

**REVENUE:** No revenue impact

**FISCAL:** No fiscal impact

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**Action:** Do Pass the B-Engrossed Measure  
**Vote:** 4 - 1 - 1  
**Yeas:** Burdick, Edwards, Starr, Beyer  
**Nays:** Girod  
**Exc.:** Atkinson  
**Prepared By:** Richard Berger, Administrator  
**Meeting Dates:** 5/12, 5/23

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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. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Ability of the Department of State Lands to determine best route for linear facilities
- Types of linear facilities affected
- Condemnation of private property
- Possible amendments concerning pipelines connected to liquefied natural gas terminals
- Possible amendments concerning state forest rules and liability
- Property owner notification process
- Needs of private and municipal utility companies

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**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.*