

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6828

BILL NUMBER: SB 347

NOTE PREPARED: Feb 22, 2011

BILL AMENDED: Feb 17, 2011

SUBJECT: Underground storage tank issues.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Wolkins

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Underground Storage Tank (UST) Operator Training Program*. This bill requires the Department of Environmental Management (IDEM) to establish an UST Operator Training Program. The bill provides for the use of Excess Liability Trust Fund to be used for expenses incurred in establishing and implementing an operator training program (1) on an Internet web site; and (2) that complies with the requirements of the federal Energy Policy Act of 2005.

Excess Liability Trust Fund Payments. The bill increases the limit on combined amount of payments from the Excess Liability Trust Fund in a fiscal year to 11%. It permits recovery or contribution only to the extent the costs are reasonable. The bill defines reasonable costs. It indicates which types of costs incurred for corrective action are subject to contribution.

Remediation. The bill 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. The bill adds limitations for the recovery of attorney's fees, investigation and corrective action costs after the rejection date of a written offer or agreement. The bill 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. The bill specifies that notice may be by certified mail, registered mail, United States mail, or personal service.

Effective Date: (Revised) Upon passage; July 1, 2011.

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.

Excess Liability Trust Fund Payments. The bill increases the limit on combined amount of payments from the Excess Liability Trust Fund in a fiscal year to 11%. (Currently, 10% may be used for specified expenses.) The Trust Fund fluctuates, recently between \$35M to \$40M. An increase of 1% would allow an additional \$350,000, at a minimum, to be used for specified expenses. In addition to expenses currently outlined in statute, the bill provides that the costs associated with the UST Operator Training Program (above) may be paid from the fund.

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.

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