

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1756

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 1997

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1756 (1R) of 1996 with amendments.

Senate Bill No. 1756 (1R), as amended, creates a loan and grant program to fund the upgrade and closure of underground storage tanks (USTs) and any necessary remediation resulting therefrom. The program will be funded by corporation business tax revenues dedicated in the State Constitution for those purposes pursuant to the newly adopted Constitutional amendment.

This bill appropriates the first of the dedicated moneys, \$9.9 million, to the newly created Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund. The fund, to be administered by the New Jersey Economic Development Authority (EDA), will be used to give loans and grants to eligible owners and operators for the upgrade or closure of underground storage tanks or for the remediation of a discharge therefrom. Eligible owners and operators must have 10 or fewer tanks, have a net worth of less than \$2 million, and be unable to obtain a commercial loan. Homeowners will also be eligible for loans and grants to clean up discharges from underground storage tanks that store heating oil based on their ability to repay. Finally, public entities would be eligible for financial assistance as well. Loans or grants for upgrades will be available for regulated tanks only.

Interest free loans will be available to governmental entities and loans at between 2% and the Prime Rate will be available to private parties depending on the recipient's ability to repay. Loans will be available to an eligible commercial owner or operator who can demonstrate the inability to obtain a commercial loan, but can still demonstrate the ability to repay a loan from the fund. The loans would be for a 10 year term with a \$1 million cap per facility.

The bill makes grants available to persons with a net worth no greater than \$100,000 or an income of no more than \$100,000. Further, a grant may only be awarded to an applicant who cannot

repay a loan. Any part of the financial assistance that a person can repay will be given as a loan with the remainder given as a grant. A grant recipient must stay in business for 15 years or a portion of the grant must be repaid. The portion that must be repaid will decrease each year beginning in the tenth year after the grant is awarded. Beginning in the tenth year and each year thereafter, twenty percent of the amount of the grant forgiven so that by the fifteenth year the entire amount of the grant is forgiven. At this point, the grant would never have to be repaid even if the grant recipient no longer stays in business.

The bill gives funding priority to 1) environmental need; 2) upgrade and remediation of federally regulated tanks; 3) closure and remediation of federally regulated tanks; 3) upgrade and remediation of State regulated tanks; 4) remediations of unregulated tanks; and 5) closure of State regulated tanks. The bill would set aside ten percent annually to fund remediations for owners or operators of residential heating oil tanks. Applicants for this financial assistance would be eligible notwithstanding their ability to qualify for a commercial loan.

The bill prevents enforcement actions from being taken for failure to upgrade and remediate if a person applies for financial assistance and is waiting for it to be provided. If an application for financial assistance is denied, the authority to take enforcement action is restored. Also, enforcement action may be taken even when an application is pending in the case of a knowing discharge that may result in a serious threat to the environment or public health.

The bill also requires the owner of an upgraded tank to obtain evidence of financial responsibility, requires owners of tanks that do not have such evidence to pay a surcharge, and provides that the New Jersey Spill Compensation Fund will not serve as such evidence once a tank has been upgraded.

Finally, the bill repeals section 17 and 18 of P.L.1986, c.102 (C.58:10A-36 and C.58:10A-37). These sections established the State Underground Storage Tank Improvement Fund and provided for its administration. The fund was established to provide loans to owners of facilities to replace or repair one or more underground storage tanks and to install monitoring systems. The repayment of any outstanding loans made from this existing fund will be made to the new fund created by this bill.

COMMITTEE AMENDMENTS

The committee amendments make the following changes:

- C The cap on a grant to any one applicant is reduced from \$1 million to \$250,000.
- C The total amount in grants that may be awarded may not exceed 10% of the total assistance awarded in any one year.
- C The bill presently sets aside 10% of the annual appropriation for

residential USTs. If a residential UST fits the environmental risk priority category, moneys over the 10 % set aside for residential USTs may be awarded if it meets the other priority category's criteria.

- C If the EDA does not receive sufficient applications for the 10% set aside for residential USTs, it may award that money in that year to other applicants.
- C Financial assistance may not be awarded to clean up to residential standards if a site is not zoned for residential use.
- C The bill presently prevents the Department of Environmental (DEP) and the Attorney General from taking enforcement action against the owner of a regulated tank if the applicant is waiting for funding to upgrade and remediate. The amendments require that during the waiting period, the applicant must maintain inventory controls.
- C The bill presently prevents DEP from taking enforcement action against the owner of a regulated tank if the applicant is waiting for funding to upgrade and remediate except when there is a knowing discharge that may result in a serious threat to the environment. This amendment adds that enforcement action may be taken if there is a serious threat to public health as well.
- C Fees for nonresidential tanks can be determined by EDA.
- C If contamination is discovered at a regulated tank when only funding for upgrade or closure was requested, then the applicant may amend the application to request remediation funding.
- C EDA and DEP may establish procedures for application submission and review prior to adoption of rules and regulations.
- C Liens provided for in the bill shall include the name of the property owner, and are to be recorded with the county recording officer rather than the clerk of the Superior Court.
- C The closure of federally regulated USTs may be approved before December 1998 to encourage more closures.
- C The bill presently requires that grants used for upgrades be converted into loans if the property's use changes. If a grant is converted to a loan, the terms of the loan will be the same as other loans issued pursuant to the act.
- C Interest from moneys in the fund may be used by EDA for administrative costs.
- C The deadline for completed applications and payment of application fees for regulated tanks is extended from February 1, 1999 to March 1, 1999. (The deadline for upgrades is December 22, 1998.)
- C Changed effective date to be effective immediately instead of upon adoption of rules and regulations.

FISCAL IMPACT

This bill appropriates \$9.9 million to the New Jersey Economic Development Authority for deposit to the newly created Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund. These funds being appropriated are the first of the 4 percent of corporation business tax revenues dedicated pursuant to Article VIII, Section II, paragraph 6 of the New Jersey Constitution for hazardous waste cleanups, underground storage tank upgrades and cleanups, and water quality related projects. .

The bill also appropriates to the New Jersey Economic Development Authority \$50,000 from the General Fund for the cost of adopting rules and regulations needed to administer the fund created by this bill. The authority is required to repay this \$50,000 appropriation when sufficient monies are available in the new fund.