

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

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6828

BILL NUMBER: SB 347

NOTE PREPARED: Jan 4, 2011

BILL AMENDED:

SUBJECT: Underground storage tank issues.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Underground Storage Tank (UST) Operator Training Program.* This bill provides that a portion of the money in the UST Excess Liability Trust Fund is to be used to pay for the expenses of the Indiana Department of Environmental Management (IDEM) to establish and implement a UST Operator Training Program (1) on an Internet web site; and (2) that complies with the requirements of the federal Energy Policy Act of 2005.

UST Corrective Action. With respect to an action against a person who owned or operated an 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) specifies that the action is not limited to claims brought under UST statutes; (3) indicates which types of costs incurred for corrective action are subject to contribution; (4) allows a court to award attorney's fees and court costs and past, present, and future corrective action costs; (5) prohibits an award for contribution toward corrective action costs and attorney's fees and court costs incurred after a responsible party agrees to remediate the release in accordance with the appropriate rules and guidelines; (6) provides that if the person who agrees in writing to remediate the release does not remediate the release in substantial compliance with the rules and guidelines, the person who provided the notice may recover reasonable attorney's fees to enforce the agreement; (7) requires a person to notify each reasonably known person allegedly responsible for the UST release before incurring significant corrective action costs and attorney's fees or initiating an action; (8) specifies that notice may be by certified mail, registered mail, United States mail, or personal service; and (9) limits the recovery of corrective action costs and attorney's fees if a responsible party agrees to remediate the release.

Effective Date: Upon passage.

Explanation of State Expenditures: *UST Operator Training Program.* The cost to develop and implement a web-based system is estimated at \$150,000 with a monthly server fee if the Indiana Office of Technology charges one. IDEM would also need to hire one staff person to administer the program. Personnel costs, including fringe benefits and indirect costs, are estimated at \$52,000 per year. Costs are to be paid from the UST Excess Liability Trust Fund. The Fund has investments of over \$48 M.

Explanation of State Revenues:

Explanation of Local Expenditures: *UST Corrective Action.* 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.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.