

HOUSE BILL REPORT

HB 2424

As Reported by House Committee On:
Environment & Energy
Capital Budget

Title: An act relating to the heating oil insurance program.

Brief Description: Concerning the heating oil insurance program.

Sponsors: Representatives Fitzgibbon, DeBolt, Peterson, Young and Doglio; by request of Pollution Liability Insurance Agency.

Brief History:

Committee Activity:

Environment & Energy: 1/20/20, 1/23/20 [DPS];

Capital Budget: 2/4/20, 2/10/20 [DPS(ENVI)].

Brief Summary of Substitute Bill

- Directs the Pollution Liability Insurance Agency (PLIA) to design and implement a process to close out existing claims under the Heating Oil Pollution Liability Insurance Program.
- Prohibits the Heating Oil Pollution Liability Insurance Program from registering heating oil tanks for coverage after July 1, 2020.
- States the intent of the Legislature that the Underground Storage Tank Revolving Loan and Grant Program be used to assist owners and operators of heating oil tanks to remediate past releases and prevent future releases.
- Modifies the circumstances in which the State Treasurer may transfer funds from the Pollution Liability Insurance Program Trust Account into the PLIA Underground Storage Tank Revolving Account.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

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.

Staff: Robert Hatfield (786-7117).

Background:

The Pollution Liability Insurance Agency.

The Pollution Liability Insurance Agency (PLIA) provides a government funding model to help owners and operators meet their financial responsibility and environmental cleanup requirements for underground tanks. Funding for the PLIA comes from reinsurance premiums, which are deposited into the Pollution Liability Insurance Program Trust Account (Insurance Trust Account), and from heating oil dealer fees and fees for advice and technical assistance, which are deposited into the Heating Oil Pollution Liability Trust Account.

Services provided by the PLIA include:

- reinsurance of pollution liability insurance policies for the owners and operators of underground petroleum storage tanks;
- direct insurance coverage of up to \$60,000 for cleanup of contamination from certain heating oil tanks;
- technical assistance to owners and operators of heating oil tanks if contamination from a release is suspected; and
- written opinions on results of testing to evaluate whether contamination from a heating oil release appears to be a threat to human health and the environment.

The PLIA may provide capital financial assistance to owners and operators of petroleum underground storage tanks who wish to replace or upgrade aged fuel systems, clean up past contamination caused by an underground storage tank release, and upgrade infrastructure to dispense alternative fuels. The PLIA partners with the Department of Health for some portions of the program.

The Pollution Liability Insurance Agency Underground Storage Tank Revolving Loan and Grant Program.

The PLIA is directed to establish a program to issue grants and revolving loans to underground storage tank (UST) owners or operators. A UST system is defined as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any, and includes any aboveground ancillary equipment connected to the underground storage tank or piping, such as dispensers. Grants or loans may not exceed \$2 million per UST facility. Grants or loans must be used for projects that develop and acquire assets with a useful life of at least 13 years. Grants and loans may be used for:

- remedial actions at UST facilities consistent with Model Toxics Control Act (MTCA) requirements, so long as at least one of the releases or threatened releases of hazardous substances involves petroleum release; and
- upgrading, replacing, or closing a UST used to store petroleum.

Pollution Liability Insurance Program Trust Account.

The Insurance Trust Account is funded by a tax of 0.3 percent of the wholesale value of refined petroleum products. The tax temporarily ceases to be imposed when the Insurance Trust Account balance exceeds \$15 million in the previous calendar quarter and is reimposed when the Insurance Trust Account balance falls below \$7.5 million in the most recent

calendar quarter. On July 1, 2017, and every two years thereafter at the start of each successive biennium, if the cash balance amount in the Insurance Trust Account exceeds \$7.5 million, the State Treasurer is required to transfer the amount exceeding \$7.5 million, after excluding certain reserves, up to a transfer of \$20 million, from the Insurance Trust Account into the PLIA Underground Storage Tank Revolving Account.

Summary of Substitute Bill:

The Pollution Liability Insurance Agency (PLIA) is directed to close out existing claims under the Heating Oil Pollution Liability Insurance Program (Heating Oil Program). Claims received under the existing policy of insurance that would result in payment of more than \$15 million in a calendar year may be paid out during the next calendar year. The PLIA is prohibited from registering heating oil tanks for coverage under the Heating Oil Program after July 1, 2020.

In order to ensure that the adoption of rules does not delay the PLIA's process of closing out existing claims under the Heating Oil Program, the PLIA is authorized to process claims through interpretive guidance pending the adoption of rules.

