

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 1
Yeas:	Bailey, Bentz, Berger, Boone, Edwards D., Kahl, Schaufler, Weidner, Beyer
Nays:	0
Exc.:	Gilman
Prepared By:	Patrick Brennan, Administrator
Meeting Dates:	1/26, 2/23

WHAT THE MEASURE DOES: Authorizes the Department of Transportation to go onto private property without notice to the property owner to cut down and/or remove trees that are deemed to be an immediate and substantial risk of damage or injury by obstructing, hanging over, or otherwise encroaching in a state highway. Specifies that the department is to notify the property owner in a reasonable amount of time after cutting down and/or removing trees from their property. Authorizes the department to establish the notification process by rule.

ISSUES DISCUSSED:

- Situations in which authority would be exercised
- Similar authority already given to county governments
- Potential dangers posed by fallen and leaning trees
- Potential loss of property value to affected landowners

EFFECT OF COMMITTEE AMENDMENT: Stipulates that department may go on property without notice in cases of “immediate and substantial risk”. Deletes provisions exempting department from civil liability. Authorizes department to establish notification process by rule.

BACKGROUND: Storms often block highways with fallen trees and debris. Trees can also be damaged, weakened or uprooted, causing them to lean over roadways. This can result in potential danger to motorists and a blockage of the roadway if the damaged tree is not trimmed or removed. The Oregon Department of Transportation (ODOT) can trim or remove trees located on the highway right-of-way as needed to mitigate risk or to reopen blocked roads.

Trees that are located outside the right-of-way can also present a similar hazard; however, in cases where the tree is situated on private property, ODOT may not go onto the property to deal with the hazard without first obtaining permission from the landowner. The department is usually granted permission by the landowner to take the necessary action in such cases, but there are times when the landowner cannot be reached or identified, leaving the department no option but to leave the hazardous tree in place. Eventually the tree can fall or lose limbs, causing blockages, interruption of utility service, or even damaging vehicles and causing harm to motorists.

House Bill 2235-A permits ODOT to enter private property and deal with potentially hazardous trees without first obtaining permission from the landowner, similar to statutory authority currently granted to counties to address similar hazards on county roads. The measure requires notification to the landowner as soon as practicable after the action is taken and allows the department to determine, by rule, the process for notifying landowners.