

**Enrolled**

# House Bill 1601

Sponsored by Representatives BAZETT, OUDERKIRK, Senator YTURRI

CHAPTER .....

AN ACT

Relating to the rights of the State of Oregon and the public in the Oregon seashores as established by prescription or otherwise; declaring and confirming such rights; providing for the acquisition of additional seashore lands; and declaring an emergency.

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

**Section 1.** The Legislative Assembly hereby declares it is the public policy of the State of Oregon to forever preserve and maintain the sovereignty of the state heretofore existing over the seashore and ocean beaches of the state from the Columbia River on the North to the Oregon-California line on the South so that the public may have the free and uninterrupted use thereof.

**Section 2.** (1) The Legislative Assembly recognizes that over the years the public has made frequent and uninterrupted use of lands abutting, adjacent and contiguous to the public highways and state recreation areas and recognizes, further, that where such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise, that it is in the public interest to protect and preserve such public easements as a permanent part of Oregon's recreational resources.

(2) Accordingly, the Legislative Assembly hereby declares that all public rights and easements in those lands described in subsection (1) of this section are confirmed and declared vested exclusively in the State of Oregon and shall be held and administered in the same manner as those lands described in ORS 274.070.

(3) The Legislative Assembly further declares that it is in the public interest to acquire additional rights and to do whatever is necessary to preserve and protect scenic and recreational use of Oregon's seashore and ocean beaches.

(4) No portion of those lands described in this section or any interest either therein now or hereafter acquired by the State of Oregon or any political subdivision thereof may be alienated except as expressly provided by state law.

**Section 3.** The State Highway Commission, when necessary, shall undertake appropriate court proceedings to protect, settle and confirm all such public rights and easements in the State of Oregon.

**Section 4.** The State Highway Commission, in accordance with ORS 366.345, may acquire ownership or interests in such lands abutting, adjacent or contiguous to the Oregon seashore and beaches as may be appropriate for recreational purposes where such lands are held in private ownership.

**Section 5.** (1) In order to promote the public health, safety and welfare,

to protect the state recreation areas recognized and declared by section 2 of this Act and by ORS 274.070, to protect the safety of the public using such areas, and to preserve values adjacent to and adjoining such areas, the natural beauty of the seashore and the public recreational benefit derived therefrom, no person shall, except as provided by section 6 of this Act, erect, make or place any appurtenance, structure or improvement on any property that is within the area along the Pacific Ocean located between the extreme low tide and the elevation of 16 feet following natural topographic contour lines. The position of the landward boundary line shall be interpolated to follow natural topographic contour lines whenever interrupted by man-made structures. However, in low-elevation areas, including but not limited to sand spits and marshes and the mouth of streams, estuaries, rivers and creeks where the 16.00 foot contour nearest the ocean, in plan view, does not substantially parallel the shore line, the boundary line is 300 feet (but not in excess of the 16.00 foot elevation) inland from the contour line nearest the ocean which describes the 5.7 foot elevation. However, at the mouths of streams, estuaries, rivers and creeks in such low-elevation areas where the 5.7 foot contour nearest the ocean does not substantially parallel the trend of the shoreline, the 5.7 foot contour line is replaced, for measurement purposes, by a straight line extending across the mouth from a point nearest the ocean on the 5.7 foot contour and proceeding in a straight line to a similar point on the opposite side. All elevations and vertical measurements are referred to the United States Coast and Geodetic Survey Sea-Level Datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947.

(2) This section does not apply to structures, including a 25-foot yard on all four sides of a single-family residence, existing on May 1, 1967, or to publicly owned appurtenances, structures or improvements made with the approval of the State Highway Engineer for the safety or convenience of the public.

(3) This section and section 6 of this Act do not apply to appurtenances, structures or improvements subject to easement or license granted by the State Land Board under ORS 274.075 or to rule, regulation or permit of or from the State Land Board under ORS 274.080.

**Section 6.** (1) Any person who desires a permit to erect, make or place an appurtenance, structure or improvement on any property subject to section 5 of this Act shall apply in writing to the State Highway Engineer, on a form and in a manner prescribed by the engineer, stating the kind of and reason for the appurtenance, structure or improvement. Upon receipt of an application satisfactory to the engineer, the engineer shall cause notice of the application to be posted at or near the location of the proposed appurtenance, structure or improvement. At the next regular meeting of the State Highway Commission held more than 10 days after receipt of the application, the engineer shall announce the receipt of the application. The notice and announcement shall include the name of the applicant, a description of the appurtenance, structure or improvement and its proposed location and a statement of the time within which any interested person may file a request with the engineer for a hearing on the application. The State Highway Engineer shall give notice of any application, hearing or decision to any person who files a written request with him for such notice.

(2) Within 30 days after the date of the regular meeting at which the engineer announces the receipt of a satisfactory application, the applicant or any other interested person may file a written request with the engineer for a hearing on the application. If such a request is filed, the engineer shall set a time for a hearing to be held by the engineer or his authorized representative. The engineer shall cause notice of the hearing to be posted

and announced in the manner provided in subsection (1) of this section. The notice shall include the time and place of the hearing.

(3) After the hearing on an application or, if a hearing is not requested, after the time for requesting a hearing has expired, the engineer shall grant the permit if approval would not be adverse to the public interest in preserving the recreational and scenic resources. In acting on an application, the engineer shall take into consideration the existing uses and structures and the future recreational and scenic needs in the vicinity of the proposed appurtenance, structure or improvement. If the engineer does not act on a satisfactory application within 90 days after the date of receipt thereof or, if a hearing is held thereon, within 60 days after the date of the hearing, the application shall be considered denied.

(4) Any person is entitled to appeal to the circuit court of the county where the property is located for a judicial review in equity of the action or failure to act by the engineer under this section. Any appeal taken under this subsection shall be made within 60 days after the date of the action or after the expiration of the period prescribed for action by the engineer under subsection (3) of this section.

**Section 7.** The State Highway Commission is hereby authorized to police, protect and maintain property that is subject to section 5 of this Act and property abutting, adjacent and contiguous to those lands described by ORS 274.070 that is available for public use, whether such right to use is obtained by prescription, easement, state-ownership or by permission of a private owner.

**Section 8.** The owner or person in control of any property subject to a public easement declared a state recreation area by section 2 of this Act or any property subject to section 5 of this Act shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within the easement or within the area subject to section 5 of this Act, unless the injury or damage results from a condition that he created or that he knew or, in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

**Section 9.** (1) In any court proceedings involving prescriptive rights of the public over property abutting, adjacent and contiguous to those lands described in ORS 274.070, an instrument executed and filed as provided by subsection (2) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(2) The declaration shall describe the property and shall be signed and acknowledged as provided by ORS 93.410. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the office of the county officer charged with the duty of filing and recording instruments or documents affecting title to real property.

(3) The permission granted may be revoked at any time by the grantor by a declaration revoking the permission signed, acknowledged and filed as provided by subsection (2) of this section. In any event, the permission granted shall terminate upon the assignment, grant, devise or other transfer or conveyance of the property or any interest therein by the owner or person in control of the property.

(4) Failure of the owner or person in control of property to execute and file the declaration as provided in subsection (2) of this section shall not imply an intent to relinquish dominion and control over his property.

**Section 10.** Nothing in this Act shall be construed to relinquish, impair or limit the sovereign title or rights of the State of Oregon in the shores of

the Pacific Ocean as the same may exist before or after the effective date of this Act.

**Section 11.** The State Highway Commission is directed to survey the land on the shore of the Pacific Ocean from the Columbia River on the north to the Oregon and California state line on the south for the purpose of locating the boundaries of the area zoned by section 5 of this Act and also for the purpose of obtaining information and material suitable for a re-evaluation and redefinition, if necessary, of such boundaries so that the public rights and interests in the lands along the shore of the Pacific Ocean shall be preserved. The commission shall complete the survey and present its report to the Fifty-fifth Legislative Assembly.

**Section 12.** For purposes of assessment and ad valorem taxation, whenever real property is held subject to a public easement declared a state recreation area by section 2 of this Act, the true cash value of the property shall be taken into consideration for the restricted use imposed on the servient property by the easement.

**Section 13.** Section 12 of this Act is first operative on January 1, 1968.

**Section 14.** If one of the sections of this Act is declared unconstitutional, it is the intent of the Legislative Assembly that the remaining provisions of this Act remain in effect.

**Section 15.** Sections 1 to 11 of this Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and sections 1 to 11 of this Act shall take effect upon passage.

Chapter

, Oregon Laws 1967

**ENROLLED**

**House Bill 1601**

\_\_\_\_\_  
Passed by House

May 22, 1967

Repassed by House

June 7, 1967

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Chief Clerk of House

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Speaker of House

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Passed by Senate

June 6, 1967

~~Repassed by Senate~~

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President of Senate

\_\_\_\_\_  
Received by Executive Department:

..... M., ....., 1967.

Approved: ....., 1967.

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Governor

\_\_\_\_\_  
Filed in Office of Secretary of State:

..... M., ....., 1967.

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Secretary of State

RE-ENGROSSED

# House Bill 1601

(Ordered by the Speaker, May 19, 1967)  
(Including Amendments by House, May 19)

SPONSORED BY Representatives Bazett, Ouderkirck, Senator Yturri (at the request of the State Highway Department)

## 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.

Declares protection and preservation of scenic and recreational use of certain areas of Pacific Ocean beaches to be in public interest. Declares that ownership of public easements in lands abutting, adjacent and contiguous to the area between ordinary high tide and extreme low tide lines are vested in the state and that such easements are state recreation areas to be administered, protected and preserved by State Highway Department.

Prohibits erection of structures or improvements on any land along Pacific shore between extreme low tide line and an elevation of 16 feet following natural topographic contour lines and in areas of low elevation on land between 5.7 foot elevation line and a line 300 feet inland from it. Exempts structures existing on May 1, 1967. Authorizes Highway Department to issue permits to erect structures in prohibited areas and sets forth procedure for notice, hearing and review of applications for such permits.

Directs department to police, protect and maintain lands subject to public easement by Act and to submit survey of such lands to Fifty-fifth Legislative Assembly.

Provides for proportionate reduction in true cash value of real property subject to such easement for property tax assessment after January 1, 1968.

Declares an emergency.

