

SB 582 -1 STAFF MEASURE SUMMARY

Senate Committee On Energy and Environment

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Meeting Dates: 2/23

WHAT THE MEASURE DOES:

Directs Department of Environmental Quality to study and make recommendations for modernizing Oregon's recycling system and provide results of study in report to interim committees of Legislative Assembly no later than September 15, 2022. Sunsets January 2, 2023. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Make legislative findings. Requires that each covered producer register and be a member of **producer responsibility organization** (PRO) that administers a producer responsibility program. Requires producer that registers with PRO to pay fee and provide records upon request of PRO. Requires PRO to ensure the recycling of materials by responsible end markets. Requires establishment of PRO coordinating body if more than one PRO is approved and authorizes Environmental Quality Commission (EQC) to adopt rules to address market share coordinating plans. Requires PRO to notify the Department of Environmental Quality (DEQ) of certain things, including producer noncompliance. Exempts "small" producers from requirement to be a member of a PRO. Requires PRO to submit **producer responsibility program plan** (Plan) to DEQ and establishes requirements for Plan. Requires DEQ to approve, approve with conditions or reject plan within 120 days of being submitted and establishes response time limits if Plan is rejected and resubmitted. Stipulates approved Plan is valid for three years and subsequent approved plan would be valid for four years. Effective April 1, 2027, plans would have a duration of five years. Specifies program changes that would require a Plan amendment to be approved by DEQ or just notification. Requires PRO to establish **fee schedule** to be paid by members sufficient to meet financial obligations that includes base fee rate for all covered products. Requires PRO to charge additional fees for products that have higher costs associated with recover or are not recoverable. Requires fee schedule to incentivize producers to reduce impacts of covered products by offering fee adjustments. Authorizes DEQ to approve alternative fee structures proposed by PRO. Authorizes PRO to establish uniform fees for producers with gross revenue of less than \$5 million or that sold less than five metric tons of products for use in Oregon in the previous calendar year. Requires PRO to submit **annual report**, that includes certain information, to DEQ for approval. Requires DEQ to review reports and establishes process to solicit feedback from the **Oregon Recycling System Advisory Council** (Council) and approve or reject reports. Requires PRO to submit **materials disposition report** to DEQ within 45 days of the end of each calendar year. Requires PRO to, upon request, **reimburse local government** or their service provider for certain eligible costs. Requires PRO, in consultation with Council, to develop culturally responsive **educational resources and promotional campaigns**, at no or cost to local governments or users, to promote the uniform statewide collection list, that includes certain information. Requires local government that provides opportunity to recycle to utilize and distribute educational resources. Requires PRO to fund and coordinate the distribution of statewide promotional campaigns once per year through media channels. Stipulates educational resources and campaigns must be reviewed and by the Council and approved by DEQ. Requires PRO to provide for the collection and responsible recycling of certain covered products identified by the EQC, in consultation with the Council in a way that meets targets, convenience standards and performance standards by first contracting, where possible with existing recycling **depots or drop off centers**, establishing and operating other drop off centers and collection events; and make other

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arrangements for the collection of covered products in Plan. Requires PRO to ensure that covered products collected will be delivered to **responsible end markets**; managed according to the hierarchy of materials management; and managed in an environmentally protective way. Requires PRO to establish and implement **litter and marine debris** grants or direct payments. Establishes what entities are eligible to receive grants and requires PROs, in aggregate, to expend \$10 million per year for grants, direct payments, research on litter and marine debris composition and control clean up and prevention program, until 2030 when the EQC is required to annually adjust minimum expenditure in accordance with parameters. Requires PRO to consider needs of economically distressed or underserved communities when providing grants. Requires EQC to adopt rules on funding prioritization. Establishes the 15-member **Council** and requires the Governor to appoint members to serve three-year terms. Requires DEQ to provide for both administrative support and compensation of members. Defines duties of Council, which includes making recommendations to DEQ and PROs and biennial reports to Legislature. Establishes process for DEQ and PROs to respond to Council recommendations.

Prohibits **comingled recyclables** collected under Act from being delivered to comingled processing facilities unless such facilities meet certain performance standards and has taken steps to implement recommendations related to opportunities and the removal of barriers for company ownership for women and minority individuals. Establishes additional requirements, effective January 1, 2027, related to health, safety and wellness of workers and workers at facility being provided with a living wage and supportive benefits. Requires that local governments providing opportunity to recycle ensure **multifamily properties and nonresidential properties with multiple tenants** have: adequate space for collection; demonstrate plan for new construction and significant remodels; update and establish service standards; ensure container placement is accessible; and report on activities to meet requirements. Requires local governments to ensure that roll carts, bins, and containers purchased are independently certified and manufactured from at least 10 percent post-consumer recycled material.

