

A-Engrossed
House Bill 3337

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representatives GARRETT, GILLIAM; Representatives BAILEY, BOONE, BUCKLEY, DEMBROW, GOMBERG, REARDON, VEGA PEDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Expands state policy relating to ecosystems. Adds ecosystem services to principles guiding state land use program.

Directs Governor's office to facilitate review of state conservation plans.

Authorizes state agencies to allow use of payments for ecosystems services as compensatory mitigation. Specifies circumstances under which state agency may purchase credits for ecosystem services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to ecosystem services; creating new provisions; amending ORS 197.010 and 468.583; and
3 declaring an emergency.

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

5
6 **STATE POLICY REGARDING ECOSYSTEM SERVICES**

7
8 **SECTION 1.** ORS 468.583 is amended to read:

9 468.583. **(1)** It is the policy of this state to:

10 **(a)** Support the maintenance, enhancement and restoration of ecosystem services throughout
11 Oregon, focusing on the protection of land, water, air, soil and native flora and fauna[.]; **and**

12 **(b) Conserve ecosystems in a manner that provides long-term ecological, economic and**
13 **social benefits.**

14 **(2) State agencies and local governments are encouraged to adopt and implement pro-**
15 **grams that use market-based approaches to conserve or enhance ecosystem services as one**
16 **approach to meet conservation, regulatory and economic goals within the context of existing**
17 **programs. Such programs may, to the extent practicable, be designed to:**

18 **(a) Provide an opportunity for added economic return to agricultural and forest land-**
19 **owners who exercise good stewardship;**

20 **(b) Result in restoration and maintenance jobs that provide family wages;**

21 **(c) Produce enduring, quality conservation outcomes that make the greatest ecological**
22 **difference by targeting priority areas that contain important resources or connectivity be-**
23 **tween existing conservation lands;**

24 **(d) Increase the pace of conservation and habitat restoration;**

25 **(e) Provide disincentives for actions that negatively impact priority areas and services;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (f) Produce a net measurable positive trend in the recovery of species and ecosystems
- 2 that contribute to the full suite of values of biodiversity and ecosystems services;
- 3 (g) Complement and add value to other conservation strategies and programs;
- 4 (h) Operate efficiently with low transaction costs; and
- 5 (i) Have clear and predictable rules and provide for transparent, accountable and credible
- 6 transactions.

7
8 **ECOSYSTEM SERVICES IN LAND USE, MANAGEMENT**
9 **AND INFRASTRUCTURE DECISIONS**

10
11 **SECTION 2.** ORS 197.010 is amended to read:

12 197.010. The Legislative Assembly declares that:

13 (1) In order to ensure the highest possible level of livability in Oregon, it is necessary to provide
14 for properly prepared and coordinated comprehensive plans for cities and counties, regional areas
15 and the state as a whole. These comprehensive plans:

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

17 (b) Are expressions of public policy in the form of policy statements, generalized maps and
18 standards and guidelines;

19 (c) Shall be the basis for more specific rules and land use regulations which implement the pol-
20 icies expressed through the comprehensive plans;

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

23 (e) Shall be regularly reviewed and, if necessary, amended to keep them consistent with the
24 changing needs and desires of the public they are designed to serve.

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

26 (A) Provide a healthy environment;

27 (B) Sustain a prosperous economy;

28 (C) Ensure a desirable quality of life; and

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

30 (b) Additionally, the land use program should, but is not required to[,];

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

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

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

35 (D) **Consider the use of natural infrastructure in place of engineered solutions.**

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

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

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

40 (i) Adopts or interprets goals, comprehensive plans and land use regulations implementing the
41 plans, or administrative rules implementing a provision of ORS chapter 195, 196, 197, 215 or 227; or

42 (ii) Interprets a law governing land use.

43 (d) Use of the overarching principles in paragraph (a) of this subsection and the purposes in
44 paragraph (b) of this subsection is not a legal requirement for the Legislative Assembly or other
45 public body and is not judicially enforceable.

1 (3) The equitable balance between state and local government interests can best be achieved by
2 resolution of conflicts using alternative dispute resolution techniques such as mediation,
3 collaborative planning and arbitration. Such dispute resolution techniques are particularly suitable
4 for conflicts arising over periodic review, comprehensive plan and land use regulations, amendments,
5 enforcement issues and local interpretation of state land use policy.

