



STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 7, 2011
Environment Committee

Testimony Submitted by Acting Susan Frechette
Department of Environment Protection

Raised Senate Bill No. 1113 - AN ACT ESTABLISHING A CONNECTICUT COMMERCIAL TANK INSURANCE ACCOUNT

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 1113 - AN ACT ESTABLISHING A CONNECTICUT COMMERCIAL TANK INSURANCE ACCOUNT. The Department of Environmental Protection (Department) offers the following testimony.

Raised Senate Bill No. 1113 appears to establish a second and unnecessary redundant state program. Additionally, the bill's costs appear to be derived from a new tax on the gross receipts of petroleum dealers which is the same source of funding for the existing program. Connecticut has an established program (the Underground Storage Tank Petroleum Clean-Up Program - "UST Clean-Up Program") that was approved by the U.S. Environmental Protection Agency (EPA) in 1991 as an allowable financial assurance mechanism for underground storage tank owners/operators to meet federal financial responsibility requirements. Since the UST Clean-Up Program's beginning in 1992, the Department has implemented and administered the program, processed over **\$272 million** of reimbursement costs, and paid over **\$197 million** of costs that have been awarded by the UST Clean-up Program Review Board ("Review Board").

This bill also establishes a program ("Insurance Account") that is intended to provide reimbursement well beyond what is required under the federal financial requirements. The Insurance Account would significantly expand the number of sites, applicants and costs that are eligible for state reimbursement and utilizes financial resources that would otherwise support the established UST Clean-up Program. In addition, the Insurance Account depends on the establishment of a new funding source yet fails to account for that fiscal impact. This bill also appears to allow the possibility of an applicant seeking and being awarded duplicative awards, potentially resulting in double reimbursement for expenses.

Raised Senate Bill No. 1113 proposes eliminating the Department's representation on the Review Board. The purpose of such elimination is unclear and inappropriate considering the role that the Department serves in administering the state's underground storage tank and remediation programs. The Department remains the sole state agency with legal authority to administer the state and federal underground storage tank financial responsibility requirements and was instrumental in establishing the EPA-approved UST Clean-Up Program.

Some additional concerns and provisions requiring clarification include, but are not limited to, a failure to: (1) establish a financial means test for applicants – many large UST owners/operators are currently self-insured and have no need for such program; (2) address impact on the existing UST Clean-up Program and its current participants – two redundant programs will exist having different reimbursement criteria; (3) consider UST compliance or non-compliance as causation for the releases, which could result in taxpayers funding clean up for non-compliant operators; (4) define what constitutes property damages, economic loss, occurrence, and oil; (5) establish which persons are subjected to cost recovery by the program or the state and for what reasons; and (6) establish the trigger dates for submitting claims, and how deadlines are established in a manner that may be administered effectively.

The Department would welcome the opportunity to work with the proponents of the bill to discuss this matter further.

Thank you for the opportunity to present the Department's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or Robert.LaFrance@ct.gov.