

House Bill 3013

Sponsored by COMMITTEE ON RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies various provisions relating to Ocean Policy Advisory Council.
Makes legislative finding that wave energy provides renewable, sustainable source of energy.
Repeals sunset on prohibition against leases for exploration, development or production of oil, gas or sulfur in territorial sea and exemption for academic research or geologic survey activities.
Repeals provisions related to joint liaison program with National Oceanic and Atmospheric Administration.

A BILL FOR AN ACT

1
2 Relating to ocean resources; amending ORS 196.405, 196.415, 196.420, 196.425, 196.435, 196.438,
3 196.443, 196.451, 196.455, 196.465, 196.471 and 196.485; and repealing ORS 196.407, 196.408,
4 196.575 and 196.580 and section 2, chapter 521, Oregon Laws 2007.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 196.405 is amended to read:

7 196.405. As used in ORS 196.405 to 196.515, unless the context requires otherwise:

8 (1) "Council" means the council established in ORS 196.438.

9 (2) "Exclusive Economic Zone" has the meaning set forth in Proc. 5030 whereby the United
10 States proclaimed jurisdiction over the resources of the ocean within 200 miles of the coastline.

11 (3) "Panel" means a project review panel established under ORS 196.453.

12 [(4) "*Plan*" means the *Oregon Ocean Resources Management Plan*.]

13 [(5)] (4) "Territorial sea" means the waters and seabed extending three geographical miles
14 seaward from the coastline in conformance with federal law.

15 [(6)] (5) "Territorial Sea Plan" means the plan for Oregon's territorial sea.

16 **SECTION 2.** ORS 196.415 is amended to read:

17 196.415. The Legislative Assembly finds that:

18 (1) The Pacific Ocean and its many resources are of environmental, economic, aesthetic, recre-
19 ational, social and historic importance to the people of this state.

20 (2) Exploration, development and production of ocean resources likely to result from both fed-
21 eral agency programs in federal waters of the outer continental shelf and initiatives of private
22 companies within state waters will increase the chance of conflicting demands on ocean resources
23 for food, energy and minerals, as well as waste disposal and assimilation, and may jeopardize ocean
24 resources and values of importance to this state.

25 (3) The fluid, dynamic nature of the ocean and the migration of many of its living resources
26 beyond state boundaries extend the ocean management interests of this state beyond the three ge-
27 ographic mile territorial sea currently managed by the state pursuant to the federal Submerged
28 Lands Act.

29 (4) Existing federal laws, the Coastal Zone Management Act of 1972, the Coastal Zone Act Re-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 authorization Amendments of 1990, the Magnuson Fisheries Management and Conservation Act of
 2 1976, as amended, and the Outer Continental Shelf Lands Act of 1978, recognize the interests of
 3 coastal states in management of ocean resources in federal waters and provide for state partic-
 4 ipation in ocean resources management decisions. The Coastal Zone Act Reauthorization Amend-
 5 ments of 1990 require that all federal coastal activities affecting natural resources, land uses and
 6 water uses in the coastal zone must be consistent with the federally approved Oregon Coastal
 7 Management Program.

8 (5) The 1983 Proclamation of the 200-mile United States Exclusive Economic Zone has created
 9 an opportunity for all coastal states to more fully exercise and assert their responsibilities pertain-
 10 ing to the protection, conservation and development of ocean resources under United States juris-
 11 diction.

12 (6) It is important that the State of Oregon develop and maintain a program of ocean resources
 13 management to promote management of living and nonliving marine resources within state jurisdic-
 14 tion, to [*insure*] **ensure** effective participation in federal agency planning and management of ocean
 15 resources and uses which may affect this state, and to coordinate state agency management of ocean
 16 resources with local government management of coastal shorelands and resources.

17 (7) While much is known about the ocean, its composition, characteristics and resources, addi-
 18 tional study and research is required to gain information and understanding necessary for sound
 19 ocean planning and management.

