

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1823

Chapter 428, Laws of 2005

(partial veto)

59th Legislature
2005 Regular Session

UNDERSERVED RURAL COMMUNITIES--UNDERGROUND STORAGE TANKS

EFFECTIVE DATE: 7/24/05

Passed by the House March 10, 2005
Yeas 94 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 14, 2005
Yeas 39 Nays 0

BRAD OWEN

President of the Senate

Approved May 13, 2005, with the
exception of Section 3, which is vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1823** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 13, 2005 - 9:23 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1823

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kretz, Serben, McCune, Armstrong, Rodne, Buri, Clements, Cox, Sump, Haler, Pettigrew, Grant, Holmquist, Walsh, Strow, Haigh and Kristiansen)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to assisting the economic development of
2 underserved rural communities by assisting an owner or operator that
3 has discontinued using an underground petroleum storage tank; amending
4 RCW 70.148.120 and 70.148.130; making an appropriation; and providing
5 an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 70.148.120 and 1991 c 4 s 1 are each amended to read
8 as follows:

9 The legislature recognizes as a fundamental government purpose the
10 need to protect the environment and human health and safety. To that
11 end the state has enacted laws designed to limit and prevent
12 environmental damage and risk to public health and safety caused by
13 underground petroleum storage tank leaks. Because of the costs
14 associated with compliance with such laws and the high costs associated
15 with correcting past environmental damage, many owners and operators of
16 underground petroleum storage tanks have discontinued the use of or
17 have planned to discontinue the use of such tanks. As a consequence,
18 isolated communities face the loss of their source of motor vehicle
19 fuel and face the risk that the owner or operator will have

1 insufficient funds to take corrective action for pollution caused by
2 past leaks from the tanks. In particular, rural communities face the
3 risk that essential emergency, medical, fire and police services may be
4 disrupted through the diminution or elimination of local sellers of
5 petroleum products and by the closure of underground storage tanks
6 owned by local government entities serving these communities.

7 The legislature also recognizes as a fundamental government purpose
8 the need to preserve a minimum level of economic viability in rural
9 communities so that public revenues generated from economic activity
10 are sufficient to sustain necessary governmental functions. The
11 closing of local service stations adversely affects local economies by
12 reducing or eliminating reasonable access to fuel for agricultural,
13 commercial, recreational, and transportation needs.

14 The legislature intends to assist small communities within this
15 state by authorizing:

16 (1) Cities, towns, and counties to certify that a local private
17 owner or operator of an underground petroleum storage tank meets a
18 vital local government, public health or safety need thereby qualifying
19 the owner or operator for state financial assistance in complying with
20 environmental regulations and assistance in taking needed corrective
21 action for existing tank leaks; and

22 (2) Local government entities to obtain state financial assistance
23 to bring local government underground petroleum storage tanks into
24 compliance with environmental regulations and to take needed corrective
25 action for existing tank leaks.

26 **Sec. 2.** RCW 70.148.130 and 1991 c 4 s 2 are each amended to read
27 as follows:

28 (1) Subject to the conditions and limitations of RCW 70.148.120
29 through 70.148.170, the director shall establish and manage a program
30 for providing financial assistance to public and private owners and
31 operators of underground storage tanks who have been certified by the
32 governing body of the county, city, or town in which the tanks are
33 located as meeting a vital local government, public health or safety
34 need. In providing such financial assistance the director shall:

35 (a) Require owners and operators, including local government owners
36 and operators, to demonstrate serious financial hardship;

1 (b) Limit assistance to only that amount necessary to supplement
2 applicant financial resources;

3 (c) Limit assistance to no more than ~~((one))~~ two hundred ~~((fifty))~~
4 thousand dollars in value for any one underground storage tank site of
5 which amount no more than seventy-five thousand dollars in value may be
6 provided for corrective action; and

7 (d) Whenever practicable, provide assistance through the direct
8 payment of contractors and other professionals for labor, materials,
9 and other services.

