

Senate Bill 165 – Clearing Title to Historically Filled Lands

Removes ownership uncertainty for private landowners while retaining future opportunities for public ownership of high-value lands

Background

Throughout much of Oregon’s early history, fill was placed in publicly owned waterways to artificially create land. In 1963, state laws were enacted to ensure clear ownership of future lands created with fill. But ownership of the “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. SB 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.

Issue Addressed: High Cost, Low Benefit and Need

In seeking to implement SB 912, DSL determined:

- ***The cost of identifying and claiming these lands often exceeds their value.*** DSL conducted studies of historically filled lands for segments of the Chetco, Tillamook, Siletz and lower Columbia Rivers. Lands identified were typically small parcels outside city limits, without significant revenue potential. DSL also determined work would cost more and take longer than originally anticipated.
- ***When the state does have an interest in claiming historically filled lands, ownership can be resolved by working directly with individual adjacent property owners.*** In the 10 years since SB 912 was enacted, the Department has had a small number of property owner requests related to historically filled lands and has successfully resolved ownership.

Solution: Remove Uncertainty for Most Private Landowners by Focusing on Value

SB 165 seeks to resolve uncertainty for most private landowners and the state while retaining future opportunities for public ownership of high-value lands. The bill:

- ***Limits the state’s ownership claim to specific types of historically filled lands.*** SB 165 includes an exception to ORS 274.950 that retains the state’s ability to determine and declare ownership for historically filled lands within city limits that are zoned commercial, industrial, or marine industrial. These lands have the highest potential value, and greatest benefit for the people of Oregon.
- ***Removes ownership uncertainty for most private landowners.*** The State Land Board and DSL will no longer perform ownership determinations and declarations for all other types of

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historically filled lands. SB 165 therefore repeals ORS 274.952, ORS 274.954 and ORS 274.956.

- **Adds clarity for landowners at the local level.** The bill also adds clarity at the county level by requiring DSL to record its jurisdiction for asserting ownership with each county clerk.

Fiscal Impact

None. Costs are absorbable within DSL's current service level budget for FY25-27. DSL would contract for the ownership research, mapping, and document preparation and recording necessary to implement the bill.

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