



Sen. Laura M. Murphy

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LRB100 16846 MJP 36478 a

1 AMENDMENT TO SENATE BILL 2443

2 AMENDMENT NO. _____. Amend Senate Bill 2443 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 10, 40, and 85 as
6 follows:

7 (415 ILCS 135/10)

8 Sec. 10. Drycleaner Environmental Response Trust Fund.

9 (a) The Drycleaner Environmental Response Trust Fund is
10 created as a special fund in the State Treasury. Moneys
11 deposited into the Fund shall be used solely for the purposes
12 of the Council and for other purposes as provided in this Act.
13 The Fund shall include moneys credited to the Fund under this
14 Act and other moneys that by law may be credited to the Fund.
15 The State Treasurer may invest Funds deposited into the Fund at
16 the direction of the Council. Interest, income from the

1 investments, and other income earned by the Fund shall be
2 credited to and deposited into the Fund.

3 Pursuant to appropriation, all moneys in the Drycleaner
4 Environmental Response Trust Fund shall be disbursed by the
5 Agency to the Council for the purpose of making disbursements,
6 if any, in accordance with this Act and for the purpose of
7 paying the ordinary and contingent expenses of the Council.
8 After June 30, 1999, pursuant to appropriation, all moneys in
9 the Drycleaner Environmental Response Trust Fund may be used by
10 the Council for the purpose of making disbursements, if any, in
11 accordance with this Act and for the purpose of paying the
12 ordinary and contingent expenses of the Council.

13 The Fund may be divided into different accounts with
14 different depositories to fulfill the purposes of the Act as
15 determined by the Council.

16 Moneys in the Fund at the end of a State fiscal year shall
17 be carried forward to the next fiscal year and shall not revert
18 to the General Revenue Fund.

19 Notwithstanding any other law to the contrary, the
20 Drycleaner Environmental Response Trust Fund is not subject to
21 sweeps, administrative charge-backs, or any other fiscal
22 maneuver that would in any way transfer any amounts from the
23 Drycleaner Environmental Response Trust Fund into any other
24 fund of the State.

25 (b) The specific purposes of the Fund include but are not
26 limited to the following:

1 (1) To establish an account to fund remedial action of
2 drycleaning solvent releases from drycleaning facilities
3 as provided by Section 40.

4 (2) To establish an insurance account for insuring
5 environmental risks from releases from drycleaning
6 facilities within this State as provided by Section 45.

7 (c) The State, the General Revenue Fund, and any other Fund
8 of the State, other than the Drycleaner Environmental Response
9 Trust Fund, shall not be liable for a claim or cause of action
10 in connection with a drycleaning facility not owned or operated
11 by the State or an agency of the State. All expenses incurred
12 by the Fund shall be payable solely from the Fund and no
13 liability or obligation shall be imposed upon the State. The
14 State is not liable for a claim presented against the Fund.

15 (d) The liability of the Fund is limited to the extent of
16 coverage provided by the account under which a claim is
17 submitted, subject to the terms and conditions of that
18 coverage. The liability of the Fund is further limited by the
19 moneys made available to the Fund, and no remedy shall be
20 ordered that would require the Fund to exceed its then current
21 funding limitations to satisfy an award or which would restrict
22 the availability of moneys for higher priority sites.

23 (e) Nothing in this Act shall be construed to limit,
24 restrict, or affect the authority and powers of the Agency or
25 another State agency or statute unless the State agency or
26 statute is specifically referenced and the limitation is

1 clearly set forth in this Act.

2 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

3 (415 ILCS 135/40)

4 Sec. 40. Remedial action account.

5 (a) The remedial action account is established to provide
6 reimbursement to eligible claimants for drycleaning solvent
7 investigation, remedial action planning, and remedial action
8 activities for existing drycleaning solvent contamination
9 discovered at their drycleaning facilities.

10 (b) The following persons are eligible for reimbursement
11 from the remedial action account:

12 (1) In the case of claimant who is the owner or
13 operator of an active drycleaning facility licensed by the
14 Council under this Act at the time of application for
15 remedial action benefits afforded under the Fund, the
16 claimant is only eligible for reimbursement of remedial
17 action costs incurred in connection with a release from
18 that drycleaning facility, subject to any other
19 limitations under this Act.

20 (2) In the case of a claimant who is the owner of an
21 inactive drycleaning facility and was the owner or operator
22 of the drycleaning facility when it was an active
23 drycleaning facility, the claimant is only eligible for
24 reimbursement of remedial action costs incurred in
25 connection with a release from the drycleaning facility,

1 subject to any other limitations under this Act.

