
MEMORANDUM

Legislative Fiscal Office
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To: *Natural Resources Subcommittee*

From: *Krista McDowell, Legislative Fiscal Office*
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Date: June 20, 2013

Subject: *HB 3337 - A*
Work Session Recommendations

HB 3337 - A relates to ecosystem services. The measure has an emergency clause and is effective on passage.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing and work session in the Energy and Environment Committee and was recommended as do pass with amendments and referred to Ways and Means by prior reference.

The measure has an indeterminate statewide fiscal impact, however the fiscal impact to OWEB is estimated at \$195,322 Federal Funds in the 2013-2015 biennium for one (1.0 FTE) limited duration position.

Amendment

There is a –A5 amendment replaces the original measure. See SMS for further amendment summary.

Motion: Move the –A5 amendment to HB 3337.

Measure as Modified

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Move HB 3337 - A to the full committee with a “do pass” recommendation, as amended.

Assignment of Carriers

Full: _____
2nd Chamber: _____

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3337**

1 On page 1 of the printed A-engrossed bill, line 2, delete “and 468.583”.
2 Delete lines 5 through 25 and delete pages 2 through 4 and insert:

3
4 **“ECOSYSTEM SERVICES WORK GROUP**

5
6 **“SECTION 1. (1) The Governor’s office shall convene a work group**
7 **that represents public and private interests in ecosystem services, in-**
8 **cluding, but not limited to, farming, ranching, timber, nursery, mu-**
9 **nicipal, conservation, water quality, real estate and wetlands interests,**
10 **to:**

11 **“(a) Identify impediments to the State of Oregon’s ability to employ**
12 **ecosystem services and tools to meet conservation goals within the**
13 **context of agency programs, while providing socio-economic benefits**
14 **for landowners who employ good stewardship;**

15 **“(b) Prioritize solutions to address the impediments specified in**
16 **paragraph (a) of this subsection;**

17 **“(c) Propose pilot projects that apply prioritized solutions and**
18 **demonstrate how these solutions may overcome impediments to the**
19 **use of ecosystem services approaches and tools; and**

20 **“(d) Consider the role of state agencies and local governments in**
21 **the use of public funds to achieve measurable ecological outcomes in**
22 **the course of:**

- 1 **“(A) Complying with mitigation or regulatory requirements;**
2 **“(B) Advancing the missions of the state agencies and the interests**
3 **of the local governments;**
4 **“(C) Administering grant programs;**
5 **“(D) Administering landowner incentive programs; and**
6 **“(E) Engaging in voluntary ecosystem services markets.**

7 **“(2) The Oregon Watershed Enhancement Board shall provide staff**
8 **support to the Governor’s office for purposes related to the provisions**
9 **of this section.**

10 **“(3) The Governor’s office shall transmit the work group’s report**
11 **to the interim legislative committees related to the environment and**
12 **natural resources or other appropriate legislative committees on or**
13 **before January 1, 2015.**

14 **“SECTION 2. Section 1 of this 2013 Act is repealed on January 2,**
15 **2015.**

16

17 **“ECOSYSTEM SERVICES IN LAND USE, MANAGEMENT**
18 **AND INFRASTRUCTURE DECISIONS**

19

20 **“SECTION 3.** ORS 197.010 is amended to read:

21 “197.010. The Legislative Assembly declares that:

22 “(1) In order to ensure the highest possible level of livability in Oregon,
23 it is necessary to provide for properly prepared and coordinated comprehen-
24 sive plans for cities and counties, regional areas and the state as a whole.
25 These comprehensive plans:

26 “(a) Must be adopted by the appropriate governing body at the local and
27 state levels;

28 “(b) Are expressions of public policy in the form of policy statements,
29 generalized maps and standards and guidelines;

30 “(c) Shall be the basis for more specific rules and land use regulations

1 which implement the policies expressed through the comprehensive plans;

2 “(d) Shall be prepared to assure that all public actions are consistent and
3 coordinated with the policies expressed through the comprehensive plans;
4 and

5 “(e) Shall be regularly reviewed and, if necessary, amended to keep them
6 consistent with the changing needs and desires of the public they are de-
7 signed to serve.

8 “(2)(a) The overarching principles guiding the land use program in the
9 State of Oregon are to:

10 “(A) Provide a healthy environment;

11 “(B) Sustain a prosperous economy;

12 “(C) Ensure a desirable quality of life; and

13 “(D) Equitably allocate the benefits and burdens of land use planning.

