



# Oregon

Kate Brown, Governor

## Department of State Lands

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### State Land Board

Chair Clem  
OR House Agriculture & Land Use Committee  
900 Court Street NE  
Salem, Oregon 97301

Kate Brown  
Governor

Dennis Richardson  
Secretary of State

Chair Clem and members of the House Agriculture and Land Use Committee;

Tobias Read  
State Treasurer

In preparation for the public hearing scheduled on Thursday, March 21, 2019, the Department of State Lands (DSL) has reviewed HB2796, a bill that addresses development in areas identified as wetlands, and would like to submit the following comments for your consideration:

1. ORS 196.672 (4) requires the state to *"Maintain a stable resource base of wetlands through the mitigation of losses of wetland resources and the adoption of the procedural mitigation standard currently used by federal agencies."* The procedural mitigation standard currently used by federal agencies is a no net loss wetland policy, or a 1:1 mitigation to impact area minimum ratio for mitigated wetlands. HB2796 contradicts this federal requirement.
2. This contradiction could result in developers finding themselves out of compliance with federal regulations, even if a state permit for filling degraded wetlands was issued.
3. **Moreover, this contradiction would result in Oregon Removal-Fill Law ceasing to be equivalent to the federal Clean Water Act standards, creating a barrier to the potential of pursuing a 404 assumption program, a policy decision that has been pursued at some length recently by the EPA and Oregon stakeholders, including the DSL and the legislature.**
4. Should HB2796 pass, DSL believes this approach would create an incentive to degrade Oregon's wetlands prior to initiating the permitting process.
5. Allowing one acre of wetland to compensate for four acres of filled wetland:
  - a. results in the net loss of the many environmental and societal benefits that wetlands provide such as storing and delaying water to provide flood protection, and retaining nutrients and pollutants for clean water;
  - b. does not account for losses that led to the wetland being "degraded", so the actual net loss in wetlands would be even higher than 1:4.

Thank you for your consideration of these potential policy impacts of HB2796. DSL appreciates the state's current development demands and looks forward to working with the legislature in finding ways to encourage development that provides for the state's needs while protecting our wetland resources. We hope that the analysis of the policy impacts of HB2796 is helpful in your consideration of this bill.

Thank you,

Bill Ryan  
Deputy Director  
Oregon Department of State Lands