

SB 1561 -2 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/8, 2/13

WHAT THE MEASURE DOES:

The measure establishes the Environmental Restoration Council and several funds to invest and distribute money from the Monsanto Settlement Agreement. The money is intended to supplement efforts by tribal governments, executive branch agencies, and disproportionately impacted communities to address environmental contamination that has harmed the environment and human health.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

Detailed Summary:

Section 1: Purpose

Describes the purposes of this Act, including: establishing the Oregon Environmental Restoration Fund to receive Monsanto Settlement Agreement money; providing for the investment of settlement funds and expenditure of earnings in an equitable, transparent, and accountable manner; and ensuring that earnings are used to supplement efforts by tribal governments, executive branch agencies, and disproportionately impacted communities to address environmental contamination that has harmed the environment and human health.

Section 2: Definitions

Defines "disproportionately impacted community" and "Monsanto Settlement Agreement."

Section 3: Oregon Environmental Restoration Fund Establishment

Establishes the Oregon Environmental Restoration Fund and requires that all earnings be continuously appropriated to the Oregon Watershed Enhancement Board (OWEB) for distribution as well as OWEB and Environmental Restoration Council administrative expenses.

Section 4: Distributions

Directs OWEB on a biennial basis to subtract from the earnings reasonable administrative expenses for OWEB and the Environmental Restoration Council, not to exceed five percent of the total earnings. Directs OWEB to then distribute the remainder of the earnings such that 50 percent is transferred to the State Agency Program Fund, 25 percent is transferred to the Disproportionately Impacted Community Fund, and 25 percent is transferred to the Tribal Nation Natural Resource Program Fund.

Section 5: Environmental Restoration Council Establishment

Establishes the Environmental Restoration Council (Council) within OWEB. Specifies Council membership and governance terms. Requires the Council submit a biennial report to the Governor and Legislative Assembly that describes the purposes for which funds were used and the outcomes achieved by funding recipients.

Section 6: State Agency Program Fund - Allocation Procedures and Criteria

Directs the Council to establish by rule procedures and criteria for approving allocations from the State Agency Program Fund to state agencies. Specifies that approved allocations must be for environmental characterization, remediation, or restitution consistent with the terms of the Monsanto Settlement Agreement and the strategic priorities established under Section 9 of this Act. Specifies additional allocation, rule, and reporting requirements.

Section 7: Disproportionately Impacted Community Fund - Nonprofit Grant Program

Directs the Council to establish by rule a grant program paid out of the Disproportionately Impacted Community Fund for nonprofit entities to carry out environmental characterization, remediation, or restitution consistent with the terms of the Monsanto Settlement Agreement and the strategic priorities established under Section 9 of this Act. Specifies that projects must benefit disproportionately impacted communities. Specifies additional grant award, rule, and reporting requirements.

Section 8: Tribal Nation Natural Resources Fund

Directs the Council to establish by rule procedures for the biennial transfer of money from the Tribal Nation Natural Resource Program Fund to federally recognized Indian Tribes. Specifies that transfers must be for environmental characterization, remediation, or restitution consistent with the terms of the Monsanto Settlement Agreement. Requires that transfers be made in equal amounts to each of the nine federally recognized Indian tribes in Oregon unless a different proportion is provided for by the Council, consistent with recommendations of the Commission on Indian Services. Specifies additional transfer, rule, and reporting requirements.

Section 9: Strategic Priorities for Expenditures

Directs the Council, in consultation with relevant state agencies and the Environmental Justice Council, to establish strategic priorities for money spent from the State Agency Program Fund and Disproportionately Impacted Community Fund. Requires the prioritization of projects that characterize the presence of polychlorinated biphenyl (PCB) or other environmental contaminants in air, land, water, fish, wildlife, and wildlife habitats, and projects that address harm to the environment or public health as a result of PCB or other environmental contaminants. Specifies that the Council can only establish or amend strategic priorities after a public hearing, but that the priorities are not subject to Administrative Procedures Act requirements.

Section 10: State Agency Program Fund Establishment

Establishes the State Agency Program Fund and requires that all moneys be continuously appropriated to OWEB for the purpose of making allocations to state agencies that have been approved by the Council.

Section 11: Disproportionately Impacted Community Fund Establishment

Establishes the Disproportionately Impacted Community Fund and requires that all moneys be continuously appropriated to OWEB for the purpose of providing grants to nonprofit entities as directed by the Council.

Section 12: Tribal Nation Natural Resources Program Fund Establishment

Establishes the Tribal Nation Natural Resources Program Fund and requires that all moneys be continuously appropriated to OWEB for the purpose of making transfers to federally recognized Indian tribes.

Section 13: First Transfer Date

Requires OWEB to first transfer earnings for distribution on July 1, 2025.

Section 14: Terms of First Gubernatorial Appointments to Council

Specifies lengths of terms for initial Council member appointments.

Section 15: Council Report in 2073

Directs the Council to submit a report to environment-related interim legislative committees by September 15, 2073. Requires that the report evaluate and make recommendations as to whether the principal and earnings of the Oregon Environmental Restoration Fund should continue to be distributed indefinitely as provided for under Section 4 of this Act, or whether the amendments to distributions under Sections 16 to 18 of this Act should be implemented.

