

Senate Bill 793 with –1 Amendment: Undersea Cable Easements in Oregon’s Territorial Sea

Allows fair payment for easements in the territorial sea, ensures fees cover the cost of issuing those easements, gives DSL rulemaking authority.

Background

The State Land Board and the Department of State Lands oversee Oregon’s publicly owned waterways, which include many rivers, lakes, and our territorial sea – the Pacific Ocean from shoreline to three geographical miles offshore. Easements for use of the territorial sea and other Oregon-owned waterways are approved by the Land Board.

For decades, international telecommunication cables have been placed in our territorial sea. In 2021, after equipment was abandoned beneath the seafloor during a cable installation, the Legislature passed [HB 2603](#). This bill established decommissioning requirements for undersea cables in the territorial sea and directed the Department of Land Conservation and Development to update the requirements for cable placement in Oregon’s Territorial Sea Plan. As the agency that issues territorial sea easements, DSL is responsible for implementing the new, more robust requirements. These requirements include the convening of a Joint Agency Review Team, a critical infrastructure analysis, decommissioning and recovery plans, and completion of a resource inventory.

Statute currently does not allow the state to be adequately compensated for territorial sea easements. DSL can charge a one-time application fee of \$5,000, which has not been sufficient to cover costs. For recent easements in the territorial sea, DSL has also negotiated with companies for a one-time payment to remove a future imposition of fees clause from the standard easement agreement. But DSL cannot seek payment for an entity’s long-term use of the seabed.

In August 2023, the State Land Board approved a territorial sea easement for Amazon’s Bifrost cable landing in Tillamook County; deliberations included thoughtful discussion regarding compensation and the Board directed DSL to examine the issue. In February 2024, the Land Board approved DSL moving forward with this legislative concept to address territorial sea easement compensation and application fees.

Issues Addressed: Law Prevents Payment, Fees Inadequate to Cover Costs

Limitations of existing statutes mean:

- ***The people of Oregon don’t receive fair payment for long-term use of public resources.*** The current statutory prohibition on payment for easements in the

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territorial sea means the people of Oregon do not receive compensation for use of a resource that belongs to them. In contrast, both Washington and California receive payment for cable easements in their territorial seas.

- ***Inadequate fees may lead to subsidy of easements.*** The existing \$5,000 application fee for territorial sea easements will not cover the cost of implementing new state planning requirements. Revenue generated by other program areas such as waterway leases, or interest earnings of the statutory Common School Fund, currently covers the administrative cost of issuing these easements as necessary.

Solution: Set Appropriate Payment Rates and Fees via Stakeholder-Informed Rulemaking Process

SB 793 would provide DSL with the authority to set appropriate application and renewal fees and payment rates for easements in the territorial sea, and for water, gas, electric, and telecommunication/communication infrastructure, through the state's administrative rulemaking process.

Fiscal Impact

None. DSL's current service level budget for 2025-27 can support development of robust, meaningful engagement via a rulemaking process, with the support of a contracted facilitator's expertise.

DSL Contact

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