

SB 165 A STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Meeting Dates: 4/28, 5/12

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).

Detailed Summary:

- Repeals, effective January 2, 2029, ORS 274.952, ORS 274.954, and ORS 274.956, terminating the State Land Board's (SLB) and Department of State Lands' (DSL) ownership determinations and declarations as to all historically filled lands and associated rights to mineral and geothermal resources, that are not within city limits and zoned as commercial, industrial, or marine industrial.
- Adds an exception to ORS 274.950 to allow DSL and SLB to assert title, or associated mineral and geothermal resource rights, to commercial, industrial, or marine industrial lands within city limits if the process has been initiated on or before December 31, 2028.
- Clarifies that when the state has released or prospectively releases its claim to historically filled lands, it releases associated mineral and geothermal resources unless DSL determines that the lands contain significant such resources.
- Authorizes 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. Requires the notice to include DSL's contact information, a statement that SLB may not assert title to any historically filled lands, unless all requirements are met or an exception applies, and a statement that the state's ownership of the submerged and submersible lands adjacent to the historically filled lands is the line of ordinary high water.
- Directs DSL, in negotiating with landowners, to prioritize public access to waterways over obtaining fair market value for historically filled lands.
- Declares an emergency, effective on passage.

FISCAL: Has minimal fiscal impact

REVENUE: Has minimal revenue impact

SENATE VOTE: Ayes 28; Nays 0; Excused 2

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

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 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 law 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

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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 for three additional years.

PRELIMINARY