BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0050.1/21
ATTY/TYPIST: ML:lel
BRIEF DESCRIPTION: Concerning resilience for catastrophic oil spills.
AN ACT Relating to resilience for catastrophic oil spills; and
amending RCW 82.23B.020, 90.56.500, and 90.56.510.

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

Sec. 1. RCW 82.23B.020 and 2018 c 262 s 103 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; or (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car or pipeline. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car, pipeline, waterborne vessel, or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; or (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car, pipeline, waterborne vessel, or barge.
tank car or pipeline. The tax imposed in this section is levied upon
the owner of the crude oil or petroleum products immediately after
receipt of the same into the storage tanks of a marine or bulk oil
terminal from a tank car, pipeline, waterborne vessel, or barge at
the rate of four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter must be collected by the
marine or bulk oil terminal operator from the taxpayer. If any person
charged with collecting the taxes fails to bill the taxpayer for the
taxes, or in the alternative has not notified the taxpayer in writing
of the taxes imposed, or having collected the taxes, fails to pay
them to the department in the manner prescribed by this chapter,
whether such failure is the result of the person's own acts or the
result of acts or conditions beyond the person's control, he or she,
nevertheless, is personally liable to the state for the amount of the
taxes. Payment of the taxes by the owner to a marine or bulk oil
terminal operator relieves the owner from further liability for the
taxes.

(4) Taxes collected under this chapter must be held in trust
until paid to the department. Any person collecting the taxes who
appropriates or converts the taxes collected is guilty of a gross
misdemeanor if the money required to be collected is not available
for payment on the date payment is due. The taxes required by this
chapter to be collected must be stated separately from other charges
made by the marine or bulk oil terminal operator in any invoice or
other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter
to the person charged with collection of the taxes and the person
charged with collection fails to pay the taxes to the department, the
department may, in its discretion, proceed directly against the
taxpayer for collection of the taxes.

(6) The taxes are due from the marine or bulk oil terminal
operator, along with reports and returns on forms prescribed by the
department, within twenty-five days after the end of the month in
which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine
or bulk oil terminal operator or to the department, constitutes a
debt from the taxpayer to the marine or bulk oil terminal operator.
Any person required to collect the taxes under this chapter who, with
intent to violate the provisions of this chapter, fails or refuses to
do so as required and any taxpayer who refuses to pay any taxes due
under this chapter, is guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department must give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department must provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator relieves the marine or bulk oil terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9)(a) All receipts from the tax imposed in subsection (1) of this section must be deposited into the state oil spill response account.

(b) Beginning in fiscal year 2019 and each fiscal year thereafter, the first two hundred thousand dollars of receipts from the tax imposed in subsection (2) of this section must be deposited into the military department active state service account created in RCW 38.40.220, and the remainder of the receipts from the tax imposed in subsection (2) of this section must be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management must determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and may not be used to challenge the validity of any tax imposed under this chapter. The office of financial management must promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than ((nine) twenty-five million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most
recent quarterly balance is more than 240 million dollars.

Sec. 2. RCW 90.56.500 and 2019 c 415 s 993 are each amended to read as follows:

(1) The state oil spill response account is created in the state treasury. All receipts from RCW 82.23B.020(1) shall be deposited in the account. All costs reimbursed to the state by a responsible party or any other person for responding to a spill of oil shall also be deposited in the account. Moneys in the account shall be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW.

(2)(a) The account shall be used exclusively to pay for:

(i) The costs associated with the response to spills or imminent threats of spills of crude oil or petroleum products into the waters of the state; and

(ii) The costs associated with the department's use of an emergency response towing vessel.

(b) During the 2017-2019 fiscal biennium, the legislature may transfer up to four million seven hundred twenty-one thousand dollars from the account to the oil spill prevention account created in RCW 90.56.510.

(c) During the 2019-2021 fiscal biennium, the legislature may transfer up to one million forty thousand dollars from the account to the oil spill prevention account created in RCW 90.56.510.

(3) Payment of response costs under subsection (2)(a)(i) of this section shall be limited to spills which the director has determined are likely to exceed one thousand dollars.

(4) Before expending moneys from the account, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under subsection (2) of this section from the person responsible for the spill and from other sources, including the federal government.

(5) Reimbursement for response costs from this account shall be allowed only for costs which are not covered by funds appropriated to the agencies responsible for response activities. Costs associated with the response to spills of crude oil or petroleum products shall include:

(a) Natural resource damage assessment and related activities;
(b) Spill related response, containment, wildlife rescue, cleanup, disposal, and associated costs;
(c) Interagency coordination and public information related to a response; and
(d) Appropriate travel, goods and services, contracts, and equipment.

Sec. 3. RCW 90.56.510 and 2020 c 357 s 921 are each amended to read as follows:
(1) The oil spill prevention account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. If, on the first day of any calendar month, the balance of the oil spill response account is greater than ((nine)) twenty-five million dollars and the balance of the oil spill prevention account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. (((For the biennium ending June 30, 1999, and the biennium ending June 30, 2001, the state treasurer may transfer a total of up to one million dollars from the oil spill response account to the oil spill prevention account to support appropriations made from the oil spill prevention account in the omnibus appropriations act adopted not later than June 30, 1999.)))

(2) Expenditures from the oil spill prevention account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. (((In addition, until June 30, 2021, expenditures from the oil spill prevention account may be used, subject to amounts appropriated specifically for this purpose, for the development and annual review of local emergency planning committee emergency response plans in RCW 38.52.040(3).))) Starting with the 1995-1997 biennium, the legislature shall give activities of state agencies related to prevention of oil
spills priority in funding from the oil spill prevention account. Costs of prevention include the costs of:
   (a) Routine responses not covered under RCW 90.56.500;
   (b) Management and staff development activities;
   (c) Development of rules and policies and the statewide plan provided for in RCW 90.56.060;
   (d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;
   (e) Interagency coordination and public outreach and education;
   (f) Collection and administration of the tax provided for in chapter 82.23B RCW; and
   (g) Appropriate travel, goods and services, contracts, and equipment.
(3) Before expending moneys from the account for a response under subsection (2)(a) of this section, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under this section from the person responsible for the spill and from other sources, including the federal government.
(4) During the 2019-2021 fiscal biennium, the legislature may appropriate moneys from the oil spill prevention account to the oil spill response account.