

HB 2238 B STAFF MEASURE SUMMARY**Carrier:** Sen. Taylor**Senate Committee On Natural Resources****Action Date:** 05/17/23**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 3-1-1-0**Yeas:** 3 - Golden, Prozanski, Taylor**Nays:** 1 - Smith DB**Exc:** 1 - Girod**Fiscal:** Fiscal impact issued**Revenue:** Revenue impact issued**Prepared By:** Laura Kentnesse, LPRO Analyst**Meeting Dates:** 4/26, 5/17**WHAT THE MEASURE DOES:**

Defines "personal property." Authorizes the Department of State Lands (DSL) to remove, store, and dispose of personal property left on state lands without authorization, as determined by DSL or by law. Requires that DSL post written notice prior to the removal of personal property, and specifies notice requirements. Specifies requirements for removal timing, manner and location of storage, and disposal methods. Requires that DSL store personal property for 30 days. Exempts DSL from liability for conversion of removed, stored, returned, donated, or disposed of personal property and authorizes DSL to collect costs associated with these processes. Authorizes DSL to immediately, and without providing notice, remove and dispose of property that: is not personal property; creates an exceptional emergency; or presents an immediate danger to human life or safety. Specifies that personal property provisions become operative on January 1, 2024, and allows DSL to take any needed actions before the operative date. Requires the DSL Director to adopt rules establishing fees for removal or fill permit applications, wetland delineation report review, and general authorizations. Requires the Director to evaluate the impact of fully recovering, through fees, the costs of administering the removal and fill program. Requires the Director to establish project tiers for certain fees. Directs DSL to submit a report to environment, land use, and natural resources-related committees of the Legislative Assembly by February 15, 2025, that describes the department's rulemaking progress. Removes specific fee amounts from statutes. Defines "riprap" as the facing of a streambank with rock or similar substance to control erosion in accordance with rules adopted by DSL in the context of mitigation, wetland conservation plans, and removal or fill activities. Specifies that the fee provisions become operative on the earlier of the effective date of the adopted rules or January 1, 2026. Requires rule adoption by January 1, 2026. Allows DSL to take any needed actions before the operative date.

ISSUES DISCUSSED:

- School children effectively subsidizing the removal fill program via the Common School Fund
- Philosophical differences on funding the removal fill program through General Fund, fees, or the Common School Fund
- History of Land Board discussions on this issue
- Potential for a fee cap or annual adjustment to the Consumer Price Index
- Potential for a tiered approach to the fee structure through rulemaking
- Impact of fees on development projects, including affordable housing projects
- DSL storage of personal property for 30 days under the measure, compared to the current three-year storage requirement

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EFFECT OF AMENDMENT:

Requires the Director of the Department of State Lands (DSL) to adopt rules establishing fees for removal or fill permit applications, wetland delineation report review, and general authorizations. Requires the Director to evaluate the impact of fully recovering, through fees, the costs of administering the removal and fill program. Requires the Director to establish project tiers for certain fees. Directs DSL to submit a report to environment, land use, and natural resources-related committees of the Legislative Assembly by February 15, 2025, that describes the department's rulemaking progress. Removes specific fee amounts from statutes. Defines "riprap" as the facing of a streambank with rock or similar substance to control erosion in accordance with rules adopted by DSL in the context of mitigation, wetland conservation plans, and removal or fill activities. Specifies that the fee provisions become operative on the earlier of the effective date of the adopted rules or January 1, 2026. Requires rule adoption by January 1, 2026. Allows DSL to take any needed actions before the operative date. Removes effective date.

BACKGROUND:

Recreation on state-owned land is typically allowed but limited to a period of 30 days. Currently, personal property that is left on state lands without authorization is removed by the Department of State Lands (DSL) and must be held in safekeeping for a period of up to three years.

At statehood, Oregon granted 3.4 million acres of the new state's land for the support of public schools. The State Land Board is the trustee responsible for the management of those lands and the associated Common School Fund. The State Treasurer invests those funds to ensure a healthy and robust portfolio, and to ensure optimal annual distributions to each of Oregon's 197 K-12 public school districts. A record \$72.2 million was given to schools from the Common School Fund in 2023. The Oregon Constitution allows the State Land Board, and by extension DSL, to use the Common School Fund to carry out its powers and duties. As the manager of the state removal fill program, DSL uses the Common School Fund to pay for the majority of program costs. Currently fees for removal fill permits are set in statute, and only cover approximately 25 percent of the costs of the program; the Common School Fund pays the remaining 75 percent of program costs.

House Bill 2238 B would authorize DSL to remove, store, and dispose of personal property left on state lands without authorization, and would require the DSL Director to adopt rules establishing fees for removal or fill permit applications, wetland delineation report review, and general authorizations, rather than specify those fees in statute.