

HB 2131 A STAFF MEASURE SUMMARY

House Committee On Rules

Action Date: 05/25/17

Action: Do pass with amendments
and be referred to Ways and Means by prior reference. (Printed A-Eng.)

Vote: 5-4-0-0

Yeas: 5 - Holvey, Nosse, Rayfield, Smith Warner, Williamson

Nays: 4 - Barreto, Hack, Kennemer, McLane

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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WHAT THE MEASURE DOES:

Requires owner or operator of a high hazard train route submit to Department of Environmental Quality (DEQ), for review and approval, an oil spill prevention and emergency response plan. Specifies factors DEQ must consider when reviewing and approving contingency plan. Requires DEQ provide copy of contingency plan for high hazard train routes to State Department of Fish and Wildlife, Land Conservation and Development Commission, State Fire Marshal (SFM) and federally recognized Indian tribes prior to approval or modification. Adds railroad cars to definition of "facility" for purposes of liability for oil spillage under oil or hazardous material spillage statutes. Requires Environmental Quality Commission (EQC) adopt rules standardizing preparation of high hazard train route contingency plans. Requires rules to be consistent with plans adopted by SFM for oil or hazardous material spills or release and by DEQ for pipeline spill contingency plans, to extent feasible and appropriate. Requires renewal of contingency plan at least once every five years and be initially submitted within 12 months of EQC rule adoption. Requires SFM emergency response plan for rail transport of hazardous materials to account for location of response resources owned by railroads. Adds new requirements to SFM's plan: must be consistent with oil or hazardous material spill response plan for specified sensitive areas; provide for implementation of full-scale oil or hazardous spill or release training; and must require inclusion of any material SFM deems necessary to coordinate response to spill. Requires railroad operating in Oregon to provide SFM with all requested information necessary to develop plan. Identifies types of information that could be requested by SFM. Establishes "financial responsibility statements" that applicable rail carrier must submit to demonstrate ability to pay cost of clean-up of "worst case spill." Specifies contents of statement and calculation for cost of "worst case spill." Prohibits use of information submitted in statement for economic regulation; penalizing railroad company; assigning liability; or establishing damages for spill or accident. Establishes High Hazard Train Route Oil Spill Prevention Fund. Specifies use of money by DEQ. Requires DEQ develop interagency response plan for oil and hazardous materials spills for specified sensitive areas. Takes effect on 91st day following adjournment *sine die*.

ISSUES DISCUSSED:

- Oil train derailment in Mosier, Oregon
- Potential effect on neighboring communities if train derailment occurs
- Federal preemption issues
- Potential cost of litigation
- Including rail with other entities that transport oil and submit environmental contingency plans to DEQ
- Requiring rail oil spill contingency plans be coordinated with SFM's compilation of local, state, and federal plans
- Similarities to contingency planning process in Washington
- Information railroad provides to SFM
- Roles of DEQ and EQC

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EFFECT OF AMENDMENT:

Requires SFM emergency response plan for rail transport of hazardous material to include system for identifying where oil spill or release response resources owned by railroads are located. Adds new requirements to SFM's plan: plan must be consistent with oil or hazardous material spill response plan for listed sensitive areas along high hazard train routes; must provide for implementation of full-scale oil or hazardous spill or release training; and must include any material the SFM deems necessary to coordinate response to spill. Requires railroad operating in Oregon to provide SFM with all requested information necessary to develop plan. Identifies type of information that could be requested by SFM. Creates "financial responsibility statements" that applicable rail carrier must submit to SFM to demonstrate ability to pay cost of clean-up of "worst case spill." Specifies contents of statement and calculation for cost of "worst case spill." Prohibits use of information submitted in statement for economic regulation; penalizing railroad company; assigning liability or establishing damages for spill or accident. Adds contingency plan for high hazard train route to definition of contingency plans in Department of Environmental Quality (DEQ) statutes. Requires DEQ provide copy of contingency plan for high hazard train routes to Oregon Department of Fish and Wildlife, Land Conservation and Development Commission, SFM and federally recognized Indian tribes prior to approval or modification. Requires renewal of contingency plan every five years. Makes explicit that failure to submit plan to DEQ does not preclude operation of high hazard train route. Requires Environmental Quality Commission (EQC) adopt rules standardizing preparation of high hazard train route contingency plans. Requires rules to be consistent with plans adopted by SFM for oil or hazardous material spills or release and by DEQ for pipeline spill contingency plans, to the extent feasible and appropriate. Allows DEQ to require owner or operator of high hazard train route to demonstrate ability to carry-out contingency plan including training, response team exercises and verification of necessary inventories cited in plan. Establishes High Hazard Train Route Oil Spill Prevention Fund. Specifies use of money by DEQ. Requires DEQ develop interagency response plan for oil and hazardous materials spills for specified sensitive areas. Defines "applicable rail carrier." Removes definition of "high hazard train." Amends definition of "high hazard train route" and "worst case spill." Removes "inland watersheds, and drinking water intakes, that abut high hazard train routes" from definition of navigable waters. Takes effect 91st day following adjournment *sine die*.

BACKGROUND:

On June 6, 2014, an Emergency Order issued by the U.S. Department of Transportation went into effect requiring railroad carriers operating trains transporting 1,000,000 gallons or more of Bakken crude oil in a single train to provide information to the State Emergency Response Commission on estimated volumes and frequencies of implicated train traffic. In 2015, the Legislative Assembly enacted House Bill 3225 which required the State Fire Marshal to adopt a plan for coordinated response to an oil or hazardous material spill or release that could occur during rail transport. In June of 2016, a train shipping crude oil derailed near the small city of Mosier in the Columbia River Gorge. Eleven cars from the 96-car train left the rails around noon, near Rock Creek, which feeds the Columbia River. Several cars caught fire and some oil was released. Interstate 84 was closed in both directions and a community school and others were evacuated. The event brought preexisting concerns about crude oil transport into sharp focus: the potential risk to people and property; the value of Oregon's natural landscape, wildlife and water resources; the differences in fire behavior and the type of firefighting required to combat volatile and potentially explosive fuel; how the time of day, weather conditions and other factors influenced the outcome and local and state resources and capacities to combat such hazards.

House Bill 2131-A requires the owner or operator of a high hazard train route to submit an oil spill prevention and emergency response plan to the Department of Environmental Quality. The measure also directs the Environmental Quality Commission to adopt rules standardizing the preparation of high hazard train route contingency plans.