

## HOUSE AMENDMENTS TO HOUSE BILL 2784

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 24

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions; amending ORS  
2 496.289, 622.280 and 830.594 and sections 7 and 8, chapter 814, Oregon Laws 2015;”.

3 Delete lines 4 through 13 and insert:  
4

### “COLLABORATION AND AGENCY LEADERSHIP

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6  
7 (New Shellfish Plats; Preapplication Conferences)  
8

9 “**SECTION 1.** Section 2 of this 2017 Act is added to and made a part of ORS 622.210 to  
10 622.360.

11 “**SECTION 2.** (1) A prospective applicant for a plat for the cultivation of oysters, clams  
12 or mussels shall, no later than 30 days prior to filing an application under ORS 622.250, par-  
13 ticipate in a preapplication conference with the State Department of Agriculture and other  
14 appropriate local, state and federal agencies.

15 “(2) Not less than 14 days before the preapplication conference, the prospective applicant  
16 must provide the department with adequate information to prepare for the preapplication  
17 conference.

18 “(3) At the preapplication conference, the department and other appropriate local, state  
19 and federal agencies shall:

20 “(a) Inform the prospective applicant of statutes, administrative rules, local ordinances  
21 and any other requirements that may apply to the application;

22 “(b) Based on the information provided by the prospective applicant and other annual  
23 production data and information available to the department, discuss with the prospective  
24 applicant projected revenue data and related matters; and

25 “(c) Assist the prospective applicant by identifying known issues that may affect the  
26 likelihood that the prospective applicant will be able to meet any conditions placed on re-  
27 quired permits from state agencies and local governments.

28 “(4) The prospective applicant may request additional preapplication consultation with  
29 the department.

30 “**SECTION 3.** In addition to and not in lieu of any other appropriation, there is appro-  
31 priated to the State Department of Agriculture, for the biennium beginning July 1, 2017, out  
32 of the General Fund, the amount of \$200,000, which may be expended for work related to  
33 conducting preapplication conferences under section 2 of this 2017 Act.  
34

35 “(Withdrawal of Unproductive Shellfish Plats)

1        “**SECTION 4.** ORS 622.280 is amended to read:

2        “622.280. (1) If, for a period of three years after the filing of a plat under chapter 675, Oregon  
3 Laws 1969, more than one-half the lands claimed are unproductive, the State Department of Agri-  
4 culture may withdraw from a claimant and consider abandoned any portion of the unproductive  
5 lands claimed by such claimant. However, the reason for such unproductiveness shall not include  
6 restrictions by governmental health authorities, the unavailability of seed or infestation by pest or  
7 disease.

8        “(2) The department may withdraw from a claimant and consider abandoned those lands:

9        “(a) On which the claimant fails to pay the fees or use taxes referred to in ORS 622.290, unless  
10 the department is satisfied that there was reasonable cause for such failure.

11       “(b) That are not marked in the manner provided by ORS 622.320.

12       “(c) That are used or held for purposes other than oyster, clam or mussel cultivation.

13       “(3) **The department shall inspect plats filed under chapter 675, Oregon Laws 1969, an-**  
14 **nually, or at a regular frequency otherwise determined necessary by the department, for**  
15 **enforcement of this section.**

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17                               “(Interagency Coordination on Removal-Fill Permitting)  
18

19        “**SECTION 5.** (1) **The Department of State Lands shall investigate and develop recom-**  
20 **mendations on the preferred method for updating the department’s process for issuing per-**  
21 **mits required under ORS 196.600 to 196.905 for the commercial cultivation of oysters, clams**  
22 **or mussels. The department shall consider the following two options:**

23        “(a) **Entering into a memorandum of understanding with the State Department of Agri-**  
24 **culture that would provide for the State Department of Agriculture to issue the permits re-**  
25 **quired under ORS 196.600 to 196.905 for the commercial cultivation of oysters, clams or**  
26 **mussels; or**

27        “(b) **Establishing by rule a general permit under ORS 196.816 for the commercial culti-**  
28 **vation of oysters, clams or mussels.**

29        “(2) **As part of the investigation required by subsection (1) of this section, the Depart-**  
30 **ment of State Lands shall coordinate with the State Department of Agriculture to develop**  
31 **a proposed memorandum of understanding under which:**

32        “(a) **The Department of State Lands shall continue to participate in the review of appli-**  
33 **cations for permits required under ORS 196.600 to 196.905 for the commercial cultivation of**  
34 **oysters, clams or mussels; and**