20 **(8) The energy of ocean waves in Oregon's ocean waters provides a potential source of**
 21 **renewable, sustainable energy that will be of benefit to all Oregonians.**

22 **SECTION 3.** ORS 196.420 is amended to read:

23 196.420. It is the policy of the State of Oregon to:

24 (1) Conserve the long-term values, benefits and natural resources of the ocean both within the
 25 state and beyond by giving clear priority to the proper management and protection of renewable
 26 resources over nonrenewable resources;

27 (2) Encourage ocean resources development, **including ocean wave energy, that** [*which*] is
 28 environmentally sound and economically beneficial to adjacent local governments and to the state;

29 (3) Assert the interests of this state as a partner with federal agencies in the sound management
 30 of the ocean resources within the United States Exclusive Economic Zone and on the continental
 31 shelf;

32 (4) Encourage research, study and understanding of ocean processes, marine life and other ocean
 33 resources;

34 (5) Encourage research and development of new, innovative marine technologies to study and
 35 utilize ocean resources; and

36 (6) Ensure that the Ocean Policy Advisory Council will work closely with coastal local govern-
 37 ments to incorporate in its activities coastal local government and resident concerns, coastal eco-
 38 nomic sustainability and expertise of coastal residents.

39 **SECTION 4.** ORS 196.425 is amended to read:

40 196.425. To ensure the conservation and development of ocean resources affecting Oregon con-
 41 sistent with the purposes of ORS 196.405 to 196.515, a program of ocean resource planning and
 42 management is established. This program shall be known as the Oregon Ocean Resources Manage-
 43 ment Program and is part of Oregon's coastal management program. The Oregon Ocean Resources
 44 Management Program consists of:

45 (1) Applicable elements of the Oregon Coastal Management Program approved by the U.S. Sec-

1 retary of Commerce on July 7, 1977, and as subsequently amended pursuant to the Coastal Zone
 2 Management Act of 1972, including statutes that apply to coastal and ocean resources, those ele-
 3 ments of local comprehensive plans of jurisdictions within Oregon’s coastal zone as defined in the
 4 Oregon Coastal Management Program which may be affected by activities or use of resources within
 5 the ocean, and those statewide planning goals which relate to the conservation and development of
 6 ocean and coastal resources;

7 (2) The Ocean Policy Advisory Council or its successor; **and**

8 [(3) *Those portions of the Oregon Ocean Resources Management Plan that are consistent with ORS*
 9 *196.405 to 196.515; and]*

10 [(4)] **(3) The Territorial Sea Plan as [reviewed by the council and submitted to the agencies re-**
 11 **presented on the council] adopted or amended by the Land Conservation and Development**
 12 **Commission pursuant to ORS 196.471.**

13 **SECTION 5.** ORS 196.435 is amended to read:

14 196.435. (1) The Department of Land Conservation and Development is designated the primary
 15 agency for coordination of ocean resources planning. The department is designated the State Coastal
 16 Management Agency for purposes of carrying out and responding to the Coastal Zone Management
 17 Act of 1972. The department shall assist:

18 (a) The Governor with the Governor’s duties and opportunities to respond to federal agency
 19 programs and activities affecting coastal and ocean resources; and

20 (b) The Ocean Policy Advisory Council.

21 (2) The provisions of ORS 196.405 to 196.515 do not change statutorily and constitutionally
 22 mandated responsibilities of other state agencies. **However, state agencies shall amend their**
 23 **programs and rules relevant to ocean resources to be consistent with the Territorial Sea**
 24 **Plan adopted by the Land Conservation and Development Commission under ORS 196.471.**

25 (3) ORS 196.405 to 196.515 do not provide the Land Conservation and Development Commission
 26 with authority to adopt specific regulation of ocean resources or ocean uses.

27 **SECTION 6.** ORS 196.438 is amended to read:

28 196.438. (1) *[The Governor shall establish]* **There is established in the Office of the Governor**
 29 **an Ocean Policy Advisory Council that is staffed by the State Department of Fish and Wildlife, the**
 30 **Department of Land Conservation and Development and other departments as the Governor deems**
 31 **necessary. The council shall be composed of:**

32 (a) The Governor or the Governor’s designee[, *as a nonvoting member*];

33 (b) The director or the director’s designee of the following agencies[, *as nonvoting members*]:

34 (A) Department of Environmental Quality;

35 (B) State Department of Fish and Wildlife;

36 (C) State Department of Geology and Mineral Industries;

37 (D) Department of Land Conservation and Development;

38 (E) Department of State Lands;

39 (F) Parks and Recreation Department;

40 (G) State *[Department of Agriculture]* **Marine Board**; and

41 (H) On behalf of the State Board of Higher Education, the director or director’s designee of
 42 Oregon State University, Sea Grant College;

