

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1772

By: Roggow

AS INTRODUCED

An Act relating to underground storage tanks; amending 17 O.S. 2001, Section 365, which relates to the Oklahoma Leaking Underground Storage Tank Trust Fund; clarifying language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2001, Section 365, is amended to read as follows:

Section 365. A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Oklahoma Leaking Underground Storage Tank Trust Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of loans and grants from the federal government and any state matching funds required by the federal government with regard to storage tanks.

B. There is hereby created in the State Treasury a revolving fund for the Corporation Commission to be designated the "Oklahoma Leaking Storage Tank Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies from public or private sources, and any monies collected pursuant to the provisions of this section.

C. All monies accruing to the credit of the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Storage Tank Revolving Fund are hereby appropriated and may be budgeted and expended by the Corporation Commission only for the purpose provided in this section, to best protect human health and the environment.

Expenditures from said funds shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. 1. The Corporation Commission is hereby given the power and authority to receive, administer and authorize payments from the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Storage Tank Revolving Fund.

2. The Commission shall establish separate accounts and subaccounts within the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Storage Tank Revolving Fund deemed necessary to implement the provisions of this section.

E. The Corporation Commission may make expenditures from the Oklahoma Leaking Storage Tank Revolving Fund for payment of costs incurred by any appropriate state agency for corrective actions, enforcement actions and cost recovery actions undertaken as necessary to protect human health and the environment as set out in Subchapter IX of Title 42 of the United States Code.

F. For the purpose of immediately responding to emergency situations created by leaking storage tanks having potentially critical environmental or public health or safety impact, the Corporation Commission may take whatever action it deems necessary without notice or hearing, including the expenditure of monies from either the Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking Storage Tank Revolving Fund or from both such funds to promptly respond to the emergency. Such emergency expenditure shall be made pursuant to the provisions of the Oklahoma Central Purchasing Act upon such terms and conditions established by the Department of Central Services to accomplish the purposes of this section.

G. 1. The Corporation Commission shall seek reimbursement from the responsible person, firm or corporation for all expenditures made from either the Oklahoma Leaking Underground Storage Tank Trust

Fund or the Oklahoma Leaking Storage Tank Revolving Fund or from both such funds.

2. All monies received by the Corporation Commission as reimbursement or penalties relating to expenditures made from the Oklahoma Leaking Underground Storage Tank Trust Fund or Leaking Storage Tank Revolving Fund shall be transferred for deposit to the credit of the Oklahoma Leaking Storage Tank Revolving Fund.

3. All monies received by the Corporation Commission as reimbursement or penalties relating to expenditures made from the Oklahoma Corporation Commission Storage Tank Regulation Revolving Fund shall be transferred for deposit to the Oklahoma Corporation Commission Storage Tank Regulation Revolving Fund.

~~2.~~ 4. The owner or operator is liable for the cost of the corrective action taken by the Corporation Commission pursuant to this subsection, including the cost of investigating the release and administrative and legal expenses, if:

- a. the owner or operator has failed to take a corrective action ordered by the Commission and the Commission has taken the corrective action, or
- b. the Administrator has taken corrective action in an emergency.

~~3.~~ 5. Reasonable and necessary expenses incurred by the Commission in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered in a civil action. The Commission's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Expenses that are recovered under this subsection shall be deposited in the Leaking Storage Tank Revolving Fund.

H. 1. Any owner or operator of an storage tank who fails to comply with any order issued by the Corporation Commission for corrective or enforcement actions may be subject to an

administrative penalty not to exceed Twenty-five Thousand Dollars (\$25,000.00) for each tank for each day of violation.

2. The administrative penalties assessed and collected by the Corporation Commission shall be deposited to the Oklahoma Leaking Storage Tank Revolving Fund to be disbursed by the Commission in support of relevant agency activities.

SECTION 2. This act shall become effective November 1, 2005.

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