

A-Engrossed
Senate Bill 249

Ordered by the Senate March 18
Including Senate Amendments dated March 18

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Department of State Lands)

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.

Allows payments for off-site compensatory mitigation credits to be made to Oregon Removal-Fill Mitigation Fund if credits from mitigation bank were not available at time Department of State Lands began developing off-site compensatory mitigation project in region and department has yet to recoup costs of project.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to off-site compensatory mitigation; amending ORS 196.643; and declaring an emergency.

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

4 **SECTION 1.** ORS 196.643 is amended to read:

5 196.643. (1) A person who provides off-site compensatory mitigation in order to comply with a
6 condition imposed on a permit in accordance with ORS 196.825 (5), an authorization issued in ac-
7 cordance with ORS 196.800 to 196.905 or a resolution of a violation of ORS 196.800 to 196.905 may
8 make a payment for credits to [*an approved mitigation bank with available credits, or to*] the Oregon
9 Removal-Fill Mitigation Fund[, *if credits from a mitigation bank are not available.*] **when:**

10 **(a) Credits from an approved mitigation bank are not available; or**

11 **(b)(A) Credits from an approved mitigation bank were not available in a region at the**
12 **time the first payment for credits was made to the Oregon Removal-Fill Mitigation Fund;**
13 **and**

14 **(B) The expenses associated with a Department of State Lands mitigation bank project**
15 **in the region in accordance with this section and ORS 196.650 have not been fully recovered**
16 **by the Department of State Lands.**

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

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

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 the payment based on the actual costs and expenses of the off-site compensatory mitigation.

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

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

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

12 (b) Efforts undertaken by the department to reduce the costs and expenses specified in para-
13 graph (a) of this subsection.

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

16 (d) The effectiveness of the July 2010 "Oregon Rapid Wetland Assessment Protocol" of the de-
17 partment in protecting the functions and values of wetlands through off-site compensatory miti-
18 gation.

19 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
21 **on its passage.**

22