

**HB 2835 B STAFF MEASURE SUMMARY**

Carrier: Sen. Dembrow

**Senate Committee On Environment and Natural Resources****Action Date:** 05/14/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 5-0-0-0**Yeas:** 5 - Bentz, Dembrow, Olsen, Prozanski, Roblan**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Beth Patrino, LPRO Analyst**Meeting Dates:** 5/7, 5/14**WHAT THE MEASURE DOES:**

Defines "public access site" as a site on state public lands where the public may access the lands for recreational use of a floatable natural waterway. Requires state agencies to post notice on agency's website 30 days prior to date of restricting or closing access to a public access site. Lists circumstances when posting is not required. Requires state agencies that restricted, closed, opened, or reopened access to a public access site, submit report on number of restrictions or closures of public access sites to Legislative Assembly on or before January 1 each year. Stipulates measure does not impact agency jurisdiction or responsibility. Authorizes state agencies to adopt rules to carry out provisions of measure. Declares that measure does not restrict federal navigation servitude or restrict or expand any rights persons have under common law. Defines "project" as the construction of a new bridge or improvements to an existing bridge over a floatable natural waterway; specifies "project" does not include existing bridge maintenance. Requires Oregon Department of Transportation (ODOT) notify Department of State Lands (DSL), Oregon State Parks and Recreation Department (OPRD), and Oregon State Marine Board (OSMB) when recommending such projects for funding under draft Statewide Transportation Improvement Program (STIP) unless: proposed project is on limited access highway or ferry terminal; or ODOT determines that siting public access near proposed project is not feasible. Allows DSL, OPRD, and OSMB to propose changes to ODOT-proposed projects to enable public access and to provide ODOT with estimate of: availability of funding from other sources than State Highway Fund for public access sites near proposed project; likelihood and type of potential public use of public access near proposed project; and any impacts associated with existing public access near proposed project. Prohibits state agency that proposes project from altering purpose or need of project based on proposed changes. Requires ODOT, prior to approval of project funding under STIP, consider estimates of: available funding from State Highway Fund and other sources; likelihood and type of any potential public use of public access site; impacts associated with existing public access near proposed project; and impacts on traffic, roadways, or highway safety from existing public access near proposed project. Requires ODOT, to greatest extent practicable, not adversely impact existing lawful public access. Takes effect on the 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

- Unintended consequences of closing public waterway access sites
- Opportunities to improve public access
- Tracking trends in public waterway access

**EFFECT OF AMENDMENT:**

Clarifies process and factors the Oregon Department of Transportation must consider after receiving proposed changes to a bridge construction or improvement project.

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### **BACKGROUND:**

The public has the right to use an Oregon waterway for recreation if the waterway is navigable for title purposes, if the waterway is floatable for purposes of the Public Use Doctrine, or if it is both. If a waterway is navigable for title purposes, a person may generally use the beds and banks up to the line of ordinary high water. Any activity allowed on other public lands is permissible up to the line of ordinary high water. A person may go above the ordinary high water line only if absolutely necessary. The Department of State Lands is responsible for the management of state-owned waterways.

House Bill 2835B would require a state agency to post notice on its agency website before restricting or closing a public access site to a floatable natural waterway. The measure would also require agencies to report annually to the Legislative Assembly on any public access sites restricted, closed, opened, or reopened in the previous calendar year.