



Oregon

Tina Kotek, Governor

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Office of the Director

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TO: Joint Committee on Transportation

FROM: Amy Ramsdell – Administrator, Delivery and Operations Division,
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SUBJECT: SB 357 – Sediment Assessments for Dredging in Ports

INTRODUCTION

Senate Bill 357 allows ports to annually assess one or more public bodies for a portion of the costs of removing sediment from port waters. Ports may assess public bodies who own or control a creek, culvert, or other watercourse that discharges into port waters.

BACKGROUND

Downstream sediment transport is a natural process within stream systems, where sediment passes through waterways with or without a culvert. Upstream origination of sediment is caused from several factors, including weathering impacts and human activities. Waterways pass under roadways through culverts or bridges. Stormwater runoff on the roadway is captured and not discharged into the waterway without being filtered through stormwater filtration systems that remove pollutants and sediment from the roadway.

In Oregon, sediment discharge from human activities is largely regulated by federal and state agencies, including the Oregon Department of Environmental Quality (DEQ), the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers. In compliance with existing state ([ORS 468B.035 - 047](#)) and federal ([33 U.S.C. 1341, Clean Water Act - Section 401](#)) law, much of the work on roadways, culverts, and bridges require installing features that collect and treat stormwater to remove sediment and other pollutants before the water is discharged into adjacent waterways. ODOT works to minimize stormwater impacts to waterways by implementing stormwater catchment features along the roadway within project areas. When projects are susceptible to water-related impacts, the responsible entity must obtain a permit and pay a fee to DEQ ([OAR 340-048-0055](#)).

DISCUSSION

SB 357 allows ports to assess public bodies which own or control watercourses that discharge into a port, including culverts. As written, it's unclear how the source of sediment discharge and the public bodies responsible will be identified and how broadly the assessment may be applied. The origin of

sediment is commonly created by soil disturbing activities and can be incredibly challenging and imprecise to track and attribute the source to any one entity. The measure does not identify a mechanism for how the assessment will be calculated and proportioned to public entities. Furthermore, SB 357 allows public entities, including ODOT, to be charged for sediment that occurs upstream and downstream from state owned culverts. ODOT owns and maintains over 25,000 culverts across Oregon, meaning the Department may be subject to costly assessment charges under SB 357, depending on the applicability, calculation, and apportionment of the fees established by the measure.

Additionally, it is unclear whether payment of the assessment(s) established in this measure are eligible uses of Oregon's constitutionally dedicated State Highway Fund revenues, as these revenues are dedicated exclusively for roadway and roadway right-of-way work. Potential limited fund sources, coupled with structural revenue challenges and uncertainty in applicability, calculation, and apportionment could result in significant financial impacts.

CONCLUSION

Senate Bill 357 allows ports to annually assess one or more public bodies for the cost of removing sediment from port waters. Ports may assess public bodies who own or control a creek, culvert, or other watercourse that discharges into port waters.

Due to the nature of sediment movement, it is difficult to attribute the source of sediment discharge. ODOT owns and maintains many culverts across Oregon. The measure does not include a mechanism for identifying responsible public entities and does not define how broadly the assessment may be applied. Furthermore, the Department raises questions about whether the assessment may be eligible for the use of SHF revenue. ODOT anticipates SB 357 will have a fiscal impact to the Department.