

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass
Vote:	9 - 0 - 0
Yeas:	Doherty, Johnson, Keny-Guyer, Lively, Richardson, Smith, Thatcher, Vega Pederson, Holvey
Nays:	0
Exc.:	0
Prepared By:	Bob Estabrook, Administrator
Meeting Dates:	5/9, 5/16

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 to provide independent counsel and environmental consultants to insured in certain circumstances. 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-tail environmental claim.” Prohibits reduction of policy limits on long-tail environmental claim due to loss under prior insurance. Requires insurers to cover claims for 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:

- Desire to expedite cleanup of Superfund sites
- Upcoming announcement of remedy in Portland Harbor cleanup action
- Cases where work is required on policyholder’s property to mitigate impact on third-party property
- Requirement of independent counsel in cases where insurer reserves right to pay judgment
- Age of certain insurance policies and regularity of certain contract provisions
- Constitutionality of provisions of measure
- Potential additional confusion and delay in resolution of environmental claims
- Public interest in passing the law

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Oregon’s Environmental Cleanup Assistance Act was enacted in 1999 and modified by the 2003 Legislative Assembly. 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.” 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 Oregon Environmental Cleanup Assistance Act by providing a right of action for unfair environmental claims settlement practices, requiring coverage of damage to third-party property and expenses to mitigate damage, and establishing a right to independent counsel and environmental consultants provided by the insurer in certain circumstances.

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