

MAINE STATE LEGISLATURE

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L.D. 1057
(Filing No. H- 713)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 753, L.D. 1057, Bill, "An Act to Provide Financial Assistance to Expedite the Removal of Underground Oil Tanks"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, owners of certain underground oil storage facilities and tanks are required to remove them by October 1, 1989; and

Whereas, this legislation provides assistance to certain residential and commercial owners of underground oil storage facilities and tanks to permit them to comply with the October 1, 1989, removal date; and

Whereas, to provide this assistance and ensure that the tanks are removed by this date, it is necessary that the assistance be available when this legislation is approved; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §963-A, sub-§49-B, as repealed and replaced by PL 1987, c. 769, Pt. A, §44, is amended to read:

1
3 49-B. Underground oil storage facility. "Underground oil
5 storage facility" means ~~the same as set forth in Title 38,~~
7 section 562, subsection 13 any tank, together with associated
9 pipng and dispensing facilities, 10% or more of which is located
11 beneath the surface of the ground and not on or above a floor in
13 such a manner that it may be readily inspected, located at a
15 single location and used, formerly used or intended to be used
17 for the marketing and distribution of oil, petroleum products or
19 their by-products to persons or entities other than the owner of
21 the facility.

13 Sec. 2. 10 MRSA §963-A, sub-§§49-D and 49-E are enacted to
15 read:

17 49-D. Underground oil storage tank; tank. "Underground oil
19 storage tank" or "tank" means any tank, together with associated
21 pipng, 10% or more of which is located beneath the surface of
23 the ground and not on or above a floor in such a manner that it
25 may be readily inspected, located at a single location and used,
27 formerly used or intended to be used for consumption by the owner
29 or user of the tank on the premises.

25 49-E. Underground oil storage tank replacement project.
27 "Underground oil storage tank replacement project" or "tank
29 replacement project" means the removal, disposal or replacement
31 of all or any part of an underground oil storage tank.

29 Sec. 3. 10 MRSA §1023-D, as enacted by PL 1987, c. 521, §4,
31 is amended to read:

33 **§1023-D. Underground Oil Storage Replacement Fund**

35 1. Creation. The Underground Oil Storage Facility
37 Replacement Fund is created and established under the
39 jurisdiction and control of the authority.

41 2. Sources of money. There shall be paid into the fund the
43 following:

45 A. All money appropriated for inclusion in the fund or
47 appropriated to the authority for use in providing financial
49 assistance to owners of underground oil storage facilities
or tanks, subject to any restrictions applicable to the
appropriation;

47 B. Subject to any pledge, contract or other obligation, all
49 interest, dividends or other pecuniary gains from investment
of money of the fund;

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1 C. Subject to any pledge, contract or other obligations,
any money which the authority receives in repayment of
3 advances from the fund; and

5 D. Any other money available to the authority and directed
by the authority to be paid into the fund.

7
3. Application of fund. Money in the fund may be applied
9 to carry out any power of the authority under this section or
under or in connection with section 1026-F, including, but not
11 limited to, to pledge or transfer and deposit money in the fund
as security for and to apply money in the fund in payment of
13 principal, interest and other amounts due on insured loans.
Money in the fund may be used for direct loans or grants for all
15 or part of underground oil storage facility replacement projects
or underground oil storage tank replacement projects when the
17 authority determines that:

19 A. The underground oil storage facility or tank is leaking
or, has been identified by the Department of Environmental
21 Protection as posing an environmental threat, or removal is
required by applicable law within 2 years from the date of
23 application to the authority for a loan;

25 B. The applicant, if the applicant is not a unit of local
government, demonstrates ~~a reasonable likelihood that it~~
27 ~~will not be able to obtain the funds necessary to undertake~~
~~all or any part of the project from any other source,~~
29 ~~including a loan insured under section 1026-F~~ financial need
for the assistance;

31 C. There is a reasonable likelihood that the applicant will
33 be able to repay the loan; and

35 ~~D. The project will assist in creating or retaining jobs~~
~~and will provide a more healthy environment.~~

37 E. The applicant is an eligible enterprise which does not
39 own or use directly or indirectly, by 50% or more common
ownership, more than one location, excluding personal
41 residences, at which an underground oil storage facility or
tank is located, or the applicant is a unit of local
43 government, which for the purposes of this section includes
a public school.

45
47 The authority, pursuant to Title 5, chapter 375, subchapter II,
shall adopt rules for determining eligibility, feasibility,
49 terms, conditions and security for the loans and grants. In the
case of loans, the authority may charge an interest rate which
51 may be as low as 0% and which may be greater, depending on the
financial ability of the applicant to pay as determined by the
authority, up to a maximum of 2% below the prime rate of interest

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1 charged by major Boston banks. Money in the fund not needed
2 currently to meet the obligations of the authority as provided in
3 this section may be invested in such a manner as permitted by law.

4 4. Accounts within fund. The authority may divide the fund
5 into such separate accounts as it determines are necessary or
6 convenient for carrying out this section, including, but not
7 limited to, accounts reserved for direct loan funds or grants for
8 underground oil storage facility removal and direct loan funds or
9 grants for tank removal.