A BILL FOR  
AN ACT

1 Relating to public and private rights relating to land; and  
2 declaring an emergency.

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

4 "SECTION 1. The Legislative Assembly recognizes that  
5 over the years the public has made frequent and uninterrupted  
6 use of lands abutting, adjacent and contiguous to those  
7 lands described in ORS 274.070; and where such use has been  
8 sufficient to create easements in the public through dedica-  
9 tion, prescription, grant or otherwise, the Legislative  
10 Assembly hereby declares that it is in the public interest  
11 to protect and preserve such public easements as a permanent  
12 part of Oregon's recreational resources. The Legislative  
13 Assembly further declares that it is in the public interest  
14 to acquire additional rights and to do whatever is necessary  
15 to preserve and protect scenic and recreational use of  
16 Oregon's beaches.

17 SECTION 2. Ownership of public easements on lands  
18 abutting, adjacent and contiguous to those lands described  
19 in ORS 274.070 is declared vested exclusively in the State  
20 of Oregon. Such easements are state recreation areas to be  
21 held and administered in the same manner as state recreation  
22 areas declared in ORS 274.070.

1           **SECTION 3.** The State Highway Commission is authorized  
2 to administer, protect and preserve public easements declared  
3 state recreation areas by section 2 of this Act and for that  
4 purpose, if necessary, to undertake appropriate court  
5 proceedings.

6           **SECTION 4.** The State Highway Commission, in accord-  
7 ance with ORS 366.345, may acquire property, or interests in  
8 property, for use in connection with state recreation areas  
9 along the Pacific Coast.

10          **SECTION 5.** (1) In order to promote the public health,  
11 safety and welfare, to protect the state recreation areas  
12 recognized and declared by section 2 of this Act and by  
13 ORS 274.070, to protect the safety of the public using such  
14 areas, and to preserve values adjacent to and adjoining such  
15 areas, the natural beauty of the seashore and the public  
16 recreational benefit derived therefrom, no person shall,  
17 except as provided by section 6 of this Act, erect, make or  
18 place any appurtenance, structure or improvement on any  
19 property that is within the area along the Pacific Ocean  
20 located between the extreme low tide and the elevation of  
21 16 feet following natural topographic contour lines. The  
22 position of the landward boundary line shall be interpolated  
23 to follow natural topographic contour lines whenever  
24 interrupted by man-made structures. However, in low-elevation  
25 areas, including but not limited to sand spits and marshes and  
26 the mouth of streams, estuaries, rivers and creeks where  
27 the 16.00 foot contour nearest the ocean, in plan view, does  
28 not substantially parallel the shore line, the boundary line



1 is 300 feet (but not in excess of the 16.00 foot elevation)  
2 inland from the contour line nearest the ocean which  
3 describes the 5.7 foot elevation. However, at the mouths  
4 of streams, estuaries, rivers and creeks in such low-eleva-  
5 tion areas where the 5.7 foot contour nearest the ocean does  
6 not substantially parallel the trend of the shoreline,  
7 the 5.7 foot contour line is replaced, for measurement  
8 purposes, by a straight line extending across the mouth  
9 from a point nearest the ocean on the 5.7 foot contour  
10 and proceeding in a straight line to a similar point on  
11 the opposite side. All elevations and vertical measurements  
12 are referred to the United States Coast and Geodetic Survey  
13 Sea-Level Datum of 1929 through the Pacific Northwest  
14 Supplementary Adjustment of 1947.

15 (2) This section does not apply to structures,  
16 including a 25-foot yard on all four sides of a single-  
17 family residence, existing on May 1, 1967.

18 (3) This section and section 6 of this Act do not  
19 apply to appurtenances, structures or improvements subject  
20 to easement or license granted by the State Land Board under  
21 ORS 274.075 or to rule, regulation or permit of or from the  
22 State Land Board under ORS 274.080.

23 **SECTION 6.** (1) Any person who desires a permit  
24 to erect, make or place an appurtenance, structure or  
25 improvement on any property subject to section 5 of this  
26 Act shall apply in writing to the State Highway Engineer, on  
27 a form and in a manner prescribed by the engineer, stating  
28 the kind of and reason for the appurtenance, structure or

1 improvement. Upon receipt of an application satisfactory  
2 to the engineer, the engineer shall cause notice of the  
3 application to be posted at or near the location of the  
4 proposed appurtenance, structure or improvement. At the  
5 next regular meeting of the State Highway Commission held  
6 more than 10 days after receipt of the application, the  
7 engineer shall announce the receipt of the application.  
8 The notice and announcement shall include the name of  
9 the applicant, a description of the appurtenance, structure  
10 or improvement and its proposed location and a statement  
11 of the time within which any interested person may file a  
12 request with the engineer for a hearing on the application.

13 (2) Within 30 days after the date of the regular  
14 meeting at which the engineer announces the receipt of a  
15 satisfactory application, the applicant or any other inter-  
16 ested person may file a written request with the engineer  
17 for a hearing on the application. If such a request is filed,  
18 the engineer shall set a time for a hearing to be held by  
19 the engineer or his authorized representative. The engineer  
20 shall cause notice of the hearing to be posted and announced  
21 in the manner provided in subsection (1) of this section.  
22 The notice shall include the time and place of the hearing.

23 (3) After the hearing on an application or, if a  
24 hearing is not requested, after the time for requesting  
25 a hearing has expired, the engineer shall grant the permit  
26 if approval would not be adverse to the public interest in  
27 preserving the recreational and scenic resources. In acting  
28 on an application, the engineer shall take into consideration

1 the existing uses and structures and the future recreational  
2 and scenic needs in the vicinity of the proposed appurtenance,  
3 structure or improvement. If the engineer does not act on a  
4 satisfactory application within 90 days after the date of  
5 receipt thereof or, if a hearing is held thereon, within  
6 60 days after the date of the hearing, the application  
7 shall be considered denied.

8 (4) Any person is entitled to appeal to the circuit  
9 court of the county where the property is located for a  
10 judicial review in equity of the action or failure to  
11 act by the engineer under this section. Any appeal  
12 taken under this subsection shall be made within 60 days  
13 after the date of the action or after the expiration of  
14 the period prescribed for action by the engineer under  
15 subsection (3) of this section.

16 SECTION 7. The State Highway Commission is hereby  
17 authorized to police, protect and maintain property that is  
18 subject to section 5 of this Act and property abutting,  
19 adjacent and contiguous to those lands described by ORS  
20 274.070 that is available for public use, whether such right  
21 to use is obtained by easement, state-ownership or by per-  
22 mission of a private owner.

23 SECTION 8. The owner or person in control of any  
24 property subject to a public easement declared a state  
25 recreation area by section 2 of this Act or any property  
26 subject to section 5 of this Act shall not be liable for  
27 any injury to another person or damage to property of  
28 another resulting from a condition of the property within

1 the easement or within the area subject to section 5 of  
2 this Act, unless the injury or damage results from a  
3 condition that he created or that he knew or, in the  
4 exercise of reasonable care, should have known was likely to  
5 cause injury to persons or damage to property.

6       **SECTION 9.** (1) In any court proceedings involving  
7 prescriptive rights of the public over property abutting,  
8 adjacent and contiguous to those lands described in ORS  
9 274.070, an instrument executed and filed as provided by  
10 subsection (2) of this section shall be an act and declara-  
11 tion admissible as evidence of the intent of the owner or  
12 person in control of property to exercise dominion and  
13 control over his property.

14       (2) The declaration shall describe the property and  
15 shall be signed and acknowledged as provided by ORS 93.410.  
16 It shall state that the public is granted permission to use  
17 the property, or a specifically described portion of the  
18 property, and that the public use may be for certain purposes  
19 which shall also be described. The declaration shall be  
20 filed in the office of the county officer charged with the  
21 duty of filing and recording instruments or documents  
22 affecting title to real property.

23       (3) The permission granted may be revoked at any  
24 time by the grantor by a declaration revoking the permission  
25 signed, acknowledged and filed as provided by subsection (2)  
26 of this section. In any event, the permission granted shall

1 terminate upon the assignment, grant, devise or other  
2 transfer or conveyance of the property or any interest  
3 therein by the owner or person in control of the property.

4         **SECTION 10.** Nothing in this Act shall be construed  
5 to relinquish the sovereign title of the State of Oregon in  
6 the shore of the Pacific Ocean between ordinary high tide and  
7 extreme low tide as the same may exist before or after the  
8 effective date of this Act.

9         **SECTION 11.** The State Highway Commission is directed  
10 to survey the land on the shore of the Pacific Ocean from  
11 the Columbia River on the north to the Oregon and Calif-  
12 ornia state line on the south for the purpose of locating  
13 the boundaries of the area zoned by section 5 of this Act  
14 and also for the purpose of obtaining information and  
15 material suitable for a re-evaluation and redefinition, if  
16 necessary, of such boundaries so that the public rights and  
17 interests in the lands along the shore of the Pacific Ocean  
18 shall be preserved. The commission shall complete the sur-  
19 vey and present its report to the Fifty-fifth Legislative  
20 Assembly.

21         **SECTION 12.** For purposes of assessment and ad  
22 valorem taxation, whenever real property is held subject  
23 to a public easement declared a state recreation area by  
24 section 2 of this Act, the true cash value of the property  
25 shall be subject to reduction for the restricted use im-  
26 posed on the servient property by the easement.

1           **SECTION 13.** Section 12 of this Act is first  
2 operative on January 1, 1968.

3           **SECTION 14.** Sections 1 to 11 of this Act being  
4 necessary for the immediate preservation of the public  
5 peace, health and safety, an emergency is declared to  
6 exist, and sections 1 to 11 of this Act shall take effect  
7 upon passage.



SENATE AMENDMENTS TO PRINTED RE-ENGROSSED HOUSE BILL 1601  
By Committee on Judiciary

June 1, 1967

1 On page 2 of the printed bill, delete lines 1 and 2 and insert:

2 "Relating to the rights of the State of Oregon and the public in the  
3 Oregon seashores as established by prescription or otherwise; de-  
4 claring and confirming such rights; providing for the acquisition of  
5 additional seashore lands; and declaring an emergency."

6 On page 2, delete lines 4 through 22 and insert:

7 "SECTION 1. The Legislative Assembly hereby declares it is the  
8 public policy of the State of Oregon to forever preserve and maintain  
9 the sovereignty of the state heretofore existing over the seashore and  
10 ocean beaches of the state from the Columbia River on the North to the  
11 Oregon-California line on the South so that the public may have the  
12 free and uninterrupted use thereof.

