

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass

Vote: 8 - 0 - 1

Yeas: Barton, Cameron, Garrett, Hicks, Olson, Tomei, Williamson, Barker

Nays: 0

Exc.: Krieger

Prepared By: Anna Braun, Counsel

Meeting Dates: 5/15

WHAT THE MEASURE DOES: Requires 30 day notice and opportunity to comment to parties of prospective purchaser agreement (PPA) who have agreed to clean up a contaminated property before the Department of Environmental Quality (DEQ) enters into a consent judgment concerning the contaminated property. Allows party to intervene before entry of consent judgment. Allows court approval of agreement after intervention only upon finding agreement is fair, reasonable and consistent with provisions of removal or remediation action statutes and that any contribution protections are supported by substantial evidence as being in public's interest. Applies prospectively. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Began as Senate Bill 680
- Product of work group
- Importance of settlement agreements for environmental clean-up

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Senate Bill 476 A is a response to the Lucas case. Lucas entered into a Prospective Purchaser Agreement to clean up and redevelop a brownfield in Sherwood. Lucas spent millions to clean up the property. Lucas sought to recover money from a prior owner of the property as is allowed under environmental laws. However, because the prior owner had entered into a global settlement agreement with the DEQ, Lucas could not seek contribution from the prior owner.

Senate Bill 476 A does not affect the Lucas case and only applies prospectively. Senate Bill 476 A requires that 30 days prior to entering into a prospective purchaser agreement with any person the Director of DEQ must provide written notice to any person who has already entered into a PPA agreement with DEQ related to the facility. The Act requires that the person receiving the notice have the opportunity to participate in any negotiations related to the agreement concerning the facility as well as the authority to intervene as a party in a proceeding related to entry of the consent judgment.