

# Senate Bill 401

Sponsored by Senator BATES (Pre-session filed.)

## 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**.

Designates certain rivers and creeks as scenic waterways.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to scenic waterways; creating new provisions; amending ORS 390.805 and 390.826; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 390.805 is amended to read:

6 390.805. As used in ORS 390.805 to 390.925, unless the context requires otherwise:

7 (1) "Related adjacent land" means all land within one-fourth of one mile of the bank on the side  
8 of Waldo Lake, or a river or segment of river within a scenic waterway, except land that, in the  
9 State Parks and Recreation Department's judgment, does not affect the view from the waters within  
10 a scenic waterway.

11 (2) "Scenic easement" means the right to control the use of related adjacent land, including  
12 airspace above such land, for the purpose of protecting the scenic view from waters within a scenic  
13 waterway; but such control does not affect, without the owner's consent, any regular use exercised  
14 prior to the acquisition of the easement, and the landowner retains the right to uses of the land not  
15 specifically restricted by the easement.

16 (3) "Scenic waterway" means Waldo Lake, or a river or segment of river **or a creek** that has  
17 been designated as such in accordance with ORS 390.805 to 390.925 or any subsequent Act, and in-  
18 cludes related adjacent land.

19 **SECTION 2.** ORS 390.826 is amended to read:

20 390.826. The following lakes, **creeks** and rivers, or segments of rivers, and related adjacent land  
21 are designated as scenic waterways:

22 (1) The Metolius Scenic Waterway, which includes:

23 (a) The Metolius River from Metolius Springs downstream to its confluence with Candle  
24 Creek[.]; **and**

25 (b) **The Metolius River from its confluence with Candle Creek downstream to Lake Billy**  
26 **Chinook.**

27 (2) The Klamath Scenic Waterway, which includes the Klamath River from the John Boyle Dam  
28 powerhouse downstream to the Oregon-California border.

29 (3) The Clackamas Scenic Waterway, which includes:

30 (a) The segments of the Clackamas River from the boundary of the Olallie Lake Scenic Area,  
31 as constituted on December 8, 1988, downstream to the North Fork Reservoir, and from immediately

**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 below the River Mill Dam downstream to the bridge at Carver;

2 (b) The South Fork Clackamas River from its confluence with an unnamed tributary near the  
3 western boundary of section 7, township 5 south, range 5 east, Willamette Meridian, downstream to  
4 the confluence of the South Fork Clackamas River with the Clackamas River; and

5 (c) The North Fork Clackamas River from its source downstream to the North Fork Reservoir.

6 (4) The McKenzie Scenic Waterway, which includes:

7 (a) The segments of the McKenzie River from Clear Lake downstream to Carmen Reservoir,  
8 from Tamolitch Falls downstream to Trail Bridge Reservoir and from Trail Bridge Dam downstream  
9 to Paradise Campground; *[and]*

10 (b) The segments of the South Fork McKenzie River from the boundary of the Three Sisters  
11 Wilderness, as constituted on December 8, 1988, downstream to Cougar Reservoir, and from imme-  
12 diately below Cougar Dam downstream to its confluence with the McKenzie River[.]; **and**

13 **(c) The McKenzie River from Paradise Campground downstream to the Cone Creek con-**  
14 **fluence.**

15 (5) The Deschutes Scenic Waterway, which includes the segments of the Deschutes River from  
16 Little Lava Lake downstream to Crane Prairie Reservoir, from the gaging station immediately below  
17 Wickiup Dam downstream to General Patch Bridge, from Harper Bridge downstream to the Central  
18 Oregon Irrigation District's diversion structure (near river mile 171), from Robert Sawyer Park  
19 downstream to Tumalo State Park, from Deschutes Market Road Bridge downstream to Lake Billy  
20 Chinook Reservoir (excluding the Cline Falls hydroelectric facility near river mile 145), and from  
21 immediately below the existing Pelton reregulating dam downstream to the confluence of the  
22 Deschutes River with the Columbia River, excluding the City of Maupin as its boundaries are con-  
23 stituted on October 4, 1977.

24 (6) The Santiam Scenic Waterway, which includes the Little North Fork of the Santiam River  
25 from the confluence of Battle Ax Creek and Opal Creek downstream to the boundary of the  
26 Willamette National Forest, as constituted on September 20, 1985.

27 (7) The John Day Scenic Waterway, which includes:

28 (a) The John Day River from its confluence with Parrish Creek downstream to Tumwater Falls;

29 (b) The North Fork John Day River from the boundary of the North Fork John Day Wilderness  
30 (near river mile 76), as constituted on December 8, 1988, downstream to the northern boundary of  
31 the south one-half of section 20, township 8 south, range 28 east, Willamette Meridian;

32 (c) The Middle Fork John Day River from its confluence with Crawford Creek (near river mile  
33 71) downstream to the confluence of the Middle Fork John Day River with the North Fork John  
34 Day River; and

35 (d) The South Fork John Day River from the Post-Paulina road crossing (near river mile 35)  
36 downstream to the northern boundary of the Murderer's Creek Wildlife Area, as constituted on  
37 December 8, 1988 (near river mile 6).

