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AB-1115 Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989: brownfields remediation and redevelopment. (2023-2024)

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Assembly Bill No. 1115

CHAPTER 561

An act to amend Sections 25299.32, 25299.41, 25299.43, 25299.50.3, 25299.50.7, 25299.51, 25299.57, 25299.58, 25299.81, 25299.82, and 25299.117 of the Health and Safety Code, and to amend Section 50108 of the Revenue and Taxation Code, relating to contamination.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1115, Papan. Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989: brownfields remediation and redevelopment.

(1) Existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 (act), requires an owner of an underground storage tank, as defined, for which a permit is required by law to pay storage fees for each gallon of petroleum placed in the tank. The act establishes the Underground Storage Tank Cleanup Fund (fund), and requires the storage fees, among other moneys, to be deposited into the fund. The act authorizes the State Water Resources Control Board to expend the moneys in the fund, upon appropriation by the Legislature, to pay for corrective action in response to an unauthorized release from an underground storage tank and for the cleanup and oversight of unauthorized releases at abandoned tank sites, among other specified purposes. The act requires that certain information be submitted to the state board, and other specified agencies, under penalty of perjury. The act provides for the repeal of certain of its provisions on January 1, 2026, but also provides that certain associated rights, obligations, and authorities that apply before the January 1, 2026, repeal date do not terminate upon repeal of the other provisions of the act.

This bill would postpone the repeal of those provisions to January 1, 2036. By extending the operation of those portions of the act, the bill would impose a state-mandated local program by continuing the operation of certain crimes regarding the furnishing of information under penalty of perjury. The bill would also 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 $\frac{2}{3}$ of the membership of each house of the Legislature.

(2) Until January 1, 2026, the act requires the State Water Resources Control Board to continually post and update on its internet website, as specified, information that describes the status of the fund and make certain recommendations.

This bill would make this provision operate indefinitely.

(3) Existing law authorizes the board to pay claims from the fund of up to \$1,000,000 per occurrence, as defined, to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks and to reimburse costs related to the compensation of third parties for bodily injury and property damages, as specified. Existing law prohibits any person from owning or operating an underground storage tank unless a permit has been issued to the

owner or operator of the tank. Existing law requires the board to make specified findings before paying a claim, including that the claimant has complied with the permit requirements and requires the claimant to demonstrate that compliance by submitting copies of the required permits or other documentation that demonstrate compliance to the board's satisfaction.

This bill would authorize a claimant, who no longer has a copies of the required permits, to demonstrate compliance by certifying that the required permits had been obtained and by providing other relevant documents, including, but not limited to, approved permit applications, payment records for permit fees, and inspection reports. The bill would require the board to consider all available documents when determining compliance, including documents available from the applicable local agency.

(4) 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: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25299.32 of the Health and Safety Code is amended to read:

25299.32. (a) Except as provided in subdivision (f), a claimant who meets any of the following requirements may use the fund to establish and maintain evidence of financial responsibility:

(1) A claimant who meets the qualifications of paragraph (1) of subdivision (b) of Section 25299.52 shall be deemed in compliance with Section 25299.31 if the claimant is eligible for reimbursement from the fund pursuant to Section 25299.54, subdivision (d) of Section 25299.57, and subdivision (b) of Section 25299.58.

(2) If a claimant meets the qualifications of paragraph (2) or (3) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least five thousand dollars (\$5,000) for each occurrence and at least five thousand dollars (\$5,000) annual aggregate coverage for taking corrective action.

(3) If a claimant meets the qualifications of paragraph (4) of subdivision (b) of Section 25299.52, the level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be at least ten thousand dollars (\$10,000) for each occurrence, and at least ten thousand dollars (\$10,000) annual aggregate coverage for taking corrective action.

(b) The level of financial responsibility required to be obtained pursuant to Section 25299.31 for each occurrence for bodily injury and property damage shall be in the amount specified by the board in the regulations adopted pursuant to Section 25299.77.

(c) The level of financial responsibility required to be obtained pursuant to Section 25299.31 shall be in the amount specified by the board for annual aggregate coverage for both corrective action and bodily injury and property damage.

(d) The board may periodically increase the minimum level of financial responsibility specified in subdivision (a) if the board determines that private insurance is available and affordable.

(e) The changes made to this section by Chapter 1191 of the Statutes of 1994 shall apply to all claimants with claims, or portions of claims, for corrective action at sites that have not been completed and for which reimbursement by the fund has not been fully paid by the board.

