

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass
Vote: 5 - 0 - 0
Yeas: Atkinson, Bates, Beyer, Prozanski, Avakian
Nays: 0
Exc.: 0
Prepared By: Sue Marshall, Administrator
Meeting Dates: 3/29

WHAT THE MEASURE DOES: Grants the State Fish and Wildlife Commission authority to define “wild birds” and “wild mammals” by rule for purposes of wildlife laws.

ISSUES DISCUSSED:

- Wildlife definition for Oregon Department of Fish and Wildlife (ODFW) management purposes
- Impact of exotic species on native wildlife populations
- Recent Oregon Supreme Court decision and its impact on ODFW’s authority

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Historically the State Fish and Wildlife Commission has exercised a broad definition of wildlife that focused on wildlife as species and not wildlife as individuals. This has allowed the commission to exercise rule making authority over both native and non-native wildlife to ensure protection of Oregon's native wildlife and habitat. Based on a recent court case related to hunting on game ranches, the Oregon Supreme Court issued a ruling that narrowed the commission's authority to regulate wildlife. This ruling is based on the statutory definition of wildlife found in ORS 496.004(9) which states: "Wildlife means, fish, shellfish, *wild* birds, amphibians and reptiles, feral swine as defined by State Department of Agriculture rule and other *wild* mammals." Based on the modified language, the court ruled that wild means "living untamed or in a state of nature". Consequently, the ruling effectively prevents the commission from adopting rules that would regulate birds or mammals unless they meet the definition of wild, or are covered under other statutes passed by the Legislature that gives more specific regulatory authority to the commission.

Senate Bill 804 gives the State Fish and Wildlife Commission the authority to define wild birds and wild mammals by rule, thus reinstating its ability to regulate wildlife as it had done historically prior to the Supreme Court decision.