38 (8) The Illinois Scenic Waterway, which includes:

39 (a) The Illinois River from its confluence with Deer Creek downstream to its confluence with  
40 the Rogue River[.];

41 **(b) The Illinois River from the boundary of the Rogue River-Siskiyou National Forest in**  
42 **section 29, township 38 south, range 8 west, downstream to its confluence with Deer Creek;**

43 **(c) The East Fork Illinois River from the Oregon border with California downstream to**  
44 **its confluence with the Illinois River; and**

45 **(d) The West Fork Illinois River from the Oregon border with California downstream to**

1 **its confluence with Rough and Ready Creek.**

2 (9) The Rogue Scenic Waterway, which includes:

3 (a) The segments of the Rogue River from the boundary of Crater Lake National Park, as con-  
4 stituted on December 8, 1988, downstream to the boundary of the Rogue River National Forest, as  
5 constituted on December 8, 1988 (near river mile 173), and from the confluence of the Rogue River  
6 with the Applegate River downstream to Lobster Creek Bridge[.]; **and**

7 **(b) The Rogue River from its confluence with Bear Creek downstream to the confluence**  
8 **of Bear Creek with Applegate River.**

9 (10) The Umpqua Scenic Waterway, which includes the segments of the North Umpqua River  
10 from the boundary of the Mt. Thielsen Wilderness, as constituted on December 8, 1988, downstream  
11 to Lemolo Reservoir, and from the Soda Springs Dam powerhouse downstream to its confluence with  
12 Rock Creek (near Idleyld Park).

13 (11) The Nestucca Scenic Waterway, which includes:

14 (a) The Nestucca River from immediately below the McGuire Dam downstream to its confluence  
15 with East Creek (near Blaine); and

16 (b) Walker Creek from its source downstream to its confluence with the Nestucca River.

17 (12) The Wallowa-Grande Ronde Scenic Waterway, which includes:

18 (a) The Grande Ronde River from its confluence with the Wallowa River downstream to the  
19 Oregon-Washington border; [*and*]

20 (b) The Wallowa River from its confluence with the Minam River downstream to the confluence  
21 of the Wallowa River with the Grande Ronde River[.]; **and**

22 **(c) The Grande Ronde River from its headwaters to the boundary of the Wallowa-**  
23 **Whitman National Forest in section 15, township 4 south, range 35 east.**

24 (13) The Minam Scenic Waterway, which includes the Minam River from Minam Lake down-  
25 stream to its confluence with the Wallowa River.

26 (14) The Elk Scenic Waterway, which includes:

27 (a) The Elk River from the confluence of the North Fork Elk River and South Fork Elk River  
28 downstream to the Elk River fish hatchery;

29 (b) The North Fork Elk River from its source downstream to its confluence with the South Fork  
30 Elk River; and

31 (c) The South Fork Elk River from its source downstream to its confluence with the North Fork  
32 Elk River.

33 (15) The Owyhee Scenic Waterway, which includes:

34 (a) The South Fork Owyhee River from the Oregon-Idaho border downstream to Three Forks;  
35 and

36 (b) The Owyhee River from Crooked Creek (near river mile 118) downstream to the mouth of  
37 Birch Creek (near river mile 76).

38 (16) The North Fork of the Middle Fork Willamette Scenic Waterway, which includes:

39 (a) The North Fork of the Middle Fork Willamette River from Waldo Lake downstream to a  
40 point one mile upstream from the railroad bridge near the town of Westfir[.]; **and**

41 **(b) The Middle Fork Willamette River from Timpanogas Lake downstream to Hills Creek**  
42 **Lake.**

43 (17) The Waldo Lake Scenic Waterway, which includes Waldo Lake in Lane County.

44 **(18) The Brice Creek Scenic Waterway, which includes Brice Creek from its headwaters**  
45 **to Row River.**

1 (19) The Briggs Creek Scenic Waterway, which includes Briggs Creek from its  
2 headwaters to its confluence with the Illinois River.

3 (20) The Cedar Creek Scenic Waterway, which includes Cedar Creek from its headwaters  
4 to its confluence with the Little North Fork Santiam River.

5 (21) The Chetco Scenic Waterway, which includes the segment of the Chetco River from  
6 the Kalmiopsis Wilderness boundary in section 5, township 38 south, range 11 west, down-  
7 stream to the United States Forest Service boundary below Wilson Creek.

8 (22) The Cow Creek Scenic Waterway, which includes Cow Creek from Tunnel Creek  
9 downstream to its confluence with the South Umpqua River.

10 (23) The Eagle Creek Scenic Waterway, which includes Eagle Creek from its headwaters  
11 in the Eagle Cap Wilderness downstream to the United States Forest Service boundary in  
12 section 7, township 8 south, range 45 east.

13 (24) The Elk Creek Scenic Waterway, which includes Elk Creek from its headwaters to  
14 its confluence with the South Umpqua River.

