

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	7 - 0 - 1
<b>Yeas:</b>	Conger, Doherty, Hoyle, Johnson, Matthews, Kennemer, Schaufler
<b>Nays:</b>	0
<b>Exc.:</b>	Esquivel
<b>Prepared By:</b>	Theresa Van Winkle, Administrator
<b>Meeting Dates:</b>	2/9, 2/11, 2/25

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**WHAT THE MEASURE DOES:** Includes a removal or fill activity for linear facility maintenance in the types of projects within the Department of State Lands' removal-fill permitting program. Establishes that when a permit is issued to a person that proposes removal or fill activities for the construction or maintenance of a linear facility, and they are not the landowner or acting on behalf of the landowner, they may not conduct such activities on that property until they obtain one of the following: the landowner's consent; the right, title or interest with respect to the property that is sufficient to undertake the removal or fill activity; or a court order or judgment that authorizes the use of the property. Requires the Department, when the permit application process is deemed complete, to notify all landowners whose land is identified in the application, and landowners whose land is adjacent to the property of a landowner whose land is identified in the permit application. Allows the notification to be made by first-class mail, electronic mail, or fax. Clarifies the definition of "applicant." Establishes the definition of a "linear facility." Establishes applicability of these provisions to permits filed with the Department of State Lands on or after the measure's effective date. Declares an emergency, effective on passage.

**ISSUES DISCUSSED:**

- Types of projects that necessitate applying for a removal-fill permit
- Examples of current projects in the process of planning linear projects that would require a removal-fill permit
- Condemnation and eminent domain process
- Landowner rights
- Impact on permitting process
- Current permitting process and the permitting process prior to the enactment of Senate Bill 529 (2001)
- Examples of private entities that would apply for a removal-fill permit
- Other permits that must be obtained for a linear project
- Examples of conditions placed on a permit issued prior to the enactment of Senate Bill 529

**EFFECT OF COMMITTEE AMENDMENT:** Replaces the measure.

**BACKGROUND:** Oregon's removal-fill law (ORS 196.795-990) requires people who plan to remove or fill material in "waters of the state" to apply for and obtain a permit from the Department of State Lands. The purpose of the 1967 law is to protect public navigation, fishery and recreational uses of the waters. ORS 196.825 currently requires an applicant for a permit to be a "landowner or person authorized by a landowner to conduct a removal or fill activity." "Waters of the state" are defined as natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and non-navigable, including that portion of the Pacific Ocean that is in the boundaries of this state. The law applies to all landowners, including private individuals and public agencies.

ORS 196.825 currently requires an applicant for a permit to be a "landowner or person authorized by a landowner to conduct a removal or fill activity." House Bill 2700-B expands the definition to include "a person that proposes a removal or fill activity for construction or maintenance of a linear facility," and defines a "linear facility" as "any railway, highway, road, pipeline, water or sewer line, communication line, overhead or underground electrical transmission or distribution line or similar facility."

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*This summary has not been adopted or officially endorsed by action of the committee.*