

BILL ANALYSIS

Senate Research Center

H.B. 2687
By: Junell (Duncan)
Natural Resources
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Engrossed

DIGEST AND PURPOSE

Under current law, a petroleum product delivery fee is assessed on bulk loads of motor fuel. The revenue from this fee is used to fund the petroleum storage tank remediation account (account) and is administered by the Texas Natural Resource Conservation Commission (TNRCC). The account serves as a state-sponsored insurance fund to reimburse tank owners in the effort to clean up contaminated and leaking tanks. In 1995, the fee was doubled to pay obligations from the general revenue fund issued when the account was insolvent. As of December 22, 1998, tank owners may no longer rely on the account as proof of federally mandated insurance. To meet federal requirements, tank owners must now acquire cleanup insurance from private insurance providers. In addition, there are concerns that the account will no longer accept new claims for cleanup projects. In 1999, the 76th Legislature passed legislation that limited the administrative expenses of the account to an amount specifically appropriated for that purpose, decreased by one-quarter the petroleum product delivery fee on bulk loads of motor fuel, and provided for the termination of the account by September 1, 2003. In addition, the Act suspended the petroleum product delivery fee (fee) after the account reached its unobligated balance cap of \$100 million in February 2000. The fee may be reinstated if the unobligated balance falls to \$25 million. There are concerns that the remediation projects eligible for reimbursement for corrective action expenses may not be finished by the 2003 deadline, the unobligated balance may fall back to \$25 million by December 2001, and the corrective actions may take longer than anticipated. H.B. 2687 provides for the continuation of the groundwater protection cleanup program until September 1, 2006, reduces the delivery fees for users of certain petroleum products; and sets forth provisions regarding the application of such fees.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

H.B. 2687 amends the Water Code to increase from 6.7 to 11.8 percent the amount of gross receipts of the petroleum storage tank remediation account (account) for fiscal year 2002-2003; 16.40 percent of the gross receipts of that account for fiscal year 2004-2005; and 21.01 percent of the gross receipts of that account for 2006-2007 that the Texas Natural Resource Conservation Commission (TNRCC) is authorized to spend on expenses associated with the administration of the account and the groundwater protection cleanup program (program). The bill also prohibits the account from being used to reimburse any person for corrective action performed after September 1, 2005, or a reimbursement claim filed with TNRCC after March 1, 2006 (Sec. 26.3573). The bill decreases, and sets forth incremental reductions of, the fees imposed on the withdrawal of a petroleum product from a bulk facility (fee). The bill deletes provisions regarding the imposition of fees based on the balance of the account (Sec. 26.3574). The bill requires a person performing corrective action, if the release was reported to TNRCC on or before December 22, 1998, to meet certain deadlines and sets forth provisions regarding the failure of the person to comply with such deadlines and prohibits the use of account funds to reimburse an owner or operator who misses a deadline (Secs. 26.351 and 26.3571). The bill prohibits funds from the account from being used to pay for certain corrective action expenses

for which reimbursement is prohibited (Sec. 26.3512). The bill provides that limitations on the amount of money TNRCC may recover is not applicable to cost recovery actions initiated by the executive director of TNRCC (executive director) at sites where the executive director has determined that the owner or operator has missed a deadline (Sec. 26.355). The bill provides that the program expires September 1, 2006, rather than 2003. The bill prohibits the use of account funds for the reimbursement to any person for corrective performed after September 1, 2005, and prohibits TNRCC from using money from the account for reimbursements on or after September 1, 2006, rather than 2003. The bill deletes and repeals the provision which prohibits TNRCC from collecting a fee on or after March 1, 2002 (Secs. 26.361, 26.3573 and SECTION 11). The bill replaces references to a storage tank storing gasoline or diesel fuel with references to a storage tank used for storing motor fuels as defined in TNRCC rule (Sec. 26.346). The bill also modifies the definition of "owner" to include a person who owns an aboveground storage tank (Sec. 26.342).

Effective date: September 1, 2001.