(f) (1) On and after January 1, 2035, an owner or operator of a tank for which a permit that is issued pursuant to Section 25284 is in effect shall not use the fund as a mechanism to demonstrate compliance with the financial responsibility requirements of Sections 25292.2 and 25299.31 and with the federal act.

(2) On or before December 31, 2034, an owner or operator who previously used the fund as a mechanism to demonstrate compliance with financial responsibility requirements shall submit, to the local agency that issued the permit for the operation of the tank pursuant to Section 25284, evidence of the alternative financial responsibility mechanism that will be used on and after January 1, 2035, to comply with Sections 25292.2 and 25299.31 and with the federal act.

SEC. 2. Section 25299.41 of the Health and Safety Code is amended to read:

25299.41. For the purpose of implementing this chapter, every owner of an underground storage tank for which a permit is required pursuant to Section 25284 shall pay a storage fee of six mills (\$0.006) for each gallon of petroleum placed in an underground storage tank that the person owns. The fee imposed pursuant to this section shall be paid to the California Department of Tax and Fee Administration pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.

SEC. 3. Section 25299.43 of the Health and Safety Code is amended to read:

25299.43. (a) To implement the changes to this chapter made by Chapter 1191 of the Statutes of 1994, and consistent with Section 25299.40, effective January 1, 1995, every owner subject to Section 25299.41 shall pay a storage fee of one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank that the person owns, in addition to the fee required by Section 25299.41.

(b) On and after January 1, 1996, the storage fee imposed under subdivision (a) shall be increased by two mills (\$0.002) for each gallon of petroleum placed in an underground storage tank.

(c) On and after January 1, 1997, the storage fee increased under subdivision (b) shall be increased by an additional three mills (\$0.003) for each gallon of petroleum placed in an underground storage tank.

(d) On and after January 1, 2005, the storage fee increased under subdivision (c) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

(e) On and after January 1, 2006, the storage fee increased under subdivision (d) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

(f) On and after January 1, 2010, 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, 2014, at which time, the fee shall revert back to the fee pursuant to subdivision (e).

(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, 2036, at which time the increase provided for in this section shall not be operative.

(2) Three mills (\$0.003) of the six mills (\$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.

(h) The fee imposed under this section shall be paid to the California Department of Tax and Fee Administration under Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed under Section 25299.41.

(i) The California Department of Tax and Fee Administration shall amend the regulations adopted under Section 25299.41 to carry out this section.

SEC. 4. Section 25299.50.3 of the Health and Safety Code is amended to read:

25299.50.3. (a) For purposes of this section, "school district" has the same meaning as set forth in Section 80 of the Education Code, and includes a county office of education.

(b) The School District Account is hereby created in the fund, for expenditure by the board to pay a claim filed by a district that is a school district and has a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. Notwithstanding Section 25299.52, in the 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52 only from funds appropriated from the School District Account.

(c) (1) The sum of ten million dollars (\$10,000,000) per year shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal years, from the fund to the School District Account, for expenditure, upon appropriation by the Legislature, for the payment of claims filed by a district that is a school district with a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. The ten million dollars (\$10,000,000) shall be transferred to the School District Account before allocating the remaining available funds to each priority ranking in paragraphs (1), (2), (3), and (4) of subdivision (b) of Section 25299.52.

(2) The board shall consult with the Department of Toxic Substances Control in allocating the funds transferred to the School District Account.

(3) The board shall pay claims from a school district with a priority based on paragraph (4) of subdivision (b) of Section 25299.52 from the School District Account in the order of the date of the filing of the claim application to the fund. In each of the fiscal years identified in subdivision (b), if the board estimates that money will be available in the School District Account after the board has allocated funding for all submitted claims from school districts with a priority based on paragraph (4) of subdivision (b) of Section 25299.52, School District Account funds may be used to fund school district claims with a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(d) (1) Funds in the School District Account that are not expended in a fiscal year shall remain in the School District Account. Funds remaining in the School District Account on January 1, 2036, shall be transferred to the fund.

(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.

(e) The board shall include in its annual report information on the expenditure of the funds transferred to the School District Account, as well as the amount of all claims filed by districts that are school districts and the amount of reimbursements made to districts that are school districts from the fund, and shall, in consultation with the Department of Toxic Substances Control, estimate the amount of funds needed to reimburse anticipated future claims by districts that are school districts. The board shall provide a copy of this report to the State Allocation Board and the State Department of Education.

