

SB 165 -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/5, 4/2

WHAT THE MEASURE DOES:

This measure clarifies ownership of lands that were created by filling in publicly owned waterways prior to 1963 (“historically filled lands”). The measure terminates the state’s pursuit of ownership of historically filled lands except for such lands within city limits that are zoned as commercial, industrial, or marine industrial.

Detailed Summary:

- Repeals ORS 274.952, ORS 274.954, and ORS 274.956, terminating the State Land Board’s and Department of State Lands’ (DSL) ownership determinations and declarations as to all historically filled lands that are not within city limits and zoned as commercial, industrial, or marine industrial.
- Adds an exception to ORS 274.950 to retain the state’s right to pursue ownership of commercial, industrial, and marine industrial lands within city limits.
- Requires DSL to record a notice with each county’s clerk summarizing all potential historically filled lands within their respective county no later than December 31, 2028.

ISSUES DISCUSSED:

- Senate Bill 912 (2015)
- DSL's open-ended timeframe to assert title to specified lands
- Cloud of title
- Status of DSL's efforts to claim or release title under SB 912
- Negotiations amongst the parties and possible amendments

EFFECT OF AMENDMENT:

-3 The amendment clarifies various provisions of the measure and ends DSL’s right to declare ownership on December 31, 2028.

Detailed Summary:

- Terminates DSL’s right to declare ownership of commercial, industrial, and marine industrial lands within city limits on December 31, 2028.
- Clarifies that when the state has released or prospectively releases claim to historically filled lands, the state releases associated mineral and geothermal resources unless DSL determines that the lands contain significant mineral or geothermal resources.
- Directs the DSL, in negotiations with property owners, to prioritize public access to waterways as opposed to obtaining fair market value of historically filled lands.
- Requires the DSL’s notice with each county clerk to include either a recorded survey or legal description.

REVENUE: Has minimal revenue impact

FISCAL: Has minimal fiscal impact

BACKGROUND:

Throughout much of Oregon’s early history, fill was placed in publicly owned waterways to artificially create land. In 1963, the state enacted laws to ensure clear ownership of lands created with fill in the future. However, ownership of historically filled lands created in and along Oregon-owned waterways prior to 1963 remains

This summary has not been adopted or officially endorsed by action of the committee.

unresolved. Unclear ownership causes a “cloud on title” that can result in frustration and delays when private landowners want to sell or refinance their properties. Senate Bill 912 (2013) established a streamlined process for resolving ownership of historically filled lands and set requirements for the state to claim ownership. The bill established a deadline of December 31, 2025, for the state to make all ownership claims for historically filled lands. However, the state has yet to make all such ownership claims, in part because the claim process itself can cost more than the associated land value. This measure clarifies ownership for and in favor of most private landowners while retaining the state’s process to assert public ownership over certain, higher-value lands.