

SENATE AMENDMENTS TO SENATE BILL 1517

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 15

1 On page 1 of the printed bill, line 2, after “projects” insert a period and delete the rest of the
2 line and delete line 3.

3 Delete lines 5 through 28 and delete pages 2 through 35 and insert:

4 **“SECTION 1. Sections 2 to 6 of this 2016 Act are added to and made a part of ORS**
5 **chapter 215.**

6 **“SECTION 2. The Legislative Assembly finds and declares that Tillamook County experi-**
7 **ences unique challenges related to the creation, restoration or enhancement of wetlands on**
8 **lands zoned for exclusive farm use, including regularly occurring and devastating flood**
9 **events and landowner conflicts. It is therefore in the public interest to establish a pilot**
10 **program in Tillamook County for conditional use review of the creation, restoration or en-**
11 **hancement of wetlands on lands zoned for exclusive farm use, and that incorporates a means**
12 **for stakeholders to engage in a collaborative process for ensuring the protection and en-**
13 **hancement of agricultural land uses and wetlands.**

14 **“SECTION 3. As used in sections 2 to 6 of this 2016 Act:**

15 **“(1) ‘Mitigation bank’ has the meaning given that term in ORS 196.600.**

16 **“(2) ‘Permit’ has the meaning given that term in ORS 215.402.**

17 **“(3) ‘Reclamation’ has the meaning given that term in ORS 517.750.**

18 **“(4) ‘Riparian area’ means a zone of transition from an aquatic ecosystem to a terrestrial**
19 **ecosystem, dependent upon surface or subsurface water, in which existing or potential ele-**
20 **ments of the soil-vegetation complex are influenced by the surface or subsurface water that**
21 **the zone is dependent upon.**

22 **“(5) ‘Surface mining’ has the meaning given that term in ORS 517.750.**

23 **“(6) ‘Wetlands’ has the meaning given that term in ORS 196.800.**

24 **“SECTION 4. (1) Notwithstanding ORS 215.213 (1)(o), the governing body of Tillamook**
25 **County shall, by ordinance or regulation, adopt a pilot program for establishing, subject to**
26 **ORS 215.296, the creation, restoration or enhancement of wetlands in any area zoned for**
27 **exclusive farm use.**

28 **“(2) Notwithstanding ORS 215.296 (10), ordinances or regulations adopted by the govern-**
29 **ing body under the pilot program may not establish standards in addition to the standards**
30 **described in ORS 215.296 (1) for approving the creation, restoration or enhancement of**
31 **wetlands in areas zoned for exclusive farm use.**

32 **“(3) Notwithstanding any contrary provision of ORS 215.416, the ordinances or regu-**
33 **lations adopted as part of the pilot program shall provide for a mechanism by which, upon**
34 **request by the applicant and prior to the approval or denial of a permit under the procedures**
35 **required by ORS 215.402 to 215.438, the following parties may enter into a collaborative pro-**

1 cess for settling disputes concerning the application:

2 “(a) The applicant;

3 “(b) Any person who may be adversely affected or aggrieved by the use;

4 “(c) Any person who is entitled to notice under ORS 215.416 (11)(c);

5 “(d) Representatives of any state or federal agency that is involved in the project for
6 which the application for the use was submitted; and

7 “(e) For the purpose of assisting in the collaborative process, any persons with technical
8 expertise in creating, restoring or enhancing wetlands in Tillamook County or other areas
9 with site characteristics similar to those identified in the application for the use.

10 “(4) If an applicant requests to enter into a collaborative process adopted under sub-
11 section (3) of this section, the periods set forth in ORS 215.427 (1) and (5) for the governing
12 body of a county or its designee to take final action on the application shall be extended in
13 the manner provided for in ORS 215.427 (10).

14 “(5) If the parties to a collaborative process requested under subsection (3) of this section
15 agree to conditions that, if imposed on the proposed use, would satisfy the standards for
16 approval set forth in ORS 215.296 (1) in a manner that is acceptable to all parties, an approval
17 of the application for the permit shall include the conditions agreed to by the parties.

