

Senate Bill 202

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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**.

Requires establishment of Oregon Academy of Sciences as nonprofit corporation to serve as principal source of scientific investigation, examination and reporting on scientific questions referred to academy by Governor, Governor's designee or Legislative Assembly. Requires certain provisions in academy articles of incorporation and bylaws.

Establishes Oregon Academy of Sciences Organizing Task Force. Requires task force to investigate and develop organizational structure of Oregon Academy of Sciences. Requires task force to file articles of incorporation for academy by January 1, 2017. Requires task force to report to legislature. Appropriates moneys to University of Oregon for purposes of carrying out duties of task force.

Sunsetts task force on January 2, 2019.

Abolishes Independent Multidisciplinary Science Team on January 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to independent scientific review; creating new provisions; amending ORS 541.890 and
3 541.898; repealing ORS 541.914; and declaring an emergency.

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

OREGON ACADEMY OF SCIENCES

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8 **SECTION 1. (1) The Legislative Assembly finds and declares that:**

9 (a) **Public policies and programs are improved when they are informed by independent**
10 **scientific analysis that is clearly communicated to state and local officials.**

11 (b) **The State of Oregon is home to many highly qualified scientists with recognized ex-**
12 **pertise in a variety of disciplines who are willing to contribute their time and knowledge to**
13 **scientific reviews of state and local public policies and programs.**

14 (c) **There is a need for a central organizational structure for bringing together the sci-**
15 **entific community in this state to effectively respond to requests for scientific assessments**
16 **of complex public policy questions.**

17 (2) **The Legislative Assembly declares that it is the purpose of section 2 of this 2015 Act**
18 **to create an entity independent of state government with the principal mission of providing**
19 **scientific analysis and recommendations on policy questions of state and local concern.**

20 **SECTION 2. (1) The Oregon Academy of Sciences shall be organized as a nonprofit cor-**
21 **poration under the Oregon Nonprofit Corporation Law. The academy shall serve as a princi-**
22 **pal source of scientific investigation and will examine and report on scientific questions**
23 **referred to the academy by the Governor, the Governor's designee or the Legislative As-**
24 **sembly.**

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 **(2) The articles of incorporation for the academy must:**

2 **(a) Authorize the academy to investigate, examine and report on any subject of science**
3 **requested by the Governor, the Governor’s designee or the Legislative Assembly;**

4 **(b) Provide for a board of directors of the academy that:**

5 **(A) Includes distinguished scientists from a range of disciplines that may be called upon**
6 **to provide the services authorized under this section; and**

7 **(B) Reflects a balance of representation from the academic, private, public and research**
8 **sectors;**

9 **(c) Authorize the academy to provide services to the public in addition to those provided**
10 **for under subsection (1) of this section, including but not limited to public education pro-**
11 **grams, newsletters, websites, science fairs and research assistance; and**

12 **(d) Provide for all other powers as may be appropriate or necessary for the academy to**
13 **carry out its purposes as provided for under this section.**

14 **(3) The bylaws or other appropriate operating guidelines for the academy must establish**
15 **a procedure for the selection of panels of experts to respond to requests from the Governor,**
16 **the Governor’s designee or the Legislative Assembly for the academy to investigate, examine**
17 **or report on any subject of science. The procedures must include provisions to ensure that:**

18 **(a) Proposed panelists disclose any advocacy positions or financial interests held within**
19 **the previous 10 years that may be related to the questions to be addressed by the panel; and**

20 **(b) The selected panel members have no conflicts of interest.**

21 **(4) Nothing in this section is intended to affect or conflict with the responsibilities of**
22 **scientists employed by the state or a political subdivision of the state.**

23
24 **OREGON ACADEMY OF SCIENCES ORGANIZING TASK FORCE**

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26 **SECTION 3.** **(1) The Oregon Academy of Sciences Organizing Task Force is established,**
27 **consisting of up to nine members jointly appointed by the president of the University of**
28 **Oregon and the president of Oregon State University. The decision to appoint a member of**
29 **the task force must be a unanimous decision by the appointing authorities.**

30 **(2) The president of the University of Oregon or the president’s designee and the presi-**
31 **dent of Oregon State University or the president’s designee shall serve as cochairs of the**
32 **task force.**

33 **(3) The remaining seven members of the task force shall be representatives of a diversity**
34 **of scientific disciplines from the academic, private, public and research sectors.**

35 **(4) The task force shall investigate and develop an organizational structure for the**
36 **Oregon Academy of Sciences that will:**