35        “(b) **The State Department of Agriculture may perform any function of the Department**  
36 **of State Lands relating to the regulation and control of removal and filling of waters of the**  
37 **state, including but not limited to inspection and enforcement duties, as necessary to mini-**  
38 **mize the duplication or redundancy and cost in state agency operations related to the com-**  
39 **mercial cultivation of oysters, clams or mussels on state lands.**

40        “(3) **The Department of State Lands shall submit a report, in the manner provided by**  
41 **ORS 192.245, on the department’s implementation of this section to an interim committee**  
42 **of the Legislative Assembly related to natural resources no later than September 15, 2018.**  
43 **The report required by this subsection may include recommendations for legislation.**

44        “**SECTION 6.** Section 5 of this 2017 Act is repealed on December 31, 2018.  
45



1 2018 regular session of the Legislative Assembly as specified in ORS 171.010.

2 **“SECTION 11.** In addition to and not in lieu of any other appropriation, there is appro-  
3 priated to the State Department of Agriculture, for the biennium beginning July 1, 2017, out  
4 of the General Fund, the amount of \$90,000, which may be expended for carrying out the  
5 study required by section 9 of this 2017 Act.

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7 **“ENHANCED SHELLFISH PRODUCTION**

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9 **(Identifying New Shellfish Growing Areas)**

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11 **“SECTION 12.** Section 7, chapter 814, Oregon Laws 2015, is amended to read:

12 **“Sec. 7. (1)** The State Department of Agriculture shall conduct a pilot project for increasing the  
13 frequency of water quality monitoring and analysis related to the closure and opening of shellfish  
14 harvesting [*in Tillamook Bay.*] **on state lands classified as suitable for oyster, clam or mussel**  
15 **cultivation under ORS 622.240.**

16 **“(2)** In conducting the pilot project required by this section, the State Department of  
17 Agriculture shall consult with the Department of Environmental Quality, other appropriate  
18 local and state agencies, representatives of the commercial shellfish industry and nongov-  
19 ernmental organizations, as necessary, to:

20 **“(a)** Prioritize increasing water quality monitoring and analysis in areas where efforts for  
21 enhancing opportunities for the commercial cultivation of oysters, clams or mussels are in  
22 the highest demand; and

23 **“(b)** Identify cost-effective methods, which may include the sharing of resources or in-  
24 formation, for increasing the frequency of water quality monitoring and analysis related to  
25 the closure and opening of shellfish harvesting.

26 **“SECTION 13.** Section 8, chapter 814, Oregon Laws 2015, is amended to read:

27 **“Sec. 8.** Section 7, chapter 814, Oregon Laws 2015, [*of this 2015 Act*] is repealed on [*July 1,*  
28 *2017*] **January 2, 2020.**

29 **“SECTION 14.** In addition to and not in lieu of any other appropriation, there is appro-  
30 priated to the State Department of Agriculture, for the biennium beginning July 1, 2017, out  
31 of the General Fund, the amount of \$50,000, which may be expended for carrying out activ-  
32 ities related to the pilot project required by section 7, chapter 814, Oregon Laws 2015, as  
33 amended by section 12 of this 2017 Act, in estuarine areas outside Tillamook Bay.

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35 **“(Study on Cumulative Impacts of Shellfish Operations)**

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37 **“SECTION 15. (1)** The State Department of Fish and Wildlife, in coordination with the  
38 State Department of Agriculture, representatives of the commercial shellfish industry and  
39 members of the academic and scientific communities, shall conduct ecosystem modeling to  
40 investigate:

41 **“(a)** The cumulative impacts of the commercial cultivation of oysters, clams and mussels  
42 on estuarine areas in this state; and

43 **“(b)** The maximum capacities of estuarine areas in this state to support the commercial  
44 cultivation of oysters, clams and mussels.

45 **“(2)** The State Department of Fish and Wildlife shall submit a report on the results of

1 the ecosystem modeling required by subsection (1) of this section to the interim committees  
2 of the Legislative Assembly related to natural resources no later than September 15, 2017.

3 **“SECTION 16.** Section 15 of this 2017 Act is repealed on the date of the convening of the  
4 2018 regular session of the Legislative Assembly as specified in ORS 171.010.

5 **“SECTION 17.** In addition to and not in lieu of any other appropriation, there is appro-  
6 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
7 out of the General Fund, the amount of \$130,000 to be used for the ecosystem modeling re-  
8 quired by section 15 of this 2017 Act.

