

SENATE BILL No. 677

August 22, 2007, Introduced by Senator McMANUS and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21503, 21506, and 21550 (MCL 324.21503,
324.21506, and 324.21550), section 21503 as amended by 2006 PA 318
and sections 21506 and 21550 as amended by 2004 PA 390.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21503. As used in this part:

2 (a) "Payment voucher" means a form prepared by the department
3 that specifies payment authorization by the department to the
4 department of treasury.

5 (b) "Petroleum" means crude oil, crude oil fractions, and
6 refined petroleum fractions including gasoline, kerosene, heating
7 oils, and diesel fuels.

1 (c) "Petroleum underground storage tank system" means an
2 underground storage tank system used for the storage of petroleum.

3 (d) "Precertification application" means the application
4 submitted by an owner or operator seeking the department's
5 eligibility determination for reimbursement for the costs of
6 corrective action from the temporary reimbursement program.

7 (e) "Refined petroleum" means aviation gasoline, middle
8 distillates, jet fuel, kerosene, gasoline, residual oils, and any
9 oxygenates that have been blended with any of these.

10 (f) "Refined petroleum fund" means the refined petroleum fund
11 established under section 21506a.

12 (g) "Refined petroleum product cleanup initial program" means
13 the program established in section 21553.

14 ~~—— (h) "Refined petroleum product cleanup program" means the~~
15 ~~refined petroleum product cleanup initial program and the program~~
16 ~~based upon the recommendations of the petroleum cleanup advisory~~
17 ~~council under section 21552(10).~~

18 (H) ~~(i)~~—"Regulated financial institution" means a state or
19 nationally chartered bank, savings and loan association or savings
20 bank, credit union, or other state or federally chartered lending
21 institution or a regulated affiliate or regulated subsidiary of any
22 of these entities.

23 ~~—— (j) "Regulatory fee" means the environmental protection~~
24 ~~regulatory fee imposed under section 21508.~~

25 (I) ~~(k)~~—"Release" means any spilling, leaking, emitting,
26 discharging, escaping, or leaching from a petroleum underground
27 storage tank system into groundwater, surface water, or subsurface

1 soils.

2 (J) ~~(I)~~—"Site" means a location where a release has occurred or
3 a threat of a release exists from an underground storage tank
4 system, excluding any location where corrective action was
5 completed which satisfies the cleanup criteria for unrestricted
6 residential use under part 213.

7 (K) ~~(m)~~—"Temporary reimbursement program" means the program
8 established in section 21554.

9 (L) ~~(n)~~—"Underground storage tank system" means an existing
10 tank or combination of tanks, including underground pipes connected
11 to the tank or tanks, which is or was used to contain an
12 accumulation of regulated substances, and is not currently being
13 used for any other purpose, and the volume of which, including the
14 volume of the underground pipes connected to the tank or tanks, is
15 10% or more beneath the surface of the ground. An underground
16 storage tank system includes an underground storage tank that is
17 properly closed in place pursuant to part 211 and rules promulgated
18 under that part. An underground storage tank system does not
19 include any of the following:

20 (i) A farm or residential tank of 1,100 gallons or less
21 capacity used for storing motor fuel for noncommercial purposes.

22 (ii) A tank used for storing heating oil for consumptive use on
23 the premises where the tank is located.

24 (iii) A septic tank.

25 (iv) A pipeline facility, including gathering lines regulated
26 under either of the following:

27 (A) The natural gas pipeline safety act of 1968, ~~Public Law~~

1 ~~90-481, 49 USC Appx 1671 to 1677, 1679a to 1682, and 1683 to 1687~~
2 ~~1686.~~

3 (B) Sections 201 to 215, 217, and 219 of the hazardous liquid
4 pipeline safety act of 1979, title II of the pipeline safety act of
5 1979, ~~Public Law 96-129, 49 USC Appx 1811, 2001 to 2015-2014.~~

6 (v) A surface impoundment, pit, pond, or lagoon.

7 (vi) A storm water or wastewater collection system.

8 (vii) A flow-through process tank.

9 (viii) A liquid trap or associated gathering lines directly
10 related to oil or gas production and gathering operations.

11 (ix) A storage tank situated in an underground area such as a
12 basement, cellar, mineworking, drift, shaft, or tunnel if the
13 storage tank is situated upon or above the surface of the floor.

14 (x) Any pipes connected to a tank described in subparagraphs
15 (i) to (ix).

16 (xi) An underground storage tank system holding hazardous
17 wastes listed or identified under subtitle C **OF TITLE II** of the
18 solid waste disposal act, ~~title II of Public Law 89-272, 42 USC~~
19 ~~6921 to 6939e, or a mixture of such hazardous waste and other~~
20 regulated substances.

21 (xii) A wastewater treatment tank system that is part of a
22 wastewater treatment facility regulated under section 307(b) of
23 title III or section 402 of title IV of the federal water pollution
24 control act, 33 USC 1317 and 1342.

25 (xiii) Equipment or machinery that contains regulated substances
26 for operational purposes such as hydraulic lift tanks and
27 electrical equipment tanks.

1 (xiv) An underground storage tank system with a capacity of 110
2 gallons or less.

3 (xv) An underground storage tank system that contains a de
4 minimis concentration of regulated substances.

