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## FISCAL IMPACT REPORT

SPONSOR: Leavell DATE TYPED: 2/21/01 HB \_\_\_\_\_  
 SHORT TITLE: Above Ground Storage Tanks SB 333  
 ANALYST: Belmares

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 75.0 See Fiscal Implications section below.	Recurring	General Fund
			\$ 200.0 See Fiscal Implications section below.	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	See Fiscal Implication section below.			Storage Tank Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to House Bill 73 and Senate Bill 120.

### SOURCES OF INFORMATION

Department of Environment  
 Energy, Minerals and Natural Resources Department  
 State Highway and Transportation Department  
 Air Quality Control Act

Hazardous Waste Act  
Oil and Gas Act

## **SUMMARY**

### Synopsis of Bill

Senate Bill 333 incorporates into the existing underground storage tank program of the Department of Environment the regulations, standards of operation, and management of releases from above ground storage tanks used for retail purposes which are currently regulated by the State Fire Marshal. The bill eliminates the competitive bidding requirement for investigative activities associated with releases from underground and above ground storage tanks, in which the state is not a contracting party. The bill establishes a yearly registration fee of \$100 per above ground to be consistent with registration fees of underground storage tanks. Additionally, the bill imposes regulatory requirements upon above ground storage tanks, including permitting and registration, fees, financial responsibility, certification of installers, closure and dismantling standards, record-keeping, reporting requirements, inspections and civil and criminal penalties.

### Significant Issues

Currently, the Fire Marshal regulates installation and operation while the Groundwater Quality Bureau of the Department of Environment manages releases from aboveground storage tanks. The petroleum stored in and dispensed from aboveground storage tanks has a petroleum products loading fee paid on it; however, the above ground storage tank owner does not currently have access to the funds in the event of contamination. The bill establishes a yearly registration fee of \$100 per above ground to be consistent with registration fees of underground storage tanks.

The bill eliminates the competitive bidding requirement to pay for an investigation of a release from an underground or aboveground storage tank. The tank owners incur these investigation costs and not the Department of Environment. The Department of Environment asserts its involvement in a competitive bidding process for investigation activities on behalf of private parties is not a cost effective use of the department's personnel. Additionally, the department indicates it would continue to have fiscal control by: (1) prior approval of scopes of work with costs identified by line item, (2) peer and supervisory review/approval, (3) work which must be completed under the direct supervisory control of a certified scientist, and (4) costs are controlled by a fee schedule set by the Department of Environment.

The Energy, Minerals and Natural Resources Department has suggested the definition of "above ground storage tanks" in the bill is so broad that certain above ground storage tanks already regulated by the department through its Oil Conservation Division pursuant to the Oil and Gas Act may be included. Examples provided are as follows: natural gas compressor stations, tanks at natural gas processing plants, refineries, oil field service company facilities, geothermal facilities and carbon dioxide production facilities. The Energy, Minerals and Natural Resources Department asserts the bill creates jurisdictional ambiguity which could cloud regulatory actions and make enforcement difficult. However, page 41, lines 5 through 7 of the bill state "tank[s] exempted by rule of the board [Environmental Improvement Board] after finding that the type of tank is adequately regulated under another federal or state law."

## **FISCAL IMPLICATIONS**

The Department of Environment has not provided a detailed estimate comparing anticipated workload increases against anticipated increased revenue resulting from the new registration fees; however, the department asserts the bill would have minimal fiscal implications due to increased revenue generated from the registration fee offsetting increases in inspections and management of facilities. As the universe of above ground storage tanks is better defined (see Significant Issues section above), the Department of Environment will be able to estimate the fiscal impact to the Storage Tank Fund.

The State Highway and Transportation Department asserts it will be impacted through increased administrative tasks, tank fees, and possible corrective actions. The State Highway and Transportation Department estimates \$20.0 in recurring general fund costs for tank fees for its estimated 200 above ground storage tanks located at district offices throughout the state. The State Highway and Transportation Department estimates the need of \$200,000 in non-recurring general fund, based on the assumption that 10 percent of its above ground storage tanks would have to be replaced within the first two years of new regulatory implementation. Additionally, the State Highway and Transportation Department estimates it could require an additional two FTE positions to provide technical oversight at a recurring general fund cost of \$25.0.

### Continuing Appropriations

This bill changes the name of the “Underground Storage Tank Fund” to the “Storage Tank Fund” and provides for continuing appropriations. The Legislative Finance Committee objects to including continuing appropriation language in the statutory provisions for newly created or amended funds. Earmarking reduces the ability of the legislature to establish spending priorities.

## **ADMINISTRATIVE IMPLICATIONS**

The Department of Environment has indicated it has the operational capacity to absorb the additional facility inspections and management resulting from the bill. Additionally, the Department of Environment has indicated it can absorb the workload associated with making moderate revisions to the existing regulations that would be required if the bill were passed. Revisions to the existing regulations are estimated to take approximately one year to implement.

## **RELATIONSHIP**

Section 1 of Senate Bill 333 relates to House Bill 73 because HB73 moves the State Fire Marshal to the Energy, Minerals and Natural Resources Department from the Public Regulation Commission. The bill also relates to Senate Bill 120 because that bill moves the State Fire Marshal to the Department of Public Safety.

EB/njw