



Oregon

Tina Kotek, Governor

Department of State Lands

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State Land Board

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Tina Kotek
Governor

To: Senate Committee on Judiciary
Chair Prozanski, Vice Chair Thatcher, and Members of the Committee

Tobias Read
Secretary of State

From: Bill Ryan, Deputy Director of Aquatic Resource Management, Oregon
Department of State Lands

Elizabeth Steiner
State Treasurer

Re: Testimony in Support of Senate Bill 165

Chair Prozanski, Vice-Chair Thatcher, and members of the committee. My name is Bill Ryan, and I am the Deputy Director of Aquatic Resource Management for the Oregon Department of State Lands. I appreciate the opportunity to speak with you today about Senate Bill 165.

The Department of State Lands is pleased to support the bill, which seeks final resolution to an issue the Legislature has long sought to address – clarifying ownership of historically filled lands.

First, some important context. The State Land Board and the Department of State Lands oversee Oregon's publicly owned waterways, which include many rivers, lakes, and our territorial sea. The Public Trust Doctrine protects the public's right to use the "beds and banks" of these waterways for navigation, fishing, commerce, and recreation. The people of Oregon receive compensation for use of the waterways that belong to them – businesses like marinas have leases, for example, or people who live along rivers pay fees for docks.

Throughout much of Oregon's early history, fill was placed on the beds and banks of publicly owned waterways to artificially create land. Before the early 1960s, this activity was unregulated and there were no clear state laws addressing ownership of those lands. A good example of this artificial creation of land is Astoria.

There is extensive filled land in Astoria, mostly historically filled lands. The maps in our slides were the first large-scale surveys conducted by the federal government in the late 1800s. You can clearly see the additional land created through fill. And I want to be clear, ownership of these particular filled lands has been resolved, aided by the Legislature passing what's commonly known as the Astoria Quitclaim Act in 1969.

Lack of clarity truly is the problem. Unclear ownership causes a "cloud on title" that can result in frustration and delays when private landowners want to sell or refinance their properties.

I want to acknowledge the tremendous past efforts to address this complex issue. Senator Prozanski, we would like to thank you for your time and efforts in addressing this issue. The Filled Lands Advisory Group, or FLAG, was formed after the 2013 legislative session to engage with DSL in resolving the issue of historically filled lands.

A key driver for FLAG, whose work led to Senate Bill 912 in the 2015 legislative session, was “to ensure a fair and reasonable process to resolve state ownership interests.” The process was thought to be expensive and time consuming for both the state and the adjacent property owner, involving extensive research, property appraisals and valuations, and attorneys.

SB 912 established a process for resolving ownership of historically filled lands and set requirements for the state to claim ownership. The bill incorporated many FLAG recommendations regarding historically filled lands identification, notification, and declaration of state interest, and established a deadline of December 31, 2025, for the state to make all ownership claims for historically filled lands.

In seeking to implement SB 912, DSL determined several things.

First, 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. The 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.

Second, 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.

In Senate Bill 165, we have what we hope is a final solution. The bill seeks to resolve uncertainty for most private landowners and the state while still looking out for the people of Oregon.

The bill limits the state’s ownership claim to specific types of historically filled lands. SB 165 retains the state’s ability to determine and declare ownership only 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. Retaining opportunities for future ownership protects their interests.

The State Land Board and DSL will no longer perform ownership determinations and declarations for all other types of historically filled lands. SB 165 would therefore remove ownership uncertainty for most private landowners.

The bill also adds clarity at the county level by requiring DSL to proactively record its jurisdiction for asserting ownership with each county clerk.

I’ll finish by noting there is no fiscal impact for this bill. Costs are absorbable within DSL’s current service level budget for FY25-27. DSL would contract for ownership research, mapping, and document preparation and recording necessary to implement the bill.

Thank you for the opportunity to provide testimony for SB 165 and we urge your support.