13 "SECTION 2. (1) The Legislative Assembly recognizes that over  
14 the years the public has made frequent and uninterrupted use of lands  
15 abutting, adjacent and contiguous to the public highways and state  
16 recreation areas and recognizes, further, that where such use has been  
17 sufficient to create easements in the public through dedication,  
18 prescription, grant or otherwise, that it is in the public interest to  
19 protect and preserve such public easements as a permanent part of  
20 Oregon's recreational resources.

21 "(2) Accordingly, the Legislative Assembly hereby declares that  
22 all public rights and easements in those lands described in subsection

NOTE: Matter underscored in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with SECTION.

1 (1) of this section are confirmed and declared vested exclusively in  
2 the State of Oregon and shall be held and administered in the same  
3 manner as those lands described in ORS 274.070.

4 "(3) The Legislative Assembly further declares that it is in the  
5 public interest to acquire additional rights and to do whatever is  
6 necessary to preserve and protect scenic and recreational use of  
7 Oregon's seashore and ocean beaches.

8 "(4) No portion of those lands described in this section or any  
9 interest either therein now or hereafter acquired by the State of  
10 Oregon or any political subdivision thereof may be alienated except as  
11 expressly provided by state law."

12 On page 3, delete lines 1 through 9 and insert:

13 "SECTION 3. The State Highway Commission, when necessary, shall  
14 undertake appropriate court proceedings to protect, settle and confirm  
15 all such public rights and easements in the State of Oregon.

16 "SECTION 4. The State Highway Commission, in accordance with ORS  
17 366.345, may acquire ownership or interests in such lands abutting,  
18 adjacent or contiguous to the Oregon seashore and beaches as may be  
19 appropriate for recreational purposes where such lands are held in  
20 private ownership."

21 On page 4, line 17, delete the period and insert ", or to  
22 publicly-owned appurtenances, structures or improvements made with the  
23 approval of the State Highway Engineer for the safety or convenience  
24 of the public."

25 On page 5, after line 12, insert "The State Highway Engineer  
26 shall give notice of any application, hearing or decision to any  
27 person who files a written request with him for such notice."



1 On page 6, line 21, before "easement" insert "prescription,".

2 On page 8, after line 3, insert:

3 "(4) Failure of the owner or person in control of property to  
4 execute and file the declaration as provided in subsection (2) of this  
5 section shall not imply an intent to relinquish dominion and control  
6 over his property."

7 On page 8, line 5, after "relinquish" insert ", impair or limit"  
8 and in the same line after "title" insert "or rights".

9 On page 8, line 6, delete "shore" and insert "shores" and in the  
10 same line delete "between ordinary high tide and".

11 On page 8, line 7, delete "extreme low tide".

12 On page 8, line 25, delete "subject to reduction" and insert  
13 "taken into consideration".

14 On page 9, after line 2, insert:

15 "SECTION 14. If one of the sections of this Act is declared  
16 unconstitutional, it is the intent of the Legislative Assembly that  
17 the remaining provisions of this Act remain in effect."

18 On page 9, line 3, delete "14" and insert "15".



~~RE-ENGROSSED~~ ENROLLED  
**House Bill 1601**

(Ordered by the Speaker, May 19, 1967)  
(Including Amendments by House, May 19)

SPONSORED BY Representatives Bazett, Ouderkirk, Senator Yturri (~~at the request of the State Highway Department~~)

CHAPTER.....

**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.

Declares protection and preservation of scenic and recreational use of certain areas of Pacific Ocean beaches to be in public interest. Declares that ownership of public easements in lands abutting, adjacent and contiguous to the area between ordinary high tide and extreme low tide lines are vested in the state and that such easements are state recreation areas to be administered, protected and preserved by State Highway Department.

Prohibits erection of structures or improvements on any land along Pacific shore between extreme low tide line and an elevation of 16 feet following natural topographic contour lines and in areas of low elevation on land between 5.7 foot elevation line and a line 300 feet inland from it. Exempts structures existing on May 1, 1967. Authorizes Highway Department to issue permits to erect structures in prohibited areas and sets forth procedure for notice, hearing and review of applications for such permits.

Directs department to police, protect and maintain lands subject to public easement by Act and to submit survey of such lands to Fifty-fifth Legislative Assembly.

Provides for proportionate reduction in true cash value of real property subject to such easement for property tax assessment after January 1, 1968.

Declares an emergency.

~~A BILL FOR~~

AN ACT

1 Relating to public and private rights relating to land; and  
2     -- declaring an emergency.

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

4         "SECTION 1. The Legislative Assembly recognizes that  
5 over the years the public has made frequent and uninterrupted  
6 use of lands abutting, adjacent and contiguous to those  
7 lands described in ORS 274.070; and where such use has been  
8 sufficient to create easements in the public through dedica-  
9 tion, prescription, grant or otherwise, the Legislative  
10 Assembly hereby declares that it is in the public interest  
11 to protect and preserve such public easements as a permanent  
12 part of Oregon's recreational resources. The Legislative  
13 Assembly further declares that it is in the public interest  
14 to acquire additional rights and to do whatever is necessary  
15 to preserve and protect scenic and recreational use of  
16 Oregon's beaches.

17         SECTION 2. Ownership of public easements on lands  
18 abutting, adjacent and contiguous to those lands described  
19 in ORS 274.070 is declared vested exclusively in the State  
20 of Oregon. Such easements are state recreation areas to be  
21 held and administered in the same manner as state recreation  
22 areas declared in ORS 274.070.

~~A BILL FOR~~

## AN ACT

2 Relating to the rights of the State of Oregon and the public in the  
3 Oregon seashores as established by prescription or otherwise; de-  
4 claring and confirming such rights; providing for the acquisition of  
5 additional seashore lands; and declaring an emergency.

6  
7  
8 **SECTION 1.** The Legislative Assembly hereby declares it is the  
9 public policy of the State of Oregon to forever preserve and maintain  
10 the sovereignty of the state heretofore existing over the seashore and  
11 ocean beaches of the state from the Columbia River on the North to the  
12 Oregon-California line on the South so that the public may have the  
13 free and uninterrupted use thereof.

14 **SECTION 2. (1)** The Legislative Assembly recognizes that over  
15 the years the public has made frequent and uninterrupted use of lands  
16 abutting, adjacent and contiguous to the public highways and state  
17 recreation areas and recognizes, further, that where such use has been  
18 sufficient to create easements in the public through dedication,  
19 prescription, grant or otherwise, that it is in the public interest to  
20 protect and preserve such public easements as a permanent part of  
21 Oregon's recreational resources.

22 **"(2)** Accordingly, the Legislative Assembly hereby declares that  
all public rights and easements in those lands described in subsection  
1 (1) of this section are confirmed and declared vested exclusively in  
2 the State of Oregon and shall be held and administered in the same  
3 manner as those lands described in ORS 274.070.

4 **"(3)** The Legislative Assembly further declares that it is in the  
5 public interest to acquire additional rights and to do whatever is  
6 necessary to preserve and protect scenic and recreational use of  
7 Oregon's seashore and ocean beaches.

8 **"(4)** No portion of those lands described in this section or any  
9 interest either therein now or hereafter acquired by the State of  
10 Oregon or any political subdivision thereof may be alienated except as  
11 expressly provided by state law.

1           **SECTION 3.** The State Highway Commission is authorized  
2 to administer, protect and preserve public easements declared  
3 state recreation areas by section 2 of this Act and for that  
4 purpose, if necessary, to undertake appropriate court  
5 proceedings.

6           **SECTION 4.** The State Highway Commission, in accord-  
7 ance with ORS 366.345, may acquire property, or interests in  
8 property, for use in connection with state recreation areas  
9 along the Pacific Coast.

10 ~~X~~ **SECTION 5.** (1) In order to promote the public health,  
11 safety and welfare, to protect the state recreation areas  
12 recognized and declared by section 2 of this Act and by  
13 ORS 274.070, to protect the safety of the public using such  
14 areas, and to preserve values adjacent to and adjoining such  
15 areas, the natural beauty of the seashore and the public  
16 recreational benefit derived therefrom, no person shall,  
17 except as provided by section 6 of this Act, erect, make or  
18 place any appurtenance, structure or improvement on any  
19 property that is within the area along the Pacific Ocean  
20 located between the extreme low tide and the elevation of  
21 16 feet following natural topographic contour lines. The  
22 position of the landward boundary line shall be interpolated  
23 to follow natural topographic contour lines whenever  
24 interrupted by man-made structures. However, in low-elevation  
25 areas, including but not limited to sand spits and marshes and  
26 the mouth of streams, estuaries, rivers and creeks where  
27 the 16.00 foot contour nearest the ocean, in plan view, does  
28 not substantially parallel the shore line, the boundary line

X 4 "SECTION 3. The State Highway Commission, when necessary, shall  
5 undertake appropriate court proceedings to protect, settle and confirm  
6 all such public rights and easements in the State of Oregon.

X 7 "SECTION 4. The State Highway Commission, in accordance with ORS  
8 366.345, may acquire ownership or interests in such lands abutting,  
9 adjacent or contiguous to the Oregon seashore and beaches as may be  
10 appropriate for recreational purposes where such lands are held in  
11 private ownership <sup>USE IN CONNECTION WITH</sup>  
12 along the Pacific Coast.

