



# Oregon

Kate Brown, Governor

**State Marine Board**  
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House Committee on Natural Resources

Chair Representative Brad Witt  
Vice-Chair Representative Chris Gorsek  
Vice-Chair Representative Sherrie Sprenger  
Representative Greg Barreto  
Representative Caddy McKeown  
Representative Jeff Reardon  
Representative David Brock Smith

Dear Chair Witt, Vice-Chair Gorsek, Vice-Chair Sprenger and Members:

RE: HB 2351 Authorizes State Marine Board to adopt special regulations to protect shoreline in  
Willamette River Greenway

The Oregon State Marine Board does not have a position on this bill. The bill concept was initially shared with the agency by interested stakeholders. The agency appreciates the advanced notice and explanation of intent the stakeholders provided the agency.

In describing the application of the bill should it pass, please note that the agency had minimal involvement in the Willamette River Greenway Planning process, so our understanding of the planning process is limited.

HB 2351 will require the Marine Board to consider the Willamette River Greenway as codified in ORS 390.310 to 390.368, together with statewide land use planning goals and guidelines adopted by the Land Conservation and Development Commission, when considering boating rules on waters adjacent to the Willamette River Greenway.

In reviewing how Greenway Plans are developed under those statutes, local governments having lands along the Willamette River work with Oregon State Parks and Recreation Department to develop specific Willamette Greenway Plans. These plans can be submitted by segmented regional portions rather than as part of an entire Willamette Greenway Plan. All plans are approved by the Land Conservation and Development Commission.

As local governments work with their citizens to develop their regional Willamette Greenway Plans, presumably they will follow their own protocol for engaging their citizens. This process may vary with each local government. The bill is not clear how local governments will determine how boating activities will be represented in local government plan development and outreach.

As the Willamette River belongs to all Oregonians, it is not clear whether a local government will be required to solicit comment from state constituents in relation to their interest and priorities for boating on the Willamette River.



The Oregon Land and Development Commission when adopting Greenway Plans would likely be asked to determine a priority as it relates to water based recreation versus development described in Goal 15: Willamette River Greenway in the Oregon Statewide Planning Goals.

Thinking ahead on how HB 2351 might be applied, it is possible that during a local Greenway Plan development process there may be a component identifying which type and where a boating activity should occur. It is likely that if current boating practices didn't align with an approved local Greenway Plan, Oregon State Marine Board would be petitioned to change boating regulations based on HB 2351.

The Marine Board may find itself in a position of evaluating public use doctrine as they consider a boating rule petition under HB2531.

For instance, the Board may need to consider whether the spirit of **"390.314 (2) (b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands."** is upheld as it relates to development on the Greenway and changes in Greenway Plans that impact boating.

To be incongruous with the Willamette Greenway Plan, a boating activity would need to change the use of the land. The Board would need to determine whether a boating activity had changed the use of the land and if so, determine how that compared to other causal factors.

Examples of other public policy issues the Board may encounter include: Does a boat recreating on the river creating a wake that disturbs other users be given more or less preference than other users? Does that preference change if a boating activity existed in an area prior to the current users preferred method of river use? Does a local government developed Greenway Plan gain priority over all Oregonian's rights to access and utilize state waters? How does that preference change over time as new uses for the river emerge that conflict with existing uses?

Further complicating the decision will be the need for the Marine Board to consider what rights people have in relation to much of the Willamette River Greenway being designated a federally navigable channel. The federally navigable channel in the Willamette is important for commerce for much of our region.

The Marine Board is certainly up for the task of working collaboratively through these issues. Given the depth of these decisions, as they relate to public use doctrine, it is likely any Marine Board decision, in relation to HB2351, could subsequently return to the legislature for further consideration.

The Marine Board is committed to engaging more non boaters, in the rule making process and on its advisory committees to ensure representation from all those who may be affected by boating rules.

If I may provide any additional information or clarification, I can be reached at (503) 378-2617.

Sincerely,



Larry Warren, Director