Requires EQC to adopt rules, in consultation with PROs and Council, to identify suitable materials for recycling and the method of collections and a list of specifically identified materials. Requires DEQ to establish **uniform statewide collection list**. Establishes parameters for being included in comingled recycling program. Requires EQC to establish collection targets, convince standards and performance standards for PROs by rule. Requires EQC to adopt and periodically revise **contamination management fee**, based on study of the cost to remove contaminants from comingled facilities, to be paid by PRO to comingled recycling facilities. Requires the EQC to establish and periodically revise a **processor commodity risk fee** which PROs pay to comingled recycling processing facilities to ensure that producers share in the costs of fully processing comingled recyclables. Requires the EQC to establish and periodically revise a **compost facility contamination management fee**, based on periodic study of actual costs, which PROs pay to compost facilities to compensate them for the cost of removing and disposing contamination. Establishes goal that the **statewide recycling rate for plastic** be at least 25 percent for calendar year 2028 and each subsequent year, unless modified by the EQC. Authorizes the EQC to increase statewide plastic recycling goal to no more than 35 percent on or after January 1, 2029. Requires DEQ to determine annually if statewide plastic recycling goal is met and requires DEQ to have PRO amend existing, or submit new, producer responsibility program plan to address failure to meet the goal.

Requires DEQ to establish: **statewide recycling contamination reduction goals** and evaluate the relative cost-effectiveness of different contamination reduction practices, and to establish a list of approved contamination reduction program elements. Requires local governments to implement program to reduce contamination. Requires DEQ, in consultation with local governments and Council, to conduct periodic study and make recommendations on **equity in Oregon's recycling system** to the EQC for approval or rejection. Requires PRO to submit plan amendment describing how it will implement changes to address recommendations to satisfaction of DEQ. Req DEQ, in consultation with Council, to conduct a periodic study of **recycling challenges facing residents of multifamily housing**, including recommendation to address those challenges. It requires PROs

to make improvements in response to study recommendations. Requires DEQ to establish the following fees: fixed, one-time fee for reviewing producer responsibility program plan, fixed, one-time fee for reviewing producer responsibility program plan amendment, and an annual fee to each PRO for the **cost of administering, implementing and enforcing** Act. Requires DEQ to establish a program to reduce the environmental impacts of covered products through means other than recycling, such as **waste prevention and reuse**. It authorizes DEQ to enter into agreements (including grant agreements) with other public bodies to implement such programs, funded by additional fees charged to PROs. Directs the EQC to establish rules for the evaluation and disclosure of **life cycle impacts** of covered products. Requires adopted rules apply to voluntary incentives related to impact disclosure and requirement that large producers perform evaluation of on the life cycle impacts of covered products and provide results to DEQ as well as be posted on PRO website. Establishes Waste Prevention and Reuse Fund.

Prohibits the sale of any product that makes a **deceptive or misleading claim** regarding recyclability or composability, unless the material is on the uniform statewide collection list, or the claim complies with rules to be established by the EQC.

Requires operators of commingled recycling processing facilities to obtain a **permit** from DEQ and establishes permit requirements. Directs DEQ to establish a certification program or approve a third-party operated program that satisfies certain requirements. Requires DEQ to establish forms and procedures to allow for consistency in evaluating in-bound contamination at reload and processing facilities and requires the results of such evaluation to be shared with local governments and DEQ. Authorizes DEQ to enter and inspect premises for the purpose of **investigating violation**. Requires PRO to retain records related to implementation and administration for five years and make them available to DEQ upon request. Authorizes DEQ to issue civil penalties for violations of Act. Authorizes DEQ to issue an order to suspend or revoke a producer responsibility program plan if DEQ determines certain factors. Allows DOJ to bring an action seeking to prohibit the sale of any covered products sold by a producer in violation of Act. Prohibits a collection service provider or **compost facility** from promoting the acceptance of a material for composting that cannot or will not be composted. Provides certain protection from federal anti-trust laws to members of PROs. Directs the Oregon Department of Administrative Services to assess state **procurement policies** and programs relating to the purchase of recycled materials and report to the legislative assembly every five years. Extends existing statutory deadline for offering recycling opportunities to **tenants of multi-tenant properties** from 2022 to 2026.

BACKGROUND:

In January 2018, the Chinese government banned the import of certain plastic and paper grades and set tighter contamination standards for paper. The loss of China's markets disrupted recycling systems worldwide. In Oregon, communities had to make changes to their recycling collection programs, which included: increased customer rates, suspending recycling, or removing items from programs. In some cases, materials that were collected for recycling were disposed.

In May 2018, the Department of Environmental Quality (DEQ) formed the Recycling Steering Committee (RSC) with the intention of working with stakeholders to modernize Oregon's recycling systems. The RSC met from May of 2018 through September 2020.

Senate Bill 582 directs DEQ to study and make recommendations for modernizing Oregon's recycling system and provide results of study in report to interim committees of Legislative Assembly.