14 “(b) Additionally, the land use program should, but is not required to[,]:

15 “(A) Help communities achieve sustainable development patterns [*and*];

16 “(B) Manage the effects of climate change[.];

17 “(C) **Maintain and enhance ecosystem services, as defined in ORS**
18 **468.581, for present and future generations; and**

19 “(D) **Consider the use of natural infrastructure in place of engi-**
20 **neered solutions.**

21 “(c) The overarching principles in paragraph (a) of this subsection and the
22 purposes in paragraph (b) of this subsection provide guidance to:

23 “(A) The Legislative Assembly when enacting a law regulating land use.

24 “(B) A public body, as defined in ORS 174.109, when the public body:

25 “(i) Adopts or interprets goals, comprehensive plans and land use regu-
26 lations implementing the plans, or administrative rules implementing a pro-
27 vision of ORS chapter 195, 196, 197, 215 or 227; or

28 “(ii) Interprets a law governing land use.

29 “(d) Use of the overarching principles in paragraph (a) of this subsection
30 and the purposes in paragraph (b) of this subsection is not a legal require-

1 ment for the Legislative Assembly or other public body and is not judicially
2 enforceable.

3 “(3) The equitable balance between state and local government interests
4 can best be achieved by resolution of conflicts using alternative dispute re-
5 solution techniques such as mediation, collaborative planning and arbi-
6 tration. Such dispute resolution techniques are particularly suitable for
7 conflicts arising over periodic review, comprehensive plan and land use reg-
8 ulations, amendments, enforcement issues and local interpretation of state
9 land use policy.

10
11 **“GOVERNOR’S OFFICE**

12
13 **“SECTION 4. (1) Before June 30, 2015, the Governor’s office, with**
14 **assistance from the Oregon Watershed Enhancement Board, shall:**

15 **“(a) Review relevant local, state, regional and federal conservation**
16 **plans and laws that could impact ecosystem services as defined in ORS**
17 **468.581 and develop a process for these plans and laws to be spatially**
18 **aligned and coordinated, with a focus on potential cost savings and**
19 **efficiencies in the implementation of the conservation plans and laws.**

20 **“(b) Propose statewide goals and measurable objectives that support**
21 **the maintenance, enhancement and restoration of ecosystem services**
22 **as described in ORS 468.583 to the interim legislative committees re-**
23 **lated to the environment and natural resources or other appropriate**
24 **legislative committees on or before June 30, 2015.**

25 **“(2)(a) The work required by this section shall be informed and**
26 **guided by the efforts of the work group convened under section 1 of**
27 **this 2013 Act.**

28 **“(b) The Governor’s office and the board shall provide periodic re-**
29 **ports on the progress of the work required by this section to the work**
30 **group convened under section 1 of this 2013 Act.**

1 **SECTION 5. Section 4 of this 2013 Act is repealed on January 2,**
2 **2016.**

3
4 **“STATE AGENCIES AND LOCAL GOVERNMENTS**

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6 **SECTION 6. Sections 7 and 8 of this 2013 Act are added to and**
7 **made a part of ORS 468.581 to 468.587.**

8 **SECTION 7. (1)(a) State agencies and local governments are en-**
9 **couraged, to the extent practicable, to compare costs and consider**
10 **natural infrastructure as part of or as an alternative to:**

11 **“(A) Traditionally engineered means of mitigating or addressing the**
12 **environmental impacts of new development or redevelopment;**

13 **“(B) Traditional approaches to public habitat or ecosystem invest-**
14 **ments; and**

15 **“(C) Traditional approaches to attaining the objectives of public**
16 **infrastructure development or redevelopment.**

17 **“(b) The Oregon Watershed Enhancement Board shall coordinate**
18 **with state agencies, local governments and the private sector to de-**
19 **velop technical assistance tools that support and facilitate the objec-**
20 **tives in subsection (1)(a) of this section.**

21 **“(2) State agencies may participate in public-private partnerships**
22 **to develop, test and implement ecosystem services approaches and**
23 **methodologies.**

24 **SECTION 8. In implementing conservation, restoration and regu-**
25 **latory compliance programs, state agencies and local governments are**
26 **encouraged, to the greatest extent practicable, to undertake projects**
27 **and programs that:**

28 **“(1) Provide incentives to private landowners for implementation**
29 **of conservation measures on their property;**

30 **“(2) Are more cost effective than current approaches;**

- 1 **“(3) Ensure long-term environmental stewardship;**
2 **“(4) Address multiple conservation values, especially resilience to**
3 **challenges related to climate change, carbon sequestration, water**
4 **quantity and quality and biodiversity;**
5 **“(5) Emphasize the protection of high-quality, functioning**
6 **ecosystems first, and then focus on the restoration of ecosystems**
7 **where such restoration efforts are most likely to be successful; and**
8 **“(6) Are consistent with any state conservation plans.**

