

# A-Engrossed Senate Bill 1517

Ordered by the Senate February 15  
Including Senate Amendments dated February 15

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

## 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.

*[Requires certain findings by local governing body for creation, restoration or enhancement of wetlands in exclusive farm use zones.]*

*[Defines operator, timber owner or landowner for purposes of liability limits associated with certain fish and wildlife habitat improvement projects.]*

*[Allows for removal of up to 100 cubic yards of material from waters of this state without permit for purposes of maintaining drainage and protecting agricultural land.]*

**Requires governing body of Tillamook County to, by ordinance or regulation, adopt pilot program for establishing, subject to provisions related to conditional uses of areas zoned for exclusive farm use, creation, restoration or enhancement of wetlands. Exempts certain wetland projects from pilot program.**

**Requires governing body to adopt, as part of pilot program, process by which applicants subject to pilot program may request to enter into collaborative process for settling disputes concerning application.**

**Allows governing body to initiate planning process as part of pilot program to identify areas zoned for exclusive farm use suitable for wetland creation, restoration or enhancement programs and designate areas zoned for exclusive farm use as priority areas for maintenance of agricultural use. Requires governing body to consider certain factors as part of planning process.**

**Requires governing body to provide for production of progress reports on pilot program to interim committees of Legislative Assembly no later than September 15 of each odd-numbered year during pilot program.**

**Sunsets June 30, 2026.**

## A BILL FOR AN ACT

1  
2 Relating to land improvement projects.

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

4 **SECTION 1. Sections 2 to 6 of this 2016 Act are added to and made a part of ORS chapter**  
5 **215.**

6 **SECTION 2. The Legislative Assembly finds and declares that Tillamook County experi-**  
7 **ences unique challenges related to the creation, restoration or enhancement of wetlands on**  
8 **lands zoned for exclusive farm use, including regularly occurring and devastating flood**  
9 **events and landowner conflicts. It is therefore in the public interest to establish a pilot**  
10 **program in Tillamook County for conditional use review of the creation, restoration or en-**  
11 **hancement of wetlands on lands zoned for exclusive farm use, and that incorporates a means**  
12 **for stakeholders to engage in a collaborative process for ensuring the protection and en-**  
13 **hancement of agricultural land uses and wetlands.**

14 **SECTION 3. As used in sections 2 to 6 of this 2016 Act:**

15 **(1) "Mitigation bank" has the meaning given that term in ORS 196.600.**

**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 (2) "Permit" has the meaning given that term in ORS 215.402.

2 (3) "Reclamation" has the meaning given that term in ORS 517.750.

3 (4) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial  
4 ecosystem, dependent upon surface or subsurface water, in which existing or potential ele-  
5 ments of the soil-vegetation complex are influenced by the surface or subsurface water that  
6 the zone is dependent upon.

7 (5) "Surface mining" has the meaning given that term in ORS 517.750.

8 (6) "Wetlands" has the meaning given that term in ORS 196.800.

9 **SECTION 4.** (1) Notwithstanding ORS 215.213 (1)(o), the governing body of Tillamook  
10 County shall, by ordinance or regulation, adopt a pilot program for establishing, subject to  
11 ORS 215.296, the creation, restoration or enhancement of wetlands in any area zoned for  
12 exclusive farm use.

13 (2) Notwithstanding ORS 215.296 (10), ordinances or regulations adopted by the governing  
14 body under the pilot program may not establish standards in addition to the standards de-  
15 scribed in ORS 215.296 (1) for approving the creation, restoration or enhancement of wetlands  
16 in areas zoned for exclusive farm use.

17 (3) Notwithstanding any contrary provision of ORS 215.416, the ordinances or regulations  
18 adopted as part of the pilot program shall provide for a mechanism by which, upon request  
19 by the applicant and prior to the approval or denial of a permit under the procedures re-  
20 quired by ORS 215.402 to 215.438, the following parties may enter into a collaborative process  
21 for settling disputes concerning the application:

22 (a) The applicant;

23 (b) Any person who may be adversely affected or aggrieved by the use;

24 (c) Any person who is entitled to notice under ORS 215.416 (11)(c);

25 (d) Representatives of any state or federal agency that is involved in the project for  
26 which the application for the use was submitted; and

27 (e) For the purpose of assisting in the collaborative process, any persons with technical  
28 expertise in creating, restoring or enhancing wetlands in Tillamook County or other areas  
29 with site characteristics similar to those identified in the application for the use.

30 (4) If an applicant requests to enter into a collaborative process adopted under subsection  
31 (3) of this section, the periods set forth in ORS 215.427 (1) and (5) for the governing body of  
32 a county or its designee to take final action on the application shall be extended in the  
33 manner provided for in ORS 215.427 (10).

