

Submitter: D Torres
On Behalf Of:
Committee: Senate Committee On Natural Resources and
Wildfire
Measure, Appointment or Topic: SB74

Chair & Committee Members,

I STRONGLY OPPOSE SB 74. At the first introduction of this bill, it was just a "study" and now it is "restrictions" at the 2nd hearing. This type of activity is what we call "GUT AND STUFF". I find it extremely insulting to the people of this state that the author of this legislation would disguise/trick Oregonians stating this as a study and then turn it around in an effort to take property and rights. This section alone tells the tale of grabbing land by the government:

"Upon the adoption of a report described in subsection (2) of this section, the State Land Board may find in a declaration under ORS 274.406 that the boundary of the waterway should remain ambulatory and change with future accretion. "

(4)(a) The department may negotiate an exchange of deeds with any property owner affected by a declaration described in subsection (3) of this section. In any negotiation with an affected property owner, the department shall prioritize the goal of state ownership of the current waterway and need not seek an equal exchange of property values."

The proposal to designate the waterway boundary as ambulatory, shifting with future accretion, raises significant concerns. Under Oregon law, particularly ORS 274.440, there are no vested rights to future accretion or reliction for upland or riparian owners of meandered lakes. This statute explicitly denies any person the acquisition of rights to submerged or submersible lands of such lakes through accretion, reliction, or other means, except as provided by statute. ?

Furthermore, the Oregon Court of Appeals has affirmed that the state's ownership extends to all lands below the ordinary high water mark of navigable waterways, encompassing both the jus privatum (fee simple title) and the jus publicum (public trust rights). This ownership includes rights over lands affected by gradual changes such as accretion and erosion.

Designating the waterway boundary as ambulatory contradicts these legal principles by introducing variability that could undermine established property rights and the state's clear ownership of submerged lands. Such a designation could lead to disputes over land ownership and complicate property transactions, creating uncertainty for both private landowners and the state.

The proposal grants the DSL the authority to negotiate property exchanges with affected landowners, emphasizing the goal of achieving state ownership of the current waterway without necessitating an equal exchange of property values. While the state's interest in managing waterways is understandable, this approach raises several issues:?

1. Fair Compensation: Requiring only an equal exchange of property values ensures that landowners are fairly compensated for their property rights. Departing from this standard could result in inequitable transactions, potentially infringing upon private property rights protected under the Oregon Constitution.?

2. Transparency and Accountability: Negotiations that do not adhere to equal value exchanges may lack transparency, leading to perceptions of unfairness or favoritism. Maintaining standard practices in property transactions upholds public trust and confidence in state governance.?

Legal Challenges: Departing from established norms of equitable property exchange could expose the state to legal challenges from affected landowners, resulting in prolonged litigation and increased public expenditure.

I STRONGLY OPPOSE THIS BILL! VOTE NO!!!!