



Ohio Revised Code

Section 3737.90 Petroleum underground storage tank release compensation board.

Effective: April 11, 1991

Legislation: Senate Bill 396 - 118th General Assembly

(A) There is hereby created the petroleum underground storage tank release compensation board consisting of the treasurer of state and the directors of commerce and environmental protection as members ex officio, or their designees, and nine members to be appointed by the governor with the advice and consent of the senate. No more than five of the appointed members shall be affiliated with the same political party. Of the appointed members, one shall represent the interests of petroleum refiners, one shall represent the interests of petroleum marketers, one shall represent the interests of retail petroleum dealers, one shall represent the interests of local governments, one shall have experience in casualty and fire or pollution liability insurance, two shall represent the interests of businesses that own petroleum underground storage tanks and are not primarily engaged in the sale of petroleum, and two shall be professional engineers registered under Chapter 4733. of the Revised Code with experience in geology or environmental engineering who shall represent the interests of the public and shall not be associated with the petroleum industry.

Of the initial appointments to the board, three shall be for a term ending July 11, 1990, three shall be for a term ending July 11, 1991, and three shall be for a term ending July 11, 1992. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which his predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of his term until his successor takes office or until a period of sixty days has elapsed, whichever occurs first. Appointed members of the board shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code for each day of actual attendance at meetings of the board. Members shall receive their actual and necessary expenses incurred in the performance of their duties as members of the board.



The petroleum underground storage tank release compensation board is a body both corporate and politic in this state, and the carrying out of its purposes and the exercise by it of the powers conferred by sections 3737.90 to 3737.98 of the Revised Code shall be held to be, and are hereby determined to be, essential governmental functions and public purposes of the state.

Each appointed member of the board shall give a surety bond to the state in the penal sum of not less than twenty-five thousand dollars as determined by the board. The chairman of the board shall give a bond in the penal sum of not less than fifty thousand dollars as determined by the board. Each surety bond shall be conditioned upon the faithful performance of the duties of the office, be executed by a surety company authorized to transact business in this state, be approved by the governor, and be filed in the office of the secretary of state. The surety bonds shall be given at such time as is established by the board, provided that they shall be given prior to the issuance of any revenue bonds by the board under sections 3737.90 to 3737.948 of the Revised Code.

The board shall meet at least quarterly and shall hold such additional meetings as are necessary to implement and administer sections 3737.90 to 3737.98 of the Revised Code. Additional meetings may be called in accordance with rules adopted under this section. The board shall annually select from among its members a chairman and a vice-chairman.

A majority of the members of the board constitutes a quorum for the transaction of any business of the board.

(B) The board may:

(1) In accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind rules establishing procedures for calling special meetings of the board;

(2) In accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind such other rules as are necessary or appropriate to implement and administer sections 3737.90 to 3737.98 of the Revised Code, including, without limitation, rules for the administration of the petroleum underground storage tank linked deposit program established under sections 3737.95 to 3737.98 of the Revised Code; rules establishing priorities for the payment of claims under section 3737.92 of the Revised Code on the petroleum underground storage tank financial assurance fund created in



section 3737.91 of the Revised Code based upon a consideration of the date that a claim is originally filed and the threat posed to human health and the environment by the release to which the claim applies; and rules providing for the payment of any such claims in installments, when appropriate. The rules adopted under division (B)(2) of this section shall be consistent with section 9003 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as amended, and regulations adopted under it.

(3) Employ and fix the compensation of the director of the petroleum underground storage tank financial assurance fund and such other personnel as are necessary to implement and administer sections 3737.90 to 3737.98 of the Revised Code and rules adopted under them. The board may designate positions in the unclassified civil service for which it may employ persons who shall be eligible for membership in the public employees retirement system under Chapter 145. of the Revised Code and who shall not be subject to Chapter 4117. of the Revised Code.

(4) Enter into contracts or agreements for the purposes of sections 3737.90 to 3737.98 of the Revised Code, including, without limitation, a contract for administration of the petroleum underground storage tank financial assurance fund by an agent;

(5) Sue or be sued in its own name in actions arising out of any act or omission in connection with its business or affairs under sections 3737.90 to 3737.98 of the Revised Code;

(6) Issue revenue bonds payable solely from revenues as provided in sections 3737.94 to 3737.948 of the Revised Code for the purpose of funding the petroleum underground storage tank financial assurance fund to preserve jobs and employment opportunities in the state and to control water pollution and ensure the viability of ground water in the state by reimbursements to responsible persons for improving property damaged by releases of petroleum;

(7) Establish by rule the maximum percentage of the petroleum underground storage tank financial assurance fund that may be used to make petroleum underground storage tank linked deposits under sections 3737.95 to 3737.98 of the Revised Code.

(C) Section 9.86 of the Revised Code applies to the petroleum underground storage tank release compensation board and to any officer or employee of the board, as "officer" and "employee" are



defined in section 109.36 of the Revised Code.

(D) The board, in the conduct of its functions and duties, is not subject to the regulation of the superintendent of insurance under Title XXXIX of the Revised Code nor any rules of the department of insurance adopted thereunder.