43 (c) A member of the governing body of Coos, Curry, Douglas or Lane County to be appointed
 44 by the Governor[, *chosen in consultation with and with the approval of a majority of the members of*
 45 *the governing bodies of Coos, Curry, Douglas and Lane Counties*];

1 (d) A member of the governing body of Clatsop, Lincoln or Tillamook County to be appointed
 2 by the Governor[, *chosen in consultation with and with the approval of a majority of the members of*
 3 *the governing bodies of Clatsop, Lincoln and Tillamook Counties*];

4 (e) An elected city official from a coastal city bordering the territorial sea to be appointed by
 5 the Governor [*with advice from an Oregon coastal zone management association*];

6 (f) A representative of each of the following ocean interests, to be appointed by the Governor[,
 7 *and subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution*]:

8 (A) Commercial ocean fisheries [*of the North Coast*] **conducted primarily within Oregon's**
 9 **territorial waters** from Newport north;

10 (B) Commercial ocean fisheries [*of the South Coast*] **conducted primarily within Oregon's**
 11 **territorial waters** south of Newport;

12 (C) Charter, sport or recreation ocean fisheries of the North Coast from Newport north;

13 (D) Charter, sport or recreation ocean fisheries of the South Coast south of Newport;

14 (E) Ports marine navigation or transportation;

15 (F) Coastal nonfishing recreation interests of surfing, diving, kayaking or windsurfing;

16 **(G) Ocean wave energy development;**

17 [(G)] **(H)** A coastal conservation or environmental organization;

18 [(H)] **(I)** Oregon Indian tribes appointed after consultation with the Commission on Indian Ser-
 19 vices;

20 [(I)] **(J)** A coastwide organization representing a majority of small ports and local
 21 governments[, *as a nonvoting member*]; and

22 [(J)] **(K)** A statewide conservation or environmental organization; and

23 (g) [*Two*] **Three** representatives of the public, at least one of whom shall be a resident of a
 24 county bordering the territorial sea, to be appointed by the Governor.

25 (2) The term of office of each member appointed by the Governor is four years, but a member
 26 serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor
 27 shall appoint a successor whose term begins on July 1 next following. A member is eligible for re-
 28 appointment. If there is a vacancy for any cause, the Governor shall make an appointment to become
 29 immediately effective for the unexpired term.

30 (3) A majority of the voting members of the council constitutes a quorum for the transaction
 31 of business.

32 (4) The [*voting members of the council shall elect a person from among the membership to chair*]
 33 **Governor or the Governor's designee shall be chairperson of** the council.

34 **SECTION 7.** ORS 196.443 is amended to read:

35 196.443. (1) The purposes of the Ocean Policy Advisory Council are to:

36 (a) Periodically review the Territorial Sea Plan and submit recommendations for **amending** the
 37 plan to [*state agencies represented on the council. The council shall recommend deletions to the Terri-*
 38 *torial Sea Plan of all site designations and management prescriptions to*] the Land Conservation and
 39 Development Commission **for action under ORS 196.471.**

40 (b) Advance the policies of ORS 196.420 to the federal government and any multistate bodies.

41 (c) Provide a forum for discussing ocean resource policy, planning and management issues and,
 42 when appropriate, mediating disagreements.

43 [(d)] *Recommend amendments to the Oregon Ocean Resources Management Plan as needed. If the*
 44 *recommended amendments to the plan incorporate the establishment of a system of limited marine re-*
 45 *serves or other protected areas, the council also shall perform an economic analysis of short-term and*

1 *long-term effects that the establishment of such areas would have on coastal communities. Any recom-*
 2 *ended amendments related to marine reserves or marine protected areas shall be submitted to the*
 3 *State Fish and Wildlife Commission for review and approval.]*

4 [(e)] (d) Offer advice to the Governor, the State Land Board, state agencies and local govern-
 5 ments on specific ocean resources management issues.

6 [(f)] (e) Encourage participation of federal agencies in discussion and resolution of ocean re-
 7 sources planning and management issues affecting Oregon.

8 (2) The Ocean Policy Advisory Council may not, except to the extent of fulfilling its advisory
 9 capacity under subsection [(1)(e)] (1)(d) of this section, establish fishing seasons, harvest allocations,
 10 geographic restrictions or other harvest restrictions.

11 **SECTION 8.** ORS 196.451 is amended to read:

12 196.451. (1) To aid and advise the Ocean Policy Advisory Council in the performance of its
 13 functions, the council shall establish a permanent scientific and technical advisory committee
 14 [*chaired by the director of the Sea Grant College program or other similarly qualified member of the*
 15 *Ocean Policy Advisory Council*] and may establish additional committees as needed.

