

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1061(As Amended June 14, 1993)

SHORT TITLE: Underground Tanks Amends

SPONSOR(S): Representative DeVane

FISCAL IMPACT: **Expenditures:** Increase () Decrease ()
 Revenues: Increase () Decrease ()
 No Impact (X) Reallocation of Current Revenue
 No Estimate Available ()

FUND AFFECTED: General Fund () Highway Fund (X) Local Govt. ()
 Other Funds (X)

BILL SUMMARY:

"TO AMEND THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988." Amends GS 143-215.94B(b) to allow use of funds from Commercial Fund to underwrite cost exceeding \$20,000 of cleanup for discharges and released discovered and reported in calendar year 1994 if owner or operator notified DEHNR of intent to either permanently close the tank or upgrade it to meet standards that will take effect 12/22/98, and closure or upgrade is begun before 7/1/94 and completed by 12/31/94.

Amends other portions of GS 143-215.94B(b) to require that discharges or releases must be both discovered and reported (now, only reported) within specified time frames in order to qualify for cleanup assistance from Commercial Fund.

Amends GS 143-215.94E to provide that statutory provision requiring owner of leaking underground petroleum storage tank to immediately cleanup the problem does not apply to a person who holds indicia of ownership solely to protect a security interest, is not otherwise engaged in petroleum business, and after obtaining title by foreclosure empties the tank and either temporarily or permanently closes it within DEHNR rules.

Amends GS 143-215.94G to authorize DEHNR to use its staff, equipment, and materials to provide interim sources of potable drinking water to affected third parties and to pay initial costs of permanent water supply to affected third parties. Provides that DEHNR cleanup and water supply costs shall be paid first from available federal funds before funds from Commercial Fund or Noncommercial Fund are used. Authorizes Sec'y to seek reimbursement for such costs from tank's owner or operator.

Amends GS 143-215.94B, concerning Groundwater Protection Loan Fund, to provide that borrowers must be credit worthy, and that Dep'ts rules for managing the Fund shall be based on generally accepted standards

prevailing among commercial lending institutions with only necessary modifications.

Amends GS 143-215.94L(e) to provide that portion of motor fuel tax allocated to leaking storage tank program all be credited to Noncommercial Fund until the balance in that fund exceeds \$5 million, at which point funds are to be credited 50% to Commercial Fund and 50% to Noncommercial Fund.

AMENDMENTS/COMMITTEE SUBSTITUTES-June 2, 1993

House committee substitute changes title of bill to "AN ACT TO AMEND THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988 AND TO CLARIFY THE PURPOSES OF THE OIL OR OTHER HAZARDOUS SUBSTANCES POLLUTION PROTECTION FUND." Adds new GS 143-215.94B(b1) allowing use of Commercial Fund to pay for costs (in excess of the costs for which the owner or operator is responsible and not to exceed \$1 million) resulting from discharge of petroleum product from a commercial underground storage tank that was removed from the ground between Dec. 22, 1988 and July 1, 1994, if the tank was removed in compliance with all applicable federal and state laws and regulations, the discharge was not discovered at the time the tank was removed, and the discharge was discovered and reported more than 120 days after the tank was removed from the ground. Deletes provision that would have exempted the owner of an underground storage tank from statutory requirements relating to reporting of discharge and removal of discharge from tank if the owner held indicia of ownership in the tank solely to protect a security interest, was not otherwise an owner or operator of the tank or otherwise engaged in production, refining, or marketing of petroleum, and, after obtaining title by foreclosure, emptied the tank and temporarily or permanently closed the tank in accordance with applicable rules.

Amends GS 143-215.94M to require Sec'y of Dep't of Env., Health & Nat. Resources to make semiannual report to Environmental Review Comm'n (was, Environmental Review Comm'n and Joint Legis. Comm'n on Governmental Operations) relating to cleanups of discharges from underground storage tanks; adds provision requiring Secretary's semiannual report to include recommendations regarding measures necessary to assure continued solvency of Commercial Fund and Noncommercial Fund.

Amends GS 143-215.87 to allow Oil or Other Hazardous Substances Pollution Protection Fund to be used to assess damages for injury to, destruction of, or loss of use of natural resources from discharge of oil or other hazardous substances on land or water within the state, and for development and implementation of plans for restoration, rehabilitation, replacement, or acquisition of natural resources injured by such discharges.

AMENDMENTS/COMMITTEE SUBSTITUTES-June 9, 1993

House committee substitute amends GS 119-18 (underground tank inspection fee) by: (1) renaming present one quarter cent fee a tax; (2) providing that motor fuel inspection tax is payable when excise tax

is due, while kerosene inspection tax is payable monthly; and (3) providing for distribution of collected taxes as follows: first to pay costs of administering the law, with the remainder credited on a monthly basis to the Commercial and Noncommercial Leaking Petroleum Tank Cleanup Funds. If the Noncommercial Fund contains at least \$5 million at the end of a month, one-half of the remainder shall be credited to the Noncommercial Fund and the rest to the Commercial Fund. Otherwise, revenues go fully to the Noncommercial Fund.

AMENDMENTS/COMMITTEE SUBSTITUTES-June 14, 1993

House amendment makes special provision for public hospital in Mitchell County, to permit Sec'y of DEHNR to waive reimbursement of all or any part of the costs of developing and implementing a cleanup plan for discharge or release of petroleum from underground storage tank owned by the hospital, if Sec'y determines that hospital has cooperated fully in developing and implementing cleanup plan and that reimbursement cost would render hospital insolvent or otherwise result in extreme hardship.

EFFECTIVE DATE: Portion of act concerning allocation of fuel tax proceeds effective July 1, 1993; remainder of act effective on ratification. Section 11 sunsets June 30, 1993

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:

Department of Environment, Health, and Natural Resources

**FISCAL IMPACT
ESTIMATE
(\$ Millions)**

	<u>FY</u> <u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	97-98
REVENUES:					
FUNDS					
Noncomm.	\$2.7	2.75	2.8	2.9	3.0
Comm.	2.7	2.75	2.8	2.9	3.0

Noncomm.- Noncommercial Leaking Underground Storage Tank Clean-up Fund
Comm.- Commercial Leaking Underground Storage Tank Clean-up Fund

ASSUMPTIONS AND METHODOLOGY:

- A. Under current law, the Noncommercial Fund began receiving 100% of the gasoline inspection fee in October 1991 when the Commercial Fund's balance exceeded \$15 million. Since the Noncommercial Fund has a balance of \$7.9 million as of April 30, 1993, the revised cap proposed in HB 1061 will be effective July 1, 1993.
- B. If the Secretary of DEHNR waives the reimbursement requirements for the hospital in Mitchell County as allowed under Section 11 of HB 1061, the Noncommercial Fund will pay up to \$1,000,000 (limit

is determined by GS 143-215.94D(b)) of the cleanup costs for the leaking underground storage tank located at the hospital. The cost of the cleanup has reached \$260,000 as of June 15, 1993, and the cleanup is incomplete. Since DEHNR believes that no other public hospital qualifies under the provisions of Section 11, the effect of the legislation will be limited to the hospital in Mitchell County.

SOURCES OF DATA: EHNR Budget Reports

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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DATE: June 15, 1993



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