



STATE OF OREGON  
Legislative Counsel Committee

February 16, 2016

To: Senator Michael Dembrow  
From: Maureen McGee, Deputy Legislative Counsel  
Subject: -A2 amendments to House Bill 4040-A

Enclosed are the amendments you requested to House Bill 4040-A. The substantive portion of HB 4040-A provides that the November 9, 2015, decision of the State Fish and Wildlife Commission to remove the gray wolf from the state list of endangered species is ratified and approved as being in compliance with ORS 496.176. ORS 496.176 is the statute that sets forth the procedures that the commission must follow to remove a species from the state list of endangered species. The only legal effect of A-engrossed House Bill 4040 is to validate or cure any real or perceived irregularities in the commission's application of ORS 496.176 in deciding to delist the gray wolf. "A [L]egislature may pass a retroactive law which could validate any act which it could in the first instance have authorized, subject to the restriction that it could not impair the obligation of contract or a vested right." *Northern Wasco County People's Utility Dist. v. Wasco County*, 210 Or. 1, 14, *quoting Smith v. Cameron*, 123 Or. 501, 507.

The -A2 amendments modify the substantive language of HB 4040-A to provide that the ratification and approval of the commission's decision to delist the gray wolf is effective only if the commission's decision was adopted in compliance with ORS 496.176 and associated administrative rules. Because the only legal effect of HB 4040-A is to legislatively correct any real or perceived irregularities in the commission's application of ORS 496.176 in reaching its delisting decision, your amendments, if enacted, would cause the bill to have no legal effect.

Encl.