(f) This section does not affect the priority of a district that is a school district and has a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(g) The board shall waive the requirements of paragraph (4) of subdivision (d) of Section 25299.57 for a claim that is reimbursed from the School District Account pursuant to this section if the superintendent of the school district receiving the reimbursement certifies to the board that petroleum was not delivered on or after January 1, 2003, to the tank that is the subject of the claim or that the tank was removed before January 1, 2003.

(h) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

SEC. 5. Section 25299.50.7 of the Health and Safety Code is amended to read:

25299.50.7. (a) The Expedited Claim Account is hereby created in the fund for expenditure by the board to pay claims that have been selected to participate in the pilot project established by this section.

(b) The sum of one hundred million dollars (\$100,000,000) shall be transferred in the 2015–16 fiscal year from the fund to the Expedited Claim Account for expenditure, upon appropriation by the Legislature, for the payment of claims pursuant to this section. Claims shall be paid from the Expedited Claim Account until moneys in the account are exhausted.

(c) Funds in the Expedited Claim Account that are not expended in a fiscal year shall remain in the Expedited Claim Account. Funds remaining in the Expedited Claim Account on January 1, 2036, shall be transferred to the fund.

(d) The board shall, with stakeholder input, establish the Expedited Claim Pilot Project to reduce the overall cost for site cleanup and the time to reach closure by increasing coordination with the responsible party, consultant, regulator, and the fund, and by using multiyear budgets.

(1) The board shall, with stakeholder input, investigate potential methods for reducing the overall cost for site cleanup and the time to reach closure including, but not limited to, establishment of multiyear funding for claims, increased collaboration between fund staff, regulatory staff, and claimants and their contractors, establishment of project milestones and cost estimates, and establishment of reimbursement submission schedules.

(2) The board shall solicit fund claims from all priority rankings for participation in the pilot project to implement potential improvement methods. The board shall select a limited number of claims to participate in the pilot project.

(3) The board shall develop criteria for the selection of claims to participate in the pilot project and, at a minimum, shall consider the threat to human health, safety, or the environment caused by contamination at the site that is the subject of the claim, the priority ranking assigned to the claim pursuant to Section 25299.52, and the progress of cleanup at the site that is the subject of the claim.

(4) The development of criteria and procedures pursuant to this subdivision shall not be considered as regulations subject to, and shall be exempt from, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The board shall include in its annual report information on the expenditure of funds transferred to the Expedited Claim Account, as well as the amount of all claims filed by claimants participating in the Expedited Claim Pilot Project and the amount of

reimbursements made to claimants in the pilot project.

(f) On or before January 1, 2018, the board shall prepare a report analyzing the effectiveness and efficiency of the Expedited Claim Pilot Project in expediting the funding of claims and completion of site cleanups. The board, in consultation with stakeholders, shall work to develop metrics to forecast long-term demand on the fund and shall include this information in the report. This report shall be posted on the board's internet website, and updated periodically.

(g) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

SEC. 6. Section 25299.51 of the Health and Safety Code is amended to read:

25299.51. The board may expend the moneys in the fund for all of the following purposes:

(a) In addition to the purposes specified in subdivisions (c), (d), and (e), for the costs of implementing this chapter and for implementing Section 25296.10 for a tank that is subject to this chapter.

(b) To pay for the administrative costs of the California Department of Tax and Fee Administration in collecting the fee imposed by Article 5 (commencing with Section 25299.40).

(c) To pay for the reasonable and necessary costs of corrective action pursuant to Section 25299.36, up to one million dollars (\$1,000,000) per occurrence. The Legislature may appropriate the money in the fund for expenditure by the board, without regard to fiscal year, for prompt action in response to any unauthorized release.

(d) To pay for the costs of an agreement for the abatement of, and oversight of the abatement of, an unauthorized release of hazardous substances from underground storage tanks by a local agency, as authorized by Section 25297.1 or by any other law, except that, for the purpose of expenditure of these funds, only underground storage tanks shall be the subject of the agreement.

(e) To pay for the costs of cleanup and oversight of unauthorized releases at abandoned tank sites. The board shall not expend more than 25 percent of the total amount of money collected and deposited in the fund annually for purposes of this subdivision and subdivision (h).