It is stated as the intent of the Legislature for the PLIA Underground Storage Tank Revolving Loan and Grant Program (Loan and Grant Program) to be used to assist owners and operators of heating oil tanks to remediate past releases and prevent future releases by upgrading, replacing, or removing heating oil systems.

A definition of "heating oil tank" is added to the chapter of the Revised Code of Washington that governs the Loan and Grant Program. A heating oil tank is defined as a tank and its connecting pipes, whether above or below ground, or in a basement, with pipes connected to the tank for space-heating of human living or working space on the premises where the tank is located.

The actions that the PLIA may take in order to administer the Loan and Grant Program are modified to add the prevention of future releases by upgrading, replacing, or removing a heating oil tank.

The maximum amount that the PLIA may loan or grant under the program for a single heating oil tank is \$75,000.

The scope of the report on the Loan and Grant Program that the PLIA must provide to the Legislature and to the Office of Financial Management every other year is modified. The report must now include the number of heating oil tanks upgraded during the previous biennium. For loans and grants awarded for heating oil tanks, only the general location, status, amount loaned, and amount repaid must be provided.

The State Treasurer is authorized upon the request of the PLIA, rather than being automatically required by statutory mandate, to transfer the amount in the Insurance Program Trust Account that exceeds \$7.5 million, up to a transfer of \$20 million, into the PLIA

Underground Storage Tank Revolving Account. The PLIA may request transfers only as needed to maximize the amount in a fiscal biennium from the Insurance Trust Account to the PLIA Underground Storage Tank Revolving Account.

Substitute Bill Compared to Original Bill:

The statement of the Legislature's intent that the Pollution Liability Insurance Agency (PLIA) Revolving Loan and Grant Program be used to assist owners and operators of heating oil tanks is modified to include the decommissioning of heating oil systems.

The definitions of "operator" and "owner" in the context of the statute governing the PLIA Revolving Loan and Grant Program are modified to include operators and owners of heating oil tank systems.

The scope of permissible uses of funds from the PLIA Revolving Loan and Grant Program are modified to include decommissioning heating oil tanks.

The PLIA is directed to structure funding offers from the PLIA Revolving Loan and Grant Program to protect applicants with limited economic resources.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Pollution Liability Insurance Agency (PLIA) offers insurance to about 58,000 homeowners in the state, about 18,000 of whom are in Seattle. The PLIA cleans up about 250 contaminated sites each year, at an annual cost of about \$10 million. The PLIA will continue to honor the existing insurance policies for the 58,000 homes that are currently registered under the insurance program. Fees for the program have been dropping, and as a result, the PLIA has had to rely on the Petroleum Products Tax to fund the program. The transition to a loan and grant program will allow much more flexibility and will build on the Underground Storage Tank Loan and Grant Program, which has been very successful. This bill represents the most efficient path forward to improving the program.

(Opposed) None.

(Other) There is a concern that low-income households will be negatively impacted by the bill. Over half of the households who have converted from oil heat to heat pumps in one major Washington city have had leaks in their heating oil tanks. There are some suggested amendments that will improve the bill.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; and Russell Olsen, Pollution Liability Insurance Agency.

(Other) Wyatt Arledge, City of Seattle.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill by Committee on Environment & Energy be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Tharinger, Chair; Callan, Vice Chair; Doglio, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Corry, Davis, Dye, Eslick, Gildon, Harris, Irwin, Jenkin, Leavitt, Lekanoff, Maycumber, Morgan, Pellicciotti, Peterson, Riccelli, Santos, Sells, Stonier and Walsh.

Staff: Kelci Karl-Robinson (786-7116).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Environment & Energy:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Home Heating Oil Program (Program) was established in 1995 to provide a safety net for residential homeowner cleanup of heating oil tank releases. There are over 58,000 registered heating oil tank insurers around the state. The Program needs to evolve to be similar to the commercial Underground Storage Tank (UST) Revolving Loan and Grant Program. If the tank owner is not signed up, they do not receive insurance coverage for heating oil releases. Current insurance coverage will remain until the property changes ownership. The new loan program will allow owners to access up to \$75,000 based on the applicant's ability to pay. The funding comes from the UST program and will revolve as home heating oil loans are repaid.

(Opposed) None.

Persons Testifying: Russell Olsen, Pollution Liability Insurance Agency.

Persons Signed In To Testify But Not Testifying: None.