

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass
Vote: 4 - 0 - 1
Yeas: Baertschiger, George, Monnes Anderson, Shields
Nays: 0
Exc.: Prozanski
Prepared By: Channa Newell, Administrator
Meeting Dates: 3/22, 3/27, 4/5

WHAT THE MEASURE DOES: Establishes unfair environmental claims settlement practices. Provides right of action for insured in event of unfair claim settlement practices within two years of discovery of violation. Requires insurer provide independent counsel and environmental consultants to insured when general liability insurance policy imposes duty of defense on insurer. Allows insured to request insurer participate in nonbinding environmental claims mediation. Specifies failure to participate in mediation is unfair environmental claims settlement practice. Allows assignment of environmental claim. Defines “long-tailed environmental claim.” Prohibits reduction of policy limits on long-tailed environmental claims in instances where policy requires amounts due to insured be reduced on account of prior insurance. Requires insurers cover claims on remedial work on insured’s property in effort to mitigate or reduce damage to third-party property. Exempts insurers who settled environmental claim from contribution claim from other insurers. Applies to all environmental claims, except those for which final judgment entered prior to effective date. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Challenges of environmental clean-up efforts
- Specifics of measure
- Effects of measure on superfund sites and economic development
- Effects of measure on insurance practices

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Oregon’s Environmental Cleanup Assistance Act (Act) was enacted in 1999 and modified in the 2003 Legislative Session. The Act states, “The Legislative Assembly finds that there are many insurance coverage disputes involving insureds who face potential liability for their ownership of or roles at polluted sites in this state. The State of Oregon has a substantial public interest in promoting the fair and efficient resolution of environmental claims while encouraging voluntary compliance and regulatory cooperation.” ORS 465.478.

Currently, the Act specifies protocols for lost policies, requires insurers to cover costs including investigations, feasibility studies and other expenses, and allows policy holders with coverage from multiple insurers to choose which insurer or insurers will handle the claim and requires the insurer to seek contribution from the other insurance providers.

Senate Bill 814 expands the Act, including a right of action for violation of unfair environmental claim settlement practices, coverage of damage to third-party property and expenses to mitigate damage, and a right to independent counsel or environmental consultants provided by the insurer.

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This summary has not been adopted or officially endorsed by action of the committee.