X 13 SECTION 5. (1) In order to promote the public health,  
14 safety and welfare, to protect the state recreation areas  
15 recognized and declared by section 2 of this Act and by  
16 ORS 274.070, to protect the safety of the public using such  
17 areas, and to preserve values adjacent to and adjoining such  
18 areas, the natural beauty of the seashore and the public  
19 recreational benefit derived therefrom, no person shall,  
20 except as provided by section 6 of this Act, erect, make or  
21 place any appurtenance, structure or improvement on any  
22 property that is within the area along the Pacific Ocean  
23 located between the extreme low tide and the elevation of  
24 16 feet following natural topographic contour lines. The  
25 position of the landward boundary line shall be interpolated  
26 to follow natural topographic contour lines whenever  
27 interrupted by man-made structures. However, in low-elevation  
28 areas, including but not limited to sand spits and marshes and  
the mouth of streams, estuaries, rivers and creeks where  
the 16.00 foot contour nearest the ocean, in plan view, does  
not substantially parallel the shore line, the boundary line

1 is 300 feet (but not in excess of the 16.00 foot elevation)  
2 inland from the contour line nearest the ocean which  
3 describes the 5.7 foot elevation. However, at the mouths  
4 of streams, estuaries, rivers and creeks in such low-eleva-  
5 tion areas where the 5.7 foot contour nearest the ocean does  
6 not substantially parallel the trend of the shoreline,  
7 the 5.7 foot contour line is replaced, for measurement  
8 purposes, by a straight line extending across the mouth  
9 from a point nearest the ocean on the 5.7 foot contour  
10 and proceeding in a straight line to a similar point on  
11 the opposite side. All elevations and vertical measurements  
12 are referred to the United States Coast and Geodetic Survey  
13 Sea-Level Datum of 1929 through the Pacific Northwest  
14 Supplementary Adjustment of 1947.

15 (2) This section does not apply to structures,  
16 including a 25-foot yard on all four sides of a single-  
17 family residence, existing on May 1, 1967,

18 (3) This section and section 6 of this Act do not  
19 apply to appurtenances, structures or improvements subject  
20 to easement or license granted by the State Land Board under  
21 ORS 274.075 or to rule, regulation or permit of or from the  
22 State Land Board under ORS 274.080.

23 **SECTION 6.** (1) Any person who desires a permit  
24 to erect, make or place an appurtenance, structure or  
25 improvement on any property subject to section 5 of this  
26 Act shall apply in writing to the State Highway Engineer, on  
27 a form and in a manner prescribed by the engineer, stating  
28 the kind of and reason for the appurtenance, structure or

1 is 300 feet (but not in excess of the 16.00 foot elevation)  
2 inland from the contour line nearest the ocean which  
3 describes the 5.7 foot elevation. However, at the mouths  
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5 tion areas where the 5.7 foot contour nearest the ocean does  
6 not substantially parallel the trend of the shoreline,  
7 the 5.7 foot contour line is replaced, for measurement  
8 purposes, by a straight line extending across the mouth  
9 from a point nearest the ocean on the 5.7 foot contour  
10 and proceeding in a straight line to a similar point on  
11 the opposite side. All elevations and vertical measurements  
12 are referred to the United States Coast and Geodetic Survey  
13 Sea-Level Datum of 1929 through the Pacific Northwest  
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16 including a 25-foot yard on all four sides of a single-  
17 family residence, existing on May 1, 1967, , or to  
18 <sup>to</sup> publicly<sup>owned</sup> appurtenances, structures or improvements made with the  
19 approval of the State Highway Engineer for the safety or convenience  
20 of the public, <sup>or</sup> license granted by the State Land Board under  
21 ORS 274.075 or to rule, regulation or permit of or from the  
22 State Land Board under ORS 274.080.

23 **SECTION 6.** (1) Any person who desires a permit  
24 to erect, make or place an appurtenance, structure or  
25 improvement on any property subject to section 5 of this  
26 Act shall apply in writing to the State Highway Engineer, on  
27 a form and in a manner prescribed by the engineer, stating  
28 the kind of and reason for the appurtenance, structure or



1 improvement. Upon receipt of an application satisfactory  
2 to the engineer, the engineer shall cause notice of the  
3 application to be posted at or near the location of the  
4 proposed appurtenance, structure or improvement. At the  
5 next regular meeting of the State Highway Commission held  
6 more than 10 days after receipt of the application, the  
7 engineer shall announce the receipt of the application.  
8 The notice and announcement shall include the name of  
9 the applicant, a description of the appurtenance, structure  
10 or improvement and its proposed location and a statement  
11 of the time within which any interested person may file a  
12 request with the engineer for a hearing on the application.

(2) Within 30 days after the date of the regular  
meeting at which the engineer announces the receipt of a  
satisfactory application, the applicant or any other inter-  
ested person may file a written request with the engineer  
for a hearing on the application. If such a request is filed,  
the engineer shall set a time for a hearing to be held by  
the engineer or his authorized representative. The engineer  
shall cause notice of the hearing to be posted and announced  
in the manner provided in subsection (1) of this section.  
The notice shall include the time and place of the hearing.

(3) After the hearing on an application or, if a  
hearing is not requested, after the time for requesting  
a hearing has expired, the engineer shall grant the permit  
if approval would not be adverse to the public interest in  
preserving the recreational and scenic resources. In acting  
on an application, the engineer shall take into consideration

1 improvement. Upon receipt of an application satisfactory  
2 to the engineer, the engineer shall cause notice of the  
3 application to be posted at or near the location of the  
4 proposed appurtenance, structure or improvement. At the  
5 next regular meeting of the State Highway Commission held  
6 more than 10 days after receipt of the application, the  
7 engineer shall announce the receipt of the application.  
8 The notice and announcement shall include the name of  
9 the applicant, a description of the appurtenance, structure  
10 or improvement and its proposed location and a statement  
11 of the time within which any interested person may file a  
12 request with the engineer for a hearing on the application.

13 (2) Within 30 days after The State Highway Engineer  
14 shall give notice of any application, hearing or decision to any  
15 person who files a written request with him for such notice. ~~er inter-~~  
16 ~~ested~~ person may file a written request with the engineer  
17 for a hearing on the application. If such a request is filed,  
18 the engineer shall set a time for a hearing to be held by  
19 the engineer or his authorized representative. The engineer  
20 shall cause notice of the hearing to be posted and announced  
21 in the manner provided in subsection (1) of this section.  
22 The notice shall include the time and place of the hearing.

23 (3) After the hearing on an application or, if a  
24 hearing is not requested, after the time for requesting  
25 a hearing has expired, the engineer shall grant the permit  
26 if approval would not be adverse to the public interest in  
27 preserving the recreational and scenic resources. In acting  
28 on an application, the engineer shall take into consideration

1 the existing uses and structures and the future recreational  
2 and scenic needs in the vicinity of the proposed appurtenance,  
3 structure or improvement. If the engineer does not act on a  
4 satisfactory application within 90 days after the date of  
5 receipt thereof or, if a hearing is held thereon, within  
6 60 days after the date of the hearing, the application  
7 shall be considered denied.

8 (4) Any person is entitled to appeal to the circuit  
9 court of the county where the property is located for a  
10 judicial review in equity of the action or failure to  
11 act by the engineer under this section. Any appeal  
12 taken under this subsection shall be made within 60 days  
13 after the date of the action or after the expiration of  
14 the period prescribed for action by the engineer under  
15 subsection (3) of this section.

16 X **SECTION 7.** The State Highway Commission is hereby  
17 authorized to police, protect and maintain property that is  
18 subject to section 5 of this Act and property abutting,  
19 adjacent and contiguous to those lands described by ORS  
20 274.070 that is available for public use, whether such right  
21 to use is obtained by easement, state-ownership or by per-  
22 mission of a private owner.

23 X **SECTION 8.** The owner or person in control of any  
24 property subject to a public easement declared a state  
25 recreation area by section 2 of this Act or any property  
26 subject to section 5 of this Act shall not be liable for  
27 any injury to another person or damage to property of  
28 another resulting from a condition of the property within

1 the easement or within the area subject to section 5 of  
2 this Act, unless the injury or damage results from a  
3 condition that he created or that he knew or, in the  
4 exercise of reasonable care, should have known was likely to  
5 cause injury to persons or damage to property.

6 ~~XXXXXX~~ SECTION 9. (1) In any court proceedings involving  
7 prescriptive rights of the public over property abutting,  
8 adjacent and contiguous to those lands described in ORS  
9 274.070, an instrument executed and filed as provided by  
10 subsection (2) of this section shall be an act and declara-  
11 tion admissible as evidence of the intent of the owner or  
12 person in control of property to exercise dominion and  
13 control over his property.

14 (2) The declaration shall describe the property and  
15 shall be signed and acknowledged as provided by ORS 93.410.  
16 It shall state that the public is granted permission to use  
17 the property, or a specifically described portion of the  
18 property, and that the public use may be for certain purposes  
19 which shall also be described. The declaration shall be  
20 filed in the office of the county officer charged with the  
21 duty of filing and recording instruments or documents  
22 affecting title to real property.

23 (3) The permission granted may be revoked at any  
24 time by the grantor by a declaration revoking the permission  
25 signed, acknowledged and filed as provided by subsection (2)  
26 of this section. In any event, the permission granted shall

1 terminate upon the assignment, grant, devise or other  
2 transfer or conveyance of the property or any interest  
3 therein by the owner or person in control of the property.

4 X SECTION 10. Nothing in this Act shall be construed  
5 to relinquish the sovereign title of the State of Oregon in  
6 the shore of the Pacific Ocean between ordinary high tide and  
7 extreme low tide as the same may exist before or after the  
8 effective date of this Act.

9 X SECTION 11. The State Highway Commission is directed  
10 to survey the land on the shore of the Pacific Ocean from  
11 the Columbia River on the north to the Oregon and Calif-  
12 ornia state line on the south for the purpose of locating  
13 the boundaries of the area zoned by section 5 of this Act  
14 and also for the purpose of obtaining information and  
15 material suitable for a re-evaluation and redefinition, if  
16 necessary, of such boundaries so that the public rights and  
17 interests in the lands along the shore of the Pacific Ocean  
18 shall be preserved. The commission shall complete the sur-  
19 vey and present its report to the Fifty-fifth Legislative  
20 Assembly.

21 X SECTION 12. For purposes of assessment and ad-  
22 valorem taxation, whenever real property is held subject  
23 to a public easement declared a state recreation area by  
24 section 2 of this Act, the true cash value of the property  
25 shall be subject to reduction for the restricted use im-  
26 posed on the servient property by the easement.

1 terminate upon the assignment, grant, devise or other  
2 transfer or conveyance of the property or any interest  
3 therein by the owner or person in control of the property.

4 (4) Failure of the owner or person in control of property to  
5 execute and file the declaration as provided in subsection (2) of this  
6 section shall not imply an intent to relinquish dominion and control | d  
7 over his property. as the same may exist before or after the  
8 effective date of this Act.

