



Legislation Text

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051310
SUBSTITUTE 1

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Substitute resolution relating to City position on Wisconsin Senate Bill 356, choice of law in cases involving environmental claims under general liability insurance policies.

This resolution directs the Intergovernmental Relations Division - Department of Administration to lobby for passage of Senate Substitute Amendment 1 to Wisconsin Senate Bill 356. This legislation would modify common law principles for determining which state's laws apply in disputes involving environmental claims under general liability insurance policies. The effect of the legislation would be to apply Wisconsin law to environmental claims where insurance policies are silent about the choice of state law. The legislation further limits the definition of "environmental claim" to those claims made by an insured for defense or indemnity based on the insured's liability or potential liability for bodily injury or property damage arising from the presence of pollutants in the state of Wisconsin as a result of the release of pollutants within the state.

Whereas, More than 7,000 abandoned or underutilized properties in the State of Wisconsin, including many in the City of Milwaukee, are known to be contaminated by environmental pollutants; and

Whereas, Many properties remain contaminated and underutilized due to a lack of resources available to the owners and to the state; and

Whereas, Claims upon general liability insurance policies offer opportunities to secure funds that may contribute to ameliorating such contamination; and

Whereas, Disputes about the choice of which state's laws apply when policies are silent about the choice of laws have resulted in significant delays in dispute resolution and have allowed insurance companies to "forum shop" for more favorable venues in which to litigate; and

Whereas, Wisconsin Senate Bill 356, as it is proposed to be amended by Senate Substitute Amendment 1, offered by its author Senator A. Lasee, requires the application of the laws of the State of Wisconsin in disputes involving environmental claims under general insurance policies covering properties in Wisconsin that are contaminated by pollutants released in Wisconsin unless such policies otherwise provide the choice of applicable state law; and

Whereas, Similar legislation in other states has been adopted resulting in a reduction of delays in the resolution of environmental claims and in the acceleration of redevelopment of contaminated sites; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Intergovernmental Relations Division-Department of Administration is directed to lobby and otherwise act in support of passage of Senate Substitute Amendment 1 to Senate Bill 356 presently before the Wisconsin Senate or comparable legislation that requires the application of Wisconsin law to govern disputes involving

environmental claims upon general liability insurance policies where such policies are silent as to the choice of law and where claims involve Wisconsin properties contaminated by pollutants released in the state of Wisconsin.

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