

SUBJECT: Extending the petroleum storage tank remediation program

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 4 ayes — Bonnen, Howard, Homer, W. Smith
0 nays
3 absent — Driver, T. King, Kuempel

SENATE VOTE: On final passage, April 14 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 1987:)*
For — Chris Newton, Texas Petroleum Marketers and Convenience Store Association
Against — None
On — Jackie Hardee, Texas Commission on Environmental Quality

BACKGROUND: Water Code, ch. 26, subch. I governs the petroleum storage tank remediation program. The program, which is administered by the Texas Commission on Environmental Quality (TCEQ), requires owners of certain underground storage tanks that hold regulated substances, such as gasoline or diesel, to register those tanks with the commission.

The TCEQ State-Lead Program receives referrals of petroleum storage tanks whose owners are financially unable or unwilling to conduct the necessary corrective action at a leaking petroleum storage tank site. The commission also assumes responsibility for corrective action at sites where the responsible parties are unknown.

DIGEST: SB 485 would extend the date on which no further reimbursements could be made from the petroleum storage tank remediation account from March 1, 2006, to March 1, 2008. The petroleum storage tank reimbursement program would be extended from September 1, 2006, to September 1, 2008.
The TCEQ executive director would grant an extension for corrective

action reimbursement to an eligible owner or operator of a petroleum storage tank. The petroleum storage tank remediation account could be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007.

A person granted an extension could apply to TCEQ to have a site placed in the State-Lead Program before July 1, 2007. The eligible owner or operator would have to agree to allow site access to state personnel as a condition of being granted placement into the State-Lead Program. On receiving an application, the executive director would place the site in the State-Lead Program until corrective action had been completed to the commission's satisfaction. An eligible owner or operator would not be liable for any costs related to corrective action.

A person performing corrective action who had met all deadlines and submitted progress reports would have to submit a site closure request by September 1, 2007.

An owner or operator of an underground or above-ground storage tank from which a regulated substance was released would not be liable to the state if the site at which the release occurred had been admitted into the petroleum storage tank State-Lead Program under the bill.

A cap on the amount of money from the petroleum storage tank remediation account that could be used by TCEQ to pay for expenses associated with the administration of the program would be repealed.

The owner or operator of an underground storage tank could comply with requirements to provide a common carrier with a certificate of compliance upon delivery of a regulated substance by obtaining a current copy of the certificate from TCEQ's Web site. The bill would specify that an owner or operator of an underground storage tank, rather than a "person," would be committing an offense for failure to comply. It no longer would be an offense if an individual physically delivered a regulated substance into a regulated storage tank if the tank had not been validly registered.

The bill would clarify that "subsurface soil" would not include backfill or native material placed immediately adjacent to or surrounding an underground storage tank system when the system was installed or when the system's components were replaced unless free phase petroleum product was present in the backfill or native material.

The bill would take effect September 1, 2005, and would apply to an offense that occurred on or after that date.

**SUPPORTERS
SAY:**

SB 485 would continue the petroleum storage tank remediation program for two more years, enabling projects currently under way to be completed. The extension granted in this bill would be paid for with existing fees from the distribution of motor fuel.

Petroleum storage tank cleanup has been remarkably successful to date, with close to 90 percent of the estimated 25,000 designated sites having been cleaned up. However, remediation has not been completed for some 2,800 sites. Due to factors such as geologic challenges, conflicts with landowners on adjacent lots, and the bankruptcy of a large remediation contractor, some of these sites have taken more time to clean up than was expected. Two more years would allow enough time for the remaining projects to be completed.

Owners of tanks that did not meet the extension would be placed into the state-administered clean-up program to ensure that these sites were fixed. Owners who were put into the program would have to give TCEQ full access to their property in order to allow for timely remediation of the project.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

Due to the fact that the petroleum storage tank remediation fee that funds petroleum storage tank remediation program will expire in fiscal 2007, the Legislative Budget Board reports that SB 485 would result in a decrease of \$52.9 million in general revenue in fiscal 2008-09.

The House companion bill, HB 1987 by Bonnen, passed the House on April 22 and is pending in the Senate Natural Resources Committee.