9 X SECTION 11. The State Highway Commission is directed  
10 to survey the land on the shore of the Pacific Ocean from  
11 the Columbia River on the north to the Oregon and Calif-  
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13 the boundaries of the area zoned by section 5 of this Act  
14 and also for the purpose of obtaining information and  
15 material suitable for a re-evaluation and redefinition, if  
16 necessary, of such boundaries so that the public rights and  
17 interests in the lands along the shore of the Pacific Ocean  
18 shall be preserved. The commission shall complete the sur-  
19 vey and present its report to the Fifty-fifth Legislative  
20 Assembly.

21 X SECTION 12. For purposes of assessment and ad  
22 valorem taxation, whenever real property is held subject  
23 to a public easement declared a state recreation area by  
24 section 2 of this Act, the true cash value of the property  
25 shall be subject to reduction for the restricted use im-  
26 posed on the servient property by the easement.

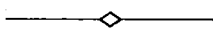
SECTION 13. Section 12 of this Act is first  
operative on January 1, 1968.

SECTION 14. Sections 1 to 11 of this Act being  
necessary for the immediate preservation of the public  
peace, health and safety, an emergency is declared to  
6 exist, and sections 1 to 11 of this Act shall take effect  
7 upon passage.

---

1 X SECTION 13. Section 12 of this Act is first  
2 operative on January 1, 1968.

15 "SECTION 14. If one of the sections of this Act is declared  
16 unconstitutional, it is the intent of the Legislative Assembly that  
17 the remaining provisions of this Act remain in effect. ed to  
6 exist, and sections 1 to 11 of this Act shall take effect  
7 upon passage.





# SENATE COMMITTEE REPORT

Salem, Oregon, May 31, 19 67

Mr. President:

Your Committee on Judiciary to whom was referred HB 1601,

having had the same under consideration, respectfully report it back with the recommendation that it:

Do pass.  Do pass with the following amendments:

On page 2 of the printed bill, delete lines 1 and 2 and insert:

"Relating to the rights of the State of Oregon and the public in the Oregon seashores as established by prescription or otherwise; declaring and confirming such rights; providing for the acquisition of additional seashore lands; and declaring an emergency."

On page 2, delete lines 4 through 22 and insert:

"SECTION 1. The Legislative Assembly hereby declares it is the public policy of the State of Oregon to forever preserve and maintain the sovereignty of the state heretofore existing over the seashore and ocean beaches of the state from the Columbia River on the North to the Oregon-California line on the South so that the public may have the free and uninterrupted use thereof.

"SECTION 2. (1) The Legislative Assembly recognizes that over the years the public has made frequent and uninterrupted use of lands abutting, adjacent and contiguous to the public highways and state recreation areas and recognizes, further, that where such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise, that it is in the public interest to

Submit: 2 copies if no amendments  
4 copies if amendments  
5 copies if to be printed engrossed  
Retain: 1 copy for committee files

Mohoney  
Chairman  
Sen. Mohoney will lead floor discussion on this measure.

protect and preserve such public easements as a permanent part of Oregon's recreational resources.

"(2) Accordingly, the Legislative Assembly hereby declares that all public rights and easements in those lands described in subsection (1) of this section are confirmed and declared vested exclusively in the State of Oregon and shall be held and administered in the same manner as those lands described in ORS 274.070.

"(3) The Legislative Assembly further declares that it is in the public interest to acquire additional rights and to do whatever is necessary to preserve and protect scenic and recreational use of Oregon's seashore and ocean beaches.

"(4) No portion of those lands described in this section or any interest either therein now or hereafter acquired by the State of Oregon or any political subdivision thereof may be alienated except as expressly provided by state law."

On page 3, delete lines 1 through 9 and insert:

"SECTION 3. The State Highway Commission, when necessary, shall undertake appropriate court proceedings to protect, settle and confirm all such public rights and easements in the State of Oregon.

"SECTION 4. The State Highway Commission, in accordance with ORS 366.345, may acquire ownership or interests in such lands abutting, adjacent or contiguous to the Oregon seashore and beaches as may be appropriate for recreational purposes where such lands are held in private ownership."

On page 4, line 17, delete the period and insert ", or to publicly-owned appurtenances, structures or improvements made with the

approval of the State Highway Engineer for the safety or convenience of the public."

On page 5, after line 12, insert "The State Highway Engineer shall give notice of any application, hearing or decision to any person who files a written request with him for such notice."

On page 6, line 21, before "assessment" insert "prescription."

On page 8, after line 3, insert:

"(4) Failure of the owner or person in control of property to execute and file the declaration as provided in subsection (2) of this section shall not imply an intent to relinquish dominion and control over his property."

On page 8, line 5, after "relinquish" insert ", impair or limit" and in the same line, after "title" insert "or rights".

On page 8, line 6, delete "shore" and insert "shores" and in the same line, delete "between ordinary high tide and".

On page 8, line 7, delete "extreme low tide".

On page 8, line 25, delete "subject to reduction" and insert "taken into consideration".

On page 9, after line 2, insert:

"SECTION 14. If one of the sections of this Act is declared unconstitutional, it is the intent of the Legislative Assembly that the remaining provisions of this Act remain in effect."

On page 9, line 3, delete "14" and insert "15".

work copy 12/11

RE-ENGROSSED

# House Bill 1601

(Ordered by the Speaker, <sup>May 19</sup> ~~April 11~~, 1967)  
(Including Amendments by House, <sup>May 17</sup> ~~April 11~~)

SPONSORED BY Representatives Bazett, Ouderkirk, Senator Yturri (at the request of the State Highway Department)

## 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.

Recognizes public rights to easements in shore lands acquired by dedication, prescription and other means between vegetation line and ordinary high tide line. Designates such lands as public recreation areas and directs State Highway Commission to protect and preserve such areas.

**NOTE:** Matter underscored in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with **SECTION**.

A BILL FOR  
AN ACT

*and private rights relating to lands and*  
*declaring an emergency.*

1 Relating to public rights in land

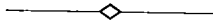
2 Be It Enacted by the People of the State of Oregon:

*Insert -> (1)*

~~3 SECTION 1. The Legislative Assembly recognizes that~~  
~~4 over the years the public has made frequent and uninterrupted~~  
~~5 use of lands abutting on the shore of the Pacific Ocean, sea-~~  
~~6 ward of the natural vegetation line, for recreational pur-~~  
~~7 poses and that such use has been sufficient to create ease-~~  
~~8 ments in the public through dedication, prescription, grant~~  
~~9 or otherwise. Accordingly, the Legislative Assembly de-~~  
~~10 clares that it is in the interest of the public to protect~~  
~~11 and preserve public easements acquired through dedication,~~  
~~12 prescription, grant or otherwise as a permanent part of~~  
~~13 Oregon's public recreational resources and to recognize and~~  
~~14 protect the rights of private owners to those lands that~~  
~~15 are not subject to such public easements.~~

*Deleted by  
HA 5-18*

~~16 SECTION 2. The State Highway Commission shall have~~  
~~17 authority to protect and preserve the rights of the public~~  
~~18 in the lands described in section 1 of this Act.~~



A BILL FOR  
AN ACT

*and private rights relating to land; and*

1 Relating to public rights in land, *declaring an emergency.*

2 Be It Enacted by the People of the State of Oregon:

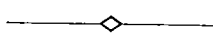
*Insert -> ①*

~~Section 1. The Legislative Assembly recognizes that~~

over the years the public has made frequent and uninterrupted use of lands abutting, adjacent and contiguous to those lands described in ORS 274.070; and where such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise, the Legislative Assembly hereby declares that it is in the public interest to protect and preserve such public easements as a permanent part of Oregon's recreational resources. The Legislative Assembly further declares that it is in the public interest to acquire additional rights and to do whatever is necessary to preserve and protect scenic and recreational use of Oregon's beaches.

*Relate  
HGA*

17 authority to protect and preserve the rights of the public  
18 ~~in the lands described in section 1 of this Act.~~



Section 2. Ownership of public easements on lands abutting, adjacent and contiguous to those lands described in ORS 274.070 is declared vested exclusively in the State of Oregon. Such easements are state recreation areas to be held and administered in the same manner as state recreation areas declared in ORS 274.070.

Section 3. The State Highway Commission is authorized to administer, protect and preserve public easements declared state recreation areas by section 2 of this Act and for that purpose, if necessary, to undertake appropriate court proceedings.

Section 4. The State Highway Commission, in accordance with ORS 366.345, may acquire property, or interests in property, for use in connection with state recreation areas along the Pacific Coast.

Section 5. (1) In order to promote the public health, safety and welfare, to protect the state recreation areas recognized and declared by section 2 of this Act and by ORS 274.070, to protect the safety of the public using such areas, and to preserve values adjacent to and adjoining such areas, the natural beauty of the seashore and the public recreational benefit derived therefrom, no person shall, except as provided by section 6 of this Act, erect, make or place any appurtenance, structure or improvement on any property that is within the area along the Pacific Ocean

located between the extreme low tide and the elevation of 16 feet following natural topographic contour lines. The position of the landward boundary line shall be interpolated to follow natural topographic contour lines whenever interrupted by man-made structures. However, in low-elevation areas, including but not limited to sand spits and marshes and the mouth of streams, estuaries, rivers and creeks where the 16.00 foot contour nearest the ocean, in plan view, does not substantially parallel the shore line, the boundary line is 300 feet (but not in excess of the 16.00 foot elevation) inland from the contour line nearest the ocean which describes the 5.7 foot elevation. However, at the mouths of streams, estuaries, rivers and creeks in such low-elevation areas where the 5.7 foot contour nearest the ocean does not substantially parallel the trend of the shoreline, the 5.7 foot contour line is replaced, for measurement purposes, by a straight line extending across the mouth from a point nearest the ocean on the 5.7 foot contour and proceeding in a straight line to a similar point on the opposite side. All elevations and vertical measurements are referred to the United States Coast and Geodetic Survey Sea-Level Datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947.

Q#(2) This section does not apply to structures, including a 25-foot yard on all four sides of a single-family residence, existing on May 1, 1967.



2<sup>nd</sup>(3) This section and section 6 of this Act do not apply to appurtenances, structures or improvements subject to easement or license granted by the State Land Board under ORS 274.075 or to rule, regulation or permit of or from the State Land Board under ORS 274.080.

