

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2390

By: Liebmann of the House

and

Bingman of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to the Corporation Commission;
12 amending 17 O.S. 2011, Section 353, which relates to
13 the Petroleum Storage Tank Indemnity Fund; allowing
14 reimbursement to certain government storage tanks;
15 removing minimum cost requirement; deleting obsolete
16 language; providing an effective date; and declaring
17 an emergency.

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

19 SECTION 1. AMENDATORY 17 O.S. 2011, Section 353, is
20 amended to read as follows:

21 Section 353. A. There is hereby created within the Corporation
22 Commission, the "Petroleum Storage Tank Indemnity Fund". The
23 Director shall hire an Administrator who shall administer the
24 Indemnity Fund and Indemnity Fund Program. The Indemnity Fund shall

1 be administered by the Administrator for the benefit of those
2 persons determined to be eligible by the Administrator to receive
3 total or partial reimbursement for:

4 1. The costs determined to be eligible by the Administrator in
5 preparing a corrective action plan;

6 2. The cost of corrective action taken in response to an
7 eligible release;

8 3. Payment of claims for property damage or personal injury
9 resulting from an eligible release; and

10 4. Necessary costs incidental to the cost of a site assessment
11 or the corrective action taken and for filing and obtaining
12 reimbursement from the Indemnity Fund.

13 B. Reimbursements made to or for the benefit of eligible
14 persons shall be exempt from The Oklahoma Central Purchasing Act.

15 C. 1. Costs incurred as a result of a release from a storage
16 tank system owned or operated by this state ~~or by the federal~~
17 ~~government~~ are ~~not~~ reimbursable pursuant to the provisions of the
18 Oklahoma Petroleum Storage Tank Release Indemnity Program. ~~State~~
19 ~~and federally owned~~ State-owned facilities shall take the proper
20 corrective action as may be necessary to protect the environment
21 from a leaking storage tank system. ~~Provided, that an~~ An agency of
22 the state may also access said fund for reimbursement when it
23 purchases property containing storage tanks from an owner or

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 operator qualified to access the Indemnity Fund and upon which an
2 eligible release has occurred prior to the agency acquiring the
3 property. ~~In such case, the agency of the state shall be reimbursed~~
4 ~~for allowable costs in excess of Five Thousand Dollars (\$5,000.00)~~
5 ~~with the attendant co-pay as referenced in subsection H of Section~~
6 ~~356 of this title available to the agency at the same level or~~
7 ~~amount of reimbursement as the qualified owner or operator would~~
8 ~~have received pursuant to Section 356 of this title.~~

9 2. Costs incurred as a result of a release from a storage tank
10 system owned or operated by a Class I Railroad are not reimbursable
11 pursuant to the provisions of the Oklahoma Petroleum Storage Tank
12 Release Indemnity Program.

13 D. The Indemnity Fund shall consist of:

14 1. All monies received by the Commission as proceeds from the
15 assessment imposed pursuant to Section 354 of this title;

16 2. Interest attributable to investment of money in the
17 Indemnity Fund; and

18 3. Money received by the Commission in the form of gifts,
19 grants, reimbursements, or from any other source intended to be used
20 for the purposes specified by or collected pursuant to the
21 provisions of the Oklahoma Petroleum Storage Tank Release Indemnity
22 Program.

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1 E. 1. Except as provided ~~for in subsection F of~~ in this
2 section, the monies deposited in the Indemnity Fund shall at no time
3 become monies of the state and shall not become part of the general
4 budget of the Commission or any other state agency. Except as
5 otherwise authorized by ~~subsection F of this section,~~ the Oklahoma
6 Storage Tank Regulation Act and the Oklahoma Petroleum Storage Tank
7 Release Indemnity Program, no monies from the Indemnity Fund shall
8 be transferred for any purpose to any other state agency or any
9 account of the Commission or be used for the purpose of contracting
10 with any other state agency or reimbursing any other state agency
11 for any expense.

12 2. ~~Except as provided for in subsection F of this section, no~~
13 No monies from the Indemnity Fund shall be used to pay or reimburse
14 the Commission for the salary of any employee, except for the
15 Compliance and Inspection Department, while such employee is
16 performing work involved in the regulation of storage tanks pursuant
17 to the Oklahoma Storage Tank Regulation Act or the administration of
18 programs pursuant to said act, including the development, review and
19 approval of corrective action plans as required by the regulatory
20 programs; however, the Indemnity Fund shall pay for all costs
21 associated with administering the Compliance and Inspection
22 Department including, but not limited to, automobile and travel
23 costs, computer software and equipment, and other costs incurred in

1 administering the Compliance and Inspection Department. The
2 Commission shall cross train the field staff of the Petroleum
3 Storage Tank Division to perform inspections and related field
4 activities for all programs within the Division and the Oklahoma
5 Petroleum Storage Tank Release Indemnity Program may reimburse the
6 Division the actual costs of inspection services performed on behalf
7 of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

8 3. Monies in the Indemnity Fund shall only be expended for:

9 a. reimbursements to eligible persons unless duly
10 assigned to another, and

11 b. costs incurred by the Indemnity Fund Program for the
12 administration of the fund and costs incurred for the
13 sole purpose of evaluating claims and determining
14 whether specific claims qualify for payment or
15 reimbursement from such Indemnity Fund.

16 Any costs incurred by and reimbursed to the Commission pursuant
17 to the provisions of the Oklahoma Petroleum Storage Tank Release
18 Indemnity Program shall not exceed the actual expenditures made by
19 the Commission to implement the provisions of the Oklahoma Petroleum
20 Storage Tank Release Indemnity Program.

21 4. Payment of claims from the Indemnity Fund shall not become
22 or be construed to be an obligation of this state. No claims
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1 submitted for reimbursement from the Indemnity Fund shall be paid
2 with state monies.

3 ~~F. The Administrator of the Corporation Commission is hereby~~
4 ~~allowed to transfer funds from the Petroleum Storage Tank Indemnity~~
5 ~~Fund in amounts determined to be necessary and for the purposes~~
6 ~~authorized in Section 2 of this act. The total amount transferred~~
7 ~~shall not exceed the amount set forth in Section 2 of this act. The~~
8 ~~transfer and expenditure authorizations provided by this subsection~~
9 ~~and Section 2 of this act shall remain in effect until June 30,~~
10 ~~2011.~~

11 SECTION 2. This act shall become effective July 1, 2012.

12 SECTION 3. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
18 02/20/2012 - DO PASS, As Amended and Coauthored.

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