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BILL ANALYSIS

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Senate Bills 264 and 265 (as reported without amendment)

Sponsor: Senator Vern Ehlers

Committee: Natural Resources and Environmental Affairs

Date Completed: 4-19-89

**RATIONALE**

Public Acts 478, 479, and 518 of 1988 (House Bill 5508, Senate Bill 1018, and Senate Bill 1040, respectively) provide for the regulation of underground storage tanks and for corrective actions to be taken when such tanks are found to be leaking. A revenue source was not established, however, for the Michigan Underground Storage Tank Financial Assurance Fund and the Emergency Response Fund, which were created by Public Act 518. As a result, most of the provisions of those Acts are scheduled to sunset six months after their effective dates. Senate Bill 266, which has been referred to the Senate Finance Committee, would amend Public Act 518 to address the revenue source issue. Since strong State regulation of underground storage tanks is necessary for the State to meet Federal standards and continue to receive Federal funds, many people feel that the sunset dates on the 1988 Acts should be removed.

**CONTENT**

Senate Bills 264 and 265 would remove the six-month sunset dates contained in Public Act 478 of 1988, which created the Leaking Underground Storage Tank Act, and Public Act 479 of 1988, which amended the Underground Storage Tank Regulatory Act, respectively.

Senate Bill 264 also would increase from 30 to 45 the number of days that the Director of the Department of Natural Resources has to approve or disapprove a corrective action plan. In addition, if the Director disapproved the plan, he or she would have to provide the tank owner with a list of deficiencies in the plan and

recommendations that, if incorporated, would result in the plan's approval. The Director also would have to provide a schedule for resubmittal of the plan. Currently, a disapproval need only be accompanied by "a list of changes that would result in the plan's approval".

Senate Bill 265 also would extend the Act's existing provisions pertaining to a closed or removed underground storage tank to underground storage tank systems or a tank that is part of such a system. In addition, the Act prohibits a local unit of government from enacting or enforcing an ordinance that regulated underground storage tank systems; the bill provides that the prohibition would be effective beginning October 1, 1990. Further, the bill would extend the Act's misdemeanor violation provision to persons who knowingly submitted false information when registering a storage tank system. (A misdemeanor violation of the Act is punishable by a maximum fine of \$500, up to six months' imprisonment, or both.) The Act also provides for a civil fine of \$500 for violations of the Act or its rules. The bill would make those who provided false information also subject to the civil fine, and increase the fine for any violation to not more than \$5,000 for each underground storage tank system for each day of violation. Under the bill, a civil fine would have to be based on the seriousness of the violation and any "good faith efforts" to comply with the Act and its rules.

MCL 299.838 (Senate Bill 264)

299.702 et al. (Senate Bill 265)

## FISCAL IMPACT

### Senate Bill 264

The bill would have no fiscal impact on State or local government. Public Act 478 of 1988 enabled the State to continue to receive \$2.3 million in Federal funds for FY 1988-89. Although the same level of funding is available for 1989-90, that funding will be jeopardized if the Act expires.

### Senate Bill 265

Revenues: By eliminating the sunset date, the bill would retain a \$100 registration fee for all underground storage tanks, which would be credited to the Underground Storage Tank Regulatory Enforcement Fund. The fee was scheduled to take effect six months after Public Act 479 of 1988 was enacted. Since there are approximately 59,000 tanks currently registered, annual revenues could yield \$5,900,000. The Department of State Police also estimates that there are currently unregistered approximately 25,000 tanks, which could, with increased enforcement, generate additional revenue. There could, however, be some decrease in revenue due to the closing of some tanks because of the new fees. There also could be additional revenue generated from fines charged for violations of the Act. The total amount generated would depend on the number of civil and criminal fines assessed.

Costs: The Department of State Police is estimating an increase of 22 FTEs to enforce this bill. These employees would be paid from the Fund at an estimated annual cost of \$1,142,000. The Department also would need to contract for an additional 100 field inspectors at a cost of \$5,400,000. Vehicles, supplies, rentals and other materials are estimated to cost \$950,000 annually. Therefore, total costs of this bill are estimated at \$7,492,000.

The Department of Treasury could incur minimal costs in administering the Underground Storage Tank Regulatory Enforcement Fund created by Public Act 479 of 1988.

## ARGUMENTS

### Supporting Argument

The bills are necessary for Michigan's regulation of underground storage tanks to continue to meet Federal standards and for the State to remain eligible for any available Federal funds. In addition, increasing the number of days that the DNR Director would have to approve or disapprove corrective action plans would ensure that proposed plans received an adequate and thorough review. Further, the maximum civil penalty of \$5,000 per day per tank system proposed by Senate Bill 265 would provide a more adequate deterrent to violating the Act than would Public Act 478's maximum penalty of \$500.

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### A8990\S264A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.