

Senate Bill 1066

Sponsored by COMMITTEE ON RULES (at the request of State Treasurer Randall Edwards, Senator Ted Ferrioli, Senator Kate Brown)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows State Land Board to terminate navigability study if economic justification or if broad and substantial public interest no longer exists.

A BILL FOR AN ACT

1
2 Relating to the administrative determination of navigability; amending ORS 274.404.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 274.404 is amended to read:

5 274.404. (1) [*On or before July 1, 1996,*] The State Land Board shall adopt by rule a procedure
6 that is consistent with ORS 274.400 to 274.412 by which the board and the Department of State
7 Lands [*shall*] **may** make a final administrative determination as to whether a waterway or part of
8 a waterway is navigable, and if so, the extent of the interest claimed by the State of Oregon in the
9 navigable portion of the waterway.

10 (2) The rules adopted under subsection (1) of this section shall incorporate the following proce-
11 dures that the board and the department shall follow:

12 (a) The board may direct the department to make a determination of navigability if there is
13 sufficient economic justification or if there is a broad and substantial public interest. If the board
14 so directs, the department shall conduct a study to make the determination.

15 (b) The department shall provide prompt public notice to affected property owners that the de-
16 partment is beginning the study.

17 (c) Upon completion of a study directed under paragraph (a) of this subsection, the department
18 shall prepare and submit to the board a draft report setting forth the department's findings and
19 conclusions as to whether the waterway or part of the waterway under study is navigable and, if
20 so, the extent of the State of Oregon's interest in the waterway or part of the waterway.

21 (d) The department shall provide appropriate prior public notice to affected property owners and
22 other interested parties concerning the draft report. The notice shall provide an opportunity for a
23 public hearing in the area of the affected waterway and an opportunity for the public to submit
24 written comments on the draft report and to submit testimony or other evidence concerning the
25 navigability of the affected waterway or part of the waterway or the State of Oregon's interest in
26 the waterway or part of the waterway.

27 (e) Following the public hearing, the board may adopt the draft report submitted by the de-
28 partment if [*substantial*] **a preponderance of the** evidence in the record supports the report's
29 findings and conclusions, or the board may:

30 **(A) Refer the report to the department for further action as determined by the board; or**

31 **(B) Terminate the study if there is no longer a sufficient economic justification or a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **broad and substantial public interest in making a final administrative determination.**

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