

House Bill 2009

Sponsored by Representative COWAN, Senator KRUSE; Representatives BOONE, KRIEGER, ROBLAN, WITT, Senators JOHNSON, VERGER, WHITSETT (at the request of Oregon Coastal Caucus)

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**.

Modifies provisions related to marine reserves. Requires certain reporting regarding marine reserves work plan. Requires certain reporting regarding funding.

Establishes Ocean Resources Fund. Continuously appropriates moneys in fund to State Department of Fish and Wildlife. Specifies uses of moneys.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to ocean resources; creating new provisions; amending ORS 196.540, 196.545, 196.550 and
3 196.555 and section 3, chapter 847, Oregon Laws 2009; appropriating money; limiting expen-
4 ditures; and declaring an emergency.

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

6 **SECTION 1.** ORS 196.540 is amended to read:

7 196.540. The State Department of Fish and Wildlife, State Fish and Wildlife Commission, State
8 Land Board and relevant state agencies shall, consistent with existing statutory authority, imple-
9 ment the November 29, 2008, **and the December 15, 2010**, recommendations from the Ocean Policy
10 Advisory Council on marine reserves **and the January 25, 2011, three site recommendations and**
11 **additional recommendations from the department on marine reserves** by:

12 (1) [*Adopting rules to establish, study, monitor, evaluate and enforce a pilot*] **Studying, monitor-**
13 **ing, evaluating, enforcing and implementing the** marine reserve at Otter Rock and [*a pilot*] **the**
14 marine reserve and [*a*] marine protected area at Redfish Rocks;

15 (2) [*Studying and evaluating potential marine reserves at Cape Falcon, Cascade Head and Cape*
16 *Perpetua*] **Adopting rules to establish, study, monitor, evaluate and enforce a marine reserve**
17 **and a marine protected area at Cape Falcon, a marine reserve and marine protected areas**
18 **at Cascade Head and a marine reserve, marine protected areas and a seabird protection area**
19 **at Cape Perpetua; and**

20 (3) [*Supporting the development of*] **Evaluating** a marine reserve proposal at Cape Arago-Seven
21 Devils **after considering input from the Oregon International Port of Coos Bay Marine Re-**
22 **serves Recommendation Committee.**

23 **SECTION 2.** ORS 196.545 is amended to read:

24 196.545. (1) The State Department of Fish and Wildlife, in consultation with members from the
25 scientific and technical advisory committee established under ORS 196.451, other relevant marine
26 and fishery scientists, relevant state agencies, ocean users, [*and*] coastal communities **and**
27 **stakeholder interests associated with the recommendations specified in ORS 196.540**, shall
28 implement the activities described in ORS 196.540 by developing **and updating** a work plan.

29 (2) The work plan shall contain the following elements regarding the marine reserves **and pro-**

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

1 **tected areas** described in ORS 196.540:

2 (a) A biological assessment, including information on habitat characterization, biological re-
3 sources, local knowledge and[, *for the established pilot marine reserves,*] monitoring plans.

4 (b) A socioeconomic assessment, including a description of human uses, net effects on sport and
5 commercial fisheries and communities and[, *for the established pilot marine reserves,*] monitoring
6 plans.

7 [(c) *Formation of community teams, with diverse and balanced stakeholder representation that in-
8 cludes local government, recreational fishing industry, commercial fishing industry, nonfishing indus-
9 try, recreationalists, conservation, coastal watershed councils, relevant marine and avian scientists, to
10 collaborate and develop recommendations for potential marine reserves, considering the biological and
11 socioeconomic information developed under this section. Collaboration may be facilitated by a neutral
12 outside party hired through a competitive bidding process.*]

13 [(d)] (c) Provision of information on the process and data gathered to interested parties and
14 made available to the public **to allow for a transparent, balanced, diverse and collaborative
15 process with the public.**

16 [(e)] (d) Development of scientifically based **measurable** goals specific to each of the marine
17 reserve sites, incorporating continuity and cumulative outcomes, benefits and impacts.

18 [(f)] (e) Provision of baseline data on Oregon's territorial sea, as defined in ORS 196.405. **The
19 State Fish and Wildlife Commission may not impose prohibitions on fishing by rule pursuant
20 to ORS 196.540 until the baseline data has been collected consistent with scientifically based
21 monitoring plans.**

22 [(g)] (f) Development of an enforcement plan in consultation with the Oregon State Police and
23 representatives from affected user groups.

