



Oregon

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**TESTIMONY OF
MARY ABRAMS
DIRECTOR
DEPARTMENT OF STATE LANDS
On Senate Bill 479
Before the Senate Judiciary Committee
March 11, 2013**

Good morning Chair Prozanski and members of the Committee. I am Mary Abrams, Director of the Department of State Lands. Thank you for the opportunity to testify today on Senate Bill 479 that proposes to divest the State of Oregon from its ownership interest in lands created by filling state-owned submerged or submersible lands 50 or more years ago. SB 479 as written limits the application of this transfer to those lands filled by a public body as defined in ORS 174.708. The department believes adopting the bill as written would not be in the best interest of the state.

Under the Equal Footing Doctrine, the State of Oregon was granted ownership of submerged and submersible lands on tidally influenced and navigable waterways at statehood. Since the time of statehood, some of these lands have been filled – often as disposal sites for the U.S. Army Corps of Engineers or various port authorities as they dredged waterways for navigation and commerce purposes.

In the mid 1900s, the State Land Board recognized that unregulated filling of waterways had a negative environmental impact and that the state ownership of the newly created lands sometimes caused confusion for adjacent upland land owners. In 1963 the state legislature addressed the need to regulate the filling of its waters by passing the New Lands Act (ORS 274.905 to ORS 274.940). This legislation not only gave the State Land Board authority to sell, lease, or trade state-owned filled lands, but established a procedure for the Department of State Lands to follow when establishing the value of selling such lands.

In the 2009 legislative session HB 2573 was adopted which further clarified the mechanism for establishing the value of these lands and provided for their sale, with State Land Board approval, to adjacent landowners. The Department has since been implementing this mechanism in resolving historical filled land disputes. Any revenue derived from these Waters or the derived new lands are considered “statutory” revenues. When statutory revenues exceed statutory expenditures by the

agency, those net revenues accrue to the Common School Fund, from which annual distributions are made to the State's public schools.

While there currently is not a comprehensive map and full appraisals on all these historically filled lands, their estimated fair market value may be in the millions of dollars. However, given the mechanism for establishing the value of these lands provided by HB 2573 in 2009, it is uncertain how much of this value the state would ultimately realize from these lands. Regardless, given how much is potentially at stake with these lands for the State of Oregon, the department believes it would not be prudent to resolve these lands as proposed in SB 479 without a much more thorough and deliberative public process than what has occurred thus far with this bill.

Thank you for your time and I will be happy to answer any questions you might have.