(f) To pay claims pursuant to Section 25299.57.

(g) To pay, upon order of the Controller, for refunds pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.

(h) To pay for the reasonable and necessary costs of corrective action pursuant to subdivision (f) of Section 25296.10, in response to an unauthorized release from an underground storage tank subject to this chapter.

(i) To pay claims pursuant to Section 25299.58.

(j) To pay for expenditures by the board associated with discovering violations of, and enforcing, or assisting in the enforcement of, the requirements of Chapter 6.7 (commencing with Section 25280) with regard to petroleum underground storage tanks.

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

(l) Upon repeal of Chapter 6.76 (commencing with Section 25299.100), to pay for expenditures authorized by subdivision (b) of Section 25299.117 as that section reads as of December 31, 2035, immediately preceding its repeal.

(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.

(n) To pay for reasonable and necessary expenditures by the board associated with discovering violations of and enforcing, or assisting in the enforcement of, the requirements of this chapter, including actions relating to the submission of false information to the fund.

(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.

SEC. 7. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) (1) If the board makes the determination specified in subdivision (d) for a claim filed on or before December 31, 2014, the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be

obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars (\$1,500,000) for each occurrence.

(2) If the board makes the determination specified in subdivision (d) for a claim filed on or after January 1, 2015, the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

(3) In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article.

(4) The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:

(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) (1) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(2) If the claim is for reimbursement of costs incurred pursuant to a performance-based contract, Article 6.5 (commencing with Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, under the federal act, or under Section 6973 of Title 42 of the United States Code, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B), (C), and (F), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later. For the purpose of this subparagraph, a claimant shall demonstrate compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280) by submitting copies of the required permits. If copies of the required permits are unavailable, the claimant may certify that the claimant obtained the required permits but no longer has copies of them and provide any other documentation tending to show that the claimant obtained the required permits, including, but not limited to, approved permit applications, records of payment of permit fees, and inspection reports. In determining whether a claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280), the board shall consider all available

documentation, including any documentation available from the applicable local agency regarding the claimant's compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280).

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with either subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, either with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than ten thousand dollars (\$10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than twenty thousand dollars (\$20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to the causing of any contamination. That demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(F) The board shall waive the provisions of subparagraph (A) as a condition for payment from the fund for a claimant who filed a claim on or after January 1, 2008, and before July 1, 2009, but is not eligible for a waiver of the permit requirement pursuant to the regulations adopted by the board in effect on the date of the filing of the claim, and who did not obtain or apply for a permit required by subdivision (a) of Section 25284, if the board finds all of the following:

(i) The claim is filed pursuant to paragraph (2) of subdivision (h) of Section 25299.54 and the claim otherwise satisfies the eligibility requirements of that paragraph.

(ii) The claimant became the owner or de facto owner of an underground storage tank prior to December 22, 1998.

(iii) The claimant did not, and does not, operate the underground storage tank.

(iv) Within three years after becoming the owner or de facto owner of the underground storage tank but not after December 22, 1998, the claimant caused the underground storage tank to be removed and closed in accordance with applicable law, and commenced no later than December 22, 1998, to perform corrective action pursuant to Section 25296.10 of this code or pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(G) The board shall rank all claims submitted pursuant to subparagraph (F) in their respective priority classes specified in subdivision (b) of Section 25299.52 in the order in which the claims are received by the board, but subsequent to any claim filed on a previous date in each of those priority classes.

(H) For purposes of clauses (ii) and (iv) of subparagraph (F), "de facto owner of an underground storage tank" means a person who purchases or otherwise acquires real property, as defined in subparagraph (D) of paragraph (5) of subdivision (h) of Section 25299.54, and has actual possession of, and control over, an underground storage tank that has been abandoned by its previous owner.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) (A) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code, for the underground storage tank that is the subject of the claim.

(B) The board may accept a claimant's statement certifying to the best of the claimant's knowledge that payment was made to the State Board of Equalization to demonstrate satisfaction of the requirements of subparagraph (A) if both of the following apply:

(1) Records maintained by the State Board of Equalization show that fees and, if applicable, interest and penalties, have been paid by the claimant for the period corresponding to the claimant's ownership or operation of the tank that is the subject of the claim.