37 **(a) Ensure the participation or membership in the academy by scientists and experts with**
38 **distinction in their fields;**

39 **(b) Ensure broad participation among the disciplines that may be called upon in the in-**
40 **vestigation, examination and reporting on questions referred to the academy by the Gover-**
41 **nor, the Governor’s designee or the Legislative Assembly; and**

42 **(c) Include a process by which the academy will respond to inquiries from the Governor,**
43 **the Governor’s designee or the Legislative Assembly that may include but not be limited to**
44 **inquiries for the academy to identify past or present research projects conducted at Oregon**
45 **institutions or other research institutions and the findings of such research projects.**

1 (5) A majority of the members of the task force constitutes a quorum for the transaction
 2 of business.

3 (6) Official action by the task force requires the approval of a majority of the members
 4 of the task force.

5 (7) If there is a vacancy for any cause, the appointing authorities shall make an ap-
 6 pointment to become immediately effective.

7 (8) The task force shall meet at times and places specified by the call of the cochaIRS or
 8 of a majority of the members of the task force.

9 (9) The task force may adopt rules necessary for the operation of the task force.

10 (10) The task force shall have its first meeting on or before January 1, 2016.

11 (11) By January 1, 2017, the task force, or individuals designated by the task force, shall
 12 file articles of incorporation to incorporate the Oregon Academy of Sciences as a nonprofit
 13 corporation.

14 (12) The task force shall submit a report in the manner provided in ORS 192.245 to an
 15 appropriate interim committee of the Legislative Assembly no later than September 15, 2016.
 16 The report, at a minimum:

17 (a) Shall include recommendations for funding to support the academy; and

18 (b) May include recommendations for legislation.

19 (13) The University of Oregon and Oregon State University shall provide staff support to
 20 the task force.

21 **SECTION 4.** There is appropriated to the University of Oregon, for the biennium begin-
 22 ning July 1, 2015, out of the General Fund, the amount of \$_____ for the purpose of car-
 23 rying out the duties of the Oregon Academy of Sciences Organizing Task Force.

24 **SECTION 5.** Section 3 of this 2015 Act is repealed on January 2, 2019.

25
 26 **INDEPENDENT MULTIDISCIPLINARY SCIENCE TEAM ABOLISHED**

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 28 **SECTION 6.** The Independent Multidisciplinary Science Team is abolished.

29 **SECTION 7.** ORS 541.914 is repealed.

30 **SECTION 8.** ORS 541.890 is amended to read:

31 541.890. As used in ORS 541.890 to 541.969:

32 (1) "Adaptive management" means applying management or practices over time and across the
 33 landscape to achieve site specific resource goals using an integrated and science based approach
 34 that results in changes over time in response to feedback or monitoring.

35 (2) "Associated uplands" includes those lands of a watershed that are critical to the functioning
 36 and protection of a riparian area.

37 (3) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.

38 [(4) "*Independent Multidisciplinary Science Team*" means the scientific team of recognized experts
 39 in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricultural man-
 40 agement created under ORS 541.914.]

41 [(5)] (4) "Native" means indigenous to Oregon and not introduced.

42 [(6)] (5) "Oregon Conservation Strategy" means the comprehensive wildlife conservation strat-
 43 egy for this state adopted by the State Fish and Wildlife Commission.

44 [(7)] (6) "Oregon Plan" means the guidance statement and framework described in ORS 541.898.

45 [(8)] (7) "Protect" or "protection" means to minimize or mitigate adverse effects on native fish

1 or wildlife habitat to the maximum extent practicable given the anticipated duration, geographic
2 scope and primary purpose of proposed activities.

3 [(9)] (8) "Restore" or "restoration" means to take actions likely to achieve sustainable popu-
4 lation levels of native fish or wildlife and their habitats.

5 [(10)] (9) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial
6 ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or
7 potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area
8 may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or
9 ephemeral, intermittent or perennial stream.

10 [(11)] (10) "Soil and water conservation district" means a political subdivision of the state as
11 described in ORS 568.550.

12 [(12)] (11) "Stewardship" means the careful and responsible management of the environment.

13 [(13)] (12) "Tribe" means a federally recognized Indian tribe in Oregon.

14 [(14)] (13) "Watershed" means the entire land area drained by a stream or system of connected
15 streams such that all streamflow originating in the area is discharged through a single outlet.

16 [(15)] (14) "Watershed council" means a voluntary local organization, designated by a local
17 government group convened by a county governing body, to address the goal of sustaining natural
18 resource and watershed protection, restoration and enhancement within a watershed.