2<sup>nd</sup>Section 6. (1) Any person who desires a permit to erect, make or place an appurtenance, structure or improvement on any property subject to section 5 of this Act shall apply in writing to the State Highway Engineer, on a form and in a manner prescribed by the engineer, stating the kind of and reason for the appurtenance, structure or improvement. Upon receipt of an application satisfactory to the engineer, the engineer shall cause notice of the application to be posted at or near the location of the proposed appurtenance, structure or improvement. At the next regular meeting of the State Highway Commission held more than 10 days after receipt of the application, the engineer shall announce the receipt of the application. The notice and announcement shall include the name of the applicant, a description of the appurtenance, structure or improvement and its proposed location and a statement of the time within which any interested person may file a request with the engineer for a hearing on the application.

Amendments to H.B. 1601

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House Committee on Highways

Q<sup>n</sup>(2) Within 30 days after the date of the regular meeting at which the engineer announces the receipt of a satisfactory application, the applicant or any other interested person may file a written request with the engineer for a hearing on the application. If such a request is filed, the engineer shall set a time for a hearing to be held by the engineer or his authorized representative. The engineer shall cause notice of the hearing to be posted and announced in the manner provided in subsection (1) of this section. The notice shall include the time and place of the hearing.

Q<sup>n</sup>(3) After the hearing on an application or, if a hearing is not requested, after the time for requesting a hearing has expired, the engineer shall grant the permit if approval would not be adverse to the public interest in preserving the recreational and scenic resources. In acting on an application, the engineer shall take into consideration the existing uses and structures and the future recreational and scenic needs in the vicinity of the proposed appurtenance, structure or improvement. If the engineer does not act on a satisfactory application within 90 days after the date of receipt thereof or, if a hearing is held thereon, within 60 days after the date of the hearing, the application shall be considered denied.

(4) Any person is entitled to appeal to the circuit court of the county where the property is located for a judicial review in equity of the action or failure to act by the engineer under this section. Any appeal taken under this subsection shall be made within 60 days after the date of the action or after the expiration of the period prescribed for action by the engineer under subsection (3) of this section.

Section 7. The State Highway Commission is hereby authorized to police, protect and maintain property that is subject to section 5 of this Act and property abutting, adjacent and contiguous to those lands described by ORS 274.070 that is available for public use, whether such right to use is obtained by easement, state-ownership or by permission of a private owner.

Section 8. The owner or person in control of any property subject to a public easement declared a state recreation area by section 2 of this Act or any property subject to section 5 of this Act shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within

Amendments to H.B. 1601

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House Committee on Highways

the easement or within the area subject to section 5 of this Act, unless the injury or damage results from a condition that he created or that he knew or, in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

*e* Section 9. (1) In any court proceedings involving prescriptive rights of the public over property abutting, adjacent and contiguous to those lands described in ORS 274.070, an instrument executed and filed as provided by subsection (2) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

*e* (2) The declaration shall describe the property and shall be signed and acknowledged as provided by ORS 93.410. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the office of the county officer charged with the duty of filing and recording instruments or documents affecting title to real property.

*e* (3) The permission granted may be revoked at any time by the grantor by a declaration revoking the permission signed, acknowledged and filed as provided by subsection (2) of this section. In any event, the permission granted shall

terminate upon the assignment, grant, devise or other transfer or conveyance of the property or any interest therein by the owner or person in control of the property.

Section 10. Nothing in this Act shall be construed to relinquish the sovereign title of the State of Oregon in the shore of the Pacific Ocean between ordinary high tide and extreme low tide as the same may exist before or after the effective date of this Act.

Section 11. The State Highway Commission is directed to survey the land on the shore of the Pacific Ocean from the Columbia River on the north to the Oregon and California state line on the south for the purpose of locating the boundaries of the area zoned by section 5 of this Act and also for the purpose of obtaining information and material suitable for a re-evaluation and redefinition, if necessary, of such boundaries so that the public rights and interests in the lands along the shore of the Pacific Ocean shall be preserved. The commission shall complete the survey and present its report to the Fifty-fifth Legislative Assembly.

Section 12. For purposes of assessment and ad valorem taxation, whenever real property is held subject to a public easement declared a state recreation area by section 2 of this Act, the true cash value of the property shall be subject to reduction for the restricted use imposed on the servient property by the easement.

2<sup>n</sup> Section 13. Section 12 of this Act is first operative on January 1, 1968.

2<sup>n</sup> Section 14. Sections 1 to 11 of this Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and sections 1 to 11 of this Act shall take effect upon passage.

HOUSE COMMITTEE REPORT

*not printed*

*orig*

Salem, Oregon, May 18, 1967

Mr. Speaker:

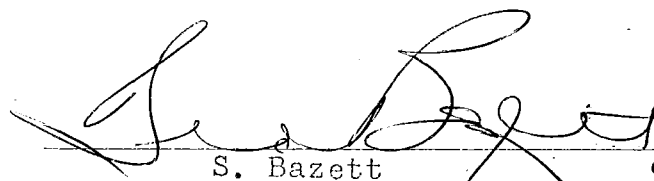
Your Committee on Highways to whom was referred ~~Engrossed~~ HB 1601 having had the same under consideration, respectfully report it back with the recommendation that it:

- Do pass.
- Do pass with the following amendments: *to the printed engrossed bill*
- (Referred to Ways and Means by prior reference)
- 

On page 2 of the printed engrossed bill, line 1, after "public" delete the rest of the line and insert "and private rights relating to land <sup>and the following amendments</sup>". *SB*

On page 2, delete lines 3 through 18 and insert:

"~~Section~~ 1. The Legislative Assembly recognizes that over the years the public has made frequent and uninterrupted use of lands abutting, adjacent and contiguous to those lands described in ORS 274.070; and where such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise, the Legislative Assembly hereby declares that it is in the public interest to protect and preserve such public easements as a permanent part of Oregon's recreational resources. The Legislative Assembly further declares that it is in the public interest to acquire additional rights and to do whatever is necessary to preserve and protect scenic and recreational use of Oregon's beaches.

  
 S. Bazett Chariman  
 Rep. Howard will lead floor discussion on this measure.

2 copies if no amendments  
 Submit: 4 copies if amendments  
 5 copies if to be printed engrossed  
 Retain: 1 copy for committee files

*Ordered printed engrossed by Speaker.*

"Section 2. Ownership of public easements on lands abutting, adjacent and contiguous to those lands described in ORS 274.070 is declared vested exclusively in the State of Oregon. Such easements are state recreation areas to be held and administered in the same manner as state recreation areas declared in ORS 274.070.

"Section 3. The State Highway Commission is authorized to administer, protect and preserve public easements declared state recreation areas by section 2 of this Act and for that purpose, if necessary, to undertake appropriate court proceedings.

"Section 4. The State Highway Commission, in accordance with ORS 366.345, may acquire property, or interests in property, for use in connection with state recreation areas along the Pacific Coast.

"Section 5. (1) In order to promote the public health, safety and welfare, to protect the state recreation areas recognized and declared by section 2 of this Act and by ORS 274.070, to protect the safety of the public using such areas, and to preserve values adjacent to and adjoining such areas, the natural beauty of the seashore and the public recreational benefit derived therefrom, no person shall, except as provided by section 6 of this Act, erect, make or place any appurtenance, structure or improvement on any property that is within the area along the Pacific Ocean



located between the extreme low tide and the elevation of 16 feet following natural topographic contour lines. The position of the landward boundary line shall be interpolated to follow natural topographic contour lines whenever interrupted by man-made structures. However, in low-elevation areas, including but not limited to sand spits and marshes and the mouth of streams, estuaries, rivers and creeks where the 16.00 foot contour nearest the ocean, in plan view, does not substantially parallel the shore line, the boundary line is 300 feet (but not in excess of the 16.00 foot elevation) inland from the contour line nearest the ocean which describes the 5.7 foot elevation. However, at the mouths of streams, estuaries, rivers and creeks in such low-elevation areas where the 5.7 foot contour nearest the ocean does not substantially parallel the trend of the shoreline, the 5.7 foot contour line is replaced, for measurement purposes, by a straight line extending across the mouth from a point nearest the ocean on the 5.7 foot contour and proceeding in a straight line to a similar point on the opposite side. All elevations and vertical measurements are referred to the United States Coast and Geodetic Survey Sea-Level Datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947.

"(2) This section does not apply to structures, including a 25-foot yard on all four sides of a single-family residence, existing on May 1, 1967.

"(3) This section and section 6 of this Act do not apply to appurtenances, structures or improvements subject to easement or license granted by the State Land Board under ORS 274.075 or to rule, regulation or permit of or from the State Land Board under ORS 274.080.

"Section 6. (1) Any person who desires a permit to erect, make or place an appurtenance, structure or improvement on any property subject to section 5 of this Act shall apply in writing to the State Highway Engineer, on a form and in a manner prescribed by the engineer, stating the kind of and reason for the appurtenance, structure or improvement. Upon receipt of an application satisfactory to the engineer, the engineer shall cause notice of the application to be posted at or near the location of the proposed appurtenance, structure or improvement. At the next regular meeting of the State Highway Commission held more than 10 days after receipt of the application, the engineer shall announce the receipt of the application. The notice and announcement shall include the name of the applicant, a description of the appurtenance, structure or improvement and its proposed location and a statement of the time within which any interested person may file a request with the engineer for a hearing on the application.

Amendments to H.B. 1601

Page 4 - 5/18/67  
House Committee on Highways

"(2) Within 30 days after the date of the regular meeting at which the engineer announces the receipt of a satisfactory application, the applicant or any other interested person may file a written request with the engineer for a hearing on the application. If such a request is filed, the engineer shall set a time for a hearing to be held by the engineer or his authorized representative. The engineer shall cause notice of the hearing to be posted and announced in the manner provided in subsection (1) of this section. The notice shall include the time and place of the hearing.

"(3) After the hearing on an application or, if a hearing is not requested, after the time for requesting a hearing has expired, the engineer shall grant the permit if approval would not be adverse to the public interest in preserving the recreational and scenic resources. In acting on an application, the engineer shall take into consideration the existing uses and structures and the future recreational and scenic needs in the vicinity of the proposed appurtenance, structure or improvement. If the engineer does not act on a satisfactory application within 90 days after the date of receipt thereof or, if a hearing is held thereon, within 60 days after the date of the hearing, the application shall be considered denied.

"(4) Any person is entitled to appeal to the circuit court of the county where the property is located for a judicial review in equity of the action or failure to act by the engineer under this section. Any appeal taken under this subsection shall be made within 60 days after the date of the action or after the expiration of the period prescribed for action by the engineer under subsection (3) of this section.