Sections 16 - 18: Amendments to Distributions in 2075

Directs amendments to distributions, which become operative on July 1, 2075. Directs the State Treasurer to calculate a rate of disbursement of the principal and earnings of the Oregon Environmental Restoration Fund so that an equal amount is withdrawn from the fund for each year for a period of 50 years, with no balance remaining at the end of the 50-year period.

Section 19: PCB Remediation and Restitution Appropriation

Appropriates \$5 million from the Polychlorinated Biphenyls Remediation and Restitution Account to OWEB to carry out sections 1 to 12 of this Act.

Section 20: Effective Date

Declares an emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 The amendment streamlines project and purpose language to require that fund money be spent in a manner consistent with the terms of the Monsanto Settlement Agreement. The amendment modifies a number of additional provisions related to distribution planning and policies, accounting, and roles of agencies, the Council, and the State Treasurer.

FISCAL: Fiscal impact issued

REVENUE: Revenue impact issued

Detailed Summary:

Section 1: Purpose

Removes the purpose language to characterize and repair harm to the environment and human health, and replaces it with environmental remediation or restitutionary projects or purposes having a nexus with environmental harms to air, water, soil, or other natural resources or human health caused by environmental contamination. Clarifies the intent of the Legislative Assembly that projects and purposes are consistent with the terms of the Monsanto Settlement Agreement.

Section 3: Oregon Environmental Restoration Fund Establishment

Provides that Oregon Environmental Restoration Fund money, rather than the earnings on fund money, is continuously appropriated to OWEB. Clarifies that money in the fund is to be expended consistent with the terms of the Monsanto Settlement Agreement. Specifies that OWEB will administer the fund, and that the State Treasurer will provide accounting services for the fund.

Section 4: Distributions

Directs the Environmental Restoration Council (Council), based on the advice of the State Treasurer, to establish a long-term distribution policy for the Oregon Environmental Restoration Fund that seeks to maintain a stable, real asset value over time while providing for the transfers in this Act. Requires the Council to annually determine the amounts that will be transferred to OWEB. Modifies the maximum transfer for reasonable administrative expenses by replacing five percent of total earnings with 0.25 percent of the fund balance at the end of the prior fiscal year, unless a greater amount is approved by the Council.

Section 5: Environmental Restoration Council Establishment

Adds the Attorney General or their designee as a member of the Council.

Section 6 - 8: Funds to Receive Distributions

Removes requirement that funds be allocated for "environmental characterization, remediation, or restitution"

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projects, which has the effect that projects and purposes must instead be consistent with the terms of the Monsanto Settlement Agreement and strategic priorities established under Section 9 of this Act. Limits recipient state agencies to those agencies that have a nexus with the projects and purposes described in the Monsanto Settlement Agreement.

Section 9: Strategic Priorities for Expenditures

Specifies that the Environmental Restoration Council consult with those state agencies that have a nexus with the projects and purposes of the Monsanto Settlement Agreement. Eliminates the requirement that strategic prioritization include characterizing the presence of PCB or other environmental contaminants in specified areas and addressing harms to the environment or public health as a result of PCB or other environmental contamination.

Sections 10 - 12: Establishment of Funds to Receive Distributions

Clarifies that OWEB will administer the three funds that will receive distributions. Specifies that State Agency Program Fund money is allowed to be committed for funding state agency projects or programs for multiple biennia.

Section 13: First Transfer Date

Requires the Council to first determine the amounts to be transferred, rather than OWEB first transferring earnings of money, by December 1, 2025.

Section 14: Terms of First Gubernatorial Appointments to Council

Modifies the number of initial Council members from one to two members that will serve a term of two years.

Section 15: Council Report in 2073

Modifies the "rate of disbursement of the principal and earnings" terminology to align with "long-term distribution strategy" terminology in Section 4 of the amendment.

Sections 16 - 17: Amendments to Distributions in 2075

Updates provisions to align with Section 4 of the amendment.

Sections 18 - 22: PCB Remediation and Restitution Appropriation

Clarifies that the Department of Administrative Services will be the entity that distributes \$5 million from the PCB Remediation and Restitution Account money to OWEB, and transfer the remainder to the Oregon Environmental Restoration Fund. Following these distributions and transfers on January 2, 2026, directs the abolishment of the PCB Remediation and Restitution Account and repeals the associated statutes.

BACKGROUND:

In 2018, the State of Oregon filed a lawsuit against Monsanto for the company's role in polluting Oregon's land and waterways with polychlorinated biphenyls (PCB) for nearly a century. The complaint in the lawsuit alleged that Monsanto was aware as early as 1937 of the highly toxic nature of PCBs, but continued to manufacture them until they were banned in 1977. PCBs are toxic compounds that were formerly used in coolants, flame retardants, electrical equipment, hydraulic oils, paint, caulking, and copy paper. PCBs are persistent pollutants that bioaccumulate in fish and wildlife, so they are still polluting Oregon's land and waterways today and are very costly and time-consuming to clean up.

In 2022, a settlement was reached between the State of Oregon and Monsanto for \$698 million, the largest environmental settlement in the state's history. The settlement went into effect on December 15, 2022.