10 (2)(a) Except as otherwise provided in RCW 70.148.120 through
11 70.148.170, no grant of financial assistance may be used for any
12 purpose other than for corrective action and repair, replacement,
13 reconstruction, and improvement of underground storage tanks and tank
14 sites. If at any time prior to providing financial assistance or in
15 the course of providing such assistance, it appears to the director
16 that corrective action costs may exceed seventy-five thousand dollars,
17 the director may not provide further financial assistance until the
18 owner or operator has developed and implemented a corrective action
19 plan with the department of ecology.

20 (b) A grant of financial assistance may also be made to an owner or
21 operator that has discontinued using underground petroleum storage
22 tanks due to economic hardship. An owner or operator may receive a
23 grant up to two hundred thousand dollars per retailing location if:

24 (i) The property is located in an underserved rural area;

25 (ii) The property was previously used by a private owner or
26 operator to provide motor vehicle fuel; and

27 (iii) The property is at least ten miles from the nearest motor
28 vehicle fuel service station.

29 (3) When requests for financial assistance exceed available funds,
30 the director shall give preference to providing assistance first to
31 those underground storage tank sites which constitute the sole source
32 of petroleum products in remote rural communities.

33 (4) The director shall consult with the department of ecology in
34 approving financial assistance for corrective action to ensure
35 compliance with regulations governing underground petroleum storage
36 tanks and corrective action.

37 (5) The director shall approve or disapprove applications for
38 financial assistance within sixty days of receipt of a completed

1 application meeting the requirements of RCW 70.148.120 through
2 70.148.170. The certification by local government of an owner or
3 operator shall not preclude the director from disapproving an
4 application for financial assistance if the director finds that such
5 assistance would not meet the purposes of RCW 70.148.120 through
6 70.148.170.

7 (6) The director may adopt all rules necessary to implement the
8 financial assistance program and shall consult with the technical
9 advisory committee established under RCW 70.148.030 in developing such
10 rules and in reviewing applications for financial assistance.

11 ***NEW SECTION. Sec. 3. The sum of one million dollars, or as much**
12 **thereof as may be necessary, may be expended from the pollution**
13 **liability insurance program trust account for the biennium year ending**
14 **July 1, 2007, to carry out the purposes of RCW 70.148.130(2)(b). The**
15 **director or director's designee shall administer the distribution of**
16 **these funds. A maximum of ten percent of the funds appropriated may be**
17 **used for administrative costs associated with the program.**

**Sec. 3 was vetoed. See message at end of chapter.*

18 **NEW SECTION. Sec. 4. Sections 1 and 2 of this act expire June 1,**
19 **2007.**

Passed by the House March 10, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor May 13, 2005, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 3, Substitute
House Bill No. 1823 entitled:

"AN ACT Relating to assisting the economic development of
undeserved rural communities by assisting an owner or operator that
has discontinued using an underground petroleum storage tank."

This bill provides financial assistance grants to operators who have
discontinued using underground storage tanks. Rural Washingtonians
often drive long distances to refuel their vehicles, and I can
appreciate the hardship that results from the closure of gas stations
in remote areas of our state. Section 3 of the bill would authorize
the Pollution Liability Insurance Agency to expend one million
dollars during the 2005-07 Biennium for a financial assistance grant
program, and would cap administrative costs at ten percent of the
funds appropriated. The agency already has authority to expend non-
appropriated funds for the grant program, so this section is not
necessary. Further, since no funds have been appropriated for the
grant program, the wording of this language would effectively
prohibit the agency from making any expenditure for grant
administration. To fulfill the Legislature's intent regarding the

size of this program and limits on administrative expenses, I hereby direct the agency to expend no more than one million dollars for the grant program during 2005-07, and to limit its administrative costs to no more than ten percent of grant expenditures.

For these reasons, I have vetoed Section 3 of Substitute House Bill No. 1823.

With the exception of Section 3, Substitute House Bill No. 1823 is approved."