

HOUSE BILL REPORT

SHB 2590

As Passed House:
February 13, 2012

Title: An act relating to extending the expiration of the pollution liability insurance agency's authority and its funding source.

Brief Description: Extending the expiration of the pollution liability insurance agency's authority and its funding source.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Bailey and Buys; by request of Pollution Liability Insurance Agency).

Brief History:

Committee Activity:

Business & Financial Services: 1/23/12, 1/24/12, 1/26/12 [DPS];

Ways & Means: 2/1/12, 2/7/12 [DPS(BFS)].

Floor Activity:

Passed House: 2/13/12, 97-1.

Brief Summary of Substitute Bill

- Delays the expiration dates for various aspects of the Pollution Liability Insurance Agency until July 1, 2020.
- Provides a manner in which the wholesale value of petroleum products is determined and lowers the rate of the tax.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Kelley, Vice Chair; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Pedersen, Rivers, Ryu and Stanford.

Staff: Jon Hedegard (786-7127).

HOUSE COMMITTEE ON WAYS & MEANS

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.

Majority Report: The substitute bill by Committee on Business & Financial Services be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Staff: Michael Bennion (786-7118).

Background:

The Washington Pollution Liability Insurance Agency (PLIA) was created in 1989 to make pollution liability insurance available and affordable to the owners and operators of regulated underground petroleum storage tanks. An underground storage tank (UST) is a commercial tank or a combination of tanks used to store an accumulation of petroleum. The PLIA provides secondary insurance to insurance companies that insure owners and operators of USTs and heating oil tanks.

In 1991 the PLIA was directed to provide grants to owners of USTs at remote and rural gas stations to upgrade their tanks. In 2005 the Legislature directed the PLIA to provide an additional \$1 million for these grants.

In 1995 the PLIA's duties were expanded to include assisting owners and operators of heating oil tanks by offering reinsurance services to the insurance industry. A heating oil tank is a tank for space heating of a home or working space. The PLIA offers this program to provide up to \$60,000 of insurance coverage for clean-up of contamination from active heating oil tanks that are registered in the program prior to the contamination occurring. There is no cost to the homeowner for this coverage.

The PLIA also provides financial assistance to public and private owners and operators of USTs 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.

In 2007 the Legislature required the PLIA to identify design criteria for heating oil tanks that provide superior protection than standard steel tank designs against future leaks. Any new heating oil tank reimbursement provided under this section must be funded within the statutory \$60,000 per occurrence coverage limit.

The PLIA and its programs do not receive state general funds. Funding comes from two sources: (1) a pollution liability fee imposed on dealers making sales of heating oil to a homeowner or a consumer which is deposited into the Heating Oil Pollution Liability Trust Account; and (2) an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Insurance Program Trust Account (PLT Account). The amount of the excise tax is 0.5 percent multiplied by the wholesale value of the petroleum product. The

excise tax includes a trigger mechanism based on the amount of funds in the PLT Account. The tax will only be imposed when the PLT Account balance is less than \$7.5 million.

In 2006 the Legislature extended expiration dates associated with the PLIA to July 1, 2013.

Summary of Substitute Bill:

Several new definitions are added. "Rack" is defined as "a mechanism for delivering petroleum products from a refinery or terminal into a truck, trailer, railcar, or other means of non-bulk transfer."

The rate of the tax is lowered to 0.3 percent. The wholesale value is determined at the time the petroleum product is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state. In all other circumstances, the wholesale value is determined upon the first nonbulk possession in the state.

The expiration dates for various aspects of the PLIA program are extended from until July 1, 2013, to until July 1, 2020. This includes: the PLT Account; the chapter dealing with the UST portion of the PLIA program; the chapter dealing with the home heating oil portion of the PLIA program; and the chapter dealing with the tax on petroleum products.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Business & Financial Services):

(In support) The agency and stakeholders have worked on this issue to bring a bill that is agreed to by all parties. This is an important program that should be extended. It is a good bill that protects consumers. The bill extends the expiration of the PLIA programs and the funding for those programs. This is a request for the fourth reauthorization of the PLIA since 1999. Without the PLIA programs, insurers would have to raise the rates for this type of coverage by an estimated 600 percent. It would simply be unaffordable. Most of the USTs insured under the program are owned by individuals who own a single gas station. Those small businesses could not afford the massive increase in insurance costs if the bill does not pass. The PLIA also reinsures 78 percent of the heating oil tanks in the state. While the number of tanks lessens each year, there will still be an estimated 44,000 tanks in 2020. The PLIA and its stakeholders developed a bill that is recommended by all stakeholders. This is a valuable program. Small businesses simply cannot afford this coverage without a program like the PLIA. The current tax mechanism raised more funds than needed for the program. The rate of the tax is lowered from 0.5 percent to 0.3 percent. The bill also clarifies when the point of taxation tax occurs. It is estimated that the tax would not occur again until 2017. This is a very good program. The PLIA program has been a model for other states. Originally, it seemed like it might be time to let the program sunset. The customers of the petroleum wholesalers have decided that they want the PLIA program to continue. The

wholesalers respect that point of view and support the bill. Moving the taxation point to the rack will make it similar to how the gas tax is assessed. This makes it easier and clearer to determine the value and the tax. Lowering the rate of taxation is a better way to administer the PLIA. The PLIA program may need to sunset someday but the stakeholders would like to delay that next review until 2020.

(Opposed) None.

Staff Summary of Public Testimony (Ways & Means):

(In support) The PLIA helps over 2,000 small businesses obtain federally mandated insurance that is required if they want to acquire a business license. Without the PLIA's reinsurance, a leading private insurer has indicated they would have to increase their premiums six-fold which may not be feasible to small business owners. There are 57,000 heating oil tanks insured and there is no other alternative, so expect to have a large number of tanks for a significant amount of time. All of the stakeholders have worked together and believe they have a mutually agreed upon bill. The Oil Marketers Association supports the bill and extension of the agency. Most legislators know the importance of the bill, and consider it to be noncontroversial. Without it, a majority of the mom and pop gas stations would not be able to afford the costs of insurance. The bill has been reformed to make the process more efficient by clarifying the instance the fee is charged and lowering the fee to reduce volatility. The Western States Petroleum Association supported the PLIA at its inception and continues to support it now. There is a federal law prohibiting these funds to be used for anything other than underground storage.

(Opposed) None.

Persons Testifying (Business & Financial Services): Representative Bailey, prime sponsor; Lynn Gooding, Pollution Liability Insurance Agency; Dave Ducharme, Washington Oil Marketers Association; and Greg Hanon, Western States Petroleum Association.

Persons Testifying (Ways & Means): Representative Bailey, prime sponsor; Lynn Gooding, Pollution Liability Insurance Agency; Dave Ducharme, Washington Oil Manufacturers Association; and Greg Hanon, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying (Business & Financial Services): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.