

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass
Vote: 3 - 2 - 0
Yeas: Bonamici, Dingfelder, Prozanski
Nays: Boquist, Whitsett
Exc.: 0
Prepared By: Anna Braun, Counsel
Meeting Dates: 4/24, 4/28

WHAT THE MEASURE DOES: Changes attorney fee awards in removal-fill cases from prevailing party to prevailing plaintiff. Clarifies that acting in a manner contrary to a permit is a violation. Allows suits for abatement of permit violations. Applies to actions on or after effective date.

ISSUES DISCUSSED:

- Federal rule under the Clean Water Act and other environmental laws
- Attorney fees provisions in other states

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 196 governs removal-fill laws. It is against the law to remove or fill material from any waters of the state without a permit. It is against the law to violate the terms of the permit. Currently, attorney fees are awarded to the prevailing party when there is a lawsuit to enforce this law. SB 877 changes the law to allow attorney fees to prevailing plaintiff.

In addition, SB 877 adds the word “acting” to ORS 196.860 to clarify that acting in a manner contrary to conditions in a permit is a permit violation and adds the ability to enjoin permit violations under ORS 196.870. Currently ORS 196.870 allows abatement proceedings for public nuisances.