
MEMORANDUM

Legislative Fiscal Office
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To: *Natural Resources Subcommittee*

From: *Krista McDowell*, Legislative Fiscal Office
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Date: June 13, 2013

Subject: *SB 837 - A*
Work Session Recommendations

SB 837 - A relates to fish protection. The measure has an emergency clause and is effective on passage.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, revenue impact statement, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing and work session in the Environment and Natural Resources Subcommittee and was recommended as do pass with amendments to be referred to Ways and Means by prior reference.

The measure has a minimal fiscal impact.

Measure as Modified

The measure is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Move SB 837 - A to the full committee with a “do pass” recommendation.

Assignment of Carriers

Full: _____
2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 837 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Krista McDowell
Reviewed by: Paul Siebert, Susie Jordan
Date: 6/12/2013

Measure Description:

Creates Fish Passage Restoration Subaccount within Fish Passage Fund.

Government Unit(s) Affected:

Oregon Department of Fish and Wildlife (ODFW), Water Resources Department

Summary of Expenditure Impact:

See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis: The measure creates the Fish Passage Restoration subaccount within the Fish Passage Fund and requires the Oregon Department of Fish and Wildlife (ODFW) to use the subaccount to fund priority fish passage restoration projects. The bill creates the Fish Passage Task Force to provide advice to ODFW regarding projects to be funded by the subaccount. Five years after the effective date of the act; the Water Resources Department (WRD) is required to work with ODFW to review the expenditures from the subaccount as well as review the adequacy of a fee described in ORS 543.765. The WRD shall collect the fee on behalf of ODFW and forward the fee moneys to the subaccount.

The fiscal impact to ODFW and WRD, associated with the passage of this bill, is expected to be minimal. All expenses are estimated to be absorbable within the existing parameters of the agencies budgets, including work associated with maintaining a record of monies in the subaccount and the creation of an annual report, review of certificates, and pre-application meetings with persons interested in the installation of hydroelectric projects with an artificial delivery system.

Revenues for the subaccount are assumed from 30 projects that are projected to reach commercial operation by the year 2016. The projected revenues are approximately \$7,000 Other Funds (OF) in the 2013-15 biennium and \$75,000 OF revenue in the 2015-17 biennium. Actual revenues will vary based on the timeframe projects are established, project base hydro power fee amounts, and project developers' option to install fish passage as an alternative to paying the annual fish passage fees.

**REVENUE IMPACT OF
PROPOSED LEGISLATION**
Seventy-Seventh Oregon Legislative
Assembly
2013 Regular Session
Legislative Revenue Office

Bill Number: SB 837 A
Revenue Area: Fish Passage
Economist: Christine Broniak
Date: 4/19/2013

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Measure Description:

Creates Fish Passage Restoration Subaccount within Fish Passage Fund.

Revenue Impact (in \$Millions):

Impact Explanation:

This measure has a subsequent referral to the Joint Committee on Ways and Means. A more complete revenue impact statement will be prepared when/if the measure is heard by this committee.

Creates, Extends, or Expands Tax Expenditure: Yes No

Further Analysis Required

Joint Committee on Ways and Means

Carrier – House: Rep.
Carrier – Senate: Sen.

Revenue: Revenue Light Statement Issued

Fiscal: Fiscal Impact Statement Issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Krista McDowell, Legislative Fiscal Office

Meeting Date:

WHAT THE MEASURE DOES: Creates Fish Passage Restoration Subaccount (Subaccount Fund) in Fish Passage Fund. Requires Department of Fish and Wildlife (ODFW) use Subaccount Fund to fund priority fish passage restoration projects. Requires ODFW to give priority to funding projects on statewide inventory of artificial obstructions with emphasis on statewide priority list projects that also pay fees for certificate to use water for hydroelectric purposes and projects that have ability to leverage matching funds. Directs Fish Passage Task Force to provide ODFW advice regarding funding projects. Requires Water Resources Department (WRD) and ODFW to jointly review adequacy of amount and structure of annual fee in achieving dual goals of in-conduit energy development and fish passage restoration and functionality. Requires WRD and ODFW to commence review five years after Act takes effect and report findings to Legislature no later than October 1, 2018. Authorizes holder of water right to apply for certificate to use water for hydroelectric purposes within artificial delivery system if proposed project meets applicable capacity limitation and qualifications for Federal Energy Regulatory Commission exemption from licensing. Stipulates water certificate does not need to include condition requiring fish passage if hydroelectric generating equipment is not located on dam; equipment is installed within or at end of conduit delivery system; conduit portion of system is operated for distribution of water for agriculture, municipal, or industrial consumption; and certificate includes condition for making annual payments. Establishes amount of annual payment to be made to Fish Passage Fund.

ISSUES DISCUSSED:

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EFFECT OF COMMITTEE AMENDMENT: No Amendment

BACKGROUND: In-conduit hydropower projects use technology that is installed in a water delivery canal or pipeline to generate electricity using water that is already being diverted for an approved beneficial use. These projects do not use additional water beyond the amount that the water delivery system operator is already allowed to divert under its existing water right. Recent advances in hydropower technology have resulted in more viable options for agricultural, municipal, and industrial water suppliers and users to pursue in-conduit hydropower in Oregon.

Fish passage is a key component to many facets of fisheries resource management. Connectivity between aquatic habitats is an important part of garnering successful and healthy fish populations. In February, 2013, the Department of Fish and Wildlife released an updated fish passage priority list which includes 534 high priority fish passage barriers, with an additional 55 barriers characterized as significant but needing more data. The provision of passage at these sites will offer fish access to high quantity and quality habitats.