

SECOND REGULAR SESSION

SENATE BILL NO. 961

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time January 25, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6159S.011

AN ACT

To repeal section 319.129, RSMo, and to enact in lieu thereof one new section relating to the expiration of the petroleum storage tank insurance fund.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 319.129, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 319.129, to read as follows:

319.129. 1. There is hereby created a special trust fund to be known as
2 the "Petroleum Storage Tank Insurance Fund" within the state treasury which
3 shall be the successor to the underground storage tank insurance fund. Moneys
4 in such special trust fund shall not be deemed to be state funds. Notwithstanding
5 the provisions of section 33.080 to the contrary, moneys in the fund shall not be
6 transferred to general revenue at the end of each biennium.

7 2. The owner or operator of any underground storage tank, including the
8 state of Missouri and its political subdivisions and public transportation systems,
9 in service on August 28, 1989, shall submit to the department a fee of one
10 hundred dollars per tank on or before December 31, 1989. The owner or operator
11 of any underground storage tank who seeks to participate in the petroleum
12 storage tank insurance fund, including the state of Missouri and its political
13 subdivisions and public transportation systems, and whose underground storage
14 tank is brought into service after August 28, 1998, shall transmit one hundred
15 dollars per tank to the board with his or her initial application. Such amount
16 shall be a one-time payment, and shall be in addition to the payment required by
17 section 319.133. The owner or operator of any aboveground storage tank
18 regulated by this chapter, including the state of Missouri and its political
19 subdivisions and public transportation systems, who seeks to participate in the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 petroleum storage tank insurance fund, shall transmit one hundred dollars per
21 tank to the board with his or her initial application. Such amount shall be a
22 one-time payment and shall be in addition to the payment required by section
23 319.133. Moneys received pursuant to this section shall be transmitted to the
24 director of revenue for deposit in the petroleum storage tank insurance fund.

25 3. The state treasurer may deposit moneys in the fund in any of the
26 qualified depositories of the state. All such deposits shall be secured in a manner
27 and upon the terms as are provided by law relative to state deposits. Interest
28 earned shall be credited to the petroleum storage tank insurance fund.

29 4. The general administration of the fund and the responsibility for the
30 proper operation of the fund, including all decisions relating to payments from the
31 fund, are hereby vested in a board of trustees. The board of trustees shall consist
32 of the commissioner of administration or the commissioner's designee, the director
33 of the department of natural resources or the director's designee, the director of
34 the department of agriculture or the director's designee, and eight citizens
35 appointed by the governor with the advice and consent of the senate. Three of
36 the appointed members shall be owners or operators of retail petroleum storage
37 tanks, including one tank owner or operator of greater than one hundred tanks;
38 one tank owner or operator of less than one hundred tanks; and one aboveground
39 storage tank owner or operator. One appointed trustee shall represent a financial
40 lending institution, and one appointed trustee shall represent the insurance
41 underwriting industry. One appointed trustee shall represent industrial or
42 commercial users of petroleum. The two remaining appointed citizens shall have
43 no petroleum-related business interest, and shall represent the nonregulated
44 public at large. The members appointed by the governor shall serve four-year
45 terms except that the governor shall designate two of the original appointees to
46 be appointed for one year, two to be appointed for two years, two to be appointed
47 for three years and two to be appointed for four years. Any vacancies occurring
48 on the board shall be filled in the same manner as provided in this section.

49 5. The board shall meet in Jefferson City, Missouri, within thirty days
50 following August 28, 1996. Thereafter, the board shall meet upon the written call
51 of the chairman of the board or by the agreement of any six members of the
52 board. Notice of each meeting shall be delivered to all other trustees in person
53 or by registered mail not less than six days prior to the date fixed for the
54 meeting. The board may meet at any time by unanimous mutual consent. There
55 shall be at least one meeting in each quarter.

56 6. Six trustees shall constitute a quorum for the transaction of business,
57 and any official action of the board shall be based on a majority vote of the
58 trustees present.

59 7. The trustees shall serve without compensation but shall receive from
60 the fund their actual and necessary expenses incurred in the performance of their
61 duties for the board.

62 8. The board of trustees shall be a type III agency and shall appoint an
63 executive director and other employees as needed, who shall be state employees
64 and be eligible for all corresponding benefits. The executive director shall have
65 charge of the offices, operations, records, and other employees of the board,
66 subject to the direction of the board. Employees of the board shall receive such
67 salaries and necessary expenses as shall be fixed by the board.

68 9. Staff resources for the Missouri petroleum storage tank insurance fund
69 may be provided by the department of natural resources or another state agency
70 as otherwise specifically determined by the board. The fund shall compensate the
71 department of natural resources or other state agency for all costs of providing
72 staff required by this subsection. Such compensation shall be made pursuant to
73 contracts negotiated between the board and the department of natural resources
74 or other state agency.

75 10. In order to carry out the fiduciary management of the fund, the board
76 may select and employ, or may contract with, persons experienced in insurance
77 underwriting, accounting, the servicing of claims and rate making, and legal
78 counsel to defend third-party claims, who shall serve at the board's
79 pleasure. Invoices for such services shall be presented to the board in sufficient
80 detail to allow a thorough review of the costs of such services.

81 11. At the first meeting of the board, the board shall elect one of its
82 members as chairman. The chairman shall preside over meetings of the board
83 and perform such other duties as shall be required by action of the board.

84 12. The board shall elect one of its members as vice chairman, and the
85 vice chairman shall perform the duties of the chairman in the absence of the
86 latter or upon the chairman's inability or refusal to act.

87 13. The board shall determine and prescribe all rules and regulations as
88 they relate to fiduciary management of the fund, pursuant to the purposes of
89 sections 319.100 to 319.137. In no case shall the board have oversight regarding
90 environmental cleanup standards for petroleum storage tanks.

91 14. No trustee or staff member of the fund shall receive any gain or profit

92 from any moneys or transactions of the fund. This shall not preclude any eligible
93 trustee from making a claim or receiving benefits from the petroleum storage
94 tank insurance fund as provided by sections 319.100 to 319.137.

95 15. The board may reinsure all or a portion of the fund's liability. Any
96 insurer who sells environmental liability insurance in this state may, at the
97 option of the board, reinsure some portion of the fund's liability.

98 16. The petroleum storage tank insurance fund shall expire on December
99 31, [2020] **2030**, unless extended by action of the general assembly. After
100 December 31, [2020] **2030**, the board of trustees may continue to function for the
101 sole purpose of completing payment of claims made prior to December 31, [2020]
102 **2030**.

103 17. The board shall annually commission an independent financial audit
104 of the petroleum storage tank insurance fund. The board shall biennially
105 commission an actuarial analysis of the petroleum storage tank insurance
106 fund. The results of the financial audit and the actuarial analysis shall be made
107 available to the public. The board may contract with third parties to carry out
108 the requirements of this subsection.

Bill ✓

Copy