

# HOUSE BILL REPORT

## HB 1266

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### As Reported by House Committee On:

Environment  
Appropriations

**Title:** An act relating to petroleum storage tank systems.

**Brief Description:** Concerning petroleum storage tank systems.

**Sponsors:** Representatives Peterson, Young and Fitzgibbon.

### Brief History:

#### Committee Activity:

Environment: 1/24/17, 2/7/17 [DPS];

Appropriations: 2/20/17, 2/21/17 [DPS(ENVI)].

#### Brief Summary of Substitute Bill

- Expands the scope of advice and technical assistance services provided by the Pollution Liability Insurance Agency (PLIA) to include petroleum storage tanks identified by the Department of Ecology.
- Authorizes the PLIA to require notification to the PLIA of suspected or confirmed releases from heating oil tanks.
- Authorizes the PLIA to conduct initial investigations of releases and to issue written opinions on whether certain independent remedial actions meet the substantive requirements of the Model Toxics Control Act, or whether further remedial actions are required.
- Modifies the Heating Oil Pollution Liability Trust Account to provide that the account may carry a balance from year-to-year.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 8 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 1 member: Representative Taylor, Ranking Minority Member.

**Staff:** Robert Hatfield (786-7117).

**Background:**

Pollution Liability Insurance Agency - Introduction.

In 1988 the Legislature created a committee to develop a plan for a state-administered financial responsibility program regarding petroleum underground storage tanks. In September 1989 the Pollution Liability Insurance Agency (PLIA) began operations with a mandate from the Legislature to provide a plan for implementation of the reinsurance program. The Legislature approved that plan during the 1990 legislative session. The PLIA's program provides reinsurance to private commercial underground storage tank insurers and is the only such program in the United States.

The mission of the PLIA is to provide a government funding model to help owners and operators meet their financial responsibility and environmental cleanup requirements for underground tanks. Funding for the PLIA comes from reinsurance premiums, which are deposited into the Pollution Liability Insurance Program Trust Account, and from heating oil dealer fees and fees for advice and technical assistance, which are deposited into the Heating Oil Pollution Liability Trust Account.

Services provided by the PLIA include:

- reinsurance of pollution liability insurance policies, for the purpose of enabling affordable pollution liability insurance to the owners and operators of underground petroleum storage tanks;
- direct insurance coverage of up to \$60,000 for cleanup of contamination from certain heating oil tanks;
- technical assistance to owners and operators of heating oil tanks if contamination from a release is suspected; and
- written opinions on results of testing to evaluate whether contamination from a heating oil release appears to be a threat to human health and the environment.

Pollution Liability Insurance Agency Loan and Grant Program.

In 2016 the Legislature authorized the PLIA to provide capital financial assistance to owners and operators of petroleum underground storage tanks who wish to replace or upgrade aged fuel systems, clean up past contamination caused by an underground storage tank release, and upgrade infrastructure to dispense alternative fuels. The PLIA partners with the Department of Health for some of the financial administrative portions of the program.

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**Summary of Substitute Bill:**

The scope of advice and technical assistance provided by the Pollution Liability Insurance Agency (PLIA) to owners and operators of heating oil tank storage systems is expanded to include petroleum storage tank systems identified by the Department of Ecology based on the relative risk posed by the release to human health and the environment.

The PLIA is authorized to establish requirements that owners or operators of heating oil tanks report to the PLIA any suspected or confirmed releases that may pose a threat to human health or the environment. Upon notice or discovery of a release, the PLIA is authorized to perform an initial investigation of the release.

The PLIA is authorized to provide written opinions on whether independent remedial actions concerning heating oil storage tank systems and certain petroleum storage tank systems meet the substantive requirements of the Model Toxics Control Act, or whether further remedial actions are required. For any written opinions that require an environmental covenant as part of the remedial action, the PLIA must consult the applicable land use planning authority and must periodically review the environmental covenant for effectiveness.

The terms of the Heating Oil Pollution Liability Trust Account are modified to provide that the account may carry a balance from year to year.

The PLIA may not expand its technical advice and assistance program to include petroleum storage tank systems until January 1, 2018. In the interim, the PLIA continues to have the authority to provide technical advice and assistance concerning heating oil tanks, including abandoned and decommissioned heating oil tanks.

**Substitute Bill Compared to Original Bill:**

The substitute bill adds a provision that modifies the terms of the Heating Oil Pollution Liability Trust Account to provide that the account may carry a balance from year to year. The substitute bill also clarifies that the Pollution Liability Insurance Agency (PLIA) may expand the scope of its technical advice and assistance to petroleum storage tank systems identified by the Department of Ecology, rather than to all petroleum storage tank systems. The substitute bill also provides that the PLIA may issue written opinions on the adequacy of a remedial action, may require notification to the PLIA of a suspected or confirmed release, and may conduct initial investigation of releases.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill expands access to environmental clean-up resources. There is a long list of clean-up sites around the state, and this bill will help reduce that number. The useful life of an underground storage tank is about 25 years, and many will need remediation. The program, under the bill, offers another tool for remediating those tanks. The Pollution Liability Insurance Agency (PLIA) has vast experience with tanks, so this bill offers another way to get assistance from an agency with resources to help. There is a large backlog of companies who want to do voluntary clean-up of petroleum storage tanks, and properties are unusable while they are waiting to be cleaned up. It would be nice to get those properties back to a more productive state. The bill limits the PLIA's work to petroleum tanks, leaving the Department of Ecology to handle larger and more complicated situations.

(Opposed) None.

(Other) This bill would let the PLIA serve more Washingtonians. The number of sites that the PLIA has served has gone from four to more than 200. Adding more shoulders to the wheel is a good thing when it comes to doing clean-ups. The PLIA is a vital part of cleaning up underground storage tanks.

**Persons Testifying:** (In support) Representative Peterson, prime sponsor; and Dave Ducharme, Washington Oil Marketers Association.

(Other) Russ Olsen, Pollution Liability Insurance Agency; and Jim Pendowski, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Environment be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Tharinger, Vick, Volz and Wilcox.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Condotta and Taylor.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Manweller.

**Staff:** Dan Jones (786-7118).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) A coalition of oil marketers, petroleum companies, and environmental groups support this bill. There is a backlog of 2,900 tanks awaiting cleanup. This bill would reduce that backlog and allow the Pollution Liability Insurance Agency (PLIA) to provide the technical assistance for the cleanup of some of the tanks in the Department of Ecology's (Ecology) Voluntary Cleanup Program. The bill would not take away any authority from Ecology, and Ecology would still handle the technically significant cleanups while leaving the rest to PLIA.

(Opposed) None.

(Other) This bill was not part of the Governor's budget.

**Persons Testifying:** (In support) David Ducharme, Washington Oil Marketers Association.

(Other) Russ Olsen, Pollution Liability Insurance Agency.

**Persons Signed In To Testify But Not Testifying:** None.