2 (c) An eligible claimant requesting reimbursement from the
3 remedial action account shall meet all of the following:

4 (1) The claimant demonstrates that the source of the
5 release is from the claimant's drycleaning facility.

6 (2) At the time the release was discovered by the
7 claimant, the claimant and the drycleaning facility were in
8 compliance with the Agency reporting and technical
9 operating requirements.

10 (3) The claimant reported the release in a timely
11 manner to the Agency in accordance with State law.

12 (4) (Blank).

13 (5) If the claimant is the owner or operator of an
14 active drycleaning facility, the claimant has provided to
15 the Council proof of implementation and maintenance of the
16 following pollution prevention measures:

17 (A) That all drycleaning solvent wastes generated
18 at a drycleaning facility be managed in accordance with
19 applicable State waste management laws and rules.

20 (B) A prohibition on the discharge of wastewater
21 from drycleaning machines or of drycleaning solvent
22 from drycleaning operations to a sanitary sewer or
23 septic tank or to the surface or in groundwater.

24 (C) That every drycleaning facility:

25 (I) install a containment dike or other
26 containment structure around each machine, item of

1 equipment, drycleaning area, and portable waste
2 container in which any drycleaning solvent is
3 utilized, which shall be capable of containing
4 leaks, spills, or releases of drycleaning solvent
5 from that machine, item, area, or container. The
6 containment dike or other containment structure
7 shall be capable of at least the following: (i)
8 containing a capacity of 110% of the drycleaning
9 solvent in the largest tank or vessel within the
10 machine; (ii) containing 100% of the drycleaning
11 solvent of each item of equipment or drycleaning
12 area; and (iii) containing 100% of the drycleaning
13 solvent of the largest portable waste container or
14 at least 10% of the total volume of the portable
15 waste containers stored within the containment
16 dike or structure, whichever is greater.

17 Petroleum underground storage tank systems
18 that are upgraded in accordance with USEPA upgrade
19 standards pursuant to 40 CFR Part 280 for the tanks
20 and related piping systems and use a leak detection
21 system approved by the USEPA or IEPA are exempt
22 from this secondary containment requirement; and

23 (II) seal or otherwise render impervious those
24 portions of diked floor surfaces on which a
25 drycleaning solvent may leak, spill, or otherwise
26 be released.

1 (D) A requirement that all drycleaning solvent
2 shall be delivered to drycleaning facilities by means
3 of closed, direct-coupled delivery systems.

4 (6) An active drycleaning facility has maintained
5 continuous financial assurance for environmental liability
6 coverage in the amount of at least \$500,000 at least since
7 the date of award of benefits under this Section or July 1,
8 2000, whichever is earlier. An uninsured drycleaning
9 facility that has filed an application for insurance with
10 the Fund by January 1, 2004, obtained insurance through
11 that application, and maintained that insurance coverage
12 continuously shall be considered to have conformed with the
13 requirements of this subdivision (6). To conform with this
14 requirement the applicant must pay the equivalent of the
15 total premiums due for the period beginning June 30, 2000
16 through the date of application plus a 20% penalty of the
17 total premiums due for that period.

18 (7) The release was discovered on or after July 1, 1997
19 and before July 1, 2006.

20 (d) A claimant shall submit a completed application form
21 provided by the Council. The application shall contain
22 documentation of activities, plans, and expenditures
23 associated with the eligible costs incurred in response to a
24 release of drycleaning solvent from a drycleaning facility.
25 Application for remedial action account benefits must be
26 submitted to the Council on or before June 30, 2005.

1 (e) Claimants shall be subject to the following deductible
2 requirements, unless modified pursuant to the Council's
3 authority under Section 75:

4 (1) An eligible claimant submitting a claim for an
5 active drycleaning facility is responsible for the first
6 \$5,000 of eligible investigation costs and for the first
7 \$10,000 of eligible remedial action costs incurred in
8 connection with the release from the drycleaning facility
9 and is only eligible for reimbursement for costs that
10 exceed those amounts, subject to any other limitations of
11 this Act.

12 (2) An eligible claimant submitting a claim for an
13 inactive drycleaning facility is responsible for the first
14 \$10,000 of eligible investigation costs and for the first
15 \$10,000 of eligible remedial action costs incurred in
16 connection with the release from that drycleaning
17 facility, and is only eligible for reimbursement for costs
18 that exceed those amounts, subject to any other limitations
19 of this Act.