"Section 7. The State Highway Commission is hereby authorized to police, protect and maintain property that is subject to section 5 of this Act and property abutting, adjacent and contiguous to those lands described by ORS 274.070 that is available for public use, whether such right to use is obtained by easement, state-ownership or by permission of a private owner.

"Section 8. The owner or person in control of any property subject to a public easement declared a state recreation area by section 2 of this Act or any property subject to section 5 of this Act shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within

Amendments to H.B. 1601

Page 6 - 5/18/67

House Committee on Highways

the easement or within the area subject to section 5 of this Act, unless the injury or damage results from a condition that he created or that he knew or, in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

"Section 9. (1) In any court proceedings involving prescriptive rights of the public over property abutting, adjacent and contiguous to those lands described in ORS 274.070, an instrument executed and filed as provided by subsection (2) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

"(2) The declaration shall describe the property and shall be signed and acknowledged as provided by ORS 93.410. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the office of the county officer charged with the duty of filing and recording instruments or documents affecting title to real property.

"(3) The permission granted may be revoked at any time by the grantor by a declaration revoking the permission signed, acknowledged and filed as provided by subsection (2) of this section. In any event, the permission granted shall

terminate upon the assignment, grant, devise or other transfer or conveyance of the property or any interest therein by the owner or person in control of the property.

"Section 10. Nothing in this Act shall be construed to relinquish the sovereign title of the State of Oregon in the shore of the Pacific Ocean between ordinary high tide and extreme low tide as the same may exist before or after the effective date of this Act.

"Section 11. The State Highway Commission is directed to survey the land on the shore of the Pacific Ocean from the Columbia River on the north to the Oregon and California state line on the south for the purpose of locating the boundaries of the area zoned by section 5 of this Act and also for the purpose of obtaining information and material suitable for a re-evaluation and redefinition, if necessary, of such boundaries so that the public rights and interests in the lands along the shore of the Pacific Ocean shall be preserved. The commission shall complete the survey and present its report to the Fifty-fifth Legislative Assembly.

"Section 12. For purposes of assessment and ad valorem taxation, whenever real property is held subject to a public easement declared a state recreation area by section 2 of this Act, the true cash value of the property shall be subject to reduction for the restricted use imposed on the servient property by the easement.

"Section 13. Section 12 of this Act is first operative on January 1, 1968.

"Section 14. Sections 1 to 11 of this Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and sections 1 to 11 of this Act shall take effect upon passage."

OREGON LEGISLATIVE ASSEMBLY—1967 REGULAR SESSION

HOUSE AMENDMENTS TO HOUSE BILL 1601  
By Committee on Highways

April 11, 1967

1 On page 2 of the printed bill, line 1, after "land"  
2 delete the rest of the line and insert a period.

3 On page 2, delete line 2.

4 On page 2, line 6, after "the" and before "vegeta-"  
5 insert "natural".

6 On page 2, line 11, delete "such" and in the same line  
7 delete "as have been".

8 On page 2, line 13, after "resources" insert "and to  
9 recognize and protect the rights of private owners to those  
10 lands that are not subject to such public easements".

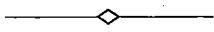
11 On page 2, delete lines 14 through 22.

12 On page 3, delete lines 1 through 12.

13 On page 3, line 13, delete "4" and insert "2".

14 On page 3, line 14, delete "declared" and insert  
15 "described in section 1 of this Act."

16 On page 3, delete lines 15 through 22.



3-6-67-165-



ENGROSSED

# House Bill 1601

*(Introduced by the Speaker, April 11, 1967)*

*(Referred to the Committee on Highways, April 11)*

SPONSORED BY Representatives Bazett, Ouderkirk, Senator Yturri (at the request of the State Highway Department)

## 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.

Recognizes public rights to easements in shore lands acquired by dedication, prescription and other means between vegetation line and ordinary high tide line. Designates such lands as public recreation areas and directs State Highway Commission to protect and preserve such areas.

A BILL FOR

AN ACT

1 Relating to public rights in land, ~~creating new provisions; and~~  
 2 ~~amending ORS 274.070.~~

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

4 SECTION 1. The Legislative Assembly recognizes that over the  
 5 years the public has made frequent and uninterrupted use of lands  
 6 abutting on the shore of the Pacific Ocean, seaward of the <sup>natural</sup> vegeta-  
 7 tion line, for recreational purposes and that such use has been suffi-  
 8 cient to create easements in the public through dedica-  
 9 tion, grant or otherwise. Accordingly, the Legislative Assembly  
 10 declares that it is in the interest of the public to protect and  
 11 preserve ~~such~~ public easements ~~as have been~~ acquired through dedi-  
 12 cation, prescription, grant or otherwise as a permanent part of  
 13 Oregon's public recreational resources. <sup>①</sup>

Insert  
①

14 ~~SECTION 2. As used in this Act "vegetation line" means that~~  
 15 ~~line formed by natural vegetation where the natural growth of such~~  
 16 ~~vegetation is sufficient to distinguish the land with vegetation there-~~  
 17 ~~on from other land seaward of such vegetation. Where there is no~~  
 18 ~~clearly marked line of such vegetation the vegetation line shall be~~  
 19 ~~determined by connecting the clearly marked lines of vegetation on~~  
 20 ~~each side of the unmarked area by a line drawn between each side at~~  
 21 ~~the average elevation of each side.~~  
 22 Section 3. ORS 274.070 is amended to read:

A BILL FOR  
AN ACT

1 Relating to public rights in land, <sup>Ⓞ</sup> ~~creating new provisions; and~~  
2 ~~amending ORS 274.070.~~

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

4 SECTION 1. The Legislative Assembly recognizes that over the  
5 years the public has made frequent and uninterrupted use of lands  
6 abutting on the shore of the Pacific Ocean, seaward of the <sup>natural</sup> vegeta-  
7 tion line, for recreational purposes and that such use has been suffi-  
8 cient to create easements in the public through dedication, prescrip-  
9 tion, grant or otherwise. Accordingly, the Legislative Assembly  
10 declares that it is in the interest of the public to protect and  
11 preserve ~~such~~ public easements ~~as have been~~ acquired through dedi-  
12 cation, prescription, grant or otherwise as a permanent part of  
13 Oregon's public recreational resources. <sup>Ⓞ</sup> ~~and to~~ <sup>Ⓞ</sup>  
recognize and protect the rights of private owners to those  
lands that are not subject to such public easements <sup>such</sup>

16 vegetation is sufficient to distinguish the land with vegetation there-  
17 on from other land seaward of such vegetation. Where there is no  
18 clearly marked line of such vegetation the vegetation line shall be  
19 determined by connecting the clearly marked lines of vegetation on  
20 each side of the unmarked area by a line drawn between each side at  
21 the average elevation of each side.

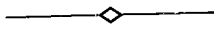
22 Section 3. ORS 274.070 is amended to read:

*Insert*  
Ⓞ

1 274.070. Ownership of the shore of the Pacific Ocean between  
 2 ordinary high tide and extreme low tide, together with all rights of  
 3 the public, whether acquired through dedication, prescription, grant  
 4 or otherwise, in any land along such shore within the area between  
 5 the line of ordinary high tide and the vegetation line, [and] from  
 6 the Columbia River on the north to the Oregon and California state  
 7 line on the south, excepting such portion or portions of such shore  
 8 as may have been disposed of by the state prior to July 5, 1947, here-  
 9 by is declared vested in the State of Oregon, and hereby is declared  
 10 to be a state recreation area. No portion of such shore or rights  
 11 in land along such shore shall be alienated by any of the agencies  
 12 of the state except as provided by special law.

13 **SECTION 1<sup>2</sup>** The State Highway Commission shall have authority to  
 14 protect and preserve the rights of the public in the lands *described in section 1 of this Act.* ~~declared~~  
 15 ~~a state recreation area in section 3 of this Act. In any action,~~

16 suit or proceeding to protect or preserve the public rights described  
 17 in **section 1** of this Act, a showing that the land involved is located  
 18 along any portion of the shore of the Pacific Ocean declared a state  
 19 recreation area by **section 3** of this Act and within the area between  
 20 the line of ordinary high tide and the vegetation line, shall be prima  
 21 facie evidence that the public, by dedication, prescription, grant or  
 22 otherwise, has the right to use such land for recreation purposes.



ENGROSSED

# House Bill 1601

(Ordered by the Speaker, April 11, 1967)  
(Including Amendments by House, April 11)

SPONSORED BY Representatives Bazett, Ouderkirk, Senator Yturri (at the request of the State Highway Department)

## 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.

Recognizes public rights to easements in shore lands acquired by dedication, prescription and other means between vegetation line and ordinary high tide line. Designates such lands as public recreation areas and directs State Highway Commission to protect and preserve such areas.

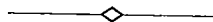
A BILL FOR  
AN ACT

1 Relating to public rights in land.

2 Be It Enacted by the People of the State of Oregon:

3       **SECTION 1.** The Legislative Assembly recognizes that  
4 over the years the public has made frequent and uninterrupted  
5 use of lands abutting on the shore of the Pacific Ocean, sea-  
6 ward of the natural vegetation line, for recreational pur-  
7 poses and that such use has been sufficient to create ease-  
8 ments in the public through dedication, prescription, grant  
9 or otherwise. Accordingly, the Legislative Assembly de-  
10 clares that it is in the interest of the public to protect  
11 and preserve public easements acquired through dedication,  
12 prescription, grant or otherwise as a permanent part of  
13 Oregon's public recreational resources and to recognize and  
14 protect the rights of private owners to those lands that  
15 are not subject to such public easements.

16       **SECTION 2.** The State Highway Commission shall have  
17 authority to protect and preserve the rights of the public  
18 in the lands described in section 1 of this Act.



# HOUSE COMMITTEE REPORT

Salem, Oregon, April 10, 1967

Mr. Speaker:

Your Committee on Highways to whom was referred HB 1601, having had the same under consideration, respectfully report it back with the recommendation that it:

- Do pass.  Do pass with the following amendments:
- (Referred to Ways and Means by prior reference)
- be printed engrossed with the following amendments and rereferred to this committee for further consideration:

On page 2 of the printed bill, line 1, after "land" delete the rest of the line and insert a period.

