



Oregon

John A. Kitzhaber, MD, Governor

April 12, 2013

The Honorable Senator Jackie Dingfelder, Chair
The Honorable Senator Alan Olsen, Vice-Chair
Senate Committee on Environment and Natural Resources
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Chair Dingfelder:

The recent -1 and -2 amendments to Senate Bill 179 that have been brought before your committee seek to change the statutory authority as it currently exists between the Marine Board and Aviation Board with respect to seaplanes. The current language requiring cooperation on rulemaking impacting seaplanes forces the two Boards to work together when enacting seaplane rules. Since the Aviation Board oversees the safety and operation of seaplanes while in flight and the Marine Board oversees the operation of seaplanes in the capacity of boats, close coordination is necessary to ensure rules are consistent. During the recent Waldo Lake rulemaking, the two Boards did cooperate in rulemaking by having the Marine Board rule on motorboats other than seaplanes and requesting the Aviation Board take up rulemaking on seaplanes; which they did – with a temporary rule. The Aviation Board suspended action on a permanent rule, anticipating legislative direction specific to Waldo Lake. The concern being raised in both the -1 and -2 amendments is not whether the two Boards can cooperate on rulemaking, but rather should one agency have controlling authority over rule adoption.

The State Marine Director and Aviation Director have come to agreement representing their respective board positions and both are in favor of keeping the current statutory language. The current language does not subordinate one Board's rulemaking authority to another with respect to seaplanes, but rather encourages dialogue and consensus, which would seem to be in the best interest of all involved. Therefore, we respectfully request that Senate Bill 179 be withdrawn from the agenda for the Senate Committee on Environment and Natural Resources on the 17th of April.

In place of SB 179, both the Director of Aviation and the State Marine Director commit to engage in cooperative rulemaking to develop a process that provides coordination between the two agencies and Boards to regulate seaplanes on the lakes and waterways of Oregon. The rulemaking will include language that gives the Governor and his environmental and transportation advisors authority to decide the issue, if there are future issues where agreement is necessary and cannot be reached through the cooperative process.

Respectfully,

Mitch Swecker
Director
Oregon Department of Aviation

Scott Brewer
Director
Oregon State Marine Board

Cc: Sen Floyd Prozanski