

SENATE BILL REPORT

EHB 3023

As of February 25, 2010

Title: An act relating to consolidating the state's pollution liability insurance agency within the department of ecology.

Brief Description: Consolidating the pollution liability insurance agency within the department of ecology.

Sponsors: Representatives Jacks, Chandler, Kretz, Hunt, Blake and Wallace; by request of Pollution Liability Insurance Agency and Department of Ecology.

Brief History: Passed House: 2/18/10, 59-32.

Committee Activity: Environment, Water & Energy: 2/24/10.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Jan Odano (786-7486)

Background: In 1989 the Legislature created the Pollution Liability Insurance Agency (PLIA). PLIA was initially established to meet the requirements of the Environmental Protection Agency for owners and operators of underground storage tanks (UST) to demonstrate financial responsibility for the clean-up of contamination from spills or releases of petroleum. In 1995 the duties of PLIA were expanded to owners and operators of heating oil tanks. PLIA offers insurance coverage for clean-up of contamination from active heating oil tanks that are registered in the program prior to contamination occurring.

PLIA provides insurance to insurance companies that insure owners and operators of UST and heating oil tanks. The objective of PLIA is to improve the availability and affordability of pollution liability insurance for owners and operators of UST by selling reinsurance at a price significantly below the private market price for similar insurance. The discount is passed to owners and operators of UST through reduced insurance premiums and increased availability of insurance.

PLIA also provides financial assistance to public and private owners and operators of UST that are certified as meeting vital local government public health and safety needs. Financial assistance may only be provided to owners and operators who demonstrate serious financial hardship. The financial assistance may be used only for clean-ups and upgrades after a clean-up plan is filed with the Department of Ecology (Department).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

PLIA and its programs are funded through: a pollution liability fee imposed on dealers making sales of heating oil to a home owner or a consumer which is deposited into the Heating Oil Pollution Liability Trust Account; and an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Insurance Program Trust Account.

PLIA and the pollution liability insurance program are set to expire on June 1, 2013.

Summary of Bill: PLIA, its duties, and the Pollution Liability Insurance Program are merged into the Department. The Pollution Liability Insurance Program must be closely aligned with UST and toxic clean-up programs. The Director of PLIA is the Director of the Department or the Director's appointed representative. The Director of the Department must appoint the administrative head of the Pollution Liability Insurance Program. The administrative head of the program and up to three other employees are exempt from the state civil service laws. Contracting with third parties for services is not subject to competitive contracting provisions under state civil service law.

The contracts, obligations, rules, and business currently before PLIA continue in effect and will be acted upon by the Pollution Liability Insurance Program as a part of the Department. The Director of the Office of Financial Management (OFM) will make decisions when questions arise as to the transfer of personnel, funds, and tangible property used for the administration and implementation of the transferred duties and functions. In addition, the Director of OFM must certify apportionments of budgeted funds to affected agencies, the State Auditor, and State Treasurer, if necessary.

The Department must develop a competitive bid process for clean-ups under the Pollution Liability Insurance Program. The Department must implement additional cost control measures for the most efficient and effective use of Pollution Liability Insurance Program funds.

Certain decisions made by the Department regarding the heating oil Pollution Liability Insurance Program, such as denial of eligibility for coverage, amount of payment allowed for corrective action and property damage, and third party claims are appealable to the pollution control hearings board within 30 days of the decision. An appeal that includes a penalty of \$15,000 or less may be heard as a short board appeal.

By September 1, 2011, the Department must provide a report and recommendations for legislation to the Governor and Legislature about consolidation of PLIA within the Department. The report must also discuss needed statutory changes to make the consolidation more effective and efficient; organizational structure of the insurance program; the appeals process; information management; coordination of the insurance program, UST rule, and toxic clean-up program; and reauthorization of the Pollution Liability Insurance Program by July 1, 2013. The requirements of the bill expire June 1, 2013.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is part of the Governor's package to streamline government. This bill is part of realignment of one third of small agencies to make government more efficient and provide for better use of limited resources. The key benefit of this merger is shortening the distance between the underground storage tank inspectors and PLIA. This may prevent future releases and reduce the size of clean-ups. This provides the opportunity to integrate services for customers, which is more efficient. Safeguarding the PLIA account is necessary to protect federal funds, \$1.6 million for the underground storage tank program.

CON: There is no efficiency or cost-saving gained by this bill. There is no compelling reason to merge until the study is completed. The program is extremely efficient. Many of the homeowners that use oil heat are elderly. Putting them in the situation of working with a good agency but one that has a big bureaucracy would be overwhelming to them. PLIA has done an excellent job.

Persons Testifying: PRO: Representative Jacks, prime sponsor; Lynn Gooding, PLIA; John Mankowski, Governors Office; Polly Zehm, Ecology.

CON: Charlie Brown, WA Oil Marketers Assn.; Phil Suetens, Filco Inc.; Greg Hanon, Western States Petroleum Assn.