24 [(h)] (g) Use of [*communities and volunteers*] **the public** to assist in implementing the work plan
25 where feasible and practical, **including opportunities to participate in outreach and education,
26 compliance and enforcement, and monitoring and research using local vessels.**

27 (h) **Establishment of a research design that includes a priority for the gathering of data
28 on the distribution and abundance of rockfish species that constrain fisheries and that may
29 provide opportunity and flexibility in federal-managed and state-managed fisheries.**

30 (i) **Steps to help mitigate significant negative socioeconomic effects of the marine re-
31 serves on impacted users, including but not limited to promoting research to develop addi-
32 tional methods for fishing that reduce bycatch and discard mortality rates.**

33 (j) **Requirements regarding the review and evaluation described in section 3 (3), chapter
34 847, Oregon Laws 2009.**

35 (3) The data [*and recommendations produced from the work plan and other available nearshore
36 data shall be used by the State Department of Fish and Wildlife, in consultation with the Ocean Policy
37 Advisory Council, to recommend the number, size, location and restriction limits of the potential sites
38 for marine reserve designation, consistent with Executive Order 08-07. If, through this process, it is
39 determined that other appropriate sites need to be considered or that potential sites are not consistent
40 with Executive Order 08-07, then the data and recommendations produced*] **collected pursuant to the
41 work plan shall be used to evaluate marine reserves and** shall be provided to the public, **the
42 Legislative Assembly in the manner provided in ORS 192.245,** the State Department of Fish and
43 Wildlife and other relevant state agencies for future purposes relevant to nearshore management.

44 **SECTION 3.** Section 3, chapter 847, Oregon Laws 2009, is amended to read:

45 **Sec. 3.** (1) The State Department of Fish and Wildlife shall report on the results of the work

1 plan **described in ORS 196.545** to an appropriate [*interim*] legislative committee [*on or before No-*
2 *vember 30, 2010,*] **each biennium** regarding:

3 (a) The study [*and establishment of the pilot*] **of the marine [reserves] reserve** at Otter Rock and
4 **the marine reserve and marine protected area** at Redfish Rocks described in [*section 1 of this*
5 *2009 Act*] **ORS 196.540;**

6 (b) The study and [*evaluation*] **establishment** of [*the potential*] **a marine [reserves] reserve and**
7 **a marine protected area** at Cape Falcon, **a marine reserve and marine protected areas at**
8 **Cascade Head and a marine reserve, marine protected areas and a seabird protection area at**
9 **Cape Perpetua** described in [*section 1 of this 2009 Act*] **ORS 196.540;**

10 (c) The [*development*] **evaluation** of a marine reserve proposal at Cape Arago-Seven Devils de-
11 scribed in [*section 1 of this 2009 Act*] **ORS 196.540;**

12 (d) The status of funding necessary to carry out the provisions of [*section 1 of this 2009 Act*]
13 **ORS 196.540;** and

14 (e) The accomplishment of the goals related to each of the marine reserves.

15 (2) The department shall also report on the activities described in subsection (1) of this section
16 to members of the Ocean Policy Advisory Council, relevant state agencies and to the public.

17 **(3) The department shall conduct periodic reporting of the reserves and areas described**
18 **in ORS 196.540 that includes, but is not limited to:**

19 (a) **A review of the assumptions made during the marine reserve site design process,**
20 **relative to whether the reserves and areas are individually or collectively large enough to**
21 **allow scientific evaluation of ecological benefits, but small enough to avoid significant eco-**
22 **nomical or social impacts, one year after the implementation of any prohibitions related to**
23 **fishing set forth in rules adopted by the State Fish and Wildlife Commission pursuant to ORS**
24 **196.540.**

25 (b) **A review of the progress of implementing the reserves and areas five years after the**
26 **implementation of any prohibitions related to fishing set forth in rules adopted by the com-**
27 **mission pursuant to ORS 196.540.**

