

BILL ANALYSIS

C.S.H.B. 1956
By: Hancock
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since 1998, owners or operators of underground petroleum storage tanks (storage tank) have been required to maintain financial assurance, also known as financial responsibility, to cover the costs of assessing and cleaning up a release or a leak from a facility. However, facilities that do not have adequate financial assurance often enter into the State Lead Remediation Program where funding from the Petroleum Storage Tank Remediation Account is expended to address the release. Consequently, there have been a large number of owners or operators that have terminated their financial assurance and coverage, and the state has been left to address the cleanup of leaks from these facilities.

In addition, tank owners or operators have traditionally been required to self-report the name of their insurer, their policy number, and any notification of cancelled insurance. Many tank owners or operators have neglected to keep these records current, resulting in a lack of sufficient and accurate information listed in records kept by the Texas Commission on Environmental Quality (TCEQ).

CSHB 1956 authorizes the TCEQ to shut down underground storage facilities that are in noncompliance with respect to financial responsibility, and allows the commission to seek injunctive relief to force temporary or permanent facility closure. CSHB 1956 establishes a mechanism of notification to the TCEQ for any form of insurance coverage cessation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Insurance in SECTION 1 of this bill.

ANALYSIS

CSHB 1956 amends the Water Code to require the owner or operator of an underground petroleum storage tank (owner/operator) annually submit, along with their compliance certificate, proof of maintained financial responsibility for the storage tank.

The bill requires an insurance company or other entity that provides insurance coverage or another form of financial assurance to an owner/operator to notify the TCEQ if the insurance coverage or other financial assurance is canceled or not renewed. The provider must mail, fax, or e-mail notice no later than 30 days after the date the coverage is terminated. The bill requires the Texas Department of Insurance to adopt rules to implement these provisions.

The bill requires the penalty for failure to maintain financial responsibility for a storage tank may not be less than the annual cost, as estimated by the TCEQ, of maintaining the minimum insurance coverage required for the storage tank.

CSHB 1956 authorizes the TCEQ to order an owner/operator who fails to maintain evidence of financial responsibility to place the tank out of service.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1956 80(R)

CSHB 1956 amends the original to require an owner/operator to submit along with their annual compliance certification form, proof that the owner/operator has maintained financial responsibility. The substitute sets the minimum penalty for an owner/operator of a noncompliant facility at an amount not less than the annual cost of maintaining the required minimum insurance coverage. CSHB 1956 also provides the ability for insurance companies or other entities that provide insurance coverage or financial assurance to fax or e-mail, in addition to mail, notices of canceled or terminated coverage to TCEQ. The substitute directly requires the insurance company that provides coverage for a storage tank to notify the TCEQ of a cessation of coverage. The original required that a notification provision be written into the insurance policy. The substitute does not authorize the TCEQ to make rules to implement the provisions of the bill. The substitute applies changes made by the bill to insurance policies terminated, rather than issued, after January 1, 2008.

The substitute makes nonsubstantive and conforming changes to the original.