

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 406

As Amended by Senate Committee on Natural
Resources

Brief*

SB 406 would amend the Kansas Storage Tank Act to provide a reimbursement fund to assist property owners where abandoned underground storage tanks (USTs) are present.

The bill would define several terms, including the "Underground Storage Tank Redevelopment Fund"; "abandoned underground storage tank"; and "property owner."

Specifically, the bill would provide an opportunity for property owners (defined as a person who owns real property on which abandoned USTs are located) to be eligible for reimbursement for expenses associated with the removal of abandoned USTs.

The following requirements would need to be met by property owners in order to qualify for reimbursement:

- The property owner has never placed petroleum in the UST or withdrawn petroleum from the UST;
- The property owner is not the U.S. government or any of its agencies;
- The property owner is in substantial compliance with the Kansas Storage Tank Act;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The property owner provides 30-day notice and access to the Kansas Department of Health and Environment (KDHE) to perform an environmental assessment of the site during UST removal; and
- If petroleum contamination was discovered during the environmental assessment of the site, the property owner would apply to the UST Fund to perform corrective action to address the contamination.

Property owners would not be eligible for reimbursement unless the UST owner or operator were unable or unwilling to perform corrective action or cannot be found. In such cases the Kansas Department of Health and Environment (KDHE) would be able to recover all reimbursements paid and any related administrative and legal expenses from the UST owner or operator.

If a property owner were eligible for reimbursement, then an application and UST removal plan would need to be submitted to and approved by KDHE. Upon approval of the UST removal plan, the property owner would obtain and submit at least three bids to perform the UST removal. The Secretary of KDHE would then have the discretion to reimburse the property owner for permanent closure expenses based on the following criteria:

- Whether the UST facility was registered with KDHE on or after May 1, 1981;
- The UST contained petroleum products; and
- A deed restriction was placed on the property prohibiting the installation of USTs for 10 years following the date of the UST removal.

Only expenses for activities that are reasonable and necessary to permanently close a UST facility would be

eligible for reimbursement. Reasonable and necessary activities eligible for reimbursement could include the following:

- Removal of the tank and piping system;
- Cleaning and disposal of tanks; and
- Disposal of waste petroleum and other waste material, including concrete.

The bill would extend the sunset for the underground and above ground reimbursement funds from July 1, 2014, to July 1, 2024.

The bill also would make several technical changes to update references to federal code and associated effective dates. Technical changes also would include references to the UST Redevelopment Fund name in existing statutes.

Background

The bill was introduced by the Senate Committee on Natural Resources at the request of KDHE.

At the Senate Committee hearing, KDHE appeared as a proponent of the bill. The Director of the Bureau of Environmental Remediation for KDHE stated that since the inception of the reimbursement funds in 1990 and 1992, owners of 2,412 petroleum storage tank facilities have participated in the underground and above ground funds. The Director stated that on average, 30 new facilities apply for assistance each year and currently more than 1,200 facility owners continue to rely on these reimbursement funds to pay for ongoing corrective action at their facilities.

The Petroleum Marketers and Convenience Store Association of Kansas (PMCA) testified in favor of the bill. The PMCA recommended an amendment to the bill that

would include a 10-year deed restriction so that sites cannot be used as a fueling location in the immediate future.

The Kansas Petroleum Council, the Kansas Cooperative Council, and the Kansas Agribusiness Retailers Association also testified in favor of the bill.

There was no opponent or neutral testimony provided at the time of the Senate Committee hearing.

The Senate Committee approved several amendments to the bill. The amendments included allowing the Secretary of KDHE, at the Secretary's discretion, to determine which costs are allowable as UST removal costs; requiring applicants to provide to KDHE a notarized copy of the recorded deed restriction of 10 years for the property with the seal of the register of deeds; and various technical amendments to the bill.

The fiscal note on the original bill provided by the Division of the Budget states that upon implementation, KDHE anticipates expenditures of \$1.6 million and revenue of \$1.7 million for FY 2013. Included in the expenditures estimate is the salaries and wages and associated expenditures for an additional 1.5 Environmental Scientist II FTE (full-time equivalent) positions to assist with the administration of the program and its funds.