



Environment and Natural Resource Committee
Oregon Senate
900 Court St. NE,
Salem, Oregon 97301

Chair Dingfelder and Committee Member,

On behalf of Audubon Society of Portland and our 12,000 members we are writing to oppose SB 1582. We have a number concerns with this legislation as originally submitted and as revised with the -3 amendments. We urge you to not pass this legislation out of the Environment and Natural Resources Committee.

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This legislation takes Oregon's wetland protection law **in the wrong direction**. We should be strengthening protections for Oregon's imperiled wetlands not weakening them. Approximately 57% of wetlands in the Willamette Valley have been lost to land development. While state and local wetland protections adopted over the last 30 years have slowed the pace of wetland loss, a 2000 study found the Willamette Valley continues to lose more than 500 acres per year.¹ The rate of wetland loss may be even higher in and around cities where urban development is the leading cause of loss.² Research in Oregon and Washington has also found that wetland mitigation projects frequently fail to replace loss functions and therefore fail to compensate wetland destruction. A 2002 EPA funded study in Washington State found that only 13% of wetland mitigation projects were successful and 55% of wetland mitigation projects were "minimally successful" or "unsuccessful." No enhancement projects were fully successful and eight out of nine (89%) were minimally or not successful.³ One of the ecosystems services wetlands provide is flood control. It is troubling that the Legislature is considering bills to weaken wetland protection just after flooding in NW Oregon caused tens of millions of damage and resulted in loss of life and property.

We are concerned that SB 1582 will only weaken existing safeguards by setting up a new arbitration process to revisit wetland protection decisions by the Division of State Lands (DSL). The current wetland fill and removal permitting process already has too many mechanisms that can lead to decisions NOT to protect wetlands or to NOT adequately mitigate for the destruction of wetlands. There is not a need to create a new process by which only those seeking to fill wetlands can reverse a decision favorable to wetland protection or mitigation. By giving greater negotiating power *exclusively* to those seeking to fill wetlands, SB 1582 weakens the Division of State Land's authority and incentive to adequately protect wetland resources. Even if the new arbitration system is not evoked regularly, we believe it will create a process where in DSL staff will be more inclined to settle for less wetland protection in order to avoid a costly and timely arbitration process.

For these reasons, Audubon Society of Portland opposes SB 1582 and the -3 amendments; both take Oregon in the wrong direction by weakening our wetland protection laws. At very least, there needs to be a much more thorough analysis of the purported need for this legislation and the negative environmental impacts and increased costs that we foresee if SB 1582 becomes law.

However, if the Committee votes to pass the bill out of committee, we strongly urge the following amendments to the recent -3 amendments:

1. Amend the bill so anyone, not just the landowner or permit applicant can request arbitration under the new process. All citizens of the State of Oregon have stake in protecting of Oregon's water, water quality, and wetland resources and thus have an interest in the administration of the law to protect these public resources. If we are going to establish a new process of arbitration, it should be open to all citizens, including those who seek to strengthen protection for Oregon's wetland resources. By our reading of -3 amendments, removal of "owned by the person" from section 2 line 13 and line 16 would make it so that anyone could request arbitration of a DSL decision.

2. Eliminate Section 6.4.(c) on page 6, line 6 and 7 that reads: (c) Expire 10 years after the date on which the determination is made." The existing expiration period of 5 years for wetland delineations should not be lengthened to 10 years. Many wetlands are very dynamic in their structure, function, and extent. They can change rapidly, especially where the cumulative impacts to watershed hydrology from logging, agriculture or urban development or the impacts of climate change result in changing wetland boundaries, condition, and function.

Thank you for considering our input on this legislation.

Sincerely,



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Cited:

¹ Chapter 3.4 Freshwater Wetlands in Oregon Progress Board "State of the Environment Report" (2000). <http://oregon.gov/DAS/OPB/soer2000index.shtml>

² Holland, C.C., Honea J., Gwin, S.E., and Kentula, M.E. 1995. "Wetland Degradation and Loss in the Rapidly Urbanizing Area of Portland, Oregon." *Wetlands* 15:4 p. 336-345.

³ Other studies by the EPA, Army Corp of Engineers, and Division of State lands identify similar levels wetland mitigation success rates in Oregon. Johnson, P., D.L. Mock, A. McMillan, L. Driscoll, and T. Hurby. February 2002. *Washington State wetland mitigation evaluation study, phase 2: evaluating success*. Washington State Department of Ecology, Shorelands and Environmental Assistance Program, Lacey, WA. Publication No. 02-06-009. www.ecy.wa.gov/pubs/0206009.pdf