

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6483

BILL NUMBER: SB 127

NOTE PREPARED: Feb 2, 2010

BILL AMENDED: Jan 21, 2010

SUBJECT: Underground Storage Tank Corrective Action.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Pearson

BILL STATUS: As Passed Senate

FUNDS AFFECTED: GENERAL
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) With respect to an action against a person who owned or operated an underground storage tank (UST) at the time a release occurred for recovery of costs paid to the state for corrective action or for contribution for costs directly incurred for corrective action, the bill (1) permits recovery or contribution only to the extent the costs are reasonable; (2) specifies that the action is not limited to claims brought under UST statutes; (3) indicates which types of costs incurred for corrective action are subject to contribution; (4) allows a court to award attorney's fees and court costs and past, present, and future corrective action costs; (5) prohibits an award for contribution toward corrective action costs and attorney's fees and court costs incurred after a responsible party agrees to remediate the release in accordance with rules and guidelines of the Department of Environmental Management (IDEM); (6) provides that if the person who agrees in writing to remediate the release does not remediate the release in substantial compliance with rules and IDEM's guidelines, the person who provided the notice may recover reasonable attorney's fees to enforce the agreement; and (7) requires a person to notify each reasonably known person allegedly responsible for the UST release before incurring significant corrective action costs and attorney's fees or initiating an action; (8) specifies that notice may be by certified mail, registered mail, U.S. mail, or personal service; and (9) limits the recovery of corrective action costs and attorney's fees if a responsible party agrees to remediate the release.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) The bill specifies the type of recovery that is available. These clarifications could assist IDEM to recover costs associated with certain corrective actions taken by the state. The specific impact is indeterminable.

Explanation of State Revenues:

Explanation of Local Expenditures: In resolving a claim in an action initiated to recover costs, the bill provides that a court may use any legal and equitable factors that the court determines are appropriate in deciding whether to award certain costs. The bill specifies how the court may allocate costs. These provisions should not have a significant impact on local expenditures.

Explanation of Local Revenues:

State Agencies Affected: IDEM.

Local Agencies Affected: Circuit or superior courts; Local units taking corrective action.

Information Sources: Brad Baughn, Legislative Liaison, IDEM, 317-234-3386.

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