

SB 1541 A STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

Action Date: 02/10/26

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

Vote: 3-2-0-0

Yea: 3 - Golden, Prozanski, Taylor

Nay: 2 - Girod, Nash

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 2/5, 2/10

WHAT THE MEASURE DOES:

The measure establishes the Climate Superfund Cost Recovery Program Account and creates the Climate Superfund Cost Recovery Program to assess the financial impacts of greenhouse gas emissions released between January 1, 1995, and December 21, 2024, and recover costs from responsible entities. The measure takes effect on the 91st day following adjournment sine die.

Detailed Summary:

Definitions

- Defines terms, including the following:
 - “Entity” to mean any individual or entity, domestic or foreign, that owns or has owned a fossil fuel business between January 1, 1995, and December 31, 2024
 - “Responsible party” to mean an entity that owned or succeeded a fossil fuel business, had sufficient ties to Oregon, and is deemed by the Department of Environmental Quality (DEQ) to be responsible for over one billion metric tons of global greenhouse gas emissions during the covered period

Climate Superfund Cost Recovery Program

- Establishes the Climate Superfund Cost Recovery Program as an interagency response to climate change, led by the Department of Land Conservation and Development (DLCD), to adapt to and mitigate the effects of climate change and recover climate-related costs caused by greenhouse gas emissions from responsible parties between January 1, 1995, and December 31, 2024
- Authorizes participating agencies to collaborate and enter into intergovernmental agreements to carry out the program’s duties and authorizes DLCD to provide grants or loans for projects in accordance with rules adopted by the Land Conservation and Development Commission (LCDC)
- Requires LCDC, in coordination with DLCD, the interagency team, and other specified agencies, to develop, adopt, implement, and periodically update a Resilience Implementation Strategy that identifies eligible climate change resilience projects and establishes procedures and standards for awarding grants or loans, and to adopt rules by January 1, 2029
- Requires the strategy to include the following:
 - Practices that use nature-based solutions, infrastructure adaptation, early warning systems, and economic and environmental sustainability strategies to build resilience to climate-related risks
 - Criteria, prioritization standards, and funding procedures for climate resilience projects aligned with approved climate adaptation practices
- Requires DLCD to develop the strategy through interagency consultation, vulnerability assessments, stakeholder engagement, project identification, community engagement, and alignment with existing funding sources

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- Specifies criteria that DLCD must follow to determine whether a climate change resilience project benefits an environmental justice community, including defining “community” based on shared geographic conditions without reference to race or ethnicity
- Requires DLCD, DEQ, and the Oregon Health Authority (OHA), in consultation with other relevant state agencies, to assess the costs of covered greenhouse gas emissions to Oregon, including a cost analysis of the impacts of covered greenhouse gas emissions, the resulting incurred and projected costs, and the costs of mitigating those impacts, and to submit a report to the Joint Committee on Ways and Means and specified legislative interim committees by January 1, 2029
- Requires the Secretary of State to audit the program at least once every five years and provide recommendations to DLCD on program efficiency and cost-effectiveness
- Specifies that remedies outlined in the measure do not limit existing legal claims, state or local authority, or regulatory powers related to climate change, greenhouse gas emissions, or climate-related damages

Climate Superfund Cost Recovery Account, Liability, and Payment Structure

- Establishes the Climate Superfund Cost Recovery Program Account within the State Treasury, credits interest earnings to the account, and appropriates account funds continuously to DLCD to support climate change resilience projects and related activities
- Requires 30 percent of deposited funds be transferred to the Department of the State Fire Marshal for deposit in the Community Risk Reduction Fund for wildfire and resilience activities, and 40 percent of all funds be used for climate change resilience projects that benefit environmental justice communities
- Requires an unspecified portion of deposited funds be used for grants to the nine federally recognized Indian tribes of Oregon
- Requires the Environmental Quality Commission to adopt rules establishing the following:
 - Methodologies to identify responsible parties and determine their share of covered greenhouse gas emissions
 - Procedures for registering entities that are responsible parties, issuing notices of cost recovery demands, and collecting payment
 - Rules for an appeals process that permits responsible parties to appeal to the DEQ director within 30 days after receiving notice of a cost recovery demand and seeking judicial review if aggrieved by a final notice
- Clarifies that a responsible party shall be strictly liable for the costs of climate change caused by its emissions, equal to its proportionate cost share to the state
- Directs DEQ to determine each entity’s covered greenhouse gas emissions and specifies how entities in a controlled group and responsible parties owning a minority interest in another entity are treated for the purpose of cost recovery
- Provides for a payment structure:
 - In full within six months, or
 - In nine annual installments, consisting of:
 - 20 percent within six months of notice, and
 - 10 percent annually for eight years, adjusted for the Consumer Price Index
- Details unpaid balances provisions and deposit requirements
- Authorizes DLCD to use cost recovery demand payments to pay for administration and enforcement
- Specifies reporting requirements
- Appropriates \$300,000 to DLCD for implementation

ISSUES DISCUSSED:

- Greenhouse gas emissions in Oregon and liability standards for emitters
- Infrastructure costs associated with climate change impacts
- Covered period of January 1, 1995, to December 21, 2024
- Vermont and New York superfund programs and ongoing litigation

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EFFECT OF AMENDMENT:

The amendment transfers authority from DLCD to the LCDC to award grants or loans for projects. It also transfers responsibility for developing, adopting, implementing, and periodically updating the Resilience Implementation Strategy from DLCD to LCDC, replaces fund dispersal with the establishment of standards for grant and loan awards, and requires LCDC to adopt implementing rules by January 1, 2029. It requires coordination with OHA in developing the strategy and completing the assessment, and consultation with the nine federally recognized Indian tribes of Oregon during strategy development. It allocates 30 percent of funds to the Community Risk Reduction Fund and reserves an unspecified portion of funds for grants to tribes.

BACKGROUND:

At the federal level, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) imposes liability on multiple parties for the cleanup of contaminated sites, including waste generators and other responsible entities. Some states have begun to model measures after CERCLA. In May 2024, Vermont became the first state to enact a Climate Superfund Cost Recovery Program (VT Act 122). The act holds responsible parties liable for their share of the state's climate change costs resulting from covered greenhouse gas emissions during the period of January 1, 1995, through December 31, 2024. The New York State Legislature established a Climate Change Adaptation Cost Recovery Program through the passage of S.2129/A.3351, signed into law in December 2024. The program requires companies that contributed to greenhouse gas emissions to bear a share of the costs of infrastructure investments needed to adapt to climate change.