

Senate Bill 1087

Sponsored by COMMITTEE ON RULES

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 local governments to establish local advisory committees to help identify and map waters of state suitable for public use. Allows designation of allowable uses on segments of waters. Directs local governments to develop and implement plans for informing public of allowable uses.

Allows advisory committees to partner with conservation and recreation organizations to organize cleanup efforts. Allows advisory committee to serve as resource for public bodies.

Prohibits State Land Board and Department of State Lands from initiating or completing navigability studies if local government has established advisory committee.

A BILL FOR AN ACT

1
2 Relating to public use of rivers.

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

4 **SECTION 1. (1) Local governments, as defined in ORS 174.116, may establish local advisory committees for the purposes of identification and mapping of waters of the state that**
5 **are located within the jurisdiction of the local government and that have the potential for**
6 **public use. Advisory committees shall be composed of property owners, river users, fishery**
7 **experts, local government representatives and other persons as necessary to assist the local**
8 **government in the identification and mapping under this section. An advisory committee**
9 **may provide documentation to the local government and may utilize site visitation to accurately**
10 **portray the conditions of each segment of a waterway. Members of an advisory committee**
11 **are volunteers and serve without compensation or payment for actual or necessary**
12 **expenses.**

13
14 **(2) Maps created by advisory committees shall contain a segment-by-segment use analysis of each**
15 **waterway that specifies the types of use allowed on each segment. The types of**
16 **use allowed on each segment shall be based on the following factors:**

17 **(a) The type of ownership of riparian areas adjoining each segment;**

18 **(b) The presence of sensitive riparian areas;**

19 **(c) The presence of native anadromous fish and spawning areas for those fish;**

20 **(d) The rights and responsibilities established under a management plan for a waterway**
21 **pursuant to the Wild and Scenic Rivers Act (P.L. 90-542);**

22 **(e) Any treaty or right of any federally recognized Indian tribe; and**

23 **(f) The presence of land held in trust by the federal government for Indian tribes or for**
24 **individual members of Indian tribes.**

25 **(3) The local government, in consultation with the advisory committee, shall develop and**
26 **implement a plan for informing the public of the allowable uses on each segment. The plan**
27 **shall include the placement of signs along each segment that indicate the allowed uses. The**
28 **local government may also, as part of the plan, create maps showing the allowed uses and**

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 disseminate those maps free of charge to the public at sporting goods stores and at access
2 points along the waterways.

3 (4) Notwithstanding subsection (2) of this section, the advisory committee may monitor
4 the use of particular segments and advise the local government to modify the use based on
5 the results of the monitoring. The local government may establish a system for reporting
6 problems and conflict between recreational users and property owners, including providing
7 questionnaires at access points and other locations.

8 (5) The local government may direct advisory committees established under this section
9 to work with public bodies, as defined in ORS 174.109, and property owners to indicate areas
10 that would be appropriate for the acquisition, through sale, lease or easement, of property
11 for access points and to promote those access points.

12 (6) The local government shall compile an annual report of the state of the public use
13 on any waters identified and mapped for public use under this section, including any ques-
14 tionnaire results, and submit that report to the Department of State Lands and to the ap-
15 propriate legislative committee with oversight of natural resources.

16 **SECTION 2.** (1) An advisory committee established under section 1 of this 2005 Act may
17 establish partnerships with groups that promote conservation and use of the waters of this
18 state to organize, with the support of the local government, cleanup efforts on lands within
19 waters of this state identified as having potential for public use under section 1 of this 2005
20 Act.

21 (2) The advisory committee shall give higher priority to cleanup efforts on segments of
22 waterways with significant levels of public use.

23 (3) The advisory committee may serve as a resource for public bodies, as defined in ORS
24 174.109, and private organizations seeking to improve, maintain or acquire public restroom
25 or garbage facilities on segments of waters identified in section 1 of this 2005 Act.

26 **SECTION 3.** Notwithstanding ORS 274.400 to 274.412, if a local government establishes an
27 advisory committee pursuant to section 1 of this 2005 Act, the State Land Board and the
28 Department of State Lands may not initiate a navigability study, and shall suspend any ex-
29 isting navigability study, undertaken pursuant to ORS 274.404 on waters within the jurisdic-
30 tion of the local government.

31 **SECTION 4.** Section 3 of this 2005 Act is repealed on January 2, 2012.

32 **SECTION 5.** (1) Notwithstanding any right that a person may have to use a segment of
33 any waters of this state for recreational or commercial purposes because of the condition
34 of the segment in its natural state, a local government that has, through the establishment
35 of an advisory committee under section 1 of this 2005 Act, identified and mapped segments
36 of a waterway and that has specified the uses allowed on each segment, may:

37 (a) Restrict the use of banks of those waters where adjacent to private property; and

38 (b) Require persons to remain in their boats, as defined in ORS 830.005, except when
39 necessary and incidental to navigation.

40 (2) The identification and mapping of waters of this state pursuant to section 1 of this
41 2005 Act and the approval of uses of those waters does not create a prescriptive easement.
42 For purposes of this subsection, "prescriptive easement" means the right of a person to use
43 the property of another person that is acquired by open, exclusive, notorious, hostile, ad-
44 verse, continuous and uninterrupted use of the property for at least five years.