

HB

187



Legislative Budget & Audit Committee

Representative Ralph Samuels, Chair

Sponsor Statement for House Bill 187 Extend Board of Storage Tank Assistance

Under AS 46.03.010(18), the Board of Storage Tank Assistance will sunset on June 30, 2003 unless the Legislature acts to extend the board. House Bili 187 would extend the board to June 30, 2007.

The board (BSTA) was created in 1990 to help the owners and operators of underground storage tanks (UST's) comply with state and federal regulations enacted in response to nationwide concern over possible contamination of drinking water from leaking tanks. These new regulations covered areas including the design, construction and installation of new tanks, and tightened standards for the retrofitting of existing tanks.

Board members have extensive UST knowledge and experience, allowing the board to act as a valuable liaison between the Department of Environmental Conservation and UST owner/operators. BSTA helped the DEC draft reasonable regulations and has helped owner/operators interpret and comply with regulations, saving the State the cost of seizing and cleaning up contaminated sites caused by non-compliance.

The DEC provides financial assistance to UST owner/operators, previously through grant programs, and now through a revolving loan fund, the Storage Tank Assistance Loan Fund. BSTA has been instrumental in mediating disputes between DEC and UST owner/operators over financial assistance determinations and allowable costs, helping avoid the need for formal appeals in some cases.

The Board of Storage Tank Assistance has a proven value, and it is in the best interest of UST owner/operators, the State and the general public to extend the board's sunset date for four years.

REPORT CONCLUSIONS

In our opinion, the Board of Storage Tank Assistance (BSTA) should be reestablished. The board plays an integral role in promoting compliance throughout the state with federal regulations related to specifications for underground storage tanks (UST). Ostensibly, such compliance is important in promoting public health in that it protects underground drinking water supplies from pollution and provides funding necessary to remediate pollution brought on by leaking USTs owned and operated by private sector interests.

Creation of BSTA grew out of palpable mistrust between many of the private sector UST tank owners/operators and state regulators. As an independent board, BSTA has been instrumental in mediating disputes between the Department of Environment Conservation (DEC) and UST owners/operators. BSTA has enhanced cooperation, which promotes compliance with governmental regulations related to underground tanks.

Since FY 98 the board has conducted eight formal hearings involving appeals of DEC actions. On numerous other occasions, board members or staff have been able to resolve disputes and concerns on an informal basis, which again assists in achieving the overarching public policy objective, bringing UST owners/operators into compliance with current federal tank regulations.

The board actively participates in the making of statutes and regulations pertain to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST financial assistance program. The board also reviews all DEC regulation proposals related to USTs. If it is fair to assume a significant number of UST owners and operators will be interested in participating, with DEC and BSTA in the development of procedures for the new loan program created by SB 128.

Although the December 22, 1998 federal deadline for tank compliance has passed, there are still tanks in Alaska that are out of compliance. Tank owners and operators continue to express a need and desire to maintain BSTA. The board has, and continues to, work with tank owners and operators to help them come into compliance with Environmental Protection Agency (EPA) regulations.

Currently, there is an informal agreement between EPA and DEC, stating that EPA will not assess fines for out of compliance tanks as long as the owner/operator signs a compliance order by consent (COBC) agreement. These agreements state that the tank owner is seeking funding from the State in order to come into compliance and that regardless of receiving that funding they will come into compliance. The ongoing presence and activity of BSTA in promoting statewide compliance, has been an important part of EPA's willingness to accept COBC agreements.

BSTA is needed to continue its role until procedures for the loan program have been established. The creation of the loan program and changes to the grant programs brought on by SB 128 has and continues to require a great deal of the board's time. As regulations and

procedures are established for the cleanup loan program, the board should consider including language in the regulations that would provide a process for tank owners and operators to follow if they wish to appeal a certain action or decision of DEC.

We recommend the legislature extend the board's termination date until June 30, 2003. Given the substantial changes to the UST program brought about by SB 128, and the timetable involved in establishing the regulations and procedures for the loan program, there is still a role, albeit perhaps a reduced one, for BSTA to play.