

HB 2438 -2, -3, -4 STAFF MEASURE SUMMARY

House Committee On Agriculture and Land Use

Prepared By: Laura Kentnesse, LPRO Analyst

Meeting Dates: 3/21

WHAT THE MEASURE DOES:

Directs the Department of State Lands (DSL) to conduct a study on issues related to wetlands mitigation, including: whether there is a sufficient quantity of mitigation banks and credits available in Oregon; the current geographic distribution of, and need for, mitigation banks and credits; strategies for lowering the cost of mitigation credits; strategies for reducing risks for the private sector to invest in the creation of mitigation banks; and whether the state should play a role in the creation or ownership of mitigation banks. Requires that DSL submit a report on the results of the study to the legislative interim committees related to agriculture and natural resources by September 15, 2019. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Eliminates certain restrictions on the purchase of credits from the Oregon Removal-Fill Mitigation Fund. Specifies that credits may be purchased from the Oregon Removal-Fill Mitigation Fund when mitigation bank credits are also available in the same region.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

-3 Establishes the Oregon Mitigation Bank Corporation.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

-4 Appropriates moneys from the General Fund to the Department of Administrative Services for distribution to the Oregon Cascades West Council of Governments (OCWCOG) to be used to hire employees, solicit bids, and to contract as needed: to identify compensatory mitigation needs and opportunities in the region served by OCWCOG, and to develop, in a way that may be used as a model for other local governments, a business model and strategic plan for addressing identified compensatory mitigation needs through the development of a local, public wetland mitigation bank.

Appropriates moneys from the General Fund to DSL for providing responses to wetland land use notices received from local governments.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

BACKGROUND:

Compensatory mitigation aims to replace aquatic resource functions and values that are lost due to removal-fill project impacts. Current compensatory mitigation options include purchasing credits from a mitigation bank or in-lieu fee project, permittee-responsible mitigation, and payment-in-lieu mitigation. Purchase of mitigation bank credits is the option most frequently used by developers in recent years, with 21 banks operative in Oregon and

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4-5 additional banks in process. Mitigation banks set the price of their credits and release them over time, typically over five to seven years, as the project achieves performance measures for aquatic resource improvement.

ORS 196.674 directs the Department of State Lands (DSL) to compile and maintain a comprehensive Statewide Wetlands Inventory (SWI), and to revise the inventory maps as new or more complete information becomes available. In recent years, the SWI has consisted of the National Wetlands Inventory (NWI), Local Wetlands Inventories (LWI), and wetland delineations. In 2018, DSL updated the SWI to add and integrate the National Hydrography data set and Natural Resources Conservation Service soil data sets. These changes will result in the SWI now showing areas that have a high probability of containing wetlands. The increased map coverage is expected to result in local jurisdictions submitting an increased number of Wetland Land Use Notices (WLUN) to DSL under ORS 196.676, 215.418, and 227.350. DSL estimates an approximate 50 percent annual increase from 481 WLUN to 732 WLUN per year on average.

House Bill 2438 would direct the Department of State Lands to conduct a study on issues related to wetlands mitigation and submit a report to the Legislative Assembly by September 15, 2019.