9  
10 **“(Commercial Cultivation of Controlled Species)**

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12 **“SECTION 18.** ORS 830.594 is amended to read:

13 **“830.594.** (1) The State Department of Fish and Wildlife, after consultation with the State Marine  
14 Board, the State Department of Agriculture and the Department of State Police, shall report  
15 biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering  
16 this state and may include in the report:

17 **“(a)** Suggested legislation necessary to more effectively prevent aquatic invasive species from  
18 entering this state; **and**

19 **“(b)** Suggested legislation or other suggested actions necessary to allow for the effective  
20 management of aquatic invasive species in a manner that may also allow for the transport  
21 or movement of nonnative species important to the commercial cultivation of oysters, clams  
22 and mussels as regulated by the State Department of Agriculture under ORS 622.210 to  
23 622.360.

24 **“(2)** Reports to the Legislative Assembly required under this section must be made in accord-  
25 ance with ORS 192.245.

26  
27 **“(Commercial Shellfish Mariculture Pilot Projects**  
28 **in the Territorial Sea)**

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30 **“SECTION 19.** The Ocean Policy Advisory Council shall develop and, on or before De-  
31 cember 31, 2018, make recommendations to the Land Conservation and Development Com-  
32 mission, which may include recommendations for amendments to the Territorial Sea Plan,  
33 regarding the siting of viable pilot projects for the commercial cultivation of oysters, clams  
34 or mussels in the territorial sea.

35 **“SECTION 20.** Section 19 of this 2017 Act is repealed on January 2, 2019.

36  
37 **“DEVELOPMENT OF BEST MANAGEMENT PRACTICES**

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39 **“SECTION 21.** Section 22 of this 2017 Act is added to and made a part of ORS 622.210 to  
40 622.360.

41 **“SECTION 22.** (1) The State Department of Fish and Wildlife shall research, develop and  
42 document best management practices for the commercial cultivation of oysters, clams and  
43 mussels. The best management practices developed under this section shall be made available  
44 as a guide for site-specific management of plats subject to the regulatory authority of the  
45 State Department of Agriculture.

1       “(2) In developing the best management practices required under this section, the State  
2 Department of Fish and Wildlife shall coordinate and consult with the State Department of  
3 Agriculture, the Department of Land Conservation and Development, appropriate represen-  
4 tatives of the commercial shellfish industry and federally recognized Oregon Indian tribes  
5 and members of the academic and scientific communities.

6       “(3) The State Department of Fish and Wildlife may update the best management prac-  
7 tices required under this section as necessary.

8       “SECTION 23. In addition to and not in lieu of any other appropriation, there is appro-  
9 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
10 out of the General Fund, the amount of \$150,000 to be used to develop the best management  
11 practices required by section 22 of this 2017 Act.

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13                                   **“HARMFUL ALGAL BLOOM MONITORING PROGRAM**

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15       “SECTION 24. The State Department of Fish and Wildlife shall adopt by rule a harmful  
16 algal bloom monitoring and alert program. The purpose of the program shall be to imple-  
17 ment a harmful algal bloom network that will provide information on current algal blooms  
18 and facilitate information exchange in support of informed decision-making to protect public  
19 health and safety and to safeguard coastal communities from harmful algal blooms.

20       “SECTION 25. In addition to and not in lieu of any other appropriation, there is appro-  
21 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
22 out of the General Fund, the amount of \$350,000 to be used to develop the harmful algal  
23 bloom monitoring and alert program required by section 24 of this 2017 Act.

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25                                   **“SOCIOECONOMIC COSTS AND BENEFITS**

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27                                   **(Baseline Shellfish Harvest Economic Survey)**

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29       “SECTION 26. (1) As used in this section:

30       “(a) ‘Commercial molluscan shellfish industry’ includes:

31       “(A) Persons engaged in the taking of molluscan shellfish for commercial purposes as  
32 defined in ORS 506.006; and

33       “(B) Persons who engage in the commercial cultivation of oysters, clams and mussels  
34 subject to the regulatory authority of the State Department of Agriculture under ORS  
35 622.210 to 622.360.

36       “(b) ‘Molluscan shellfish’ means oysters, clams, mussels and scallops.

37       “(2) The State Department of Fish and Wildlife, in consultation with the State Depart-  
38 ment of Agriculture, representatives of the commercial molluscan shellfish industry and  
39 members of the academic and scientific communities, shall develop and conduct a baseline  
40 survey of the commercial molluscan shellfish industry in this state. Information gathered  
41 under this section shall include, but need not be limited to, information on:

42       “(a) The operating and investment costs for engaging in the commercial molluscan  
43 shellfish industry in this state;

44       “(b) The facilities in this state used for purposes related to the commercial molluscan  
45 shellfish industry;

1 “(c) Fisheries management related to the commercial molluscan shellfish industry;

2 “(d) Commercial molluscan shellfish industry production and sales data; and

3 “(e) Opportunities and challenges for the commercial molluscan shellfish industry.

