

2013 SENATE INDUSTRY, BUSINESS, AND LABOR

SB 2154


2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2154
January 28, 2013
Job Number 17779

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to registration fees for above and underground tanks

Minutes:

Attached Testimony

Chairman Klein: Opened the hearing.

Jeff Bitz, Administrator for the North Dakota Petroleum Tank Fund: Written Testimony Attached (1).

Chairman Klein: Asked if this was fixing a problem that they had found so that everyone is treated the same.

Jeff: Said yes, when this was put into place back in 2007 legislative session it was sponsored by the petroleum marketers association, and they wanted the tank fund to penalize tank owners who weren't registering their tanks continuously. They put it in July 1 on or before 2007, meaning that the legislation would go into effect but it doesn't give them the authority to save those tanks after July 1, 2007. He continues to explain the legislation of 2007. (3:14)

Chairman Klein: Asked if this affects agriculture, farmers' tanks, and irrigation tanks or if it just deals with petroleum.

Jeff: Said it only deals with petroleum commercial owner operators. Farmers can opt into it if they so choose but they are not required.

Chairman Klein: Asked Jeff to talk about the tank fund and how it works.

Jeff: Explains how it originated. (6:40)

Senator Murphy: Asked if they were talking about mostly gas stations.

Jeff: Said there are retail gas and bulk dealers, anybody who owns a business and has their own dispensing facility.

Questions were asked about where the fund money comes from and how the farmers would use this. (9:12)

Senator Sorvaag: Asked if the farmers have ever been notified that this is available to them. (13:46)

Jeff: Said probably not all of them would be aware of it. There is no data base to identify farmers in North Dakota.

Mike Rud, President of the North Dakota Petroleum Marketers: In support of the bill. (14:53)

Senator Andrist: Motioned for a do pass.

Senator Murphy: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Absent: 0

Floor Assignment: Senator Murphy

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: SB 2154

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill amends Section 23-37-17 in relation to the fee structure and requirement of environmental studies for existing tanks that have not been registered with the fund.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 changes the fee structure of previous year fees for an existing tank not registered at a site currently and previously registered with the fund. The amendment removes the set fees for above ground and underground tanks and replaces it with the registration fee plus a twenty-five dollar late fee due to the fund for each year the tank was not registered. The addition of tanks to a site at a date later than when the tank was first installed is minimal in comparison to the overall registration of tanks. With a majority of the late registrations being underground tanks, there would be no additional revenue collected for those tanks. Therefore, Section 1 will have no impact on the fund. Section 2 & 3 requires that an existing tank at a site that has not previously and continuously registered with the fund must have a phase two environmental study conducted before the tank is registered with the fund. The fee structure is changed from a set fee to the registration fee plus a twenty-five dollar late fee for each year the tank was not registered and is payable to the fund after the registration is approved. The registration of tanks at a new site at a date later than the original installation year is minimal. The amendment will have no impact on the fund's financial position. Section 2 would financially impact the tank owners by requiring a phase two study.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill has no effect on the state's revenue.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no effect on the state's expenditures.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill has no effect on the state's appropriations.

Name: Aimee Delzer

Agency: ND Insurance Department

Telephone: 328-2930

Date Prepared: 01/17/2013

Date: 01/28/2013

Roll Call Vote #:1

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2154**

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider _____

Motion Made By Senator Andrist Seconded By Senator Murphy

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Murphy

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2154: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2154 was placed on the Eleventh order on the calendar.

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2154

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2154
March 12, 2013
Job 19809

☐ Conference Committee

Jocelyn Gallagher

Explanation or reason for introduction of bill/resolution:

Relating to registration fees for above and underground tanks

Minutes:

Testimony 1

Hearing opened.

0:35 Jeff Bitz, North Dakota Insurance Department: (testimony 1) Referenced and summarized his testimony and walked through what the bill does.

4:05 Representative M. Nelson: Does this affect the on-farm storage tanks?

