

## Legislative Fiscal Office

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## Joint Committee on Ways and Means

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Tom MacDonald, Deputy Legislative Fiscal Officer (Budget)  
Paul Siebert, Deputy Legislative Fiscal Officer (Audit/IT)

**To:** Capital Construction Subcommittee

**From:** April McDonald, Legislative Fiscal Office

**Date:** June 16, 2023

**Subject:** HB 3229 – Relating to fees for air pollution programs  
Work Session Recommendations

Title V of the 1990 Federal Clean Air Act regulates emissions from the largest and most complex sources of air pollution, and requires each state to develop a comprehensive operating permit program for major industrial sources of air pollution. Oregon's Department of Environmental Quality (DEQ) has delegated authority from the U.S. Environmental Protection Agency (EPA) to implement the provisions of Title V. DEQ permits approximately 102 entities which meet the definition of a Title V regulated source. Federal and state law requires that the Title V program be fee-funded, and that the Department maintain a schedule of fees sufficient to resource the program. DEQ has not significantly adjusted its fees in over 13 years. The EPA retains oversight of the program and regularly audits DEQ's program to ensure that it meets federal laws and program requirements.

HB 3229, as amended, modifies the fees charged to support the Title V program, using a tiered approach. Upon passage of the measure, the current fee of \$66 per ton of regulated pollutants emitted annually is replaced with a fee of \$95 per ton, and the current base fee for a source subject to the federal operating permit program will increase from \$8,744 to \$12,504. This represents an increase of 43% for both fees in 2023. As of January 1, 2024, the emissions fee will increase to \$121 per ton, and the base fee will increase to \$16,002, representing a non-compounded increase of 40% for both fees.

Starting upon passage of the measure, the Environmental Quality Commission may increase air contamination reporting and asbestos abatement fees once per year. The amount of the increase may not exceed the cost of administering the federal operating permit program or 3%, whichever is lower, unless the larger increase is provided for in DEQ's legislatively approved budget. Starting January 1, 2025, the same actions may be taken by the Commission for the emissions fee, base fee for a source, and other federal operating permit program fees.

Fee revenue anticipated from this measure is estimated to total \$11.6 million in the 2023-25 biennium, and \$12.3 million in the 2025-27 biennium. The Title V program costs for the 2023-25 biennium are estimated at \$10.9 million, which includes expenditures for 32 positions, position-related services and supplies, and indirect costs for administrative services. Fee revenue should be sufficient to pay for the cost of administering the federal operating permit program, and restoring a sufficient ending balance for the program, of approximately \$1.8 - \$2.7 million, which is equal to four to six months of operating costs.

Additionally, HB 3229, as amended, directs DEQ to evaluate alternative fee structures for Oregon's Title V program and report their findings and recommendations to the Legislative Assembly no later than December 31, 2023. The measure declares an emergency and is effective on passage.

### **Recommended Changes**

The -2 amendment replaces the introduced version of HB 3229 with the provisions discussed above. The amendment provides no expenditure or position authority.

The Legislative Fiscal Office recommends adoption of the -2 amendment.

**MOTION: I move adoption of the -2 amendment to HB 3229. (VOTE)**

### **Final Subcommittee Action**

LFO recommends that HB 3229, as amended by the -2 amendment, be moved to the Ways and Means Full Committee.

**MOTION: I move HB 3229, as amended, to the Full Committee with a do pass recommendation. (VOTE)**

### **Carriers**

Full Committee: \_\_\_\_\_

House Floor: \_\_\_\_\_

Senate Floor: \_\_\_\_\_