9

10

“CAPTIONS

11

12 **“SECTION 9. The unit captions used in this 2013 Act are provided**
13 **only for the convenience of the reader and do not become part of the**
14 **statutory law of this state or express any legislative intent in the**
15 **enactment of this 2013 Act.**

16

17

“EMERGENCY CLAUSE

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19 **“SECTION 10. This 2013 Act being necessary for the immediate**
20 **preservation of the public peace, health and safety, an emergency is**
21 **declared to exist, and this 2013 Act takes effect on its passage.”.**

22

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3337 - A5

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Krista McDowell
Reviewed by: Paul Siebert, Susie Jordan, Linda Gilbert, Daron Hill
Date: 6/18/2013

Measure Description:

Expands state policy relating to ecosystems.

Government Unit(s) Affected:

Oregon Watershed Enhancement Board (OWEB), Office of the Governor, Department of Land Conservation and Development, Department of Agriculture, Department of Forestry, Department of State Lands, Statewide, Counties

Summary of Expenditure Impact:

See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis: The bill, as amended, directs the Governor’s Office in cooperation with Oregon Watershed Enhancement Board (OWEB) to review local, state, regional and federal conservation plans and laws that could impact ecosystems. This review and the creation of a report is to be guided by a work group and said findings reported to an interim legislative committee related to environment and natural resources on or before June 30, 2015.

The bill also further develops guidelines that encourage state agencies and local governments’ goals for maintenance, enhancement and restoration of ecosystem related services. The size and scope of these related services is unclear as well as specifically intended “socio-economic benefits” or “incentives” that may be provided under provisions of the bill. Therefore the measurable fiscal impact of this bill to agencies and local governments statewide is indeterminate at this time.

However, the impact to OWEB workload, related to the study, work group and legislative report, is estimated at \$195,322 Federal Funds from the Pacific Coastal Salmon Recovery Fund grant in the 2013-2015 biennium for one limited duration position (1.00 FTE). This position would work with the Governor’s Office and work group to collaborate on the review of conservation plans and laws as well as help create the report on their findings.

Joint Committee on Ways and Means

Carrier – House: Rep.
Carrier – Senate: Sen.

Revenue: No Revenue impact statement issued

Fiscal: Fiscal impact statement issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Krista McDowell, Legislative Fiscal Office

Meeting Date:

WHAT THE MEASURE DOES: Adds conservation and maintenance of ecosystems as goal to state policy relating to ecosystems and land use. Directs Governor’s Office, with assistance from Oregon Watershed Enhancement Board, to review local, state and federal conservation plans, propose process for alignment of plans, develop statewide goals for maintenance, enhancement and restoration of ecosystem services and make all information available to public. Encourages state agencies and local governments to adopt programs to conserve or enhance ecosystem services. Allows state agencies and local governments to use payments for ecosystem services if compensatory mitigation is used. Provides guidelines to compensatory mitigation. Requires state agencies and local governments to compare to extent practicable costs related to natural infrastructure as part of or in lieu of development projects and infrastructure. Allows state agency to purchase measurable ecological outcomes. Declares emergency, effective on passage.

ISSUES DISCUSSED:

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EFFECT OF COMMITTEE AMENDMENT: The A5 amendment replaces the bill. Directs the Governor’s office to convene a work group that represents public and private interests in ecosystem services, including but not limited to farming, ranching, timber, nursery, municipal, conservation, water quality, real-estate and wetlands interests. The bill specifies work groups research areas. Directs Oregon Watershed Enhancement Board (OWEB) to provide staff to support the Governor’s Office. Directs the Governor’s Office to review relevant local, state, regional and federal conservation plans and laws that could impact eco system services. Requires the Governor’s office to propose statewide goals and measureable objectives that support the maintenance, enhancement and restoration of ecosystem services to an interim legislative committee related to environment and natural resources or other appropriate committee on or before June 30, 2015. Encourages state agencies to consider natural infrastructure as part of or as an alternative to specified scenarios listed in the bill. Encourages state agencies and local governments to undertake projects related to ecosystem services that incentivize private land owners and emphasize ecosystem services policy as a priority. The amendment also directs OWEB to develop technical assistance tools that overcome impediments to agency programs that employ ecosystem services, as identified by the work group.

BACKGROUND: The Legislature passed Senate Bill 513 in 2009. The bill outlined an approach to ecosystem services that set the stage for the development of programs that provide incentives for private landowners to provide these services, or to establish market-based programs in which regulated parties or voluntary buyers purchase specific conservation outcomes. The bill also directed the Oregon Watershed Enhancement Board to convene a work group to address additional issues. The work group met for a year and issued a report to the 2011 Legislature. House Bill 3337 contains language implementing many of the recommendations of that work group.