

SB 165 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/02/25

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 6-0-0-0

Yeas: 6 - Broadman, Gelser Blouin, Manning Jr, McLane, Prozanski, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: Has minimal revenue impact

Prepared By: Kris Kolta, LPRO Analyst

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).

Detailed Summary:

- Repeals 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 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 to commercial, industrial, or marine industrial lands within city limits on or before December 31, 2028.
- Requires DSL to record a notice, including a recorded survey or legal description, with each county's clerk summarizing all potential historically filled lands within their respective county no later than December 31, 2028.
- Clarifies that when the state has released or prospectively releases its 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 DSL, in negotiating with landowners, to prioritize public access to waterways over obtaining fair market value for historically filled lands.

ISSUES DISCUSSED:

- Senate Bill 912 (2015)
- DSL's timeframe to assert title to specified lands
- Cloud of title
- Status of DSL's efforts to claim or release title under SB 912
- Negotiations among the parties and a resulting compromise amendment
- Unifying land, mineral, and geothermal rights

EFFECT OF AMENDMENT:

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.

SB 165 A STAFF MEASURE SUMMARY

- Directs the DSL, in negotiations with property owners, to prioritize public access to waterways over 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.

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 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.