

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 536 (Senator Frosh)
Economic and Environmental Affairs

Underground Oil Storage Tanks - Site Rehabilitation - Recovery of Expenses

This bill provides that any rehabilitation costs incurred through the Oil Contaminated Site Environmental Cleanup Fund are recoverable from the responsible party or the party's insurer. It further provides that costs associated with site rehabilitation activities incurred by the Maryland Department of the Environment (MDE) when it assumes control of an oil spill situation are recoverable from an insurer of the responsible party.

Fiscal Summary

State Effect: Indeterminate effect on special fund revenues and expenditures.

Local Effect: None.

Fiscal Analysis

Background: The Oil Contaminated Site Environmental Cleanup Fund is primarily used to reimburse owners or operators of underground storage tanks for site rehabilitation costs incurred as a result of contamination caused by oil releases.

State Effect: Currently MDE may seek to recover costs if it has assumed control of an oil spill and expends moneys from the fund on cleanup activities. It does not seek to recover any expenditures from the fund that result when a private owner receives reimbursements from the fund for costs when a grant is made to reimburse owners or operators. According to MDE, 43 grants for a total of \$3.9 million have been allocated from the fund; under the bill, these grants would be recoverable. In this case, both special fund expenditures and revenues could increase significantly. Environmental litigations can be very expensive; it is assumed that all legal costs incurred by MDE would also be recoverable.

To the extent that cost recoveries are sought, special fund expenditures due to

reimbursements could decrease in the out-years. Responsible parties will be less inclined to seek cost reimbursements from the fund if it is likely that MDE will later seek recovery of those funds.

The bill provides that MDE may seek cost recovery from the insurer of the responsible party. However, it does not specify the type of insurer against whom action can be taken or if the cost recovery sought would be limited to the amount of the liability insurance held by the responsible party. Currently, if a responsible party is sued for cost-recovery by an injured party, any insurance company holding a liability policy for the responsible party will pay the settlement amount up to the amount insured. Under this bill, it is unclear how MDE would press action against an insurance company directly.

Information Source(s): Maryland Department of the Environment, Office of the Attorney General, Department of Fiscal Services

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