20 (f) Claimants are subject to the following limitations on
21 reimbursement:

22 (1) Subsequent to meeting the deductible requirements
23 of subsection (e), and pursuant to the requirements of
24 Section 75, reimbursement shall not exceed \$300,000 per
25 active drycleaning facility and \$50,000 per inactive
26 drycleaning facility.

1 (2) A contract in which one of the parties to the
2 contract is a claimant, for goods or services that may be
3 payable or reimbursable from the Council, is void and
4 unenforceable unless and until the Council has found that
5 the contract terms are within the range of usual and
6 customary rates for similar or equivalent goods or services
7 within this State and has found that the goods or services
8 are necessary for the claimant to comply with Council
9 standards or other applicable regulatory standards.

10 (3) A claimant may appoint the Council as an agent for
11 the purposes of negotiating contracts with suppliers of
12 goods or services reimbursable by the Fund. The Council may
13 select another contractor for goods or services other than
14 the one offered by the claimant if the scope of the
15 proposed work or actual work of the claimant's offered
16 contractor does not reflect the quality of workmanship
17 required or if the costs are determined to be excessive, as
18 determined by the Council.

19 (4) The Council may require a claimant to obtain and
20 submit 3 bids and may require specific terms and conditions
21 in a contract subject to approval.

22 (5) The Council may enter into a contract or an
23 exclusive contract with the supplier of goods or services
24 required by a claimant or class of claimants, in connection
25 with an expense reimbursable from the Fund, for a specified
26 good or service at a gross maximum price or fixed rate, and

1 may limit reimbursement accordingly.

2 (6) Unless emergency conditions exist, a service
3 provider shall obtain the Council's approval of the budget
4 for the remediation work before commencing the work. No
5 expense incurred that is above the budgeted amount shall be
6 paid unless the Council approves the expense prior to its
7 being incurred. All invoices and bills relating to the
8 remediation work shall be submitted with appropriate
9 documentation, as deemed necessary by the Council.

10 (7) Neither the Council nor an eligible claimant is
11 responsible for payment for costs incurred that have not
12 been previously approved by the Council, unless an
13 emergency exists.

14 (8) The Council may determine the usual and customary
15 costs of each item for which reimbursement may be awarded
16 under this Section. The Council may revise the usual and
17 customary costs from time to time as necessary, but costs
18 submitted for reimbursement shall be subject to the rates
19 in effect at the time the costs were incurred.

20 (9) If a claimant has pollution liability insurance
21 coverage other than coverage provided by the insurance
22 account under this Act, that coverage shall be primary.
23 Reimbursement from the remedial account shall be limited to
24 the deductible amounts under the primary coverage and the
25 amount that exceeds the policy limits of the primary
26 coverage, subject to the deductible amounts of this Act. If

1 there is a dispute between the claimant and the primary
2 insurance provider, reimbursement from the remedial action
3 account may be made to the claimant after the claimant
4 assigns all of his or her interests in the insurance
5 coverage to the Council.

6 (g) The source of funds for the remedial action account
7 shall be moneys allocated to the account by the Council
8 according to the Fund budget approved by the Council.

9 (h) A drycleaning facility will be classified as active or
10 inactive for purposes of determining benefits under this
11 Section based on the status of the facility on the date a claim
12 is filed.

13 (i) Eligible claimants shall conduct remedial action in
14 accordance with the Site Remediation Program under the
15 Environmental Protection Act and Part 740 of Title 35 of the
16 Illinois Administrative Code and the Tiered Approach to Cleanup
17 Objectives under Part 742 of Title 35 of the Illinois
18 Administrative Code.

19 (j) Effective January 1, 2012, an active drycleaning
20 facility that has previously received or is currently receiving
21 reimbursement for the costs of a remedial action, as defined in
22 this Act, shall maintain continuous financial assurance for
23 environmental liability coverage in the amount of at least
24 \$500,000 until the earlier of (i) January 1, 2030 ~~2020~~ or (ii)
25 the date the Council determines the drycleaning facility is an
26 inactive drycleaning facility. Failure to comply with this

1 requirement will result in the revocation of the drycleaning
2 facility's existing license and in the inability of the
3 drycleaning facility to obtain or renew a license under Section
4 60 of this Act.

5 (Source: P.A. 96-774, eff. 1-1-10; 97-377, eff. 1-1-12.)

6 (415 ILCS 135/85)

7 Sec. 85. Repeal of fee and tax provisions. Sections 60 and
8 65 of this Act are repealed on January 1, 2030 ~~2020~~.

9 (Source: P.A. 93-201, eff. 1-1-04.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."