(2) The State Board of Equalization and the claimant are not able to document that the payments received by the State Board of Equalization were or were not specifically related to the tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) A claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) A claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) A claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common corrective actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) (1) To the extent funding is available, the board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(2) If corrective action costs, third-party compensation costs, or regulatory technical assistance costs submitted by a claimant are approved for reimbursement by the board but funding is not available for payment to the claimant at the time of approval, the board shall reimburse carrying costs incurred by the claimant after November 7, 2008, but before June 30, 2010, subject to all of the following limitations:

(A) The reimbursement for carrying costs shall not exceed the carrying costs actually incurred by the claimant from the date the corrective action costs, third-party compensation costs, or regulatory technical assistance costs are approved for

payment by the board until the date that a check for the reimbursement request is issued by the Controller.

(B) The reimbursement for carrying costs shall not exceed an amount equivalent to a maximum annual percentage rate of 7 percent as applied to the amount approved for reimbursement and for the period calculated pursuant to subparagraph (A).

(C) The board shall not reimburse carrying costs that amount to less than one hundred dollars (\$100) per reimbursement request.

(D) The board shall not reimburse carrying costs that exceed 9 percent of the total amount of costs approved for the reimbursement to which the carrying costs apply.

(E) A claimant may submit a request for reimbursement of carrying costs after receipt of fund reimbursement for the corrective action costs, third-party compensation costs, or regulatory technical assistance costs to which the carrying costs apply. Additional carrying costs associated with a reimbursement request for carrying costs submitted pursuant to this paragraph are not eligible for payment.

(F) This paragraph does not apply to tank owners or operators that are not described in paragraph (1), (2), or (3) of subdivision (b) of Section 25299.52.

(3) For the purposes of paragraph (2), "carrying cost" means the interest expense incurred by a claimant to acquire money to pay costs approved for reimbursement by the board but for which reimbursement is delayed because funds are unavailable.

(j) (1) The board shall pay a claim of not more than five thousand dollars (\$5,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter, except that reasonable and necessary regulatory technical assistance costs associated with the electronic submission of documents to the fund using an electronic data system approved by the board shall not be subject to this limit.

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim pursuant to paragraph (2) or (3) for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been removed, if the site has been the subject of a completed corrective action, and for which additional corrective action is required because of additionally discovered contamination from the previous release.

(2) (A) The board shall pay a claim pursuant to this paragraph if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b).

(B) Reimbursement for additional corrective action shall be available only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a).

(C) Reimbursement to a claimant on a reopened site pursuant to this paragraph shall occur when funds are available, and the reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim.

(D) If funding has not occurred on the original claim, funding shall occur at the time it would have occurred under the original claim.

(3) (A) The board may reimburse a claim pursuant to this paragraph if all of the following conditions are satisfied:

(i) The person who carried out the earlier and completed corrective action did not apply for reimbursement pursuant to subdivision (b).

(ii) The person who owns the property is required to perform corrective action because of additionally discovered contamination.

(iii) The person who owns the property is the owner or operator of an underground storage tank located on the property at the time of application to the fund.

(iv) The person who owns the property is in compliance with the requirements to pay the fee pursuant to Article 5 (commencing with Section 25299.40).

(v) The person who owns the property is in compliance with the requirements to obtain a permit pursuant to Chapter 6.7 (commencing with Section 25280).

(B) The board shall assign the person submitting a claim pursuant to this paragraph a priority ranking consistent with the categories described in Section 25299.52.

(C) The board shall limit reimbursement for a claim pursuant to this paragraph to the amounts described in Section 25299.59 and for the incurred corrective action costs that are necessary and reasonable.

(4) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (g) of Section 25296.10.

(l) (1) Except as provided in subdivision (m), claims for reimbursement of corrective action costs that are received by the board more than 365 days after the date of issuance of a closure letter issued pursuant to subdivision (g) of Section 25296.10 or after the issuance or activation of a letter of commitment, whichever occurs later, shall not be reimbursed unless either of the following applies:

(A) Claims for corrective action costs are submitted to the board pursuant to subdivision (k).

(B) The board finds that submission within the time period specified in this paragraph was beyond the claimant's reasonable control, ongoing work is required for closure that will result in submission of claims beyond that time period, or that under the circumstances of the particular case, it would be unreasonable or inequitable to impose the time period specified in this paragraph.

(2) This section does not limit or abrogate the rights of a claimant in disputing reimbursement determinations or suspension of claims.

