

UNDERGROUND STORAGE TANK FUNDING

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Senate Bills 1051-1053 as enacted
Public Acts 465, 466, & 467 of 2016

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 1179 as enacted
Public Act 468 of 2016

Sponsor: Sen. Mike Green
Senate Committee: Appropriations
House Committee: Appropriations
Complete to 1-6-17

BRIEF SUMMARY:

The bills would revise the funding mechanism for underground storage tank regulation, inspection, and remediation. Installation and registration fees for underground tanks and license fees for motor fuel distributors and retailers would be eliminated, and a regulatory fee that applies to the sale of petroleum products would be increased from 7/8 cent to 1 cent per gallon.

Senate Bill 1051 would amend the Michigan Natural Resources and Environmental Protection Act (NREPA) to eliminate a current underground storage tank license fee.

Senate Bill 1052 would amend the Motor Fuels Quality Act to eliminate certain motor fuel inspection fees.

Senate Bill 1053 would amend NREPA to increase the current environmental protection regulatory fee. The bill would also amend provisions governing use of the Refined Petroleum Fund.

Senate Bill 1179 would amend the Fire Protection Code to exempt aboveground storage tanks that are subject to an environmental protection regulatory fee from certain installation application fees under the Code.

Senate Bills 1051, 1052, and 1053 are tie-barred to each other and to Senate Bill 506, a bill to amend the Weights and Measures Act. Senate Bill 1179 is tie-barred to SBs 1051, 1052, 1053, and 506. Senate Bill 506, which is not included in the scope of this Legislative Analysis, has no tie-bar provisions.

DETAILED SUMMARY:

Senate Bill 1053 would amend two sections of the Natural Resources and Environmental Protection Act (NREPA, Public Act 451 of 1994) dealing with the environmental regulatory fee assessed on refined petroleum products. Specifically, the bill would amend Section

21508 of NREPA to increase the environmental regulatory fee from 7/8 cents per gallon to 1-cent per gallon. Revenue from this fee is currently earmarked in Section 21508: the first \$20.0 million of fee revenue is earmarked for an Underground Storage Tank Cleanup Fund created in Section 21506b; the balance to the Refined Petroleum Fund (RPF) established in Section 21506a.

The bill would also amend Section 21506a regarding permitted uses of the RPF. The section currently authorizes the use of the RPF, without dollar limit, for *gasoline* inspection programs under the Motor Fuel Quality Act and the Weights and Measures Act. These acts designate the Michigan Department of Agriculture and Rural Development (MDARD) as the state department with authority over motor fuel inspection programs. Section 21506a currently authorizes use of the RPF for these inspection programs through December 31, 2016.

The bill would authorize the use of not more than \$5.0 million annually in RPF revenue for *petroleum product* inspection programs under both the Motor Fuel Quality Act and the Weights and Measures Act. The bill eliminates sunset dates.

The bill also would add a new authorized use of RPF revenue. Specifically, the bill would authorize not more than \$3.0 million annually in RPF revenue for the Bureau of Fire Services and the Office of State Fire Marshall, Storage Tank Division, within the Department of Licensing and Regulatory Affairs (LARA). [The Bureau of Fire Services is responsible for underground storage tank regulatory programs under Part 211 of NREPA. This authority was transferred to the Bureau of Fire Services under Executive Order 2012-14, referenced as Executive Reorganization Order 2012-7.]

The bill retains without change current authorized uses of RPF revenue for Department of Environmental Quality (DEQ) corrective actions under Section 21320; reasonable DEQ costs of administering the RPF and in implementing the Leaking Underground Storage Tank (UST) remediation program; and "other purposes as determined by the Legislature."

All the authorized uses of RPF revenue, both under current law and as amended by Senate Bill 1053, are subject to appropriation.

MCL 324.21506a and MCL 324.21508

Senate Bill 1051 would amend two sections of NREPA dealing with the regulation of USTs. Specifically, the bill would eliminate an annual \$100 registration or registration renewal fee for each UST. Revenue from this fund is credited to the UST Regulatory Enforcement Fund established under Section 21104. Fund revenue is used by LARA Bureau of Fire Services for regulatory projects under Part 211 of NREPA.

