillo, DeMaio, McKinnor, Quirk-Silva

**ASM APPROPRIATIONS: 11-0-4**

**YES:** Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

**ABS, ABST OR NV:** Hoover, Dixon, Ta, Tangipa

**UPDATED**

VERSION: August 13, 2026

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