On page 2, delete line 2.

On page 2, line 6, after "the" and before "vegeta-" insert "natural".

On page 2, line 11, delete "such" and in the same line delete "as have been".

On page 2, line 13, after "resources" insert "and to recognize and protect the rights of private owners to those lands that are not subject to such public easements".

On page 2, delete lines 14 through 22.

On page 3, delete lines 1 through 12.

On page 3, line 13, delete "4" and insert "2".

On page 3, line 14, delete "declared" and insert "described in section 1 of this Act."

On page 3, delete lines 15 through 22.

  
Sid Bazett

Chairman

2 copies if no amendments  
Submit: 4 copies if amendments  
5 copies if to be printed engrossed

Retain: 1 copy for committee files

Rep. \_\_\_\_\_ will lead  
floor discussion on this measure.

# House Bill 1601

SPONSORED BY Representatives Bazett, Ouderkirk, Senator Yturri (at the request of the State Highway Department)

## 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.

Recognizes public rights to easements in shore lands acquired by dedication, prescription and other means between vegetation line and ordinary high tide line. Designates such lands as public recreation areas and directs State Highway Commission to protect and preserve such areas.

**NOTE:** Matter underscored in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with **SECTION**.



## A BILL FOR

## AN ACT

1 Relating to public rights in land; creating new provisions; and  
2 amending ORS 274.070.

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

4 **SECTION 1.** The Legislative Assembly recognizes that over the  
5 years the public has made frequent and uninterrupted use of lands  
6 abutting on the shore of the Pacific Ocean, seaward of the vegeta-  
7 tion line, for recreational purposes and that such use has been suffi-  
8 cient to create easements in the public through dedication, prescrip-  
9 tion, grant or otherwise. Accordingly, the Legislative Assembly  
10 declares that it is in the interest of the public to protect and  
11 preserve such public easements as have been acquired through dedi-  
12 cation, prescription, grant or otherwise as a permanent part of  
13 Oregon's public recreational resources.

14 **SECTION 2.** As used in this Act "vegetation line" means that  
15 line formed by natural vegetation where the natural growth of such  
16 vegetation is sufficient to distinguish the land with vegetation there-  
17 on from other land seaward of such vegetation. Where there is no  
18 clearly marked line of such vegetation the vegetation line shall be  
19 determined by connecting the clearly marked lines of vegetation on  
20 each side of the unmarked area by a line drawn between each side at  
21 the average elevation of each side.

22 **Section 3.** ORS 274.070 is amended to read:

1       274.070. Ownership of the shore of the Pacific Ocean between  
2 ordinary high tide and extreme low tide, together with all rights of  
3 the public, whether acquired through dedication, prescription, grant  
4 or otherwise, in any land along such shore within the area between  
5 the line of ordinary high tide and the vegetation line, [and] from  
6 the Columbia River on the north to the Oregon and California state  
7 line on the south, excepting such portion or portions of such shore  
8 as may have been disposed of by the state prior to July 5, 1947, here-  
9 by is declared vested in the State of Oregon, and hereby is declared  
10 to be a state recreation area. No portion of such shore or rights  
11 in land along such shore shall be alienated by any of the agencies  
12 of the state except as provided by special law.

13       **SECTION 4.** The State Highway Commission shall have authority to  
14 protect and preserve the rights of the public in the lands declared  
15 a state recreation area in **section 3** of this Act. In any action,  
16 suit or proceeding to protect or preserve the public rights described  
17 in **section 1** of this Act, a showing that the land involved is located  
18 along any portion of the shore of the Pacific Ocean declared a state  
19 recreation area by **section 3** of this Act and within the area between  
20 the line of ordinary high tide and the vegetation line, shall be prima  
21 facie evidence that the public, by dedication, prescription, grant or  
22 otherwise, has the right to use such land for recreation purposes.



A BILL FOR

AN ACT

Relating to public rights in land; creating new provisions; and  
amending ORS 274.070.

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

*bc*  
*bc*  
SECTION 1. The Legislative Assembly recognizes that over the years the public has made frequent and uninterrupted use of lands abutting on the shore of the Pacific Ocean, seaward of the vegetation line, for recreational purposes and that such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise. Accordingly, the Legislative Assembly declares that it is in the interest of the public to protect and preserve such public easements as have been acquired through dedication, prescription, grant or otherwise as a permanent part of Oregon's public recreational resources.

*bc*  
*bc*  
SECTION 2. As used in this Act "vegetation line" means that line formed by natural vegetation where the natural growth of such vegetation is sufficient to distinguish the land with vegetation thereon from other land seaward of such vegetation. Where there is no clearly marked line of such vegetation the vegetation line shall be determined by connecting the clearly marked lines of vegetation on each side of the unmarked area by a line drawn between each side at the average elevation of each side.

Section 3. ORS 274.070 is amended to read:

274.070. Ownership of the shore of the Pacific Ocean between ordinary high tide and extreme low tide, together with all rights of the public, whether acquired through dedication, prescription, grant or otherwise, in any land along such shore within the area between the line of ordinary high tide and the vegetation line, [and] from the Columbia River on the north to the Oregon and California state line on the south, excepting such portion or portions of such shore as may have been disposed of by the state prior to July 5, 1947, hereby is declared vested in the State of Oregon, and hereby is declared to be a state recreation area. No portion of such shore or rights in land along such shore shall be alienated by any of the agencies of the state except as provided by special law.

SECTION 4. The State Highway Commission shall have authority to protect and preserve the rights of the public in the lands declared a state recreation area in section 3 of this Act. In any action, suit or proceeding to protect or preserve the public rights described in section 1 of this Act, a showing that the land involved is located along any portion of the shore of the Pacific Ocean declared a state recreation area by section 3 of this Act and within the area between the line of ordinary high tide and the vegetation line, shall be prima facie evidence that the public, by dedication, prescription, grant or otherwise, has the right to use such land for recreation purposes.

# HOUSE BILL BACK

RECEIVED  
HOUSE DESK

2

▼ CROSS OUT INAPPLICABLE WORDS ▼

BILL  
~~RESOLUTION~~ } NUMBER **1601**  
~~MEMORIAL~~

1967 FEB 13 PM 2 44

Title: **Relating to public rights in land; creating new provisions; and amending ORS 274.070.**

Introduced by: Representatives **Bazett** *SB*  
 (At the request of the State Highway Department)

## ADDITIONAL SIGNERS

HOUSE

SENATE

Anunsen .....	Johnson, Sam .....	Atiyeh .....
Bazett <i>SB</i> .....	Kennedy .....	Bain .....
Bedingfield .....	Lang .....	Bateson .....
Bennett .....	Leiken .....	Boivin .....
Bessonette .....	Lewis .....	Burns .....
Boe .....	McCready .....	Chapman .....
Bradley .....	McGilvra .....	Cook .....
Carson .....	McKenzie .....	Eivers .....
Chuinard .....	McKinnis .....	Elfstrom .....
Crothers .....	Mann .....	Fadeley .....
Davis .....	Martin .....	Flegel .....
Day .....	Meek .....	Hallock .....
Detering .....	Montgomery .....	Hoyt .....
Elder .....	Ouderkirk <i>W</i> .....	Husband .....
Elliott .....	Packwood .....	Huston .....
Flitcraft .....	Peck .....	Inskeep .....
Frost .....	Priestley .....	Ireland .....
Graham .....	Redden .....	Lent .....
Guynes .....	Richards .....	McKay .....
Gwinn .....	Roberts, Betty .....	Mahoney .....
Hanneman .....	Roberts, Frank .....	Morgan .....
Hansell .....	Rogers .....	Musa .....
Harlan .....	Skelton .....	Naterlin .....
Hart .....	Smith, Loren .....	Newbry .....
Hartung .....	Smith, Robert .....	Potts .....
Holmstrom .....	Stevenson .....	Raymond .....
Howard .....	Thornton .....	Stadler .....
Howe .....	Turner .....	Thiel .....
Jernstedt .....	Willits .....	Willner .....
Johnson, Lee .....	Wilson .....	Yturri <i>W</i> .....

HB 1601

conflicts with

HB 1037

Both bills amend ORS 274.070

*Sealer Ins.*

*Highway*

ORIGINAL

HISTORY SHEET

HOUSE

By:	Bill	1601	Printed DATE ENGROSSED	April 11, 1967
Representatives	<del>Resolution</del> Memorietx		Printed DATE REENGROSSED	May 19, 1967
			DATE ENGROSSED	

DATE ENGROSSED	
DATE REENGROSSED	
DATE ENROLLED	June 12, 1967

Bazett, Oudenirk, Senator Yburri (at the request of the State Highway Department)

TITLE  
Relating to the rights of the State of Oregon and the public in the Oregon seashores as established by prescription or otherwise; declaring and confirming such rights; providing for the acquisition of additional seashore lands; and declaring an emergency.

HOUSE ACTION		SENATE ACTION	
READ FIRST TIME FEB 22 1967	READ SECOND TIME FEB 23 1967	READ FIRST TIME MAY 23 1967	READ SECOND TIME MAY 25 1967
REFERRED TO Highways		REFERRED TO Judiciary	
REPORTED BACK APR 11 1967	WITH THE RECOMMENDATION THAT IT	REPORTED BACK JUN. 1 1967	WITH THE RECOMMENDATION THAT IT
<input type="checkbox"/> DO PASS	<input type="checkbox"/> DO PASS WITH AMENDMENT		
REREFERRED TO Highways		REREFERRED TO to the printed reengrossed bill	
REPORTED BACK MAY 19 1967	WITH THE RECOMMENDATION THAT IT	REPORTED BACK	WITH THE RECOMMENDATION THAT IT
<input type="checkbox"/> DO PASS	<input checked="" type="checkbox"/> DO PASS WITH AMENDMENT		
READ THIRD TIME AND PASSED	MAY 22 1967	READ THIRD TIME AND PASSED	JUN. 6 1967
SIGNED <i>[Signature]</i>	CHIEF CLERK	SIGNED <i>Cecil Edward</i>	SECRETARY OF SENATE
DATE JUN - 7 1967		HOUSE CONCURRED IN SENATE AMENDMENTS AND REPASSED	

DATE	ACTION
MAY 22 1967	Rules suspended, placed on calendar for May 22
JUN. 5 1967	Taken from today's calendar and placed on June 6 Calendar.