(3) For cases that have been issued a closure letter pursuant to subdivision (g) of Section 25296.10 prior to January 1, 2012, the board shall notify claimants of the 365-day filing deadline specified in paragraph (1) on or before March 31, 2012, or upon issuance of a letter of commitment, whichever occurs later.

(m) (1) The board shall not reimburse a claim for reimbursement of a corrective action cost that is received by the board more than two years after the date the cost was incurred or more than two years after the date of the issuance or activation of a letter of commitment, whichever occurs later, except under one or both of the following conditions:

(A) The board may reimburse a claim for a cost incurred before January 1, 2015, by a claimant that has an active letter of commitment on January 1, 2015, that was received by the board on or before December 31, 2015, or within two years of the date the cost was incurred, whichever occurs later.

(B) The executive director finds that submission within the time period specified in this subdivision was beyond the claimant's reasonable control or that, under the circumstances of the particular case, it would be unreasonable or inequitable to impose the time period specified in this subdivision.

(2) For the purposes of this subdivision, a cost is incurred on the date that the task to be paid for is completed.

SEC. 8. Section 25299.58 of the Health and Safety Code is amended to read:

25299.58. (a) Except as provided in subdivision (d), if the board makes the determination specified in subdivision (b), the board may reimburse only those costs that are related to the compensation of third parties for bodily injury and property damages and that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

(b) A claim may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant has been ordered to pay a settlement or final judgment for third-party bodily injury or property damage arising from operating an underground storage tank.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later. For the purpose of this subparagraph, a claimant shall demonstrate compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280) by submitting copies of the required permits. If copies of the required permits are unavailable, the claimant may certify that the claimant obtained the required permits but no longer has copies of them and

provide any other documentation tending to show that the claimant obtained the required permits, including, but not limited to, approved permit applications, records of payment of permit fees, and inspection reports. In determining whether a claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280), the board shall consider all available documentation, including any documentation available from the applicable local agency regarding the claimant's compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280).

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant who is exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility in an amount twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars (\$10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars (\$20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to any contamination having been caused. The demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner as may be acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, under the federal act, or under Section 6973 of Title 42 of the United States Code, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280).

(6) (A) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(B) The board may accept a claimant's statement certifying to the best of the claimant's knowledge that payment was made to the State Board of Equalization to demonstrate satisfaction of the requirements of subparagraph (A) if both of the following apply:

(1) Records maintained by the State Board of Equalization show that fees and, if applicable, interest and penalties, have been paid by the claimant for the period corresponding to the claimant's ownership or operation of the tank that is the subject of the claim.

(2) The State Board of Equalization and the claimant are not able to document that the payments received by the State Board of Equalization were or were not specifically related to the tank that is the subject of the claim.

(c) A claimant may be reimbursed by the fund for compensation of third parties for only the following:

(1) Medical expenses.

(2) Actual lost wages or business income.

(3) Actual expenses for remedial action to remedy the effects of damage to the property of the third party caused by the unauthorized release of petroleum from an underground storage tank.

(4) The fair market value of the property rendered permanently unsuitable for use by the unauthorized release of petroleum from an underground storage tank.

(d) The board shall pay a claim submitted by a person eligible to submit a claim pursuant to subdivision (e) of Section 25299.54 for the costs related to the compensation of third parties for bodily injury and property damages that exceed the level of financial responsibility required to be obtained pursuant to paragraph (2) of subdivision (a) of Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

SEC. 9. Section 25299.81 of the Health and Safety Code is amended to read:

25299.81. (a) Except as provided in subdivisions (b) and (c), this chapter shall remain in effect only until January 1, 2036, and as of that date is repealed.

(b) Notwithstanding subdivision (a), this section, Article 1 (commencing with Section 25299.10), Article 2 (commencing with Section 25299.11), and Article 4 (commencing with Section 25299.36) shall not be repealed and shall remain in effect on January 1, 2036.

(c) The repeal of certain portions of this chapter does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out these rights and obligations:

(1) The filing and payment of claims against the fund, including the costs specified in subdivisions (c), (e), and (h) of Section 25299.51, claims filed under Section 25299.50.3, and claims for commingled plumes, as specified in Article 11 (commencing with Section 25299.90), until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 2036, due and payable to the board.

(3) The recovery of moneys reimbursed to a claimant to which the claimant is not entitled, or the resolution of any cost recovery action.

