

## **BILL ANALYSIS**

Senate Research Center  
79R5317 SLO-D

S.B. 485  
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Natural Resources  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, there are approximately 2,800 petroleum storage tank remediation sites still being cleaned which will not be ready before the September 1, 2005 deadline. Although the Texas Commission on Environmental Quality (TCEQ) has removed ineligible sites from the program, many of them will not meet the deadline due to circumstances including problems with off-site access, bankruptcy and withdrawal from the market of a large remediation contractor, or geological issues. An extension of the program can be funded from the existing fee currently paid by distributors of motor fuel when they remove motor fuel from a terminal.

S.B. 485 extends the life of the petroleum storage tank remediation account from September 1, 2005, to September 1, 2007. It allows TCEQ to place any sites remaining in the program after that date into the state-lead program for completion, provided the owner or operator demonstrates progress in attempting to complete corrective action activities during the next two years, since many owners will be unable to obtain insurance coverage to continue correction activity.

Transporters of motor fuel make deliveries at night when most retail facilities are closed, thus making verification of certificates each time the transporters deliver motor fuel to a retail location difficult. The owner or operator of the underground storage tank should be held responsible for ensuring that each of their tanks has been issued a valid certificate.

S.B. 485 removes the requirement that transporters of motor fuel be held responsible for depositing motor fuel into underground storage tanks which do not have a valid TCEQ-issued delivery certificate.

Current Texas cleanup standards for underground storage tanks, contamination found in backfill surrounding a tank may trigger a full-scale remediation of the site containing the tank. Prior to September 1, 2003, contamination found in backfill was not considered a trigger because such contamination is common to almost all tanks, is usually limited in scope, and does not extend to the surrounding soils or ground water.

S.B. 485 makes a technical correction to certain cleanup standards impacting petroleum storage tanks and restores the cleanup standards for backfills to those before September 1, 2003.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.342, Water Code, by adding Subsection (16-a) to define "subsurface soil."

SECTION 2. Amends Section 26.3467(a), Water Code, to require the owner or operator of an underground storage tank into which a regulated substance is to be deposited to provide the person responsible for depositing the regulated substance into the underground storage tank, rather than a common carrier, a copy of the certificate of compliance. Provides that a person responsible for depositing a regulated substance into an underground storage tank is in

compliance with this subsection by obtaining a dated copy of the certificate from the Internet website of the Texas Commission on Environmental Quality (TCEQ).

SECTION 3. Amends Section 26.355(b), Water Code, to provide that an owner or operator of an underground or aboveground storage tank from which a regulated substance is released is liable to the state unless the site at which the release occurred has been admitted into the petroleum storage tank state-lead program under Section 26.3573(r-1) (Petroleum Storage Tank Remediation Account). Makes conforming changes.

SECTION 4. Amends Section 26.3573, Water Code, by amending Subsections (r) and (s) and adding Subsection (r-1), as follows:

(r) Sets forth an exemption as provided by Subsection (r-1).

(r-1) Requires the executive director of TCEQ to grant an extension for corrective action reimbursement to a person who demonstrated diligence and attempted to complete all corrective action by September 1, 2005. Authorizes the petroleum storage tank remediation account (account) to be used to reimburse a person for corrective action performed under an extension before September 2, 2007. Requires the executive director, by order, to place the site subject to corrective action in the commission's petroleum storage tank state-lead program until the corrective action is completed to the satisfaction of TCEQ, if a person who is granted an extension for corrective action reimbursement fails to complete the action by September 1, 2007.

(s) Prohibits the account from being used to reimburse any person for corrective action contained in a reimbursement claim filed with TCEQ after March 1, 2008, rather than 2006.

SECTION 5. Amends Section 26.361, Water Code, to provide that the reimbursement program established under this subchapter expires September 1, 2008, rather than 2006. Prohibits the commission from using funds from the account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action on or after September 1, 2008, rather than 2006.

SECTION 6. Effective date: September 1, 2005.