18 **“SECTION 5.** (1) As part of the pilot program required by section 4 of this 2016 Act, the
19 governing body of Tillamook County may initiate a planning process to:

20 “(a) Identify areas zoned for exclusive farm use that are suitable for future wetland
21 creation, restoration or enhancement projects; and

22 “(b) Designate areas zoned for exclusive farm use as priority areas for maintenance of
23 agricultural use.

24 “(2) The Governor may require, upon request from the governing body of Tillamook
25 County, all appropriate state agencies to participate in a planning process initiated under this
26 section.

27 “(3) The governing body of Tillamook County shall engage impacted stakeholders in the
28 planning process, including, but not limited to, representatives of conservation interests and
29 agricultural interests, state and federal agencies and Indian tribes.

30 “(4) A planning process initiated under this section shall include consideration of:

31 “(a) The historic location and quantity of wetlands within the county;

32 “(b) The location and quantity of wetlands within the county at the time the planning
33 process is initiated;

34 “(c) Agricultural interests within the county, and the land use patterns necessary for the
35 stability of agricultural and associated farming practices;

36 “(d) The amount and location of potential wetland projects that would provide the
37 greatest benefits to fish recovery, fish and wildlife habitat, flood mitigation and other envi-
38 ronmental values;

39 “(e) Locations where future wetland projects would be most likely to provide the greatest
40 benefits to fish recovery, fish and wildlife habitat, flood mitigation and other environmental
41 values while remaining compatible with the land use patterns necessary for the stability of
42 agricultural and associated farming practices;

43 “(f) Locations where the creation, restoration or enhancement of wetlands is likely to
44 materially alter the stability of the agricultural land use patterns or cause a significant
45 change to farming practice, alone or in combination with other wetlands in the area; and

1 “(g) Locations or land-use arrangements, opportunities, conditions or approaches that
2 could best enable benefits to fish recovery, fish and wildlife habitat, flood mitigation and
3 other environmental values in a manner that complements the land use patterns necessary
4 for the stability of agricultural and associated farming practices.

5 “**SECTION 6.** Sections 4 and 5 of this 2016 Act and ordinances or regulations adopted
6 pursuant to sections 4 and 5 of this 2016 Act do not apply to the creation, restoration or
7 enhancement of wetlands:

8 “(1) For purposes related to a mitigation bank;

9 “(2) For reclamation of lands affected by surface mining;

10 “(3) If the wetlands created, restored or enhanced for the purpose of meeting conditions
11 necessary to comply with a National Pollutant Discharge Elimination System permit or wa-
12 ter pollution control facility permit issued by the Department of Environmental Quality
13 pursuant to ORS 468B.050;

14 “(4) For which construction had commenced prior to the adoption of ordinances or reg-
15 ulations by the governing body of Tillamook County under section 4 of this 2016 Act; and

16 “(5) If the creation, restoration or enhancement project only involves planting vegetation
17 in a wetland or riparian area.

18 “**SECTION 7.** (1) The governing body of Tillamook County shall provide for the production
19 and filing of a report on the progress of the pilot program in the manner provided in ORS
20 192.245, to the interim committees of the Legislative Assembly related to environment and
21 natural resources no later than September 15 of each odd-numbered year following the ef-
22 fective date of this 2016 Act, until and including September 15, 2025.

23 “(2) A report required by this section must include, but need not be limited to:

24 “(a) Information on whether and to what extent the governing body has taken action as
25 provided for in sections 4 and 5 of this 2016 Act and the form of the action taken;

26 “(b) The number of applications received under the pilot program pursuant to ordinances
27 or regulations adopted under section 4 of this 2016 Act and the number of applicants that
28 have requested entering into a collaborative process to settle disputes concerning their ap-
29 plications; and

30 “(c) Any significant successes, challenges or recommendations for legislation related to
31 the pilot program.

32 “(3) The report that is required to be filed under this section no later than September
33 15, 2025, shall include information detailing the success of the pilot program and recommen-
34 dations on whether the pilot program should be made permanent.

35 “**SECTION 8.** Sections 2 to 7 of this 2016 Act are repealed on June 30, 2026.”.