MCL 324.21102 and 324.21104

Senate Bill 1052 would amend the Motor Fuels Quality Act to eliminate certain motor fuel distributor and retail dealer license fees currently assessed under the act. (MCL 290.606)

Senate Bill 1179 would amend the Fire Prevention Code (Public Act 207 of 1941) by exempting from fees those aboveground storage tanks that exclusively receive crude petroleum directly from a wellhead and storage tanks that exclusively receive refined petroleum products that are subject to the Environmental Petroleum Regulatory Fee. Currently, aboveground storage tanks are subjected to a fee of \$203 prior to installation, and a \$61.50 annual fee. This bill would exempt tanks from those fees if the tanks were used exclusively for the storage of refined petroleum products subjected to the 7/8th-cent per gallon environmental protection regulatory fee. (MCL 29.5d)

FISCAL IMPACT:

Senate Bill 1053

Section 21508 of NREPA establishes a per-gallon environmental protection regulatory fee. Under current law, the fee is 7/8 cent per gallon on all refined petroleum sold for resale in Michigan. This fee generated total revenue of \$52.7 million in FY 2014-15 and \$52.7 million in FY 2015-16 (preliminary estimate).

An increase in the fee from 7/8 cent per gallon to 1-cent per gallon, as proposed by Senate Bill 1053, represents an increase of approximately 14.3%. If the sale of petroleum products subject to the fee remained constant, the fee increase would result in a 14.3% increase in fee revenue, or \$7.5 million.

The bill also would amend Section 21506a regarding authorized uses of RPF revenue. The bill would authorize the use of RPF revenue for *petroleum product* inspection programs, administered by MDARD, under the Motor Fuels Quality Act and the Weights and Measures Act. Current law authorizes *gasoline* inspection programs under the two referenced acts. As shown in **Table 1**, the FY 2016-17 MDARD budget includes \$2.4 million from the RPF for the department's motor fuel inspection program. Additional support for the program is currently provided from the gasoline inspection and testing fund, \$1.9 million; and the state General Fund, \$1.1 million.

The bill would also authorize a new use of the RPF: up to \$3.0 million annually to the Bureau of Field Services and Office of State Fire Marshal, Storage Tank Division, within LARA.

Senate Bills 1051 and 1179

In eliminating UST licensing fees, Senate Bill 1051 would reduce revenue credited to the UST Regulatory Enforcement Fund. Similarly, in eliminating UST installation fees, Senate Bill 1179 would reduce fee revenue currently credited to the UST Regulatory Enforcement Fund. UST Regulatory Enforcement Fund revenue is used for UST regulatory programs by the Bureau of Fire Services in the LARA budget. However, these reductions could be offset with up to \$3.0 million in RPF revenue as authorized under Senate Bill 1053.

Senate Bill 1052 would eliminate certain motor fuel distributor and retail dealer license fees currently assessed under the Motor Fuel Quality Act, resulting in a reduction in fee revenue of approximately \$500,000 for the gasoline inspection and testing fund. Fund revenue is appropriated to support, in part, MDARD's motor fuel quality inspection program. The

additional revenue generated from the increase in the environmental protection regulatory fee made in Senate Bill 1053 could be used to offset the reduction in fee revenue.

Senate Bills 1051-1053 and 1179 have no direct fiscal impact on local units of government.

Table 1 shows the appropriation of environmental regulatory fee revenue in FYs 2015-16 and 2016-17. The potential impact of Senate Bill 1053 also is shown. The impact of Senate Bills 1053, 1051, 1052, and 1179 on FY 2016-17 appropriations would depend, in part, on the effective date of the bill and whether the Legislature adjusted FY 2016-17 appropriations to reflect the provisions of Senate Bill 1053.

	FY 2015-16	FY 2016-17	FY 2016-17
	As Appropriated	As Appropriated	SB 1053
UST Cleanup Fund (DEQ)	\$20,000,000	\$20,011,400	\$20,000,000
RPF			
DEQ	40,685,600	42,476,800	
MDARD	3,874,600	2,373,200	"up to \$5.0 million"
LARA	2,518,500	2,561,100	"up to 3.0 million"
Total *	\$64,560,200	\$64,861,400	

*Note: the total appropriated environmental regulatory fee revenue exceeds the amount of anticipated fee revenue collections. See House Fiscal Agency Publication http://www.house.mi.gov/hfa/pdf/alpha/fiscal_forum_rpf.pdf

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.