19 **SECTION 9.** ORS 541.898 is amended to read:

20 541.898. (1) As used in this section when referring to salmonid recovery:

21 (a) "Listed unit" means one population or a group of populations of a species, such as an
22 evolutionarily significant unit, that has been listed as threatened or endangered under the federal
23 Endangered Species Act of 1973 (P.L. 93-205), as amended, or under ORS 496.171 to 496.192.

24 (b) "Native fish" means a fish indigenous to Oregon and not introduced. Naturally produced fish
25 and hatchery produced fish are both native fish if the fish are indigenous to Oregon and not intro-
26 duced.

27 (c) "Naturally produced" means a fish that reproduces and completes its full life cycle in its
28 natural habitat. Naturally produced progeny of hatchery fish are naturally produced.

29 (d) "Population" means a group of fish that:

30 (A) Originates and reproduces in a particular area at a particular time;

31 (B) Does not interbreed to any substantial degree with any other group reproducing in a dif-
32 ferent area or in the same area at a different time; and

33 (C) Is composed of naturally produced fish, hatchery produced fish or a combination of both.

34 (e) "Recovery" means that a proportion of the constituent populations of naturally produced
35 native fish belonging to a listed unit are sufficiently abundant, productive and diverse in life histo-
36 ries and distribution such that the listed unit as a whole is likely to be self-sustaining into the
37 foreseeable future.

38 (f) "Self-sustaining" means having a sufficient proportion and distribution of constituent popu-
39 lations:

40 (A) Likely to survive prolonged periods of habitat, oceanic, climatic and environmental condi-
41 tions that are detrimental to a population; and

42 (B) Having habitat of sufficient quality and quantity likely to provide survival rates adequate
43 to maintain associated ecological, cultural and economic benefits.

44 (2) The Legislative Assembly finds that the efforts of many Oregonians have resulted in the
45 creation of the Oregon Plan, and recognizes that the Oregon Plan is guided by the following mission

1 and goals:

2 (a) The mission of the Oregon Plan is to restore the watersheds of Oregon and to recover the
 3 fish and wildlife populations of those watersheds to productive and sustainable levels in a manner
 4 that provides substantial ecological, cultural and economic benefits.

5 (b) The goals of the Oregon Plan that guide the citizens of Oregon in achieving the mission of
 6 the Oregon Plan are the:

7 (A) Establishment and maintenance of an infrastructure that provides long-term continuity in
 8 leadership, direction and oversight of watershed restoration and species recovery.

9 (B) Continued opportunity for a wide range of natural resource uses that are consistent with
 10 watershed restoration and species recovery.

11 (C) Implementation of existing laws and environmental regulations to achieve the mission before
 12 enacting new laws and environmental regulations.

13 (D) Development and maintenance of funding for programs to protect and restore watersheds.

14 (E) Development of expectations for the sustainability of interrelated natural resources that
 15 accurately reflect a scientific understanding of the physical and biological constraints of the
 16 ecosystem.

17 (F) Enhancement of habitat available to support healthy populations of fish and wildlife
 18 throughout the state.

19 (G) Production of populations of threatened or endangered species to achieve levels of natural
 20 production consistent with overall restoration goals.

21 (H) Establishment of a science-based system that supports evaluation of the Oregon Plan and
 22 provides a basis for making appropriate future changes to management programs.

23 (I) Coordination of activities and programs among federal, state and local governments and other
 24 entities.

25 (J) Use of voluntary and collaborative processes to achieve the mission of the Oregon Plan
 26 whenever possible.

27 (3) The Oregon Plan is a comprehensive program for the protection and recovery of species and
 28 for the restoration of watersheds throughout this state. The Oregon Plan combines the regulatory
 29 and other actions of state and federal agencies and local governments with voluntary watershed
 30 restoration by private landowners and others. The Oregon Plan includes, but is not limited to:

31 (a) Programs and policies found in the following statutes:

32 (A) ORS 196.600 to 196.905;

33 (B) ORS chapter 197;

34 (C) ORS chapter 274;

35 (D) ORS chapter 366;

36 (E) ORS chapter 390;

37 (F) ORS chapters 465, 466, 468 and 468B;

38 (G) ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992;

39 (H) ORS chapter 477;

40 (I) ORS chapters 496, 497, 498, 501, 506, 507, 508, 509 and 511;

41 (J) ORS 517.702 to 517.989;

