

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3217**

1 On page 1 of the printed bill, line 2, delete “creating new provisions;  
2 amending ORS 509.585;”.

3 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

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

5 **“(1) Many small streams in eastern Oregon were historically in-**  
6 **habited by beaver populations and strongly influenced by beavers’**  
7 **unique ability to modify their physical surroundings. Beaver dams**  
8 **had the effect of slowing the flow of water, allowing for natural over-**  
9 **flow onto surrounding floodplains and providing many positive benefits**  
10 **to stream ecosystems and to the hydrologic functioning of streams.**

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

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

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

2       **“(a) ‘Artificial beaver dams’ means a series of low-profile structures**  
3 **constructed for the purpose of delaying or slowing, but not preventing,**  
4 **water flow to raise the water table and water surface elevations within**  
5 **incised or eroded streams, and to promote restoration of stream and**  
6 **habitat conditions suitable for beaver recovery.**

7       **“(b) ‘Historic floodplain’ means channel-adjacent areas and surfaces**  
8 **constructed by fluvial processes that functioned as floodplains or areas**  
9 **for overbank deposition prior to channel incision.**

10       **“(c) ‘Incised or eroded stream’ means a stream that has been**  
11 **scoured by erosion to the extent that the channel bed elevation has**  
12 **lowered relative to its historic floodplain and the stream has lost**  
13 **connectivity with the historic floodplain, as characterized by the loss**  
14 **of natural wetland, riparian and meadow conditions in the adjacent**  
15 **surfaces, the absence of overbank flooding or deposition, the loss of**  
16 **diversity of fish and animal species or the presence of invasive dry**  
17 **land species, including but not limited to sagebrush, bunch grass,**  
18 **juniper and pine, that have encroached from adjacent uplands.**

19       **“(d) ‘Low-profile’ means not to exceed two feet above the historic**  
20 **floodplain.**

21       **“(e) ‘Malheur Lake Drainage Basin’ means the area identified as the**  
22 **Malheur Lake Drainage Basin on Water Resources Department map**  
23 **number 12.6 dated January 1, 1966.**

24       **“(f) ‘Native migratory fish’ has the meaning given that term in ORS**  
25 **509.580.**

26       **“(g) ‘Qualifying stream’ means an incised or eroded stream, or an**  
27 **incised or eroded reach of a stream, that, prior to commencement of**  
28 **a restoration project is not inhabited by native migratory fish or**  
29 **beavers.**

30       **“(2)(a) The Department of State Lands shall by rule establish a pilot**

1 program for voluntary stream restoration and beaver recovery  
2 through the construction of artificial beaver dams on qualifying  
3 streams located in the Malheur Lake Drainage Basin.

4 “(b) The pilot program adopted under this subsection shall provide  
5 for general authorization pursuant to ORS 196.850 or another form of  
6 general permitting under ORS 196.600 to 196.905 for voluntary projects  
7 to construct artificial beaver dams. The program and rules shall be  
8 designed to promote the natural reintroduction of beavers when suit-  
9 able habitat is restored over time through the use of artificial beaver  
10 dams.

11 “(c) The pilot program shall include:

12 “(A) A requirement for monitoring, and criteria for evaluating the  
13 pilot program; and

14 “(B) Requirements for participants to provide information about  
15 proposed projects, including but not limited to information on the  
16 number and specific locations of artificial beaver dams to be con-  
17 structed and the materials to be used.

18 “(3)(a) Artificial beaver dams constructed on qualifying streams and  
19 authorized pursuant to subsection (2) of this section may not be con-  
20 sidered artificial obstructions, as defined in ORS 509.580, and are ex-  
21 empt from fish passage requirements under ORS 509.585. Where  
22 practicable, rules adopted by the department to establish the pilot  
23 program under subsection (2) of this section shall include options for  
24 designing and constructing artificial beaver dams in a manner that:

25 “(A) Would provide fish passage in a qualifying stream if the stream  
26 were restored as a result of the voluntary restoration project; or

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

30 “(b)(A) Notwithstanding paragraph (a) of this subsection, a land-

1 owner participating in voluntary stream restoration under a general  
2 authorization shall work collaboratively with the State Department  
3 of Fish and Wildlife to provide appropriate fish passage for any native  
4 migratory fish that return to the incised or eroded stream due to the  
5 voluntary restoration project.

6 “(B) The construction of fish passage structures under subpara-  
7 graph (A) of this paragraph may only be required by the State De-  
8 partment of Fish and Wildlife subject to available funding for the  
9 construction in the Fish Passage Fund established under ORS 497.139.

10 “(4) Nothing in this section is intended or shall be construed to  
11 modify, in any manner, any requirement under the Water Rights Act  
12 as defined in ORS 537.010.”.

13 On page 6, delete lines 1 through 40.

14 In line 41, delete “4” and insert “3”.

15 In line 43, before the period insert “and shall provide a preliminary report  
16 to the Legislative Assembly regarding program implementation no later than  
17 January 1, 2017”.

18 In line 44, delete “5” and insert “4”.

19 On page 7, line 2, delete “6” and insert “5”.

20 Delete lines 3 and 4.

21 In line 5, delete “8” and insert “6”.

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