

March 26, 2025

**TO:** Senate Committee on Rules  
**FR:** Sharla Moffett, Oregon Business & Industry  
**RE:** SJR 28

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Chair Jama, Vice Chair Bonham and Members of the Committee,

I'm Sharla Moffett, senior policy director for Oregon Business and Industry.

OBI opposes SRJ 28 and the -1 amendment because we are concerned that this bill could devastate the future vitality of Oregon's communities.

The proposed constitutional amendment would establish environmental rights as *inherent* and *fundamental*--so the highest environmental protections under constitutional law. This bill would put environmental rights on the same level as the right to due process and equal protection. The legal standard of review for fundamental rights is that any infringement must be shown to be due to a "compelling state interest."

This is an extremely high legal standard and would make it exceptionally difficult for Courts to grapple with such a law. Perhaps this compelling state interest standard could be met for a housing project, but would it support development for the purpose of health care services, retail businesses, or transportation infrastructure to improve safety and reduce congestion?

The terms "clean air," "clean water," "thriving ecosystems" and "stable climate system" could be highly subjective and are not defined in the bill. It is unclear what, for example, a thriving ecosystem looks like in a city, on a farm, at an airport, mall, ballpark or ski area. What might be considered "stable" could vary wildly across our state and what an environmental lawyer from Portland and a farmer from Culver view as a stable and thriving natural environment are likely to be very different.

The proposed amendment wavers between what sounds like a very high purity standard and the requirement to conserve and maintain natural resources against "substantial impairment." Is air quality substantially impaired only if air or water quality standards are being exceeded? What would the equivalent standard be for a "thriving ecosystem?"

Additionally, legal action can be taken based on *action or inaction* and applies to allowing *harm or the threat of harm to the environment*. If I'm the owner of a small Christmas tree farm and I don't take action to reduce the footprint of my Christmas tree crop and restore biological diversity using native plants that would contribute to a thriving ecosystem, could I be sued and forced to do just that? If I don't harvest the Christmas trees at the appropriate time and they become overcrowded and susceptible to drought, could I be held liable for the "threat" of harm to the environment?

We are not trying to be absurd or hyperbolic. This proposed amendment could result in myriad unintended consequences that we cannot fully imagine and would truly place Oregon's fate in the hands

of trial lawyers. It would further damage our fragile economy and make Oregon an even less appealing state to do business in. And we are already the third least business-friendly state in the nation.

OBI supports robust regulatory programs that maintain a clean, healthy and safe environment through clear and reasonable rules. A broad and ambiguous constitutional amendment establishing a right to a clean, healthy and safe environment could open a massive new labyrinth of legal action and paralyze otherwise lawful activities in the state.

We urge the committee to oppose SJR 28.

Thank you.

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