

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
SENATE BILL 1517**

1 On page 1 of the printed bill, line 2, after “projects” insert a period and
2 delete the rest of the 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
5 a part of ORS chapter 215.**

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

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

17 **“(1) ‘Mitigation bank’ has the meaning given that term in ORS
18 196.600.**

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

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

21 **“(4) ‘Riparian area’ means a zone of transition from an aquatic**

1 ecosystem to a terrestrial ecosystem, dependent upon surface or sub-
2 surface water, in which existing or potential elements of the soil-
3 vegetation complex are influenced by the surface or subsurface water
4 that the zone is dependent upon.

5 “(5) ‘Surface mining’ has the meaning given that term in ORS
6 517.750.

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

8 **“SECTION 4. (1) Notwithstanding ORS 215.213 (1)(o), the governing**
9 **body of Tillamook County shall, by ordinance or regulation, adopt a**
10 **pilot program for establishing, subject to ORS 215.296, the creation,**
11 **restoration or enhancement of wetlands in any area zoned for exclu-**
12 **sive farm use.**

13 **“(2) Notwithstanding ORS 215.296 (10), ordinances or regulations**
14 **adopted by the governing body under the pilot program may not es-**
15 **tablish standards in addition to the standards described in ORS 215.296**
16 **(1) for approving the creation, restoration or enhancement of wetlands**
17 **in areas zoned for exclusive farm use.**

18 **“(3) Notwithstanding any contrary provision of ORS 215.416, the**
19 **ordinances or regulations adopted as part of the pilot program shall**
20 **provide for a mechanism by which, upon request by the applicant and**
21 **prior to the approval or denial of a permit under the procedures re-**
22 **quired by ORS 215.402 to 215.438, the following parties may enter into**
23 **a collaborative process for settling disputes concerning the applica-**
24 **tion:**

25 **“(a) The applicant;**

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

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

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

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

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

10 “(5) If the parties to a collaborative process requested under sub-
11 section (3) of this section agree to conditions that, if imposed on the
12 proposed use, would satisfy the standards for approval set forth in ORS
13 215.296 (1) in a manner that is acceptable to all parties, an approval
14 of the application for the permit shall include the conditions agreed
15 to by the parties.

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

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

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

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

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

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

1 **consideration of:**

2 **“(a) The historic location and quantity of wetlands within the**
3 **county;**

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

6 **“(c) Agricultural interests within the county, and the land use**
7 **patterns necessary for the stability of agricultural and associated**
8 **farming practices;**

9 **“(d) The amount and location of potential wetland projects that**
10 **would provide the greatest benefits to fish recovery, fish and wildlife**
11 **habitat, flood mitigation and other environmental values;**

12 **“(e) Locations where future wetland projects would be most likely**
13 **to provide the greatest benefits to fish recovery, fish and wildlife**
14 **habitat, flood mitigation and other environmental values while re-**
15 **maining compatible with the land use patterns necessary for the sta-**
16 **bility of agricultural and associated farming practices;**

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

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

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

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

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

1 **“(3) If the wetlands created, restored or enhanced for the purpose**
2 **of meeting conditions necessary to comply with a National Pollutant**
3 **Discharge Elimination System permit or water pollution control facil-**
4 **ity permit issued by the Department of Environmental Quality pursu-**
5 **ant to ORS 468B.050;**

6 **“(4) For which construction had commenced prior to the adoption**
7 **of ordinances or regulations by the governing body of Tillamook**
8 **County under section 4 of this 2016 Act; and**

9 **“(5) If the creation, restoration or enhancement project only in-**
10 **volves planting vegetation in a wetland or riparian area.**

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

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

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

23 **“(b) The number of applications received under the pilot program**
24 **pursuant to ordinances or regulations adopted under section 4 of this**
25 **2016 Act and the number of applicants that have requested entering**
26 **into a collaborative process to settle disputes concerning their appli-**
27 **cations; and**

28 **“(c) Any significant successes, challenges or recommendations for**
29 **legislation related to the pilot program.**

30 **“(3) The report that is required to be filed under this section no**

1 later than September 15, 2025, shall include information detailing the
2 success of the pilot program and recommendations on whether the
3 pilot program should be made permanent.

4 **“SECTION 8. Sections 2 to 7 of this 2016 Act are repealed on June**
5 **30, 2026.”**

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