

HB 2438-2
(LC 2730)
3/18/19 (MAM/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Representative Brian Clem)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2438**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and insert “amending ORS 196.643.”.

3 Delete lines 4 through 20 of the printed bill and insert:

4 **“SECTION 1.** ORS 196.643 is amended to read:

5 “196.643. (1) A person who provides off-site compensatory mitigation in
6 order to comply with a condition imposed on a permit in accordance with
7 ORS 196.825 (5), an authorization issued in accordance with ORS 196.800 to
8 196.905 or a resolution of a violation of ORS 196.800 to 196.905 may make a
9 payment for credits to **an approved mitigation bank with available**
10 **credits or to** the Oregon Removal-Fill Mitigation Fund. [*when:*]

11 “[*(a) Credits from an approved mitigation bank are not available; or*]

12 “[*(b)(A) Credits from an approved mitigation bank were not available in a*
13 *region at the time the first payment for credits was made to the Oregon*
14 *Removal-Fill Mitigation Fund; and*]

15 “[*(B) The expenses associated with a Department of State Lands mitigation*
16 *bank project in the region in accordance with this section and ORS 196.650*
17 *have not been fully recovered by the Department of State Lands.*]

18 “(2) Any payments for off-site compensatory mitigation made to the
19 Oregon Removal-Fill Mitigation Fund under subsection (1) of this section
20 must be sufficient to cover the costs and expenses of land acquisition, project
21 design and engineering, construction, planting, monitoring, maintenance,

1 long-term management and protection activities, administration and other
2 costs and expenses related to the off-site compensatory mitigation, which
3 may vary depending on the region of this state where the off-site
4 compensatory mitigation is conducted, and shall be calculated by the De-
5 partment of State Lands as follows:

6 “(a) If the off-site compensatory mitigation project and project costs and
7 expenses are identified at the time of payment to the Oregon Removal-Fill
8 Mitigation Fund, the department shall calculate the payment based on the
9 actual costs and expenses of the off-site compensatory mitigation.

10 “(b) If the off-site compensatory mitigation project and project costs and
11 expenses are not identified at the time of payment to the Oregon Removal-
12 Fill Mitigation Fund, the department shall calculate the payment based on
13 the estimate of costs and expenses for off-site compensatory mitigation, as
14 set forth in rules adopted by the department, for the region of this state
15 where the department, to the greatest extent practicable, determines the
16 off-site compensatory mitigation may be conducted.

17 “(3) No later than December 1 of each year, the Director of the Depart-
18 ment of State Lands shall submit to the Legislative Assembly and the State
19 Land Board a detailed report that specifies:

20 “(a) The costs and expenses related to off-site compensatory mitigation,
21 including variations and trends in costs and expenses over time.

22 “(b) Efforts undertaken by the department to reduce the costs and ex-
23 penses specified in paragraph (a) of this subsection.

24 “(c) Efforts undertaken by the department to improve efficiencies of the
25 department related to off-site compensatory mitigation.

26 “(d) The effectiveness of the July 2010 ‘Oregon Rapid Wetland Assessment
27 Protocol’ of the department in protecting the functions and values of
28 wetlands through off-site compensatory mitigation.”.

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