

**HB 2796 A STAFF MEASURE SUMMARY**  
**House Committee On Agriculture and Land Use**

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**Action Date:** 04/09/19

**Action:** Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

**Vote:** 6-0-1-0

**Yeas:** 6 - Clem, Helm, McLain, Post, Smith DB, Williams

**Exc:** 1 - Boshart Davis

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Laura Kentnesse, LPRO Analyst

**Meeting Dates:** 3/21, 4/4, 4/9

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**WHAT THE MEASURE DOES:**

Requires the Department of State Lands (DSL) to develop rules to allow removal and fill of degraded wetlands for needed housing projects by general permit or authorization by January 1, 2021. Specifies that the permit or authorization cannot require compensatory mitigation at a ratio greater than one acre of restored wetlands per four acres of impacted degraded wetlands. Defines "degraded wetlands" as wetlands in poor condition with diminished functions and values due to specified types of hydrologic manipulation. Allows DSL to suspend, modify, or revoke these rules if needed, to obtain the authority to issue or administer Federal Water Pollution Control Act section 404 permits.

**ISSUES DISCUSSED:**

- Relationship between housing development and wetland mitigation
- Housing costs and proximity to workplaces in rural communities
- City of Sheridan workforce housing project
- Short-term versus long-term strategies to reduce wetland mitigation costs
- Variation in wetland quality and function in the Willamette Valley
- Federal compensatory mitigation ratio baseline regulation
- National flood insurance program

**EFFECT OF AMENDMENT:**

Allows DSL to suspend, modify, or revoke these rules if needed, to obtain the authority to issue or administer Federal Water Pollution Control Act section 404 permits.

**BACKGROUND:**

The Department of State Lands (DSL) regulates "waters of the state" to protect, conserve, and provide for the best use of those aquatic resources. Oregon's Removal-Fill Law requires people who plan to remove or fill material in wetlands or waterways to obtain a removal-fill permit from DSL. The permit process includes documentation on how a proposed project will reduce adverse effects to aquatic resources, and how unavoidable impacts will be offset by actions to replace the area, functions, and values of the loss.

Compensatory mitigation aims to replace aquatic resource functions and values that are lost due to removal-fill impacts. OAR 141-085-0690 establishes the following minimum ratios for compensatory mitigation: one acre of restored wetland for one acre of impacted wetland (1:1), 1.5 acres of created wetland for one acre of impacted wetland (1.5:1), three acres of enhanced wetland for one acre of impacted wetland (3:1), and two acres of enhanced cropped wetland for one acre of impacted wetland (2:1). DSL determines the ratio of preserved wetland to impacted wetland on a case-by-case basis.

## **HB 2796 A STAFF MEASURE SUMMARY**

House Bill 2796 A would require DSL to develop rules to allow removal and fill of degraded wetlands for needed housing projects by general permit or authorization by January 1, 2021, and establish a compensatory mitigation ratio for such approvals. The measure would also allow DSL to change those rules if needed, to obtain the authority to issue or administer Federal Water Pollution Control Act section 404 permits.