28 (c) **An evaluation of the effectiveness of the reserves and areas as a management tool**
29 **no less than 10 years, and no more than 15 years, after the implementation of any prohibi-**
30 **tions related to fishing set forth in rules adopted by the commission pursuant to ORS 196.540.**

31 (4) **After any review or evaluation, including but not limited to those specified in sub-**
32 **section (3) of this section, the department and other agencies described in ORS 196.540 may,**
33 **after review and approval from the Ocean Policy Advisory Council, by rule adopt adaptive**
34 **management measures to the reserves and areas described in ORS 196.540, including but not**
35 **limited to boundary adjustment, fishing restrictions, mitigation and site removal, if the goals**
36 **specified in ORS 196.545 (2)(d) cannot be accomplished.**

37 **SECTION 4.** ORS 196.550 is amended to read:

38 196.550. (1) The State Department of Fish and Wildlife may accept only gifts, grants or contri-
39 butions from any source for deposit in the [*State Wildlife Fund established in ORS 496.300*] **Ocean**
40 **Resources Fund established in section 5 of this 2011 Act** that are consistent with the
41 department's work plan specified in ORS 196.545.

42 (2) Any designation of marine reserves in Oregon's territorial sea must include commitments by
43 relevant state agencies to pursue [*long-term*] funding necessary to, **over the long term,** enforce
44 prohibitions, support necessary research and monitoring, **support coastal communities** and pro-
45 vide for public education.

1 (3) If funding cannot be secured to meet the enforcement and research-based monitoring needs
 2 associated with the goals specified in ORS 196.545 [(2)(e)] **(2)(d)**, agencies responsible for managing
 3 the marine reserves shall make recommendations to the State Fish and Wildlife Commission and the
 4 Legislative Assembly and initiate actions to scale down or suspend fisheries prohibitions in the
 5 marine reserves.

6 **(4) A state agency may not adopt rules to establish any marine reserve that is in addition**
 7 **to those specified in ORS 196.540 until after the evaluation specified in section 3 (3)(c),**
 8 **chapter 847, Oregon Laws 2009, is completed.**

9 **(5) The department shall prepare a review of the funding received under the provisions**
 10 **of this section and make the report available on the website of the department.**

11 **SECTION 5. (1) The Ocean Resources Fund is established in the State Treasury, separate**
 12 **and distinct from the General Fund. Moneys in the Ocean Resources Fund are continuously**
 13 **appropriated to the State Department of Fish and Wildlife for purposes consistent with the**
 14 **department’s work plan specified in ORS 196.545.**

15 **(2) The Ocean Resources Fund shall consist of moneys accepted by the department pur-**
 16 **suant to ORS 196.550 (1).**

17 **SECTION 6. On the effective date of this 2011 Act, any unexpended moneys remaining in**
 18 **the State Wildlife Fund established in ORS 496.300 that were accepted by the State Depart-**
 19 **ment of Fish and Wildlife pursuant to ORS 196.550 (1) shall be transferred to the Ocean Re-**
 20 **sources Fund established by section 5 of this 2011 Act.**

21 **SECTION 7. Notwithstanding any other law limiting expenditures, the amount of \$1 is**
 22 **established for the biennium beginning July 1, 2011, as the maximum limit for payment of**
 23 **expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but ex-**
 24 **cluding lottery funds and federal funds, collected or received by the State Department of Fish**
 25 **and Wildlife under ORS 196.550 (1) for deposit in the Ocean Resources Fund established by**
 26 **section 5 of this 2011 Act.**

27 **SECTION 8. ORS 196.555 is amended to read:**

28 196.555. Designation of marine reserves requires periodic reporting by the State Department of
 29 Fish and Wildlife in consultation with other relevant state agencies on the accomplishment of the
 30 goals described in ORS 196.545 [(2)(e)] **(2)(d)**. The State Department of Fish and Wildlife and the
 31 State Land Board shall, based on review of the periodic reporting, initiate appropriate rulemaking
 32 adjustments that may include size, location and restrictions on marine reserves.

33 **SECTION 9. The first report under section 3 (1), chapter 847, Oregon Laws 2009, as**
 34 **amended by section 3 of this 2011 Act, is due for the 2011-2013 biennium.**

35 **SECTION 10. This 2011 Act being necessary for the immediate preservation of the public**
 36 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 37 **on its passage.**