

## SENATE AMENDMENTS TO A-ENGROSSED SENATE BILL 737

By JOINT COMMITTEE ON WAYS AND MEANS

June 21

1 On page 1 of the printed A-engrossed bill, line 2, before “and” insert “limiting expenditures;”.

2 Delete lines 15 through 20 and delete pages 2 through 4 and insert:

3 **“SECTION 2. As used in sections 2 to 8 of this 2007 Act:**

4 **“(1) ‘Legacy’ means a pollutant, the use of which has been banned or restricted for se-**  
5 **veral years, that remains at detectable levels in sediment and tissue samples.**

6 **“(2) ‘Municipality’ means a city or special district that operates and maintains a sewage**  
7 **treatment facility.**

8 **“(3) ‘Permittee’ means a municipality in possession of a National Pollutant Discharge**  
9 **Elimination System permit or water pollution control facility permit issued by the Depart-**  
10 **ment of Environmental Quality pursuant to ORS 468B.050 for a sewage treatment facility**  
11 **that has a dry weather design flow capacity of one million gallons per day or more.**

12 **“(4) ‘Persistent pollutant’ means a substance that is toxic and either persists in the en-**  
13 **vironment or accumulates in the tissues of humans, fish, wildlife or plants.**

14 **“SECTION 3. (1) The Department of Environmental Quality shall conduct a study of**  
15 **persistent pollutants discharged in the State of Oregon and report the results of that study**  
16 **to an appropriate interim committee of the Legislative Assembly related to the environment**  
17 **by June 1, 2010.**

18 **“(2) The department’s report shall include, but is not limited to, the following compo-**  
19 **nents:**

20 **“(a) A priority listing of persistent pollutants that pose a threat to the waters of this**  
21 **state, as defined in ORS 196.800, and have documented harmful effects on the health and**  
22 **well-being of humans, fish or wildlife, especially aquatic species, based on factors including,**  
23 **but not limited to:**

24 **“(A) Toxicological and bioaccumulative factors;**

25 **“(B) The feasibility of reduction options;**

26 **“(C) Data concerning pollutant dose and response; and**

27 **“(D) Data regarding the magnitude and significance of specific ongoing and legacy dis-**  
28 **charges.**

29 **“(b) Identification of individual point, nonpoint and legacy sources of priority listed per-**  
30 **sistent pollutants from existing data, including an analysis identifying the quantity, concen-**  
31 **tration and volume of such pollutants discharged by individual sources on an annual basis.**

32 **“(c) An evaluation and assessment of source reduction and technological control meas-**  
33 **ures that can reduce the discharge of persistent pollutants into the waters of this state, in-**  
34 **cluding an assessment of the costs and effectiveness of such measures and which measures**  
35 **should be prioritized for reducing such pollutants.**

1       “(3) The department may contract with a private organization to conduct the study re-  
2       quired under this section.

3       “(4) The department shall consult with interested local and tribal governments, state and  
4       federal agencies and other private organizations in preparing the report required under this  
5       section.

6       “(5)(a) The department shall prepare and report the priority listing described in sub-  
7       section (2)(a) of this section to the Seventy-fifth Legislative Assembly, in the manner pro-  
8       vided by ORS 192.245, on or before June 1, 2009.

9       “(b) After June 1, 2009, the department shall report to the Legislative Assembly or an  
10       interim committee related to the environment whenever the department adds to, or removes  
11       from, the priority listing described in subsection (2)(a) of this section a persistent pollutant.

12       “(6) For the purpose of defraying the cost of conducting and administering the study  
13       under this section, the department may impose a surcharge on permits issued by the de-  
14       partment to permittees. Moneys collected under this subsection shall be deposited into the  
15       Persistent Pollutant Control Account established under section 7 of this 2007 Act.

16       “SECTION 4. (1)(a) By July 1, 2011, each permittee shall submit to the Department of  
17       Environmental Quality a plan for reducing the permittee’s discharges of persistent pollutants  
18       listed on the priority listing described in section 3 (2)(a) of this 2007 Act:

19       “(A) That occur in concentrations greater than the maximum contaminant levels estab-  
20       lished by the National Primary Drinking Water Regulations adopted pursuant to the Safe  
21       Drinking Water Act, 42 U.S.C. 300f et seq.; or

22       “(B) For which no maximum contaminant levels have been adopted, but that the Envi-  
23       ronmental Quality Commission determines by rule should be included in permittees’ plans for  
24       reducing permittees’ discharges of priority-listed persistent pollutants.

