

Senate Bill 959

Sponsored by Senator DEMBROW (at the request of Friends of the Columbia Gorge)

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 **as introduced**.

Requires Department of State Lands to consider risks of oil spill when issuing or amending certain leases. Prohibits construction, extension or use of wharf for receipt and discharge of crude oil.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to state transport of oil; creating new provisions; amending ORS 274.710 and 780.040; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 274.710 is amended to read:

6 274.710. (1) **For purposes of this section, "oil" means crude petroleum oil and all other**
7 **hydrocarbons produced in liquid form by ordinary production methods, regardless of gravity,**
8 **other than liquid hydrocarbons originally in a gaseous phase in the reservoir.**

9 [(1)] (2) The Department of State Lands has exclusive jurisdiction over all ungranted tidal sub-
10 merged lands owned by this state, whether within or beyond the boundaries of this state, heretofore
11 or hereafter acquired by this state:

12 (a) By quitclaim, cession, grant, contract or otherwise from the United States or any agent
13 thereof; or

14 (b) By any other means.

15 [(2)] (3) All jurisdiction and authority remaining in the state over tidal submerged lands as to
16 which grants have been or may be made is vested in the department.

17 [(3)] (4) Notwithstanding ORS 273.551, the department shall administer and control all tidal
18 submerged lands described in subsections [(1) and (2)] (2) and (3) of this section under its jurisdic-
19 tion, and may lease such lands and submersible lands and dispose of oil, gas and sulfur under such
20 lands and submersible lands in the manner prescribed by ORS 274.705 to 274.860. However, sub-
21 merged and submersible lands lying more than 10 miles easterly of the 124th West Meridian shall
22 be subject to leasing for oil, gas and sulfur under ORS 273.551, rather than under ORS 274.705 to
23 274.860.

24 [(4)] (5) Notwithstanding **subsection (6) of this section and** any other provision of ORS 274.705
25 to 274.860, the department may not permit any interference other than temporary interference with
26 the surface of the ocean shore, as defined in ORS 390.615. The department may, however:

27 (a) Grant easements underlying that part of the surface of the ocean shore owned by the state
28 at such times and at such places as the department finds necessary to permit the extraction and
29 transportation of oil, gas or sulfur from state, federal or private lands; and

30 (b) Issue oil and gas leases underlying the ocean shore under the same terms and conditions as

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 provided in ORS 274.705 to 274.860.

2 **(6)(a) When issuing or amending a lease to facilitate the transportation of oil, the de-**
 3 **partment shall issue or amend the lease only after determining that the public need for the**
 4 **transportation of the oil outweighs any risks to public health and safety of the state posed**
 5 **by the transportation of oil. In making the determination under this subsection, the depart-**
 6 **ment shall analyze the risks of an oil spill as a result of issuing or amending the lease, in-**
 7 **cluding:**

8 **(A) The potential environmental impacts;**

9 **(B) The potential impacts to species listed under the federal Endangered Species Act of**
 10 **1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.); and**

11 **(C) Other factors that the department considers necessary to the determination.**

12 **(b) The department shall prepare a written statement of the determination made under**
 13 **this subsection and shall include with the written statement the materials and resources**
 14 **used in making the determination.**

15 **SECTION 2.** ORS 780.040 is amended to read:

16 780.040. (1) The owner of any land lying upon any navigable stream or other like water, and
 17 within the corporate limits of any incorporated town or within the boundaries of any port, may
 18 construct a wharf upon the same, and extend the wharf into the stream or other like water beyond
 19 low-water mark so far as may be necessary for the use and accommodation of any ships, boats or
 20 vessels engaged exclusively in the receipt and discharge of goods or merchandise or in the per-
 21 formance of governmental functions upon the stream or other like water.

22 (2) As used in this section[,]:

23 **(a) “Goods and merchandise” does not include crude oil.**

24 **(b) “Wharf” does not include new lands created upon submersible or submerged lands by artifi-**
 25 **cial fill or deposit.**

26 **SECTION 3.** The amendments to ORS 274.710 by section 1 of this 2017 Act apply to leases
 27 entered into or amended on or after the effective date of this 2017 Act.

28 **SECTION 4.** (1) The amendments to ORS 274.710 and 780.040 by sections 1 and 2 of this
 29 2017 Act become operative on January 1, 2018.

30 **(2) The Department of State Lands may take any action before the operative date speci-**
 31 **fied in subsection (1) of this section that is necessary to enable the department to exercise,**
 32 **on or after the operative date specified in subsection (1) of this section, all of the duties,**
 33 **functions and powers conferred on the department by the amendments to ORS 274.710 and**
 34 **780.040 by sections 1 and 2 of this 2017 Act.**

35 **SECTION 5.** This 2017 Act takes effect on the 91st day after the date on which the 2017
 36 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.