SENATE FLOOR VERSION
April 9, 2012
As Amended

ENGROSSED HOUSE
BILL NO. 2390 By: Liebmann of the House

and

Bingman of the Senate

[Corporation Commission - Petroleum Storage Tank Indemnity Fund - allowing reimbursement - effective date - emergency]

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

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

Section 353. A. There is hereby created within the Corporation Commission, the "Petroleum Storage Tank Indemnity Fund". The Director shall hire an Administrator who shall administer the Indemnity Fund and Indemnity Fund Program. The Indemnity Fund shall be administered by the Administrator for the benefit of those persons determined to be eligible by the Administrator to receive total or partial reimbursement for:

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

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

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

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

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

C. 1. Costs incurred as a result of a release from a storage tank system owned or operated by this state ~~or by the federal government~~ are ~~not~~ reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Release Indemnity Program. ~~State and federally owned~~ State-owned facilities shall take the proper corrective action as may be necessary to protect the environment from a leaking storage tank system. ~~Provided, that an~~ An agency of the state may also access said fund for reimbursement when it purchases property containing storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property. ~~In such case, the agency of the state shall be reimbursed for allowable costs in excess of Five Thousand Dollars ($5,000.00) with the attendant co-pay as referenced in subsection H of Section 356 of this title available to the agency at the same level or~~

~~amount of reimbursement as the qualified owner or operator would have received pursuant to Section 356 of this title.~~

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

D. The Indemnity Fund shall consist of:

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

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

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

E. 1. Except as provided ~~for in subsection F of~~ in this section, the monies deposited in the Indemnity Fund shall at no time become monies of the state and shall not become part of the general budget of the Commission or any other state agency. Except as otherwise authorized by ~~subsection F of this section,~~ the Oklahoma Storage Tank Regulation Act and the Oklahoma Petroleum Storage Tank Release Indemnity Program, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any

account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. ~~Except as provided for in subsection F of this section, no~~ No monies from the Indemnity Fund shall be used to pay or reimburse the Commission for the salary of any employee, except for the Compliance and Inspection Department, while such employee is performing work involved in the regulation of storage tanks pursuant to the Oklahoma Storage Tank Regulation Act or the administration of programs pursuant to said act, including the development, review and approval of corrective action plans as required by the regulatory programs; however, the Indemnity Fund shall pay for all costs associated with administering the Compliance and Inspection Department including, but not limited to, automobile and travel costs, computer software and equipment, and other costs incurred in administering the Compliance and Inspection Department. The Commission shall cross train the field staff of the Petroleum Storage Tank Division to perform inspections and related field activities for all programs within the Division and the Oklahoma Petroleum Storage Tank Release Indemnity Program may reimburse the Division the actual costs of inspection services performed on behalf of the Oklahoma Petroleum Storage Tank Release Indemnity Program.

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO PASS, As Amended.