10 5. Revolving fund. The fund shall be a nonlapsing,
11 revolving fund. All money in the fund shall be continuously
12 applied by the authority to carry out this section and section
13 1026-F.
14

15 **Sec. 4. 10 MRSA §1024, sub-§1,** as amended by PL 1987, c. 846,
16 §6, is further amended to read:
17

18 1. Request for funds. If at any time the money in the
19 Mortgage Insurance Fund and the money in the Loan Insurance
20 Reserve Fund, exclusive of the money pledged or assigned as
21 security for specific obligations of the authority, is
22 insufficient to meet expenses and obligations of the authority,
23 as these expenses and obligations are projected by the authority
24 to become due and payable, the authority shall in writing request
25 the Governor to provide the necessary money. The Governor shall
26 transfer sufficient money to the Mortgage Insurance Fund or Loan
27 Insurance Reserve Fund, as directed by the authority, from the
28 State Contingent Account or the proceeds of bonds of the State
29 issued pursuant to subsection 2. If at any time the money in the
30 Underground Oil Storage Facility Replacement Fund, exclusive of
31 any amounts reserved by law or rule for direct loans pursuant to
32 section 1023-D, subsection 3, is insufficient to meet the
33 expenses and obligations of the authority incurred pursuant to
34 section 1026-F, as these expenses and obligations are projected
35 by the authority to become due and payable, the authority shall
36 in writing request the Governor to provide the necessary money.
37 Within 30 days of receipt of the request, the Governor shall
38 transfer sufficient money to the Underground Oil Storage Facility
39 Replacement Fund from the Ground Water Oil Clean-up Fund or the
40 proceeds of bonds of the State issued pursuant to subsection 2.
41 If at any time the money in the Overboard Discharge Replacement
42 Fund, exclusive of any amounts reserved by law or rule for direct
43 loans pursuant to section 1023-E, subsection 3, is insufficient
44 to meet the expenses and obligations of the authority incurred
45 pursuant to section 1026-G, as these expenses and obligations are
46 projected by the authority to become due and payable, the
47 authority shall request, in writing, the Governor to provide the
48 necessary money. Within 30 days of receipt of the request, the
49 Governor shall transfer sufficient money to the Overboard
50 Discharge Replacement Fund from the State Contingent Account or
51 the proceeds of bonds of the State issued pursuant to subsection
52 2.
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2 **Sec. 5. 10 MRSA §1025, first ¶**, as amended by PL 1987, c. 846,
3 §8, is further amended to read:

4 When, in the opinion of the authority, the action is
5 necessary to safeguard the Mortgage Insurance Fund, Loan
6 Insurance Reserve Fund, Underground Oil Storage Facility
7 Replacement Fund or Overboard Discharge Replacement Fund and to
8 maintain income from eligible projects, the authority may, in
9 addition to its other powers:

10 **Sec. 6. 38 MRSA §569, sub-§4**, as repealed and replaced by PL
11 1987, c. 769, Pt. A, §177, is amended to read:

12 **4. Funding.** A fee of ~~3¢~~ 2¢ per barrel of gasoline and ~~2¢~~
13 8¢ per barrel of refined petroleum products and their by-products
14 other than gasoline and liquid asphalt, including #6 fuel oil, #2
15 fuel oil, kerosene, jet fuel and diesel fuel, shall be assessed
16 on the transfer of those products by oil terminal facility
17 licensees, as defined in section 542, subsection 7. These fees
18 shall be paid monthly by the oil terminal facility licensees on
19 the basis of records certified to the department. All such
20 transfer fees shall be credited to the Ground Water Oil Clean-up
21 Fund upon receipt by the department, except that the amount of
22 these fees in excess of 3¢ per barrel of gasoline and 2¢ per
23 barrel of refined petroleum products and their by-products, other
24 than gasoline and liquid asphalt, shall be transferred by the
25 department upon receipt as follows.

26 A. Sixty-two and one half percent of the excess shall be
27 transferred to the Finance Authority of Maine for deposit in
28 the Underground Oil Storage Replacement Fund.

29 B. Thirty-seven and one half percent of the excess shall be
30 transferred to the Maine State Housing Authority for deposit
31 in the Housing Opportunities for Maine Fund to be used
32 initially for loans and grants to finance the costs of
33 removal, disposal, replacement or abandonment of underground
34 oil storage facilities and tanks located on owner-occupied
35 or residential rental property, which facilities and tanks
36 have been identified by the department as leaking or posing
37 an environmental threat or as having been abandoned.

38 After an aggregate sum of \$5,000,000 has been transferred to the
39 Finance Authority of Maine and an aggregate sum of \$3,000,000 has
40 been transferred to the Maine State Housing Authority pursuant to
41 this subsection, the per barrel fee assessed pursuant to this
42 subsection shall be reduced by 6¢ per barrel.

43 **Emergency clause.** In view of the emergency cited in the
44 preamble, this Act shall take effect when approved.
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FISCAL NOTE

Increasing the per barrel fee assessed upon gasoline and other oil products by 6¢ will generate approximately \$2,898,000 per year. This bill increases the per barrel assessment by 6¢ until \$8,000,000 is raised for various loans, grants or interest rate reductions for underground oil storage tank removal, disposal, replacement or abandonment.'

STATEMENT OF FACT

This amendment replaces a proposed \$3,000,000 appropriation for removal and replacement of underground oil storage facilities with up to \$8,000,000 in funding derived from an additional 6¢ per barrel assessment on gasoline and other refined petroleum products transferred by oil terminal facility licensees. The funds may be used for direct loans and, in appropriate cases, grants for the removal, disposal and replacement of both underground tanks used for marketing and distribution of petroleum and tanks used by businesses, municipalities, homeowners and owners of residential rental property for on-premises consumption. The amendment also includes abandoned tanks.

The Finance Authority of Maine will receive \$5,000,000 for the loan and grant program for eligible commercial borrowers and municipalities, and will determine an interest rate on each loan in accordance with the borrower's ability to pay, up to a maximum of 2% below Boston prime. For commercial enterprises, applicants must demonstrate financial need for the assistance and must own or use only one site where tanks are located.

The Maine State Housing Authority will receive \$3,000,000 in funding for loans and grants with respect to owner-occupied or residential rental property.

This amendment also adds an emergency preamble and clause.