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OREGON LEGISLATURE

Lawmakers reach compromise on new 'Cleaner Air Oregon' program to regulate pollution

BY SAUL HUBBARD

The Register-Guard

FEB. 28, 2018

SALEM — Oregon lawmakers working on a compromise bill to fund new statewide air pollution rules and enforcement had a breakthrough Tuesday.

In a unanimous vote, a bipartisan budgetary committee approved a new framework for Cleaner Air Oregon, the anti-pollution initiative that Gov. Kate Brown launched in 2016 after the discovery of toxic chemicals in Portland.



The new bill, hashed out in recent weeks by environmental and business groups and Democratic and Republican lawmakers, is friendlier to businesses that emit toxic chemicals than the original rules crafted by state agencies during the past 18 months.

But those rules couldn't be implemented without lawmakers approving the fees on industry needed to fund the program — something that Brown and other Cleaner Air advocates couldn't achieve in 2017.

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Legislators who worked on the deal painted it as a win for both sides.

“There's still hurdles to get through, but this was a major step, to get it out of committee with no 'no' votes,” Sen. Fred Girod, a Stayton Republican, said Tuesday.

The bill, Senate Bill 1541, now goes to another budget committee before potentially heading to the Senate and House floors.



Girod said the amended bill would give business interests “certainty” about how and when the new pollution rules would ratchet up, while still mandating “pretty stringent” limits on toxic emissions.

“This agreement really covers both sides and, right now, does appear to have a green light,” he said.

Sen. Michael Dembrow, a Portland Democrat, said amendments adopted Tuesday made several improvements to the bill: The initial emissions limits for cancer-causing chemicals would get tougher in 2029, and language that would have restricted harmed communities’ ability to sue polluters was removed.

“There’s a sense that we are somehow compromising existing (air pollution) standards” with SB 1541, Dembrow said. “But nothing could be further from the truth.”

“This will allow us to start implementing a new program this year and get it going,” he added.

In Lane County, air quality is regulated by the Lane Regional Air Protection Agency, not the state Department of Environmental Quality. But LRAPA would likely follow any new standards set by the state.

Under the rules drafted by state agencies, somewhere between five and 10 businesses in Lane County and 80 companies in other parts of Oregon would initially have been impacted by the Cleaner Air program.

It's not immediately clear whether and how much those estimates would shift under the compromise bill.

Under the Cleaner Air program, companies would have to track any release of more than 600 chemicals and file reports with air regulators. The chemicals range from aniline to zinc oxide.

Manufacturers — such as factories, lumber mills, glass blowers — whose emissions are deemed to excessively increase health risks for people living nearby — would have to install pollution controls on their machinery or equipment.

Under the proposed state agency rules, those requirements would have kicked in for existing businesses whose emissions create a heightened risk of cancer in 25 out of a million people after a lifetime of exposure.

Under the compromise bill, the requirements would apply only to businesses with emissions that heightened the cancer risk for 50 out of a million people. Then, in 2029, the requirement would tighten to 25 people out of a million.

New businesses, meanwhile, immediately would face the tougher compliance standards.

Some big polluters “are being asked to do a lot more” to control their pollution, Dembrow said. “They’re getting 10 years to prepare.”

The bill also no longer would require that the DEQ consider the cumulative impact on public health when monitoring and restricting chemical emissions from several nearby polluters. Instead, companies would continue to be evaluated individually.

Public health advocates argue that the cumulative approach — which no other state has yet adopted — is key to determining the real-world impact on people's health. But business interests argued that it could unfairly punish companies for their neighbors' pollution.

Instead, SB 1541 now calls for a pilot project in Portland to study how a cumulative monitoring approach might be rolled out statewide.

Lisa Arkin of Eugene-based Beyond Toxics, which has been a strong proponent of the Cleaner Air program, said she was satisfied with the compromise legislation.

"It's still kind of upsetting that this came from backroom deals" between lawmakers and lobbyists, she said. "But I believe this bill provides Oregon with a base on which we can improve."

In particular, Arkin said, she was pleased that it's the companies that emit chemicals that would foot the entire bill for the program through new permit fees. Under SB 1541, DEQ will receive around \$3 million a year and create 11 new positions to implement the rewritten program.

"The 'Polluter pays' model is a victory for environmental justice," Arkin said. "The public shouldn't have to pay for companies that pollute our collective airshed."

Gov. Brown and the coalition of business representatives who worked on SB 1541 did not respond Tuesday to requests for comment.

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