

A-Engrossed
House Bill 3217

Ordered by the House April 24
Including House Amendments dated April 24

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

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.

Requires Department of State Lands to adopt pilot program for providing general authorization for voluntary stream restoration and beaver recovery through construction of artificial beaver dams. **Prescribes requirements for pilot program.** Requires department to report on program to Legislative Assembly on or before January 1, 2025.

Sunsets program January 2, 2027.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to artificial beaver dams; and declaring an emergency.

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

4 **SECTION 1. The Legislative Assembly finds and declares that:**

5 (1) **Many small streams in eastern Oregon were historically inhabited by beaver popu-**
6 **lations and strongly influenced by beavers' unique ability to modify their physical sur-**
7 **roundings. Beaver dams had the effect of slowing the flow of water, allowing for natural**
8 **overflow onto surrounding floodplains and providing many positive benefits to stream**
9 **ecosystems and to the hydrologic functioning of streams.**

10 (2) **Due, in part, to the near eradication of the once-prevalent beaver populations, many**
11 **stream systems have become severely degraded during the past century, developing deeply**
12 **eroded and incised stream channels that have lost connectivity with the natural historic**
13 **floodplain. These changes to the stream systems have resulted in adverse environmental and**
14 **economic impacts.**

15 (3) **The public policy of the State of Oregon is to encourage and support voluntary stream**
16 **restoration actions by private landowners through a pilot program in the Malheur Lake**
17 **Drainage Basin to determine whether construction of artificial beaver dams can help restore**
18 **environmental and economic health in the basin and promote the natural return of beavers**
19 **to affected streams.**

20 **SECTION 2. (1) As used in this section:**

21 (a) **"Artificial beaver dams" means a series of low-profile structures constructed for the**
22 **purpose of delaying or slowing, but not preventing, water flow to raise the water table and**
23 **water surface elevations within incised or eroded streams, and to promote restoration of**
24 **stream and habitat conditions suitable for beaver recovery.**

25 (b) **"Historic floodplain" means channel-adjacent areas and surfaces constructed by**
26 **fluvial processes that functioned as floodplains or areas for overbank deposition prior to**

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 **channel incision.**

2 (c) **“Incised or eroded stream” means a stream that has been scoured by erosion to the**
3 **extent that the channel bed elevation has lowered relative to its historic floodplain and the**
4 **stream has lost connectivity with the historic floodplain, as characterized by the loss of na-**
5 **tural wetland, riparian and meadow conditions in the adjacent surfaces, the absence of**
6 **overbank flooding or deposition, the loss of diversity of fish and animal species or the pres-**
7 **ence of invasive dry land species, including but not limited to sagebrush, bunch grass, juniper**
8 **and pine, that have encroached from adjacent uplands.**

9 (d) **“Low-profile” means not to exceed two feet above the historic floodplain.**

10 (e) **“Malheur Lake Drainage Basin” means the area identified as the Malheur Lake**
11 **Drainage Basin on Water Resources Department map number 12.6 dated January 1, 1966.**

12 (f) **“Native migratory fish” has the meaning given that term in ORS 509.580.**

13 (g) **“Qualifying stream” means an incised or eroded stream, or an incised or eroded reach**
14 **of a stream, that, prior to commencement of a restoration project is not inhabited by native**
15 **migratory fish or beavers.**

16 (2)(a) **The Department of State Lands shall by rule establish a pilot program for volun-**
17 **tary stream restoration and beaver recovery through the construction of artificial beaver**
18 **dams on qualifying streams located in the Malheur Lake Drainage Basin.**

19 (b) **The pilot program adopted under this subsection shall provide for general authori-**
20 **zation pursuant to ORS 196.850 or another form of general permitting under ORS 196.600 to**
21 **196.905 for voluntary projects to construct artificial beaver dams. The program and rules**
22 **shall be designed to promote the natural reintroduction of beavers when suitable habitat is**
23 **restored over time through the use of artificial beaver dams.**

24 (c) **The pilot program shall include:**

25 (A) **A requirement for monitoring, and criteria for evaluating the pilot program; and**

26 (B) **Requirements for participants to provide information about proposed projects, in-**
27 **cluding but not limited to information on the number and specific locations of artificial**
28 **beaver dams to be constructed and the materials to be used.**

29 (3)(a) **Artificial beaver dams constructed on qualifying streams and authorized pursuant**
30 **to subsection (2) of this section may not be considered artificial obstructions, as defined in**
31 **ORS 509.580, and are exempt from fish passage requirements under ORS 509.585. Where**
32 **practicable, rules adopted by the department to establish the pilot program under subsection**
33 **(2) of this section shall include options for designing and constructing artificial beaver dams**
34 **in a manner that:**

35 (A) **Would provide fish passage in a qualifying stream if the stream were restored as a**
36 **result of the voluntary restoration project; or**

37 (B) **Could be modified to provide fish passage in a qualifying stream if the stream were**
38 **restored and native migratory fish return as a result of the voluntary restoration project.**

39 (b)(A) **Notwithstanding paragraph (a) of this subsection, a landowner participating in**
40 **voluntary stream restoration under a general authorization shall work collaboratively with**
41 **the State Department of Fish and Wildlife to provide appropriate fish passage for any native**
42 **migratory fish that return to the incised or eroded stream due to the voluntary restoration**
43 **project.**

44 (B) **The construction of fish passage structures under subparagraph (A) of this paragraph**
45 **may only be required by the State Department of Fish and Wildlife subject to available**

1 **funding for the construction in the Fish Passage Fund established under ORS 497.139.**

2 **(4) Nothing in this section is intended or shall be construed to modify, in any manner,**
3 **any requirement under the Water Rights Act as defined in ORS 537.010.**

4 **SECTION 3. The Department of State Lands shall adopt rules and begin administration**
5 **of the pilot program required under section 2 of this 2015 Act no later than one year after**
6 **the effective date of this 2015 Act and shall provide a preliminary report to the Legislative**
7 **Assembly regarding program implementation no later than January 1, 2017.**

8 **SECTION 4. The Department of State Lands shall report to the Legislative Assembly on**
9 **the identified environmental and economic impacts resulting from the pilot program required**
10 **under section 2 of this 2015 Act no later than January 1, 2025.**

11 **SECTION 5. Sections 1 and 2 of this 2015 Act are repealed on January 2, 2027.**

12 **SECTION 6. This 2015 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
14 **on its passage.**

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