



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Director's Office

1158 Chemeketa St. NE

Salem, OR 97301

DATE: February 20, 2012

TO: House Committee on Transportation and Economic Development

FROM: Paul Mather
ODOT Highway Division Administrator

SUBJECT: SB 1546-A – tree removal

INTRODUCTION

Senate Bill 1546-A changes Oregon law related to:

- tree removal on state highway right of way subject to local ordinances,
- inspection of trees on private property,
- criteria for the sale of forest products from state highway property, and
- reforestation requirements on public and private lands.

The Oregon Department of Transportation (ODOT) supports the bill; it gives the department additional tools to manage trees that present a hazard to state highways.

BACKGROUND

ODOT manages highway right-of-way for safety. Trees along the highway, both on public and private property, may pose several safety risks:

- Dead or dying trees may fall onto the highway into travel lanes.
- In certain locations, trees that shade the highway may increase the amount of ice and extend the time that ice is present on the highway.
- Overhanging vegetation falls onto the highway during wind, snow and ice storms.
- Trees located in the area adjacent to the highway pavement prevent errant vehicles from recovering safely by presenting impact risk, and they may reduce sight distance around curves.

WHAT THE BILL DOES

Senate Bill 1546-A proposes four changes to current state law that affect tree removal.

- SB 1546-A authorizes ODOT to cut down or remove trees located within a state highway right-of-way without first obtaining a permit. Under current law, the removal of trees that present an immediate threat to public safety can be delayed due to local tree-cutting ordinances that require ODOT to first obtain a local permit to remove the tree.

Should SB 1546-A become law, ODOT would only use the authority given the agency under Section 2 of the bill for trees that are presenting an immediate hazard, those that could cause immediate and substantial damage or injury. These hazardous conditions most frequently occur in rural areas, and do not occur often within city limits.

- The bill allows ODOT access to private property to assess tree health and to conduct a technical evaluation by an arborist certified by the International Society of Arboriculture for trees that could cause immediate and substantial damage or injury. The department must attempt to provide notice to the owner or occupant of the property prior to entry. If notice is not provided, the department must post a written notice on the property providing the name, address and telephone number, and the reason for entering the property.

Under current law, the department may go onto private property to cut down or remove trees presenting an immediate hazard, those that could cause immediate and substantial damage or injury. The bill expands the department's authority, allowing the department to enter the property to inspect trees believed to present a hazard. Within a reasonable amount of time following inspection or removal of trees, the department must notify property owners of the action taken.

- Under current law, the department must seek bids for tree removal when the appraised value of the trees exceeds \$15,000. The bill raises the contract threshold, allowing the department to negotiate tree removal for trees with an appraised value up to \$50,000.

Timber harvest occurs routinely on both public and private land adjacent to state highway right-of-way, sometimes leaving narrow sections of trees next to the highway. The narrow sections of trees become very vulnerable to high winds knocking them on the highway.

The time required for a timber sale contract to be developed for competitive bids to remove these sections of hazard trees often means the large harvest is finished, the contractor already at the site has left, and the mill closed. (Some mills are only open during large timber harvests.) This increases the costs to the agency to remove the hazardous trees. LC 178 allows ODOT to enter into contracts with the large scale timber contractors removing trees from public or private land adjacent to a state highway when the appraised value of the timber does not exceed \$50,000.

- SB 1546-A requires the Oregon Department of Forestry to consult with ODOT about the reforestation requirement under current Forest Practice Act regulations for certain types of tree harvest for areas within or adjacent to highway right-of-way. Logging occurring on property adjacent to state highways includes a reforestation requirement, replanting trees in areas that, when the trees mature, present a hazard to the highway. The bill requires the State Forester to waive the requirement for areas deemed to be unsuitable by ODOT when reforestation could present a risk to motorist safety, highways, bridges and utility lines. ODOT presently seeks waivers when reforestation on ODOT property will create a hazard, and the waivers have typically been granted.

SUMMARY

ODOT supports SB 1546-A as it provides ODOT with additional flexibility and tools to manage the removal of trees that present a current or future hazard to state highways. The bill allows ODOT to better protect the safety of the public.