

Enrolled
House Bill 3382

Sponsored by Representatives JAVADI, GOMBERG, Senators SMITH DB, WOODS; Representatives BOICE, BOWMAN, EVANS, HELM, HIEB, STOUT, WRIGHT, Senators ANDERSON, HAYDEN, MANNING JR, WEBER (at the request of Oregon Public Ports Association)

CHAPTER

AN ACT

Relating to ports; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 197.

SECTION 2. (1) Deep draft navigational channel improvements are a reason a local government may adopt an exception under ORS 197.732 (2)(c)(A) to a land use planning goal related to estuarine resources in order to redesignate or rezone natural and conservation estuary management units within a deep draft development estuary, provided that the improvements are:

(a) Carried out in a manner that includes mitigation, as defined in ORS 196.800, of adverse impacts to ensure no net loss of estuarine resources and the affected aquatic and shore areas and habitats;

(b) Of the location, design and minimum extent necessary for the use;

(c) Applied for by a public port or an eligible Indian tribe, as defined in ORS 285C.306;

(d) Within the jurisdiction of the Oregon International Port of Coos Bay;

(e) Not including or relying upon the commercial processing, importing or exporting of fossil fuels, other than existing facilities providing fuel storage or distribution;

(f) Applied for by an applicant that has issued a report that sets forth:

(A) The identification of anticipated financing sources for the deep draft navigation channel improvements; and

(B) An estimate of the number of jobs that will be created as a result of the improvements; and

(g) Conducted in accordance with a plan that:

(A) Is developed, in consultation with local Indian tribes, for:

(i) Archaeological objects, human remains, funerary objects and sites of archaeological significance, as those terms are defined in ORS 358.905; and

(ii) Archaeological sites identified on an inventory of the State Parks and Recreation Department, a tribal historic preservation officer or local government;

(B) Avoids or, if avoidance is not practicable, mitigates adverse impacts to such remains, sites or objects, including by preservation in situ or recovery with permanent protection; and

(C) Identifies procedures and requirements to occur should an inadvertent discovery of such remains, sites or objects occur.

(2) As used in this section:

(a) "Deep draft navigation channel improvements" means dredging for the purposes of:
(A) Deepening or widening the existing federal navigation channel as necessary to accommodate vessels that would use the proposed water-dependent uses;

(B) Establishing a new access channel, or modifying an existing access channel, that is directly between the federal navigational channel and any of the following structures identified in the application for which the exception is adopted under this section:

- (i) Navigation support structures; or
- (ii) Docks, wharfs or similar ship berthing structures;

(C) Establishing a turning basin necessary for the safe navigation of vessels utilizing the federal navigation channel or access channel; or

(D) Enabling the construction or maintenance of necessary structural support for docks, wharfs or similar ship berthing facilities or navigation aids.

(b) "Deep draft navigation channel improvements" does not include:

- (A) Dredge material disposal; and
- (B) Fill to create new upland areas.

SECTION 3. Nothing in section 2 of this 2023 Act affects the rules or permitting authority of the Department of State Lands, the Department of Transportation, the State Parks and Recreation Department, the State Department of Fish and Wildlife or the Department of Environmental Quality.

SECTION 4. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House June 8, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 24, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State