



Oregon

Tina Kotek, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

Tina Kotek

Governor

March 1, 2023

To: House Committee on Agriculture, Land Use, Natural Resources, and Water
Representative Ken Helm, Chair
Representative Annessa Hartman, Vice-Chair
Representative Mark Owens, Vice-Chair

Shemia Fagan
Secretary of State

Tobias Read
State Treasurer

From: Bill Ryan, Deputy Director, Oregon Department of State Lands

Re: Testimony on House Bill 2238

Chair Helm, Vice-Chair Hartman, Vice-Chair Owens, and members of the committee. My name is Bill Ryan and I am the Deputy Director of the Oregon Department of State Lands. I appreciate the opportunity to speak with you today in support of House Bill 2238.

DSL is the administrative agency of the State Land Board, which oversees the lands granted to Oregon at statehood "for use of schools" and the Common School Fund. DSL manages those school lands to contribute revenue to the Fund, which sends millions of dollars to our public schools every year – \$72.2 million in 2023.

DSL also oversees Oregon's public waterways, issuing authorizations for waterway leases and uses, and Oregon's Removal-Fill Law, issuing permits for projects that remove or fill materials in wetlands and waterways.

DSL's mission is to ensure Oregon's school land legacy and protect wetlands and waterways of the State through superior stewardship and service.

DSL continually seeks opportunities to increase revenue to the Common School Fund by examining program operations. Comprehensive analysis of removal-fill and waterways program operational costs and revenue determined:

- **The Common School Fund is heavily subsidizing removal-fill permitting.** DSL analyzed financial data for the past six years and determined the Common School Fund expends, on average, \$1.65 million annually to cover removal-fill program costs. Fees paid by permit applicants cover just 25 percent of removal-fill permit program costs.
- **The existing removal-fill fee structure does not align with the actual permitting process, resulting in years of unmet costs.** Applicants currently pay an application base fee and a volume fee, which is calculated based on how much material is removed or

filled. Volume is an inaccurate indicator of a project's scope and complexity, and an inadequate predictor of the staff time and resources needed for the permitting process.

- **Removal-fill fee adjustments currently allowed in statute are inadequate, contributing to the financial gap.** Removal-fill permit fees are currently specified in ORS 196.815 which allows only for an annual adjustment based on the consumer price index. In contrast, waterway fees are set in rule per ORS 274.876, which allows for periodic adjustments to ensure alignment of costs and fees.
- **The extreme costs associated with waterway cleanups have an ongoing impact on the Common School Fund.** The Governor's Budget includes \$18.7 million to remove abandoned and derelict vessels that have accumulated in Oregon's public waterways. Currently DSL is required to hold personal property for two years in accordance with the requirements found in ORS 98.336 (2). This two-year personal property holding requirement, developed at a time when the state was not responding to a high volume of abandoned vessels, adds expense and risk to cleanup activities.

At the request of the State Land Board and with input from stakeholders, DSL proposes addressing the above issues by modifying ORS 196.815 through ORS 196.818 to allow the Director to adopt rules establishing removal-fill program fees, as well as outlining criteria that will be considered in developing the structure and amount of fees.

If HB 2238 becomes law, DSL will engage in a robust and thoughtful rulemaking process, working with stakeholders and the public to examine options for modernizing the removal-fill program fee structure, propose an updated fee structure for consideration, and ultimately adopt the new structure in rule. A Rulemaking Advisory Committee that includes representatives of the regulated public and beneficiaries of the Common School Fund will guide development of a draft rule, which when ready will be circulated in a public review and comment period featuring multiple opportunities for public input via in-person and virtual public hearings, as well as opportunities to provide written feedback.

Section 12 of HB 2238 provides DSL two years to complete the rulemaking process, and for the Director to adopt rules. If DSL fails to do so, the fees simply remain as currently listed in ORS 196.

Sections 13 through 15 of HB 2238 address how long DSL must hold personal property left on state-owned lands managed by DSL. Reducing the holding timeframe for personal property collected during removal of ADVs and cleanup of long-term campsites along waterways will decrease costs and liability associated with waterway cleanup activities.

DSL is proposing modifying ORS 273 to allow for specific cases where DSL may remove, store, or dispose of personal property after 30 days. Similar legislation was passed in 2011, relating to personal property on state highways via SB 447, now ORS 377.650.

The modifications proposed in this bill are one element of DSL's continuous efforts to improve permitting processes. For example, DSL's new online permitting and information system is being designed to greatly enhance the ease and efficiency of removal-fill and waterway use application processes.

DSL is currently meeting demand for removal-fill program services with existing staff and doing so within statutory deadlines for making permitting decisions. Though demand for service can vary depending on external factors such as economic conditions, DSL has seen consistently high permit application numbers for several biennia.

Overall, HB 2238 will allow DSL to continue to provide exceptional service to permit applicants as well as exceptional stewardship of Oregon's waterways and wetlands, while also addressing the unacceptable financial burden removal-fill and waterway programs currently have on the Common School Fund.

Thank you for the opportunity to provide this testimony. I am happy to answer any questions.