42 (K) ORS 527.310 to 527.370, 527.610 to 527.770, 527.990 (1) and 527.992;

43 (L) ORS chapter 530;

44 (M) ORS chapters 536 to 543A;

45 (N) ORS 543A.005 to 543A.415; and

- 1 (O) ORS 568.210 to 568.808 and 568.900 to 568.933;
- 2 (b) Commitments of state agencies in the form of measures;
- 3 (c) Actions of local governments and federal agencies taken in coordination with the state and
4 consistent with the purposes of the Oregon Plan;
- 5 (d) Voluntary activities undertaken by watershed councils, soil and water conservation districts,
6 landowners and other entities and consistent with the purposes of the Oregon Plan;
- 7 (e) Scientific review by the [*Independent Multidisciplinary Science Team*] **Oregon Academy of**
8 **Sciences established under section 2 of this 2015 Act**, and others, of the activities performed
9 under the Oregon Plan;
- 10 (f) Programs and activities identified to address a coordinated approach for the recovery of na-
11 tive salmonid populations within Oregon;
- 12 (g) The guidance statement and framework provided by the healthy streams partnership devel-
13 oped to provide cooperative solutions and voluntary approaches to improving the water quality of
14 streams and to achieve healthy streams throughout Oregon; and
- 15 (h) Programs for the restoration and enhancement of multiple species and of the habitat of those
16 species.
- 17 (4) The Oregon Plan is subject to modification and alteration to enhance program efforts con-
18 sistent with appropriate guidance principles developed by the Legislative Assembly.
- 19 (5) The purpose of the Oregon Plan is to enhance, restore and protect Oregon's native salmonid
20 populations, watersheds, fish and wildlife habitat and water quality, while sustaining a healthy
21 economy.
- 22 (6) The Oregon Plan shall:
- 23 (a) Provide for coordination of local, state, federal and tribal agency responsibilities and au-
24 thorities for native salmonid, watershed and habitat restoration throughout Oregon.
- 25 (b) Rely on watershed councils and soil and water conservation districts, which are directed to
26 cooperate in the development of local watershed plans that assess watershed conditions and create
27 watershed action plans and strategies for the implementation of the local watershed action plans.
- 28 (c) Focus state policies and resources on achieving native salmonid recovery and watershed
29 restoration while sustaining a healthy economy and environment.
- 30 (7) The Oregon Plan shall focus on aiding the recovery of species listed as threatened or en-
31 dangered under the federal Endangered Species Act or under ORS 496.171 to 496.192 until such time
32 as recovery is achieved. Once recovery has been achieved for any species listed as threatened or
33 endangered under ORS 496.171 to 496.192, the Governor shall direct the State Fish and Wildlife
34 Commission to begin rulemaking, as provided in ORS 496.176, to remove the species from the list
35 created pursuant to ORS 496.172. Upon recovery, adequate measures pursuant to the Oregon Plan
36 shall remain in place, as necessary, to help a species avoid a return to threatened or endangered
37 status.
- 38 (8)(a) The Governor, or the Governor's designee, shall negotiate with federal officials to obtain
39 assurances to the effect that compliance with the Oregon Plan and the programs and policies found
40 in the statutes listed in subsection (3) of this section and implementation of related state programs
41 and policies will satisfy federal requirements imposed by the federal Endangered Species Act. Spe-
42 cifically, the Governor, or the Governor's designee, shall seek an exemption to the requirements of
43 16 U.S.C. 1533(d), shall seek to enter into a cooperative agreement pursuant to 16 U.S.C. 1535(c) or
44 shall seek to obtain a permit that allows the incidental taking of species under 16 U.S.C. 1539(a).
- 45 (b) State agencies responsible for implementing the programs and policies found in the statutes

1 listed in subsection (3) of this section shall work with the Governor, or the Governor's designee, and
2 with federal officials to provide the information necessary to obtain the exemptions, agreement or
3 permit specified in paragraph (a) of this subsection.

4 **SECTION 10.** Section 6 of this 2015 Act, the amendments to ORS 541.890 and 541.898 by
5 sections 8 and 9 of this 2015 Act and the repeal of ORS 541.914 by section 7 of this 2015 Act
6 become operative on January 1, 2017.

7
8 **MISCELLANEOUS**
9

10 **SECTION 11.** The unit captions used in this 2015 Act are provided only for the conven-
11 ience of the reader and do not become part of the statutory law of this state or express any
12 legislative intent in the enactment of this 2015 Act.

13 **SECTION 12.** This 2015 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
15 on its passage.
16
