



Petroleum Underground Storage Tank Release Compensation Board

P.O. Box 163188 • Columbus, Ohio 43216-3188
Phone: (614) 752-8963 • Fax: (614) 752-8397
www.petroboard.com

TO: The Honorable Chris Widener, Chairman, and members of the Senate Finance Committee

FROM: Petroleum Underground Storage Tank Release Compensation Board
Starr Richmond, Executive Director
Donald Leasor, Chief Fiscal Officer

RE: Agency Testimony

DATE: May 4, 2011

Chairman Widener and members of the Finance Committee:

BACKGROUND

The Petroleum Underground Storage Tank Release Compensation Board (Board) and the Financial Assurance Fund (Fund) it manages were created through legislation enacted in 1989 in response to a federal mandate. All petroleum underground storage tank (UST) owners and operators are required to demonstrate \$1 million of financial responsibility to pay for potential damages caused by releases from their tanks. The U.S. EPA has approved Ohio's Fund as a mechanism that meets this federal requirement.

The Board is composed of 12 members, nine of whom are appointed by the Governor, and three ex officio members – the Treasurer of State, and the Directors of the Ohio EPA and Department of Commerce. The Board is a body both corporate and politic; may enter into contracts or agreements for the purposes of administering sections 3737.90 to 3737.98 of the Revised Code; and must sue or be sued in its own name. Its primary responsibility is the successful management of the Fund.

Under Ohio's statute, the Fund is in the custody of the State Treasurer but is not part of the state treasury. The Fund's assets are generated by annual tank fees paid by owners, the proceeds from revenue bonds issued by the Board, and interest income. Moneys in the Fund are used solely to pay claims for the reimbursement of corrective action costs and third-party damages, including bodily injury; to pay the principle and interest on revenue bonds; and to pay the costs of administering the Fund, including the personnel costs.

PROGRAM UPDATE

In addition to demonstrating financial responsibility, owners and operators of petroleum USTs were required to bring their equipment and operations into compliance with performance standards set by federal and state laws. These performance standards were designed to make the equipment and its use more protective of human health and the environment by, among other things, requiring corrosion protection and leak detection and, on a regular basis, requiring that certain tests be performed to verify the integrity of these systems.

Several predicted outcomes developed from these activities. First, as owners replaced or otherwise brought their USTs into compliance, a significant number of petroleum releases were discovered. Expenditures from the Fund for claim reimbursements to date total just under \$200 million and based on recent actuarial data, the Board estimates an additional \$21.4 million in costs will be reimbursed for the continued clean up of more than 700 releases discovered prior to the compliance deadline. An additional \$15.4 million is estimated to be reimbursed for releases occurring between the compliance deadline and June 30, 2010. To date, corrective action work has been completed for over 72% of the sites with Fund covered releases.

Currently, it is evident that fewer releases are being discovered on an annual basis and due to the transition to risk-based corrective action, their cleanup is at reduced costs. The most recent data indicate that the numbers of sites with new releases claiming against the Fund are less than 15% of what was experienced annually prior to the compliance deadline. Another outcome resulting from the compliance requirements is that there are far fewer USTs in the ground today than there were at the start of the program. Although today's total of approximately 21,100 USTs is less than 45% of what existed when this program began, the number of tanks in the ground has decreased only slightly in recent years.

Although, as previously stated, the number of Fund eligible releases with ongoing corrective action work and the number of new releases being discovered has significantly decreased in recent years, the Board has not experienced a decrease of the same magnitude in the number and total dollar value of claims being submitted for reimbursement each year. In fact, between the 2006 and 2011 fiscal years, the number of claims submitted on an annual basis has decreased by only 7%, while the total face value of these claims decreased just 15%. These statistics are reflective of the severity of the releases for which corrective action is ongoing and consequently, it's anticipated that claim reimbursement payments will continue at current levels through at least fiscal year 2016.

During this biennium, the Board undertook several initiatives to ensure the Fund's continued solvency and lessen the burden on Ohio's owners. I'm happy to report that one initiative was the early retirement of outstanding revenue bonds. The Board issued revenue bonds in 1993 and again in 1998, totaling \$65 million. The first series of revenue bonds matured in August 2008 and the second series of bonds were scheduled to

mature in August 2013. However, this second series of bonds were redeemed early in August 2010. Since the Fund is solely financed by fees, this early redemption saved Ohio's UST owners, which are largely small and medium-sized business owners, \$2.1 million in interest payments that would have been required over the next three years. Among the Board's other initiatives, were reductions in the requirements for obtaining a Certificate of Coverage with the Fund and for requesting pre-approval of certain corrective action costs.

First, the Board's rule that required owners to demonstrate compliance with regulations governing the operation and maintenance of USTs in order to obtain a Certificate of Coverage was eliminated. Instead, a similar review is performed at the time an owner submits an application for eligibility to claim under the Fund. This change resulted in a dramatic decline in the number of requests for additional information before the issuance of a Certificate and a decrease in the response time between the receipt of payment and issuance of the Certificate without effecting the response time in the eligibility application review process. Second, the requirements for mandatory cost pre-approval were reduced so that cost pre-approval is required *only* when the cost of certain activities is anticipated to exceed what is usual, customary, and reasonable. As a result, based on a three-year average of prior submissions, the number of requests for mandatory and voluntary pre-approval of costs this past year declined 20% and 38%, respectively.

In the coming biennium, the Board will continue to look at ways to ensure the Fund's solvency without an increase in the per-tank fee. One mechanism currently under review is an aggressive approach to the collection of aged accounts. Implementing such a program will improve cash flow and increase moneys available for the reimbursement of claims without an adverse effect on the current fee structure. In addition, the Board will continue to use its cost pre-approval program to encourage the use of cost effective and efficient corrective actions, thereby, preserving the Fund's resources.

PROPOSED BUDGET

The budget request before you is solely for the Board's personnel costs of 16 full-time employees; all other expenses are paid directly from the Fund by warrant of the State Treasurer. As previously stated, all of the Boards' expenditures, including personnel, are financed by its fee collections.

This concludes the prepared testimony. Thank you.



FINANCE COMMITTEE

WITNESS FORM

Today's Date: May 4, 2011

Name: Starr Richmond

Address: 50 W. Broad St., Suite 1500
Columbus, OH 43215

Telephone: 614-752-8963

Representing: Petroleum UST Release Compensation Board

Testifying on bill number: Sub. H.B. 153

Testifying as: Proponent
 Opponent
 Interested Party

Are you a registered lobbyist? YES NO

Are you submitting written testimony? YES NO

Comments: _____



FINANCE COMMITTEE

WITNESS FORM

Today's Date: May 4, 2011

Name: Donald Leasor

Address: 50 W. Broad Street, Suite 1500
Columbus, OH 43215

Telephone: 614-752-8963

Representing: Petroleum Underground Storage Tank Release Compensation Board

Testifying on bill number: Sub. H.B. 153

Testifying as: Proponent
 Opponent
 Interested Party

Are you a registered lobbyist? YES NO

Are you submitting written testimony? YES NO

Comments: _____