5 (xvi) An emergency spill or overflow containment underground
6 storage tank system that is expeditiously emptied after use.

7 (xvii) A wastewater treatment tank system.

8 (xviii) An underground storage tank system containing
9 radioactive material that is regulated under the atomic energy act
10 of 1954, chapter 1073, 68 Stat. 919.

11 (xix) An underground storage tank system that is part of an
12 emergency generator system at nuclear power generation facilities
13 regulated by the nuclear regulatory commission under 10 CFR part
14 50, appendix A to part 50 of title 10 of the code of federal
15 regulations.

16 (xx) Airport hydrant fuel distribution systems.

17 (xxi) Underground storage tank systems with field-constructed
18 tanks.

19 **(M)** ~~(e)~~—"Work invoice" means an original billing acceptable to
20 the administrator and signed by the owner or operator and a
21 consultant that includes all of the following:

22 (i) The name, address, and federal tax identification number of
23 each contractor who performed work.

24 (ii) The name and social security number of each employee who
25 performed work.

26 (iii) A specific itemized list of the work performed by each
27 contractor and an itemized list of the cost of each of these items.

1 (iv) A statement that the consultant employed a documented
2 sealed competitive bidding process for any contract award exceeding
3 \$5,000.00.

4 (v) If the consultant did not accept the lowest responsive bid
5 received, a specific reason why the lowest responsive bid was not
6 accepted.

7 (vi) Upon request of the administrator, a list of all bids
8 received.

9 (vii) Proof of payment of the co-pay amount as required under
10 section 21514.

11 Sec. 21506. (1) The Michigan underground storage tank
12 financial assurance fund is created in the state treasury.

13 (2) The state treasurer shall direct the investment of the
14 fund. Interest and earnings from fund investments shall be credited
15 to the fund.

16 (3) Money in the fund at the close of the fiscal year shall
17 remain in the fund and shall not lapse to the general fund.

18 (4) Except as provided in ~~subsections (5) and~~ **SUBSECTION** (6),
19 money in the fund shall be expended only as follows and in the
20 following order of priority:

21 (a) To defease principal and interest due and owing on bonds
22 issued by the authority pursuant to this part that are outstanding
23 ~~on the effective date of the 2004 amendatory act that amended this~~
24 ~~section~~ **OCTOBER 12, 2004.**

25 (b) For the reasonable administrative cost of implementing
26 this part by the department, the department of treasury, the
27 department of attorney general, and the authority as annually

1 appropriated by the legislature. Administrative costs include the
2 actual and necessary expenses incurred by the board and its members
3 in carrying out the duties imposed by this part. Total
4 administrative costs expended under this subdivision shall not
5 exceed 7% of the fund's projected revenues in any year. Costs
6 incurred by the authority for the issuance of bonds or notes which
7 may also be payable from the proceeds of the bonds or notes shall
8 not be considered administrative costs.

9 (c) For payment of rewards under section 21549.

10 (d) For the interest subsidy program established in section
11 21522. The money expended under this subdivision shall not exceed
12 10% of the fund's projected revenues in any year. However, 10% of
13 the revenue of the fund during the first year of the fund's
14 operation shall be expended on the interest subsidy program. If
15 this money is not expended during the first year, this money shall
16 be carried over for expenditure in the succeeding years of the
17 fund's operation. Additional fund revenue shall not be set aside
18 for the interest subsidy program until all of the first year
19 revenue is expended.

20 (e) For corrective action and indemnification including all of
21 the following:

22 (i) Payments for work invoices submitted prior to 5 p.m. on
23 June 29, 1995 and approved by the department pursuant to this part.

24 (ii) Payments for requests for indemnification submitted prior
25 to 5 p.m. on June 29, 1995 and approved by the department pursuant
26 to this part.

27 (iii) Payments for work invoices or requests for indemnification

1 that were submitted prior to 5 p.m. on June 29, 1995 and denied by
2 the department pursuant to this part but which denials were
3 subsequently reversed on appeal.

4 ~~—— (5) All revenue collected during the state fiscal years ending~~
5 ~~September 30, 2003 and September 30, 2004 from the environmental~~
6 ~~protection regulatory fee imposed under section 21508 shall be~~
7 ~~allocated and expended by the state treasurer for the purchase of~~
8 ~~United States treasury obligations in an amount sufficient,~~
9 ~~together with interest on the obligations, to implement subsection~~
10 ~~(4)(a).~~

11 (5) ~~(6)~~ Upon determination by the state treasurer of the
12 amount of money needed to satisfy all obligations listed in
13 subsection (4), the state treasurer shall transfer all remaining
14 money in the fund to the refined petroleum fund created in section
15 21506a.

16 (6) ~~(7)~~ The board shall make recommendations to the
17 appropriations committees in the senate and house of
18 representatives on the distribution and amount of administrative
19 costs under subsection (4)(b). The board shall provide a copy of
20 these recommendations to each affected department.

21 Sec. 21550. (1) Section 21508 is repealed. ~~effective December~~
22 ~~31, 2010.~~

23 (2) The authority's obligation to pay off any bonds or notes
24 issued pursuant to this part ~~shall survive~~ **IS NOT AFFECTED BY** the
25 repeal of section 21508.