

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Environment and Natural Resources

REVENUE: No revenue impact (-A7)**FISCAL: Minimal fiscal impact, no statement issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:**

Ayes, 51; Nays, 7--Buckley, Gomberg, Greenlick, Helm, Holvey, Linger, Taylor;

Prepared By: Beth Reiley, Administrator**Meeting Dates:** 5/18

WHAT THE MEASURE DOES: Directs Department of State Lands (DSL) to establish by rule pilot program for voluntary stream restoration and beaver recovery through construction of artificial beaver dams located in Malheur Lake drainage basin. Defines terms. Requires pilot program to include requirement for monitoring and criteria for evaluating program and requirements for participants to provide information on number and specific locations of artificial beaver dams to be constructed and materials to be used. Exempts construction of artificial beaver dams on qualifying streams from being considered artificial obstructions and exempts them from fish passage requirements. Where practicable, requires DSL to adopt rules that include options for designing and constructing beaver dams in manner for fish passage in a qualifying stream if streams were restored as result of voluntary restoration project or dams that could be modified to provide fish passage if streams were restored and native migratory fish return as result of voluntary restoration project. Requires participating landowners to work collaboratively with State Department of Fish and Wildlife to provide appropriate fish passage for any native migratory fish that return to area in restoration project, but stipulates fish passage may only be required subject to available funding for construction in Fish Passage Fund. Requires DSL to provide preliminary report to Legislative Assembly no later than January 1, 2017 and to report to Legislative Assembly on identified environmental and economic impacts resulting from pilot program no later than January 1, 2025. Sunsets January 2, 2027. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: (Proposed –A4 Amendment) Amends definition of artificial beaver dam to require it to largely mimic natural beaver dams; delay or slow water but not prevent water flow; and promote restoration of stream and habitat conditions. Amends definition of qualifying stream to mean incised or eroded stream or reach of stream not inhabited or historically inhabited by native migratory fish. Removes definition of low-profile. Requires pilot program to be designed to ensure that artificial beaver dams protect or restore native fish and wildlife habitat and maintain or improve water quality, including ensuring that scope and scale of removal-fill and other construction methods support restoration of natural stream functions, provide conditions suitable for beaver recovery and do not block fish passage in areas inhabited, or historically inhabited, by native migratory fish. Removes exemption from fish passage requirements.

(Proposed –A6 Amendment) Amends definition of artificial beaver dam to mean series of structures constructed in manner that largely mimic natural beaver dams by delaying or slowing water without preventing water flow and to raise water table and water surface elevations within incised or eroded streams to historic flood plains; and ensures upstream entry point for water to flow over or around each structure does not extend above historic flood plain. Amends definition of qualifying stream to mean incised or eroded stream or reach of stream that is: not inhabited by migratory fish or beavers prior to commencement of project; and is not known to have been inhabited by migratory fish within 20 years prior project commencement. Requires pilot program to be designed to promote natural recovery of beavers; be constructed using natural and locally available materials; allow landowners to choose most cost-effective means for

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This summary has not been adopted or officially endorsed by action of the committee.

construction; and provide artificial beaver dams be designed and built so they are unlikely to wash out or fail, but are susceptible to natural erosion. Requires pilot project to include: criteria for evaluating effectiveness; requirements for economically feasible monitoring and reporting; requirement that participants provide certain information; and requirement that participant maintain project for at least 10 years unless it meets other requirements. Stipulates if Department of Fish and Wildlife (ODFW) determines that there is no stream restoration benefit from project participant must, upon request by ODFW, take economically reasonable steps to lower, breach or modify artificial beaver dam. Authorizes rules adopted to provide for one-time fee of five dollars per artificial beaver dam and stipulates fee is to be credited to Fish Passage Fund. Stipulates artificial beaver dam may not be used for diversion of water for irrigation or other out-of-stream uses except as authorized under existing water right.

(Proposed –A7 Amendment) Replaces measure. Defines key terms. Makes Legislative findings. Directs Department of State Lands (DSL) to establish by rule pilot program for voluntary stream restoration projects that involve landowners constructing artificial beaver dams on qualifying streams in Malheur Lake Drainage Basin. Requires pilot program to: be limited to no more than 20 percent of qualifying streams located in Malheur Lake Drainage Basin; include establishment of removal or fill general permit to construct artificial beaver dams; criteria for evaluating effectiveness of pilot program; require economically feasible monitoring and reporting by participants; require participants to provide certain information; and requirement that project be maintained for at least 10 years unless it meets certain standards. Stipulates artificial beaver dams constructed on qualifying streams and authorized through the pilot program are prohibited from being considered artificial obstructions and are exempt from fish passage requirements. Requires artificial beaver dams constructed on streams historically inhabited by native migratory fish to be constructed in manner that: would provide fish passage if stream were restored; or could be modified to provide fish passage. Requires DSL to work with participant to provide fish passage if data indicates native migratory fish have returned. Stipulates landowner may not be required to expend additional funds for fish passage beyond amount expended to construct and maintain artificial beaver dam. Stipulates nothing in Act is intended to modify Water rights Act. Prohibits artificial beaver dam from being used to divert water for irrigation or other out-of-stream uses. Requires DSL to provide legislative assembly preliminary report no later than January, 1 2017 and final report no later than January, 1 2025. Sunsets January 2, 2027. Declares emergency, effective on passage.

BACKGROUND: Historically, many small streams in eastern Oregon were inhabited by beaver populations and strongly influenced by beavers’ unique ability to modify their physical surroundings. Beaver dams had the effect of slowing the flow of water, allowing for natural overflow onto surrounding floodplains and providing many positive benefits to stream ecosystems and to the hydrologic functioning of streams.

House Bill 3217 A would direct the Department of State Lands (DSL) to establish by rule a pilot program for voluntary stream restoration and beaver recovery through construction of artificial beaver dams located in the Malheur Lake drainage basin. The measure would also require the DSL to report to Legislative Assembly on identified environmental and economic impacts resulting from pilot program no later than January 1, 2025 and submit a preliminary report no later than January 1, 2017.