

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6483**

**BILL NUMBER: SB 127**

**NOTE PREPARED: Dec 21, 2009**

**BILL AMENDED:**

**SUBJECT:** Underground Storage Tank Corrective Action.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**      GENERAL  
  X   DEDICATED  
                  FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** With respect to an action against a person who owned or operated an underground storage tank (UST) at the time a release occurred for recovery of costs paid to the state for corrective action or for contribution for costs directly incurred for corrective action, the bill (1) permits recovery or contribution only to the extent the costs are reasonable; (2) indicates which types of costs incurred for corrective action are subject to contribution; (3) allows a court to award attorney's fees and court costs and past, present, and future corrective action costs; (4) prohibits an award for contribution toward corrective action costs and attorney's fees and court costs incurred after a responsible party agrees to assume responsibility for corrective action; (5) requires a person who intends to initiate an action to first file a notice of intent with the Department of Environmental Management (IDEM) and with each person allegedly responsible for the UST release; and (6) limits the authority to pursue a contribution action if IDEM commences an administrative proceeding or court action concerning the UST release or the person who owned or operated the UST at the time the release occurred agrees to remediate the release.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** The bill could increase administrative costs to IDEM to the extent that owners of property who wish to initiate an action to recover costs must notify IDEM. This provision could result in more record-keeping for IDEM. These requirements are within IDEM's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

The bill also specifies the type of recovery that is available. These clarifications could assist IDEM to recover costs associated with certain corrective actions taken by the state. The specific impact is indeterminable.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** In resolving a claim in an action initiated to recover costs, the bill provides that a court may use any legal and equitable factors that the court determines are appropriate in deciding whether to award certain costs. The bill specifies how the court may allocate costs. These provisions should not have a significant impact on local expenditures.

**Explanation of Local Revenues:**

**State Agencies Affected:** IDEM.

**Local Agencies Affected:** Circuit or superior courts; Local units taking corrective action.

**Information Sources:** Brad Baughn, Legislative Liaison, IDEM, 317-234-3386.

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