

House Committee On Agriculture and Natural Resources

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 02/23/16

Action: Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

Meeting Dates: 02/23

Vote:

Yeas: 7 - Barreto, Esquivel, Frederick, Krieger, McKeown, McLain, Witt

Exc: 2 - Gorsek, Whitsett

Prepared By: Dan Roper, Committee Administrator

WHAT THE MEASURE DOES:

Makes Legislative findings. Authorizes governing body of Tillamook County (governing body) to adopt a pilot program, subject to ORS 215.296, to establish creation, restoration or enhancements of wetlands in areas zoned for exclusive farm use (EFU). Requires pilot program to include mechanism for parties, prior to approval or denial of permit, to enter into collaborative process to settle disputes related to the application. Stipulates permit shall include standards that parties agreed to, if they satisfy approval standards. Authorizes governing body to initiate planning process identifying areas that are zoned for EFU and are suitable for wetland creation, restoration or enhancement; and areas zoned for EFU that are designated for use as priority areas for maintenance of agricultural use. Stipulates planning process must include certain considerations. Stipulates Act does not apply to creation, restoration or enhancement of wetlands that are for: 1) purposes related to mitigation banking; 2) reclamation of lands affected by surface mining; 3) wetlands created, restored or enhanced to meet conditions of certain permits; 4) wetlands where construction commenced prior to adoption of pilot program; and 5) projects which only involve planting vegetation in wetland or riparian area. Requires governing body to file report containing certain information to interim committees of Legislative Assembly related to environment and natural resources each odd numbered year until September 15, 2025 and consult stakeholders in reporting process. Authorizes Department of State Lands to issue permit to fill Smith Lake or Bybee Lake in Multnomah County if such fill is to support recreational use or public access at or near lakes under certain conditions. Sunsets Act January 2, 2027.

ISSUES DISCUSSED:

- Importance of local farmland to dairy industry in Tillamook County
- Previous and ongoing wetlands restoration work in coastal regions
- Impacts of wetlands restoration on adjacent farmland
- Importance of collaborative process
- Discussion of committee amendments

EFFECT OF COMMITTEE AMENDMENT:

Specifies that governing body of Tillamook County (governing body) may, rather than shall, adopt a pilot program for wetlands in areas zoned for exclusive farm use and, as part of program, shall initiate a planning process identifying and designating which areas in exclusive farm use zones are suitable for wetlands and which are priority for agricultural use. Makes clarifications relating to parties that may enter into collaborative processes for settling application disputes and requires governing body to discontinue collaborative process if applicant requests permit application procedures required by ORS 215.402 to 215.438 be resumed. Specifies that governing body is not required to initiate this planning process if adequate funding is not reasonably available and authorizes governing body to adopt, by ordinance, a process for denying permits or streamlining permit process for applications subject

to pilot program, and specifies that adopted ordinances must be consistent with priorities identified in plan. Requires governing body to consult with stakeholders in producing reports on progress of the pilot program. Authorizes Department of State Lands to issue permit to fill Smith Lake or Bybee Lake in Multnomah County if such fill is to support recreational use or public access at or near lakes under certain conditions. Extends sunset date from June 30, 2026 to January 2, 2027.

BACKGROUND:

Land use laws allow a variety of farm or forest related uses on farm and forest land. Some uses that are allowed in an exclusive farm use (EFU) area are subject to ORS 215.296, which allows a local government to determine whether the proposed use forces a significant change in accepted farm or forest practices on surrounding lands and to attach conditions to an approval to reduce the impact of the proposed use on the surrounding area. Under current law, the creation, restoration or enhancement of a wetland is an allowable use on EFU land and does not require a review by the county to consider the impact of the project on neighboring landowners.

Senate Bill 1517B would allow the governing body in Tillamook County (governing body) to adopt a pilot program to establish the creation, restoration or enhancement of wetlands in areas that are zoned for EFU, require the pilot program to include a mechanism for parties to enter into a collaborative process to settle disputes, and authorize the governing body to initiate a planning process to identify areas that are zoned for EFU and are suitable for wetland creation, restoration or enhancement; and areas that are zoned for EFU that are designated for use as priority area for the maintenance of agricultural use. The Act would also authorize the Department of State Lands to issue permits to fill Smith Lake or Bybee Lake in Multnomah County if such fill is to support recreational use or public access at or near the lakes under certain conditions.