25       “(b) Determinations made by the commission under this subsection regarding persistent  
26       pollutants are not standards of quality and purity for the waters of this state for the pur-  
27       poses of ORS 468B.048.

28       “(2) Plans submitted to the department pursuant to subsection (1) of this section shall  
29       include, but are not limited to:

30       “(a) A specific description of the concentrations and estimated annual quantity of per-  
31       sistent pollutants that are discharged, based on water quality sampling data.

32       “(b) The identification of measures to reduce the discharge of persistent pollutants.

33       “(c) The identification of focused goals for reduction of persistent pollutants.

34       “(3) Measures identified to reduce persistent pollutants may include, but are not limited  
35       to:

36       “(a) Collecting legacy pesticides;

37       “(b) Reducing the use of mercury amalgams by dental offices;

38       “(c) Implementing technological control measures;

39       “(d) Working with businesses and manufacturers to reduce discharges through material  
40       process changes;

41       “(e) Collecting arm cuffs from blood pressure monitors;

42       “(f) Requiring contractors to return heating, ventilating and air-conditioning system  
43       thermostats;

44       “(g) Recycling fluorescent lamps;

45       “(h) Recycling rechargeable batteries;

- 1       “(i) Monitoring abandoned mining sites;
- 2       “(j) Managing sediments contaminated with persistent pollutants;
- 3       “(k) Instituting policies for cleaning school laboratories;
- 4       “(L) Instituting pharmaceutical take-back programs; and
- 5       “(m) Taking steps to reduce the presence of mercury in schools.

6       “(4) The department shall require, as a condition of receiving a new or renewed National  
7 Pollutant Discharge Elimination System permit or water pollution control facility permit is-  
8 sued by the department pursuant to ORS 468B.050 for a sewage treatment facility that has  
9 a dry weather design flow capacity of one million gallons per day or more, that municipal  
10 applicants:

11       “(a) Implement plans to reduce the discharge of persistent pollutants according to pol-  
12 lution reduction goals adopted by applicants for new permits.

13       “(b) Implement plans to reduce the discharge of persistent pollutants according to pol-  
14 lution reduction goals adopted by applicants and submit updated discharge reduction plans  
15 with applications to renew a permit.

16       “(5) The department shall incorporate a plan submitted pursuant to subsection (1) of this  
17 section by a municipal applicant into a new or renewed National Pollutant Discharge Elim-  
18 ination System or water pollution control facility permit issued to the applicant.

19       “SECTION 5. In accordance with applicable provisions of ORS chapter 183, the Environ-  
20 mental Quality Commission may adopt rules necessary for the administration of sections 3  
21 and 4 of this 2007 Act.

22       “SECTION 6. (1) The Department of Environmental Quality may apply to any circuit  
23 court for an order compelling compliance with any rule adopted by the Environmental  
24 Quality Commission under section 5 of this 2007 Act. If the court finds that the defendant  
25 is not complying with any rule so adopted, the court shall grant an injunction requiring  
26 compliance. The court, on motion and affidavits, may grant a preliminary injunction ex parte  
27 upon such terms as are just.

28       “(2) The department need not give security before the issuance of an injunction under  
29 this section.

30       “(3) The court may award reasonable attorney fees and costs to the department if the  
31 department prevails in an action under this section.

32       “SECTION 7. The Persistent Pollutant Control Account is established, separate and dis-  
33 tinct from the General Fund. Moneys may be credited to the account from any public or  
34 private source. Moneys in the account are continuously appropriated to the Department of  
35 Environmental Quality and may be used only for the purposes described in sections 3 to 6  
36 of this 2007 Act.

37       “SECTION 8. All moneys received by the Department of Environmental Quality under  
38 section 6 of this 2007 Act shall be deposited to the credit of the Persistent Pollutant Control  
39 Account established under section 7 of this 2007 Act.

40       “SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on  
41 expenditures established by section 2 (2), chapter \_\_\_, Oregon Laws 2007 (Enrolled House Bill  
42 5022), for the biennium beginning July 1, 2007, as the maximum limit for payment of expenses  
43 from fees, moneys or other revenues, including Miscellaneous Receipts and certain federal  
44 funds, but excluding lottery funds and other federal funds, collected or received by the De-  
45 partment of Environmental Quality, is increased by \$229,430 for the purpose of carrying out

1 the provisions of sections 2 to 8 of this 2007 Act.

2       “SECTION 10. This 2007 Act being necessary for the immediate preservation of the public  
3 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
4 on its passage.”

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