34 (5) If the parties to a collaborative process requested under subsection (3) of this section  
35 agree to conditions that, if imposed on the proposed use, would satisfy the standards for  
36 approval set forth in ORS 215.296 (1) in a manner that is acceptable to all parties, an approval  
37 of the application for the permit shall include the conditions agreed to by the parties.

38 **SECTION 5.** (1) As part of the pilot program required by section 4 of this 2016 Act, the  
39 governing body of Tillamook County may initiate a planning process to:

40 (a) Identify areas zoned for exclusive farm use that are suitable for future wetland cre-  
41 ation, restoration or enhancement projects; and

42 (b) Designate areas zoned for exclusive farm use as priority areas for maintenance of  
43 agricultural use.

44 (2) The Governor may require, upon request from the governing body of Tillamook  
45 County, all appropriate state agencies to participate in a planning process initiated under this

1 section.

2 (3) The governing body of Tillamook County shall engage impacted stakeholders in the  
3 planning process, including, but not limited to, representatives of conservation interests and  
4 agricultural interests, state and federal agencies and Indian tribes.

5 (4) A planning process initiated under this section shall include consideration of:

6 (a) The historic location and quantity of wetlands within the county;

7 (b) The location and quantity of wetlands within the county at the time the planning  
8 process is initiated;

9 (c) Agricultural interests within the county, and the land use patterns necessary for the  
10 stability of agricultural and associated farming practices;

11 (d) The amount and location of potential wetland projects that would provide the greatest  
12 benefits to fish recovery, fish and wildlife habitat, flood mitigation and other environmental  
13 values;

14 (e) Locations where future wetland projects would be most likely to provide the greatest  
15 benefits to fish recovery, fish and wildlife habitat, flood mitigation and other environmental  
16 values while remaining compatible with the land use patterns necessary for the stability of  
17 agricultural and associated farming practices;

18 (f) Locations where the creation, restoration or enhancement of wetlands is likely to  
19 materially alter the stability of the agricultural land use patterns or cause a significant  
20 change to farming practice, alone or in combination with other wetlands in the area; and

21 (g) Locations or land-use arrangements, opportunities, conditions or approaches that  
22 could best enable benefits to fish recovery, fish and wildlife habitat, flood mitigation and  
23 other environmental values in a manner that complements the land use patterns necessary  
24 for the stability of agricultural and associated farming practices.

25 **SECTION 6.** Sections 4 and 5 of this 2016 Act and ordinances or regulations adopted  
26 pursuant to sections 4 and 5 of this 2016 Act do not apply to the creation, restoration or  
27 enhancement of wetlands:

28 (1) For purposes related to a mitigation bank;

29 (2) For reclamation of lands affected by surface mining;

30 (3) If the wetlands created, restored or enhanced for the purpose of meeting conditions  
31 necessary to comply with a National Pollutant Discharge Elimination System permit or wa-  
32 ter pollution control facility permit issued by the Department of Environmental Quality  
33 pursuant to ORS 468B.050;

34 (4) For which construction had commenced prior to the adoption of ordinances or regu-  
35 lations by the governing body of Tillamook County under section 4 of this 2016 Act; and

36 (5) If the creation, restoration or enhancement project only involves planting vegetation  
37 in a wetland or riparian area.

38 **SECTION 7.** (1) The governing body of Tillamook County shall provide for the production  
39 and filing of a report on the progress of the pilot program in the manner provided in ORS  
40 192.245, to the interim committees of the Legislative Assembly related to environment and  
41 natural resources no later than September 15 of each odd-numbered year following the ef-  
42 fective date of this 2016 Act, until and including September 15, 2025.

43 (2) A report required by this section must include, but need not be limited to:

44 (a) Information on whether and to what extent the governing body has taken action as  
45 provided for in sections 4 and 5 of this 2016 Act and the form of the action taken;

1       **(b) The number of applications received under the pilot program pursuant to ordinances**  
2 **or regulations adopted under section 4 of this 2016 Act and the number of applicants that**  
3 **have requested entering into a collaborative process to settle disputes concerning their ap-**  
4 **plications; and**

5       **(c) Any significant successes, challenges or recommendations for legislation related to**  
6 **the pilot program.**

7       **(3) The report that is required to be filed under this section no later than September 15,**  
8 **2025, shall include information detailing the success of the pilot program and recommen-**  
9 **dations on whether the pilot program should be made permanent.**

10       **SECTION 8.** **Sections 2 to 7 of this 2016 Act are repealed on June 30, 2026.**

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