

Enrolled
House Bill 2032

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of State Lands)

CHAPTER

AN ACT

Relating to off-site compensatory mitigation; creating new provisions; amending ORS 196.643; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 196.643 is amended to read:

196.643. (1) A person who provides off-site compensatory mitigation in order to comply with a condition imposed on a permit in accordance with ORS 196.825 (5), an authorization issued in accordance with ORS 196.800 to 196.905 or a resolution of a violation of ORS 196.800 to 196.905 may make a payment for credits to an approved mitigation bank with available credits, or to the Oregon Removal-Fill Mitigation Fund, if credits from a mitigation bank are not available. *[If the person is making a payment to the Oregon Removal-Fill Mitigation Fund, the payment shall be equal to the average cost of credits available from all active mitigation banks in the state.]*

(2) Any payments for off-site compensatory mitigation made to the Oregon Removal-Fill Mitigation Fund under subsection (1) of this section must be sufficient to cover the costs and expenses of land acquisition, project design and engineering, construction, planting, monitoring, maintenance, long-term management and protection activities, administration and other costs and expenses related to the off-site compensatory mitigation, which may vary depending on the region of this state where the off-site compensatory mitigation is conducted, and shall be calculated by the Department of State Lands as follows:

(a) If the off-site compensatory mitigation project and project costs and expenses are identified at the time of payment to the Oregon Removal-Fill Mitigation Fund, the department shall calculate the payment based on the actual costs and expenses of the off-site compensatory mitigation.

(b) If the off-site compensatory mitigation project and project costs and expenses are not identified at the time of payment to the Oregon Removal-Fill Mitigation Fund, the department shall calculate the payment based on the estimate of costs and expenses for off-site compensatory mitigation, as set forth in rules adopted by the department, for the region of this state where the department, to the greatest extent practicable, determines the off-site compensatory mitigation may be conducted.

(3) No later than December 1 of each year, the Director of the Department of State Lands shall submit to the Legislative Assembly and the State Land Board a detailed report that specifies:

(a) The costs and expenses related to off-site compensatory mitigation, including variations and trends in costs and expenses over time.

(b) Efforts undertaken by the department to reduce the costs and expenses specified in paragraph (a) of this subsection.

(c) Efforts undertaken by the department to improve efficiencies of the department related to off-site compensatory mitigation.

(d) The effectiveness of the July 2010 "Oregon Rapid Wetland Assessment Protocol" of the department in protecting the functions and values of wetlands through off-site compensatory mitigation.

SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 196.643 by section 1 of this 2013 Act become operative on January 1, 2014.

(2) The Department of State Lands may adopt rules before the operative date specified in subsection (1) of this section, or take any other actions before the operative date specified in subsection (1) of this section, that are necessary to implement, on or after the operative date specified in subsection (1) of this section, the amendments to ORS 196.643 by section 1 of this 2013 Act.

SECTION 3. The amendments to ORS 196.643 by section 1 of this 2013 Act apply to payments for off-site compensatory mitigation made to the Oregon Removal-Fill Mitigation Fund on or after the operative date specified in section 2 of this 2013 Act.

SECTION 4. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 23, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 22, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State