

SB 793 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 1/30, 2/18, 2/25

WHAT THE MEASURE DOES:

The measure modifies authority for the Department of State Lands to establish and impose application and renewal fees, as well as compensation rates, for easements on state land to construct, maintain and decommission water, gas, electric, communication or telecommunication service lines, fixtures or other facilities.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: No revenue impact.

Detailed Summary:

Modifies and increases existing authority for the Department of State Lands' (DSL) to conduct rulemaking to establish one-time application fees to maintain and decommission water, gas, electric, and communication fixtures or other facilities on state lands, and requires DSL to establish application and renewal fees to construct, maintain and decommission telecommunication service lines on state lands.

Clarifies that application and renewal fees shall be reasonably calculated to offset the costs to DSL for granting and renewing easements on state land. Directs the Director of the DSL to adopt rules to establish fees and compensation rates no later than January 1, 2028, and requires DSL to submit a report but February 15, 2027 describing DSL's progress in implementing the amendments to ORS 273.058 (2023) which describes current application fees for easements to construct facilities on state land. Maintains that DSL shall continue to impose the following one-time application fees for easements to construct the facilities described above as;

- a. \$5,000, for easements on state land located within the territorial sea; or
- b. \$750, for easements on state land other than that described not within the territorial sea.

Sunsets clause of January 2, 2028 to the application fees outlined above. Directs DSL to continue to impose existing fee until proposed fees are effective. Takes effect on the 91st day after the 83rd Legislative Assembly adjourns sine die.

ISSUES DISCUSSED:

- Definition of territorial sea
- Types of cables being placed within territorial sea
- Department of State Lands rulemaking process for easement fees
- Federal processes for territorial sea easement approval
- Other state fees related to territorial sea easements

EFFECT OF AMENDMENT:

-1 Replaces measure. Limits scope of act to rulemaking authority related to easements in the territorial sea.

Modifies and increases existing authority for the Department of State Lands' (DSL) to conduct rulemaking to establish one-time application fees to maintain and decommission water, gas, electric, and communication fixtures or other facilities on **state lands located within the territorial sea**, and requires DSL to establish **application fees, application renewal fees and compensation rates** to construct, maintain and decommission telecommunication service lines on **state lands within the territorial sea**.

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Clarifies that application fees and application renewal fees shall be reasonably calculated to offset the costs to DSL for granting and renewing easements on state land. Directs the Director of DSL to adopt rules to establish fees and compensation rates no later than **January 1, 2027** and requires DSL to submit a report by **February 15, 2026** describing DSL's progress in implementing the amendments to ORS 273.058 (2023) which describes current application fees for easements to construct facilities on state land. Maintains that DSL shall continue to impose the one-time application fee for \$5,000.

Directs DSL to continue to impose existing fee until proposed fees are effective. Declares emergency, effective on passage.

Fiscal impact: Has minimal fiscal impact.

Revenue impact: No revenue impact.

-2 Replaces measure.

Modifies authority for the Department of State Lands' (DSL) to impose a one-time application fee of \$750 to maintain and decommission water, gas, electric, and communication fixtures or other facilities on **state lands not within the territorial sea**, and requires DSL to impose a one-time application fee of \$20,000 and an application renewal fee of \$1,000 for an easement to construct telecommunications, data or scientific cables on state land within the territorial sea.

Sets application approval or denial deadline of within 180 days after receipt of the application. Requires the Director of DSL to conduct rulemaking to establish **application fees, application renewal fees and compensation rates** to construct, maintain and decommission water, gas, electric, and communication fixtures or other facilities on **state lands within the territorial sea**. Directs the Director of DSL to adopt rules to establish fees and compensation rates by January 1, 2027 and requires DSL to submit a report to committees of the legislative assembly relating to environment, land use, and natural resources that details the department's progress.

Maintains that DSL shall continue to impose the one-time application fee for \$5,000 to maintain and decommission water, gas, electric, and communication fixtures or other facilities on **state lands within the territorial sea**.

Declares an emergency, effective on passage.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

BACKGROUND:

The Department of State Lands works on behalf of the State Land Board to manage land and mineral and energy rights statewide. Lands managed by DSL include agricultural, forested, and grazing lands; industrial, commercial, and residential lands; mineral and energy resources; and special stewardship lands. Revenue from leases, easements, and other authorizations to use school lands goes to Oregon's Common School Fund.

Oregon's territorial sea, a 3-mile strip of ocean under state jurisdiction, is managed by both state and federal agencies for public benefit. The Oregon Territorial Sea Plan (TSP), adopted in 1994, provides goals and policies for managing resources within this area. TSP contends that the Oregon Coast is a key location for fiber-optic cables and other utilities, and future infrastructure like renewable energy pipelines may also use the seafloor. TSP maintains that to avoid conflicts with other ocean uses and minimize environmental impacts, easements and infrastructure installations in the territorial sea require careful planning. Easements on State Land within the territorial sea must adhere to specific policies for routing and installing infrastructure in this area, which also aid

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federal agencies regulating infrastructure in adjacent federal waters. The measure would modify and increase the DSL's rulemaking authority to adopt new rules for establishing fees for easements on state land.

Easements are required for commercial use of state-owned lands, including long-term structures such as roadways, utility lines, pipelines, and railroads. Entities must apply for easements from the Department of State Lands (DSL) for construction, maintenance, and decommissioning of infrastructure on state land, paying applicable fees. Under current law, DSL charges a one-time application fee of \$5,000 for easements within the territorial sea and \$750 for easements on other state lands.