15 (25) The Grave Creek Scenic Waterway, which includes Grave Creek from its headwaters  
16 downstream to its confluence with the Rogue River.

17 (26) The Silver Creek Scenic Waterway, which includes:

18 (a) Silver Creek from its headwaters to its confluence with the Illinois River;

19 (b) The North Fork Silver Creek from its headwaters to its confluence with Silver Creek;  
20 and

21 (c) The South Fork Silver Creek from its headwaters to its confluence with Silver Creek.

22 (27) The Josephine Creek Scenic Waterway, which includes Josephine Creek from its  
23 headwaters to its confluence with the Illinois River.

24 (28) The Little Applegate Scenic Waterway, which includes the Little Applegate River  
25 from its headwaters to its confluence with the Applegate River.

26 (29) The Molalla River Scenic Waterway, which includes the Molalla River from the Bu-  
27 reau of Land Management boundary in section 19, township 7 south, range 4 east, down-  
28 stream to the Bureau of Land Management boundary in section 7, township 6 south, range  
29 3 east.

30 (30) The North Fork Burnt River Scenic Waterway, which includes the North Fork Burnt  
31 River from its headwaters downstream to the United States Forest Service boundary next  
32 to Unity Reservoir.

33 (31) The Quartzville Scenic Waterway, which includes Quartzville Creek from its  
34 headwaters to Green Peter Lake.

35 (32) The Rough and Ready Scenic Waterway, which includes:

36 (a) The Rough and Ready Creek from the confluence at the north and south forks of  
37 Rough and Ready Creek downstream to its confluence with the West Fork Illinois River;

38 (b) The North Fork Rough and Ready Creek from its headwaters to its confluence with  
39 the South Fork Rough and Ready Creek; and

40 (c) The South Fork Rough and Ready Creek from its headwaters downstream to its con-  
41 fluence with the North Fork Rough and Ready Creek.

42 (33) The Sandy Scenic Waterway, which includes the Sandy River from the Mount Hood  
43 Wilderness boundary downstream to its confluence with the Bull Run River.

44 (34) The South Fork Alsea Scenic Waterway, which includes the South Fork Alsea River  
45 from its headwaters to its confluence with the North Fork Alsea River.

1       **(35) The South Umpqua Scenic Waterway, which includes the South Umpqua River from**  
 2 **Castle Rock Fork downstream to the Highway 42 bridge.**

3       **(36) The Sucker Scenic Waterway, which includes Sucker Creek from its headwaters to**  
 4 **its confluence with the East Fork Illinois River.**

5       **(37) The Yachats Scenic Waterway, which includes the Yachats River from its**  
 6 **headwaters to the Pacific Ocean.**

7       **(38) The Applegate Scenic Waterway, which includes the Applegate River from imme-**  
 8 **diately below Applegate Lake to the confluence with Forest Creek.**

9       **SECTION 3. (1)(a) Except as provided in paragraph (b) of this subsection, the amend-**  
 10 **ments to ORS 390.805 and 390.826 by sections 1 and 2 of this 2013 Act become operative on**  
 11 **January 1, 2014.**

12       **(b) The State Parks and Recreation Department may adopt rules or take any other action**  
 13 **before the operative date specified in paragraph (a) of this subsection that is necessary to**  
 14 **implement, on or after the operative date specified in paragraph (a) of this subsection, the**  
 15 **amendments to ORS 390.805 and 390.826 by sections 1 and 2 of this 2013 Act.**

16       **(2) The amendments to ORS 390.805 and 390.826 by sections 1 and 2 of this 2013 Act do**  
 17 **not:**

18       **(a) Affect or modify any treaty or other rights of any Indian tribe.**

19       **(b) Apply to lands held in trust by the United States Secretary of the Interior for Indian**  
 20 **tribes or individual members of Indian tribes or other lands acquired by the Army Corps of**  
 21 **Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes**  
 22 **and individual members of Indian tribes.**

23       **(c) Apply to any dam, reservoir or other water impoundment facility constructed on wa-**  
 24 **ters within any creeks and rivers specified in the amendments to ORS 390.826 by section 2**  
 25 **of this 2013 Act before the operative date specified in subsection (1)(a) of this section.**

26       **(d) Apply to any permits for removal or fill activity within any creeks and rivers specified**  
 27 **in the amendments to ORS 390.826 by section 2 of this 2013 Act issued under ORS 196.825 by**  
 28 **the Director of the Department of State Lands before the operative date specified in sub-**  
 29 **section (1)(a) of this section.**

30       **(e) Apply to any water rights within or above any creeks and rivers specified in the**  
 31 **amendments to ORS 390.826 by section 2 of this 2013 Act issued by the Water Resources**  
 32 **Commission before the operative date specified in subsection (1)(a) of this section.**

33       **(f) Apply to any roads, railroads or utilities constructed within any creeks and rivers**  
 34 **specified in the amendments to ORS 390.826 by section 2 of this 2013 Act before the operative**  
 35 **date specified in subsection (1)(a) of this section.**

36       **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**  
 37 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
 38 **on its passage.**