Jeff Bitz: Farm tanks are optional. Most are above ground storage tanks and under the current law above ground farm tanks are exempt.

Chairman Keiser: Anyone else in support of SB 2154

4:50 Mike Rud, President of the North Dakota Petroleum Marketers Association: Spoke of collaboration with insurance department. Voiced support of this bill.

Chairman Keiser: The fund got into a little trouble so we increased the fee, now the fund has become solvent again so the fee can decrease and then for those who fail to register, it would be an amount plus extra per year they failed to register?

Mike Rud: Per tank

Chairman Keiser: Any opposition, neutral support, hearing is closed.

Motion by Rep. Sukut for a do pass, second by Rep. Beadle. Rep. Nelson is the carrier.

12-0-3 motion carries

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: SB 2154

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The bill has no effect on the state's revenue.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no effect on the state's expenditures.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill has no effect on the state's appropriations.

Name: Aimee Delzer

Agency: ND Insurance Department

Telephone: 328-2930

Date Prepared: 01/17/2013

Date: 24-3-12-13Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2154**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By

Sukut

Seconded By

Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	0
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓	WB			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser		WB			
Rep. Dan Ruby		WB			
Rep. Don Vigasaa	✓				

Total Yes 12 No 0Absent 3

Floor Assignment

Nelson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2154: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).
SB 2154 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2154

TESTIMONY
JEFF BITZ – NORTH DAKOTA INSURANCE DEPARTMENT

Mr. Chairman and members of the committee:

I appear before you today in support of Senate Bill No. 2154.

The proposed legislation fixes the penalties for failure to register a tank and removes a date that was intended to be an effective date.

The petroleum tank release compensation fund originated 1989 in response to federal environmental legislation that required each petroleum tank owner or operator purchase insurance or otherwise provide security of at least \$1 million to cover cleanup cost for petroleum releases.

The federal legislation was in response to petroleum releases by tank owners who were not sufficiently financially solvent to pay for the needed cleanup costs. The states and the federal government ended up paying for the cleanup costs.

The federal law allowed states to establish a fund such as the Petroleum Tank Release Compensation Fund (the Fund). To meet the federal financial responsibility requirements, a tank owner is allowed to register his tanks with the fund and pay an annual registration fee. In return the Fund covers the cost of cleanup as determined by the Health Department to be necessary to protect the public health and safety.

The Health Department decides what cleanup action is appropriate on a site by site basis. The extent of corrective action varies by site, depending upon the location, local hydrogeology, the soils present, proximity to businesses and residences, proximity to and kind of public utilities, presence of surface streams, etc. Pollution travels further and faster the looser the soil and is more of a danger when near groundwater sources.

The focus of determining appropriate corrective action (remediation) is on protecting the public health and safety.

The Fund has handled approximately 735 claims and has reimbursed tank owners/operators over \$12 million in corrective action expenses. The Fund has currently 22 open claims with reserves of approximately \$981,446. The Fund has 1695 registered site with 1997 underground storage tanks and 3662 aboveground storage tanks.

Section 1 and 2 Amendments

The Removal of "on or before July 1, 2007" is requested because it conflicts with the original intent of requiring penalty fees and a phase two environmental study and a tank integrity test for an existing location that was not previously and continuously registered with the Fund. As it stands now, we can only require penalty fees, an environmental study and a tank integrity test for a tank a location that was not previously and continuously registered with the Fund on or before July 1, 2007, not after. That was not the intent. July 1, 2007 was meant to be the effective date for these requirements.

Section 1 and 3 Amendments

When the registration fee increases from \$50 to \$100 per tank as outlined in Section 23-37-17, subsection 1, the registration fee for an aboveground storage tank is more than the penalty fee of \$75.00. Section 1 and 3 Amendments of SB 2154 fixes this issue and makes the penalty for failure to register for each previous year the same for aboveground and underground storage tanks.

I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2154.

① 3-12-13
2/84

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