

“Dear Chair Dembrow and Committee

HB 2351 was written as a revised version of HB4138 from the 2018 Short Session and is intended to clarify legislative intent with respect to OSMB’s authorities to promote safety for persons and property in and connected with the use of boats per ORS 830.100 within the waters of the Willamette Greenway.

Historically, OSMB has taken the position their authorities to manage recreational boating for the purposes of protecting “property” do not extend to protecting shoreline from damage caused by the intentional generation of high energy wakes/waves.

The following video of testimony from the Public Hearing for HB 4138 before the Senate Business and Transportation Committee last session provides a good example of the agency’s views on their authorities to protect shoreline

Play video

https://drive.google.com/file/d/1cjKjLWLZPmYZ6atyKr2PDNGP59_hxEM_/view?usp=sharing

Following the hearing, ORSPA asked Director Warren to further clarify the OSMB position. Director Warren consulted with legal counsel and confirmed that the agency does not share Sen Beyer's view with respect to OSMBs authorities: *“We have completed our review and confirmed with our AG that our position is legally defensible. Here is our position on this topic - The OSMB’s authority on promulgating rules with a focus on erosion mitigation is not clear. As a state agency, we can only act within the authority we are given so OSMB staff would advise the Board that their authority on this issue is not clear. The agency’s position on our authority to promulgate rules based solely on erosion is the same regardless of the entity or individual (state agency or citizen) making the rulemaking request”*

<https://drive.google.com/open?id=10w85tGAimxg5HEIzmNaiglTNxGQaoVnh>

HB 2351 was written to:

- Eliminate any confusion over what the agency has the authority to do with respect to protecting shoreline and give the agency the same general guidance with respect to the Greenway that all of the other agencies/municipalities are following. This will provide a common baseline by which they could develop an interagency masterplan for the waterway (which is what is needed to get a long-term solution in place and provide some stability to property owners, businesses, and the general public as to how recreational activities on the waterway will be managed).

OSMB is licensing the boats who activities have let us to this point. As a group of concerned citizens, we are working hard to bring clarity with scientific data to all state agencies who are involved in protecting the Willamette Greenway. If OSMB is not involved in the discussion due to a policy gap issue, we will be back here again next year, with more loss to property and the ecosystem along the Willamette River. Please support our bill and let our agencies begin working together.

Katie Farrell
ORSPA President