



## Legislation Text

---

**File #: 041023, Version: 3**

---

041023  
SUBSTITUTE 3

ALD. MURPHY

Substitute resolution authorizing and directing the Intergovernmental Relations Division-Department of Administration to lobby for passage of a State of Wisconsin environmental insurance reform bill.

This resolution authorizes and directs the Intergovernmental Relations Division - Department of Administration to lobby for introduction and passage of a Wisconsin environmental insurance reform bill by the state legislature. This legislation would, among other things, eliminate the ambiguity in current Wisconsin environmental insurance law regarding how an insurance claim is to be handled when multiple insurance carriers are responsible. This ambiguity permits insurance companies to withhold or delay payments, thereby slowing environmental remediation efforts and leading to greater reliance on the use of public funds for remediation. The proposed legislation would stipulate that in a case of multiple insurance carriers, once the policyholder notifies one of the carriers of an environmental claim, the insurance company shall pay "all sums" for which the company is liable, rather than merely pro-rated costs.

Whereas, Over 7,000 abandoned or underused sites in Wisconsin, including many in Milwaukee, have known environmental contamination; and

Whereas, Many sites remain contaminated because their owners lack sufficient funds to clean them up; and

Whereas, While the Wisconsin Department of Natural Resources operates a program to fund the clean-up of such neglected, contaminated sites, this program is not funded at a level sufficient to clean up all sites; and

Whereas, Government-funded clean-up of contaminated sites represents an unfair distribution of the costs of clean-up to property taxpayers at large; and

Whereas, One of the primary reasons that private funds are unavailable for environmental remediation of contaminated sites is the widespread failure of insurance companies to pay claims to property owners in a timely manner, or to make any payments at all; and

Whereas, Insurance companies are able to withhold or delay payments on claims for environmentally-contaminated properties because of an ambiguity or "loophole" in Wisconsin insurance law, namely, the lack of a provision on the procedure to distribute the responsibility for payment of a claim when there are multiple insurance policies; and

Whereas, The failure of insurance companies to pay claims for environmental clean-up harms public and private interests in Wisconsin and Milwaukee in many ways,

including:

1. Financial impacts on businesses that must bear the costs of clean-up or litigation with insurance companies -- costs that may lead the businesses to bankruptcy or to look for locations in other states.
2. Impacts on property taxpayers, who must shoulder the costs for government-funded environmental remediation.
3. Impacts on local governments, which cannot reap the benefits of increased tax base and new jobs that redevelopment of contaminated sites would bring.
4. Impacts on public health and safety stemming from contaminated sites not being cleaned up in a timely manner.

; and

Whereas, State Representative Dean Kaufert has indicated he intends to introduce a bill to the State Assembly in January, 2005, to remedy the problems with Wisconsin's environmental insurance law, particularly by requiring insurers to pay "all sums" for which the policyholder is liable, rather than merely the pro-rated costs based on the number of years the insurer provided coverage; and

Whereas, In other Midwestern states, including Illinois, Indiana and Ohio, the "all sums" approach for payment of environmental contamination claims has been adopted either by legislation or by appellate court decision, thereby eliminating the costly delays and litigation that are common in Wisconsin, and making those states more competitive in terms of ability to redevelop brownfield sites; and

Whereas, The City of Milwaukee would benefit from the ability to recover cleanup costs from insurance companies using the "all sums" method after condemning contaminated properties; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Intergovernmental Relations Division-Department of Administration, is authorized and directed to lobby for introduction and passage of an environmental insurance reform bill by the Wisconsin legislature, the primary purpose of such bill being to eliminate ambiguity in current state law as to how environmental claims are to be handled when multiple insurance carriers are responsible for them.

LRB04467-4

JDO

12/13/04