

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2756

As Amended by House Committee on
Environment

Brief*

HB 2756 would amend the Kansas Storage Tank Act to provide reimbursement to eligible owners of aboveground petroleum storage tanks or bulk plants for the cost of certain upgrade expenses or permanent closure expenses. Only those aboveground storage tanks or bulk plants that are used for the storage of petroleum products for resale would be eligible. Other criteria for eligible facilities would include aboveground storage tank facilities registered with the Kansas Department of Health and Environment (KDHE) on or before November 22, 1993; that contain petroleum products; for which an application is made to the agency on or before January 9, 2009; and incur upgrade or closure expenses after August 1, 2001 and not later than October 30, 2007.

Eligible expenses would include the costs for secondary containment, integrity testing, corrosion protection, loss prevention, engineering costs, security, drainage, and removal of noncompliant tanks. Also included as eligible expenses would be the costs for removal of the tank and piping system, removal of the tank support and confinement system, removal of security systems, cleaning of tanks, and disposal of waste petroleum and other waste material.

The bill would require that applications for reimbursement be made on a forms supplied by KDHE. Under the bill, a successful applicant could be reimbursed for 90 percent of the of the approved cost of the facility upgrade or permanent closure, not to exceed \$25,000 per facility. Owners would be permitted to contract with others to perform the upgrade or permanent closure activities. In the alternative, and under certain conditions, the owners could enter into an agreement with KDHE to perform the upgrades or permanent closure after the deadline and receive reimbursement. Authority would be given to the Secretary of KDHE to promulgate rules and regulations necessary to administer provisions of the bill.

*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>

Under the bill, moneys for reimbursement would come from the Environmental Assurance Fee, which is currently imposed at the rate of \$.01 per gallon of petroleum products, other than aviation fuel, manufactured in or imported into this state. Current uses of these moneys are for assistance to aboveground and underground storage tank owners for certain corrective action costs. The Fee is imposed periodically to fund these functions until certain balances are attained. Once these balances are attained, the Fee is no longer imposed. The bill would require the Fee money to be diverted into a new fund called the Kansas Essential Fuels Supply Trust Fund. No money would be credited to the new fund if the balance exceeds \$5,000,000. Moneys would be credited only if the balance of the Fund is \$2,000,000 or less. The bill would create the Kansas Essential Fuels Supply Trust Fund. Interest from money in the Fund would be retained by the Fund.

Finally, the bill would create the Kansas Essential Fuels Supply Trust Fund Compensation Advisory Board to be composed of five members, including the State Fire Marshal or designee, the Director of the Division of Environment of KDHE or designee, two representatives from the petroleum industry (one of whom would be a petroleum marketer), and one representative from the petroleum equipment installation industry. The Governor would make the appointments and designate the chairperson. The bill would stipulate that the Board provide advice and counsel and make recommendations to the Secretary of KDHE regarding disputes over the disbursement of moneys from the Kansas Essential Fuels Supply Trust Fund.

Background

This bill was requested by a spokesperson from the Kansas Petroleum Marketers and Convenience Store Association. At the hearing on the bill, a spokesperson from this organization explained the U.S. Environmental Protection Agency (EPA) had issued a new rule to revise the original Spill Prevention Control and Countermeasure (SPCC) regulations. According to the conferee, the new regulations would require certain tank owners to upgrade to new standards, many of which owners cannot afford. The conferee stated that many of such owners may go out of business, with many of them being in rural areas. The conferee stated the bill would help small distributors maintain their presence in rural areas. Other proponents included petroleum marketers from Plainville and Hutchinson. A representative of the Kansas Cooperative Council also appeared in support for the

bill. Written comments in support of the bill were received from the Kansas Agribusiness Retailers Association. A representative of KDHE appeared as a neutral conferee on the bill. There were no opponents to the bill.

The House Committee on Environment amended the bill to limit those eligible for reimbursement to those aboveground tank owners or bulk plant owners where petroleum is stored for resale. In addition, the Committee added biofuels to the definition of petroleum in the definition section of the bill. Other amendments were technical.

The fiscal note on the original bill indicates that revenue from the following sources would be deposited in the Kansas Essential Fuel Supply Trust Fund: the Environmental Assurance Fee Fund and interest attributable to the investment of money in the Fuels Supply Fund. The Department estimates revenue of \$7.3 million for the fund for FY 2007. The Department of Health and Environment estimates the costs to update existing software, test the revisions, and proof the new application would be between \$10,000 and \$30,000 and would be funded by agency fee funds. Any increase in expenditures would be in addition to amounts recommended in *The FY 2007 Governor's Budget Report*.