(4) The collection of unpaid fees by the California Department of Tax and Fee Administration pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code that are imposed pursuant to Article 5 (commencing with Section 25299.40), as that article read on December 31, 2035, or have become due before January 1, 2036, including any interest or penalties that accrue before, on, or after January 1, 2036, associated with those unpaid fees, for deposit into the fund.

(5) (A) The filing of an application for funds from, and the making of payments from, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund pursuant to Section 25299.50.2, any action for the recovery of moneys paid pursuant to Section 25299.50.2 to which the recipient is not entitled, and the resolution of that cost recovery action.

(B) Upon liquidation of funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, the obligation to make a payment from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is terminated.

(6) (A) The payment of loans and grants, consistent with the terms of agreements that were effective prior to January 1, 2036, from the fund pursuant to this chapter or the Petroleum Underground Storage Tank Financing Account pursuant to Chapter 6.76 (commencing with Section 25299.100). Upon exhaustion of the fund, any remaining claims for payment of grants or loans shall be invalid.

(B) The amount of money disbursed for grants and loans pursuant to Chapter 6.76 (commencing with Section 25299.100) shall not exceed the sum of the following:

(i) The amount that reverts to the fund pursuant to Section 25299.111.

(ii) Amounts recovered through the repayment of loans granted pursuant to Chapter 6.76 (commencing with Section 25299.100).

(iii) The resolution of any cost recovery action filed prior to January 1, 2036, or the initiation of an action or other collection process to recover defaulted loan moneys due to the board or to recover money paid to a grant or loan recipient pursuant to Chapter 6.76 (commencing with Section 25299.100) to which the recipient is not entitled.

(7) (A) The imposition and collection of civil liability pursuant to Article 7 (commencing with Section 25299.70), as that article read on December 31, 2035.

(B) Subparagraph (A) shall not be construed as extending or modifying any applicable statute of limitations.

(d) The board shall continuously post and update on its internet website, but at a minimum, annually on or before September 30, information that describes the status of the fund and shall make recommendations, when appropriate, to improve the efficiency of the program.

SEC. 10. Section 25299.82 of the Health and Safety Code is amended to read:

25299.82. To ensure that the phase out of the fund, as provided in Section 25299.81, is achieved in an orderly manner that enables owners and operators to maintain continuous coverage for financial responsibility obligations required by Sections 25292.2 and 25299.31 and the federal act, the board shall take the following actions:

(a) The board shall not accept claim applications submitted to the fund pursuant to Section 25299.57 or 25299.58 after January 1, 2035, unless the board finds that the unauthorized release that is the subject of the claim was discovered before January 1, 2035, and the submission of a claim application by that date was beyond the claimant's reasonable control.

(b) The board shall not accept requests for reimbursements submitted to the fund pursuant to Section 25299.57 or 25299.58 after July 1, 2035.

SEC. 11. Section 25299.117 of the Health and Safety Code is amended to read:

25299.117. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2036, and as of that date is repealed.

(b) Notwithstanding subdivision (a), the repeal of this chapter does not terminate any of the following rights, obligations, authorities, or any provision necessary to carry out these rights, obligations, and authority:

(1) The repayment of loans due and payable to the board.

(2) The resolution of any cost recovery action or the initiation of an action or other collection process to recover defaulted loan moneys due to the board or to recover grant moneys paid but to which the grantee is not entitled.

(3) The resolution of an action taken pursuant to Section 25299.112, 25299.113, or 25299.113.1, or the initiation of one of those actions.

SEC. 12. Section 50108 of the Revenue and Taxation Code is amended to read:

50108. (a) The fee imposed pursuant to Sections 25299.41 and 25299.43 of the Health and Safety Code shall be administered and collected by the California Department of Tax and Fee Administration in accordance with this part.

(b) The repeal of certain portions of Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code by the act adding this subdivision does not terminate the rights, obligations, or authorities, or any provision necessary to carry out the rights and obligations for the California Department of Tax and Fee Administration to collect unpaid fees pursuant to this part that are imposed pursuant to Article 5 (commencing with Section 25299.40) of Chapter 6.75 of Division 20 of the Health and Safety Code, as that article read on December 31, 2035, or that have become due before January 1, 2036, including any interest or penalties that accrue before, on, or after January 1, 2036, associated with those unpaid fees, for deposit into the Underground Storage Tank Cleanup Fund.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.