

# SENATE BILL REPORT

## SB 6256

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As Reported by Senate Committee On:  
Environment, Energy & Technology, January 23, 2020

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

**Brief Description:** Concerning the heating oil insurance program.

**Sponsors:** Senators Wellman, Short and Hasegawa; by request of Pollution Liability Insurance Agency.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/21/20, 1/23/20 [DPS].

**Brief Summary of First Substitute Bill**

- Transitions the Pollution Liability Insurance coverage for heating oil tanks to a revolving loan and grant program.
- Authorizes the agency to conduct remedial actions for releases or threatened releases of petroleum from a heating oil tank.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Majority Report:** That Substitute Senate Bill No. 6256 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Sheldon, Assistant Ranking Member, Energy & Technology; Brown, Das, Hobbs, Liias, McCoy, Nguyen, Rivers, Short, Stanford and Wellman.

**Staff:** Jan Odano (786-7486)

**Background:** In 1989, the Legislature created the PLIA, which was initially established to meet United States Environmental Protection Agency requirements for owners and operators of USTs to demonstrate financial responsibility for the clean-up of contamination from spills or releases of petroleum. The objective of PLIA is to improve the availability and affordability of pollution liability insurance for owners and operators of USTs by selling reinsurance at a price significantly below the private market price for similar insurance. The

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discount is passed to owners and operators of USTs through reduced insurance premiums and increased availability of insurance.

PLIA provides reinsurance to insurance companies covering owners and operators of UST and heating oil tanks. Heating oil tanks must be registered with PLIA prior to a contamination event for coverage under the program.

PLIA implements a revolving loan and grant program for owners and operator of USTs. A grant or loan may not exceed \$2 million and may be used to upgrade, replace, or permanently close a UST; install new infrastructure or retrofit existing infrastructure for renewable or alternative energy for motor vehicles at a UST facility; and install and remove temporary above ground petroleum storage tank systems. Through the program, PLIA has provided up to \$10 million per year of financial assistance to UST owners.

PLIA partners with the Department of Health (DOH) to implement the revolving loan and grant program. DOH administers the program and may collect loan origination fees from persons requesting financial assistance.

PLIA provides advice and technical assistance to owners and operators of UST and heating oil tanks where contamination from an active or abandoned heating oil tank is suspected. The director of PLIA may provide a written opinion and conclusion on results of investigations to owners and operators where there is no contamination, or minor contamination, that is not a threat to human health or the environment.

By September 1st of every even-numbered year, PLIA must provide a report to the Office of Financial Management (OFM) and the appropriate legislative committees on activities supported by the PLIA UST revolving Loan and Grant Account. The report must include information such as the number of loans and grants; amounts loaned or granted; number of sites cleaned up; UST upgraded, replaced, or permanently closed; number of jobs preserved; and a description, name, location, and status of the projects.

PLIA and its programs are funded through an excise tax of 0.3 percent on the wholesale value of petroleum, the Petroleum Products tax (PPT), which is deposited into the Pollution Liability Insurance Program Trust Account. The PPT is suspended when the balance reaches \$15 million and reinstated when the unrestricted account balance is less than \$7.5 million. When the cash balance in the Pollution Liability Insurance Program Trust Account exceeds \$750,000 the state treasurer is directed to transfer the excess amount, up to \$20 million, into the Pollution Liability Insurance Agency UST revolving account. There is also a pollution liability fee of \$0.012 per gallon of heating oil, 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.

Remedial Actions Undertaken by the Pollution Liability Insurance Agency. PLIA may conduct remedial actions to investigate and clean up a release at a UST facility if the owner or operator received a grant or loan from the PLIA. All remedial actions must be conducted in compliance with Model Toxic Control Act (MTCA) requirements.

Model Toxic Control Act. Under MTCA, the Department of Ecology (Ecology) must investigate, conduct remedial actions, enforce actions to protect human health, and provide technical and administrative assistance. Liable parties must clean up sites contaminated with hazardous materials. In general, a person may cleanup a site with or without supervision by Ecology.

**Summary of Bill (First Substitute):** The PLIA director is required to design and implement a process to close out existing claims under the heating oil Pollution Liability Insurance Program. During the transition for closing out existing claims, the program may maintain and provide insurance to existing policies. Claims may be processed through interpretative guidance while the rules to close out the insurance program are being adopted. Claims in excess of \$15 million in a calendar year may be paid out in the following calendar year. Beginning July 1, 2020, the program may not accept registration for new insurance coverage for heating oil tanks.

PLIA is authorized to provide loans and grants up to \$750,000 to conduct remedial actions, investigations, and cleanups of releases, threatened releases of petroleum from a heating oil tank and to upgrade, replace, or remove a heating oil tank to prevent releases of petroleum. PLIA must approve recipients for loans and grants. Additionally it must structure funding offers to protect applicants with limited resources. Remedial actions must be conducted as required under MTCA.

PLIA must include in its biennial report to OFM and the Legislature information regarding the number of heating oil tanks upgraded, replaced, or permanently closed and the general location, status, amount loaned, and amount repaid.

At the request of PLIA, the state treasurer may transfer no more than \$20 million from the Pollution Liability Insurance Program Trust Account, when the cash balance exceeds \$7.5 million to the PLIA UST revolving account.

Program requirements regarding revising reinsurance contracts and soliciting bids from insurers are repealed.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):**

- Revises certain definitions to include heating oil tanks.
- Adds that PLIA must structure funding offers for loans and grants to protect applicants with limited economic resources.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This is the natural evolution of the program. The city of Seattle is moving to require upgrades or replacement of heating oil tanks in the next ten years. The need for assistance is going to increase state-wide as other cities develop plans similar to Seattle. A grant and loan program will allow for more clean up and to provide assistance to more people equitably.

**Persons Testifying:** PRO: Senator Lisa Wellman, Prime Sponsor; Russell Olsen, Executive Director, Pollution Liability Insurance Agency.

**Persons Signed In To Testify But Not Testifying:** No one.