

SB 1541 A STAFF MEASURE SUMMARY

Senate Committee On Environment and Natural Resources

Action Date: 02/14/18

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

Vote: 7-0-0-0

Yeas: 7 - Baertschiger Jr, Bentz, Dembrow, Olsen, Prozanski, Roblan, Taylor

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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WHAT THE MEASURE DOES:

Defines terms. Authorizes the Environmental Quality Commission (EQC) to adopt a program and rules to reduce public health risks of emissions of toxic air contaminants from individual industrial and commercial sources. Prohibits requiring a source to obtain a permit under program unless source meets specified conditions. Establishes criteria upon which rules adopted under Act must base public health risk. Prohibits Department of Environmental Quality (DEQ) from requiring a source that employs toxics best available control technology in compliance with the program to undertake additional measures to limit or reduce toxic air contaminant emissions. Stipulates the technology must be an emissions limitation based on the maximum degree of reduction that is feasible, determined for each source on a case-by-case basis taking into consideration specified factors. Establishes levels of public health risk that must be present to authorize DEQ to require source to limit or reduce emissions. Directs EQC to establish pilot program for evaluating and controlling public health risks from toxic air contaminant emissions from multiple stationary sources. Allows establishment of pilot program in no more than one area of state in a county with a population exceeding 500,000 that is selected based on listed criteria. Describes circumstances requiring the preparation and submittal of a risk mitigation plan. If DEQ determines risk mitigation plan is not feasible considering cost and available technology, directs person in control of air contamination source to make payment into Clean Communities Fund. Establishes Fund. Requires DEQ to hold any public meetings required by rules and at least one representative of emission source for which a permit or plan will be discussed to appear at public meeting. Prohibits individual source program, pilot program, and related rules from creating a standard of care for imposing liability in any private action or compliance with programs and rules from being introduced as evidence in any private action on the issue of negligence, nuisance, trespass, injuries, or damages. Authorizes until January 1, 2029, an adjusted benchmark for excess non-cancer risk applicable to an existing air contamination source equal to a Hazard Index number based on standards and criteria adopted by EQC in rule, but no less than 3. Effective January 1, 2029, authorizes EQC to set the hazard index number for a benchmark for excess non-cancer risk for an existing air contamination source. Requires DEQ to report to interim legislative committees before September 15, 2026 on the costs and benefits of provisions related to benchmarks for excess non-cancer risk applied to existing sources. Authorizes EQC to include in other authorized fee schedules a fee reasonably calculated to cover cost of program. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Cleaner Air Oregon program rulemaking process
- Use of public health risk thresholds in regulating air emissions
- Funding for agency staff to implement program

EFFECT OF AMENDMENT:

Replaces measure.

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BACKGROUND:

On April 6, 2016, Governor Brown directed the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) to develop a health risk-based air toxics permitting program. According to DEQ, the goal of this program, known as "Cleaner Air Oregon," is to "evaluate potential health risks to people near commercial and industrial facilities that emit regulated air toxics, and ultimately reduce those risks below health-based standards. Affected facilities could include some that are not currently permitted for their air contaminant emissions, in addition to those that already have air quality permits." The agencies have undertaken a rulemaking process that is expected to conclude in July, 2018, when the Environmental Quality Commission (EQC) considers adoption of the proposed permitting rules.

Senate Bill 1541 A authorizes the EQC to adopt a program and rules to reduce public health risks of emissions of toxic air contaminants from individual industrial and commercial sources and establish a pilot program for evaluating and controlling public health risks from toxic air contaminant emissions from multiple stationary sources.