6
7 **GOVERNOR'S OFFICE**

8
9 **SECTION 3.** (1) Before the end of calendar year 2014, the Governor's office, with assist-
10 **ance from the Oregon Watershed Enhancement Board, shall:**

11 (a) Facilitate a review of relevant local, state, regional and federal conservation plans
12 that could impact ecosystem services as defined in ORS 468.581 and propose a process for
13 these plans to be spatially aligned and coordinated, with a focus on potential costs savings
14 and efficiencies in the implementation of the conservation plans.

15 (b) Develop statewide goals that support the maintenance, enhancement and restoration
16 of ecosystem services as described in ORS 468.583.

17 (2) The Governor's office shall make information about the process proposed under sub-
18 section (1)(a) of this section, and information about the statewide goals developed under
19 subsection (1)(b) of this section, available to the public on the website of the Governor's of-
20 fice.

21
22 **STATE AGENCIES AND LOCAL GOVERNMENTS**

23
24 **SECTION 4.** Sections 5 to 7 of this 2013 Act are added to and made a part of ORS 468.581
25 to 468.587.

26 **SECTION 5.** (1) State agencies and local governments may allow the use of payments for
27 ecosystem services if compensatory mitigation is used, and are encouraged to apply the fol-
28 lowing guidelines:

29 (a) The mitigation should result in a net gain in overall ecosystem services, with a clear
30 emphasis on the most sensitive resources;

31 (b) Long-term ecological viability should be considered, and preference given to miti-
32 gation sites with the greatest potential to endure;

33 (c) Mitigation investments should be structured for the protection and enhancement of
34 the priority resources identified in state conservation plans;

35 (d) The use of payments for ecosystem services may be allowed in advance of mitigation
36 needs;

37 (e) Service area or special district boundaries should be, to the extent practicable, flexible
38 enough to capture significant ecological benefits;

39 (f) Ecological assessments for mitigation purposes should be, to the extent practicable,
40 functions-based, where methodologies are available to quantify ecological functions; and

41 (g) Preservation and restoration may be considered as appropriate mitigation strategies.

42 (2)(a) State agencies and local governments are encouraged to, to the extent practicable,
43 compare cost and consider natural infrastructure as part of, or in lieu of, new development
44 projects and infrastructure.

45 (b) In order to encourage state agencies and local governments to compare cost and

1 consider natural infrastructure as described in paragraph (a) of this subsection, the Oregon
2 Watershed Enhancement Board shall coordinate with state agencies, local governments and
3 the private sector to develop technical assistance tools that support and facilitate the use
4 of natural infrastructure as part of, or in lieu of, new development projects and
5 infrastructure.

6 (3) State agencies may participate in public-private partnerships to develop, test and im-
7 plement ecosystem services approaches and methodologies.

8 **SECTION 6.** State agencies shall, in implementing their duties, to the greatest extent
9 practicable, undertake projects and programs that:

10 (1) Are consistent with any state conservation plans;

11 (2) Ensure long-term environmental stewardship;

12 (3) Address multiple conservation values, especially resilience to challenges related to
13 climate change, carbon sequestration, water quantity and quality and biodiversity;

14 (4) Emphasize the protection of high-quality, functioning ecosystems first, and then focus
15 on restoration where such efforts will most likely be successful;

16 (5) Provide incentives to private landowners who voluntarily implement conservation
17 measures on their property; and

18 (6) Are relatively cost effective.

19 **SECTION 7.** A state agency may purchase measurable ecological outcomes:

20 (1) To comply with mitigation requirements or advance the mission of the state agency
21 to achieve ecological outcomes.

22 (2) In advance of any mitigation requirements to ensure that the state agency mitigates
23 the impacts of the agency's development projects.

24 (3) As part of grant or landowner conservation incentive programs administered by a
25 state agency or as part of voluntary ecosystem services markets.

26
27 **CAPTIONS**

28
29 **SECTION 8.** The unit captions used in this 2013 Act are provided only for the convenience
30 of the reader and do not become part of the statutory law of this state or express any leg-
31 islative intent in the enactment of this 2013 Act.

32
33 **EMERGENCY CLAUSE**

34
35 **SECTION 9.** This 2013 Act being necessary for the immediate preservation of the public
36 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
37 on its passage.