16 (2) Members of the advisory committees are not entitled to compensation, but in the discretion
 17 of the council may be reimbursed from funds available to council for actual and necessary travel
 18 and other expenses incurred by them in the performance of their official duties, subject to ORS
 19 292.495.

20 **SECTION 9.** ORS 196.455 is amended to read:

21 196.455. To [*insure*] **ensure** that the [*Oregon Ocean Resources Management Plan and*] Territorial
 22 Sea Plan [*are*] **is** coordinated with federal agency programs for coastal and ocean resources, the
 23 Ocean Policy Advisory Council may invite federal agencies with responsibility for the study and
 24 management of ocean resources or regulation of ocean activities to designate a liaison to the council
 25 to attend council meetings, respond to council requests for technical and policy information and
 26 review draft plan materials prepared by the council.

27 **SECTION 10.** ORS 196.465 is amended to read:

28 196.465. (1) The [*Oregon Ocean Resources Management Plan and*] Territorial Sea Plan, when
 29 adopted pursuant to ORS 196.471, shall be compatible with acknowledged comprehensive plans of
 30 adjacent coastal counties and cities.

31 (2) To [*insure*] **ensure** that the plan is compatible with the comprehensive plans of adjacent
 32 coastal counties and cities, the Ocean Policy Advisory Council shall work with the Department of
 33 Land Conservation and Development and any Oregon coastal zone management association to:

34 (a) Meet and consult with local government officials;

35 (b) Distribute draft materials and working papers for review and solicit comment on council
 36 materials; and

37 (c) Provide technical and policy information to local governments about ocean resource issues.

38 **SECTION 11.** ORS 196.471 is amended to read:

39 196.471. (1)(a) The Land Conservation and Development Commission shall review [*the Territorial*
 40 *Sea Plan and any subsequent*] **any proposed amendments to the Territorial Sea Plan** recommended
 41 **to the commission** by the Ocean Policy Advisory Council [*to either the Territorial Sea Plan or the*
 42 *Oregon Ocean Resources Management Plan*] and make findings that the plan or amendments:

43 [(a)] (A) Carry out the policies of ORS 196.405 to 196.515; and

44 [(b)] (B) Are consistent with applicable statewide planning goals, with emphasis on the four
 45 coastal goals.

1 **(b) In making the finding under paragraph (a) of this subsection, the commission may**
2 **receive comments on the plan or proposed amendments from the Governor, state agencies**
3 **or any other persons.**

4 (2) After making the findings required by subsection (1) of this section, the commission shall
5 adopt the Territorial Sea Plan or proposed amendments as part of the Oregon Coastal Management
6 Program.

7 (3) If the commission does not make the findings required by subsection (1) of this section, the
8 commission shall return the plan or amendments to the council for revision. The commission may
9 specify any needed revisions.

10 (4) Upon adoption of the Territorial Sea Plan or subsequent amendments the commission may,
11 after consultation with affected state agencies, identify amendments to agency ocean or coastal re-
12 source management programs necessary to conform to the provisions of the adopted plan.

13 **SECTION 12.** ORS 196.485 is amended to read:

14 196.485. (1) If a state agency incorporates the [*Oregon Ocean Resources Management Plan and*]
15 Territorial Sea Plan by reference in its coordination program and, upon a finding by the Land
16 Conservation and Development Commission that the agency has amended its rules, procedures and
17 standards to conform with the objectives and requirements of the [*plan and*] Territorial Sea Plan,
18 the state agency shall satisfy the requirements of state agency planning and coordination required
19 by ORS 197.180 for ocean planning.

20 (2) If a state agency does not incorporate the [*plan or*] Territorial Sea Plan in its coordination
21 program, the agency shall be subject to the state agency coordination requirements of ORS chapters
22 195, 196 and 197 for state agency programs, procedures and standards that in any way affect ocean
23 resources.

24 (3) State agency programs or rules for management of ocean resources or ocean uses shall be
25 consistent with the [*Oregon Ocean Resources Management Plan and the*] Territorial Sea Plan.

26 **SECTION 13.** ORS 196.407, 196.408, 196.575 and 196.580 and section 2, chapter 521, Oregon
27 **Laws 2007, are repealed.**

28