



## SENATOR TIM GRAYSON

### SB 328

#### DTSC Generator Fees

#### **Summary:**

SB 328 will cap the Hazardous Waste Generator Fee, charged by DTSC, for certain housing, infill, non-profit, and park and open space projects, for developers and projects who remediate contaminated soil. Additionally, the bill would place timelines on DTSC to respond to post-entitlement permits.

#### **Background:**

In 2021, the Legislature passed SB 158, a budget trailer bill that restructured the Department of Toxic Substance Control (DTSC), in order to improve the Department's performance and fix structural deficits in its budget. The bill made changes to the fee that housing developers must pay when they excavate contaminated soil from a development site.

Before SB 158, DTSC used a tiered model, with a fee that ranged depending on the project. However, SB 158 replaced this model with a price-per-ton fee, fixed at \$46.20 per ton.

DTSC does not play a role in removing contaminated soil from these sites beyond certifying that the contaminated soil is disposed in a safe and legal, as developers are the ones who conduct and pay for this remediation work.

#### **Problem:**

The changes to the Hazardous Waste Generator fee have significantly increased the cost of remediating contaminated soil for housing as they are preparing a site for development. There have been numerous examples where the updated Hazardous Waste Generator Fee has significantly increased the cost of housing projects. For instance, fees for a housing project in San Francisco increased from \$100,000 to \$800,000 and other student housing and non-profit project faced similar cost increases<sup>1</sup>.

These changes have had a disproportionate impact on infill housing developments which are more likely to develop on "contaminated" urban sites. Common urban sites may include former dry cleaners or service stations. The Hazardous Waste Generator Fee may likely make projects infeasible since it drastically increases costs. This comes at a time where rising costs have made housing projects infeasible, in the midst of California's housing affordability crisis.

#### **Solution:**

SB 328 would help reduce the cost of development by establishing a cap on the Hazardous Waste Generator Fee. The Fee would be capped at \$100,000 for infill, non-profit, and park and open space projects, and \$250,000 for master development projects. The cap would only apply to projects who did not create the contamination. Additionally, the bill would place 30 to 60 day timelines on DTSC for responding to post-entitlement permits.

Builders should not be penalized for opening up land for productive use, especially when they are cleaning up pollution instead of creating it, and SB 328 would help provide relief at a time where costs are increasing.

#### **Support:**

Housing Action Coalition (Sponsor)  
SPUR (Sponsor)

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<sup>1</sup> San Francisco Chronicle – [“A California bill made removing toxic soil more expensive. Some say it’s a tax on housing”](#)