

SENATE BILL REPORT

SB 6257

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

Title: An act relating to the underground storage tank reinsurance program.

Brief Description: Concerning the underground storage tank reinsurance program.

Sponsors: Senators Wellman and Short; 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

- Authorizes the director of the Pollution Liability Insurance Agency (PLIA), in consultation with the Office of Financial Management, to design and approve an emergency program to assist owners and operators of underground storage tanks (UST) in meeting their federal financial responsibility requirements.
- Authorizes the PLIA director to implement an emergency program, should a private insurer withdraw from the PLIA, and to determine and collect costs sufficient to cover implementation of the emergency program.
- Requires the PLIA director to provide a report to the Legislature on options available to assist owners and operators of UST to meet federal requirements.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6257 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, Rivers, Short, Stanford and Wellman.

Staff: Jan Odano (786-7486)

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.

Background: In 1989, the Legislature created the PLIA. The PLIA was initially established to meet United States Environmental Protection Agency requirements for owners and operators of USTs and to demonstrate financial responsibility for the clean-up of contamination from spills or releases of petroleum.

The PLIA provides reinsurance to insurance companies covering owners and operators of UST and heating oil tanks. PLIA offers insurance coverage for clean-up of contamination from active heating oil tanks registered in the program prior to a contamination event. 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 discount is passed to owners and operators of USTs through reduced insurance premiums and increased availability of insurance.

The PLIA director is authorized to design and revise reinsurance contracts providing coverage to insurers. When designing the contract, common insurance industry reinsurance contract provisions must be considered. The contract must be designed following guidelines which include:

- providing coverage to insurers for liability risks of owners and operators of USTs for 3rd party, bodily injury and property damage;
- limiting total liability for reinsurance coverage to not exceed \$1 million per occurrence and \$2 million for each policy; and
- settling disputes between the insurer and the insurance program through arbitration.

The PLIA director is authorized to:

- implement periodic premiums and review premium rates;
- solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of USTs;
- monitor activities of the insurer to ensure compliance; and
- make annual reports on the financial and loss experience of the insurers under the program.

The PLIA and its programs are funded through:

- 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; and
- 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 \$7,500,000.

Summary of Bill (First Substitute): The PLIA director, in consultation with the Office of Financial Management, may design and approve an emergency program to assist owners and operators of USTs in meeting their federal financial responsibility requirements. The PLIA director is authorized to:

- implement an emergency program, should a private insurer withdraw from the PLIA program; and
- determine, assess, and collect costs sufficient to cover implementation of the emergency program, including costs for initial development of the program.

Costs for implementing the emergency program must be collected from UST owners and operators using the program. All collected funds must be deposited into the Pollution Liability Insurance Program Trust Account.

The director must provide a report to the Legislature on options available to assist owners and operators of USTs, a discussion of a state run insurance program, alternatives, and an evaluation of finances required to develop and implement a new financial responsibility model. The report must also include recommendations for legislation to implement actions necessary to meet federal financial responsibility requirements.

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

- Clarifies the director's powers and duties when designing an emergency program.
- Requires the report to the Legislature to include recommendations for legislation necessary to implement actions needed for UST owners to meet federal requirements.

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 adds a safety net for the program. There is only one insurer in the state and if it leaves we have no plan B to meet the federal requirements.

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.