4 “(3) The State Department of Fish and Wildlife shall, at least once every five years fol-  
5 lowing completion of the baseline survey required by subsection (2) of this section, complete  
6 a survey developed by the department to measure the economic growth and stability of the  
7 commercial molluscan shellfish industry in this state against the baseline survey results.

8 “SECTION 27. In addition to and not in lieu of any other appropriation, there is appro-  
9 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
10 out of the General Fund, the amount of \$80,000, which may be expended for conducting the  
11 baseline survey required by section 26 of this 2017 Act.

12  
13 “(Commercial Molluscan Shellfish Marketing Study)

14  
15 “SECTION 28. (1) The State Department of Agriculture shall conduct a study on mar-  
16 keting and sales opportunities to improve the success and economic opportunities for per-  
17 sons engaged in the commercial molluscan shellfish industry in this state.

18 “(2) The department shall submit a report on the results of the study to the interim  
19 committees of the Legislative Assembly related to natural resources no later than September  
20 15, 2017.

21 “SECTION 29. Section 28 of this 2017 Act is repealed on the date of the convening of the  
22 2018 regular session of the Legislative Assembly as specified in ORS 171.010.

23 “SECTION 30. In addition to and not in lieu of any other appropriation, there is appro-  
24 priated to the State Department of Agriculture, for the biennium beginning July 1, 2017, out  
25 of the General Fund, the amount of \$50,000, to be expended for conducting the study required  
26 by section 28 of this 2017 Act.

27  
28 “(Shellfish Ecosystem Valuation Report)

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30 “SECTION 31. (1) The State Department of Fish and Wildlife shall research and develop  
31 a report on the economic value of the ecosystem services provided by Oregon’s estuarine  
32 shellfish resources.

33 “(2) The department shall submit a report on the results of the study to the interim  
34 committees of the Legislative Assembly related to natural resources no later than September  
35 15, 2017.

36 “SECTION 32. Section 31 of this 2017 Act is repealed on the date of the convening of the  
37 2018 regular session of the Legislative Assembly as specified in ORS 171.010.

38 “SECTION 33. In addition to and not in lieu of any other appropriation, there is appro-  
39 priated to the State Department of Agriculture, for the biennium beginning July 1, 2017, out  
40 of the General Fund, the amount of \$60,000, to be expended for conducting the research and  
41 developing the report required by section 31 of this 2017 Act.

42  
43 “ENHANCED RECREATIONAL OPPORTUNITIES

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45 “SECTION 34. ORS 496.289 is amended to read:

1 “496.289. (1) The Restoration and Enhancement Board shall meet, adopt and recommend to the  
2 State Fish and Wildlife Commission, within 120 days after July 1, 1989, and at not more than 120-day  
3 intervals thereafter, fish restoration and enhancement programs.

4 “(2) The commission shall review such programs and may approve or disapprove any or all  
5 program recommendations by the board. Funds may be expended from the subaccount referred to in  
6 ORS 496.283 for projects that have been approved by the commission.

7 “(3) The State Department of Fish and Wildlife and the board jointly shall submit to each odd-  
8 numbered year regular session of the Legislative Assembly a report on expenditure of funds for the  
9 fish restoration and enhancement program and on the status of various projects.

10 “(4) In recommending fish restoration and enhancement programs, the board shall:

11 “(a) Recommend a mix of projects that provide a balance between restoration and enhancement  
12 benefits.

13 “(b) Recommend projects that are to be implemented by the salmon and trout enhancement  
14 program and nonprofit organizations engaged in approved restoration and enhancement activities.

15 “(c) Encourage projects that result in obtaining matching funds from other sources.

16 “(5) All moneys made available for the fish restoration and enhancement program from funds  
17 received under sections 4, 6 and 8, chapter 512, Oregon Laws 1989, and from gifts and grants made  
18 to carry out the fish restoration and enhancement program may be expended only if recommended  
19 by the board and approved by the commission. Such amounts may be expended:

20 “(a) On programs benefiting the commercial fishing industry in the same proportion as revenues  
21 received from surcharges under sections 6 and 8, chapter 512, Oregon Laws 1989, bear to the total  
22 amount of surcharge revenues.

23 “(b) On programs benefiting recreational angling in the same proportion as revenues received  
24 from the dedication under section 4, chapter 512, Oregon Laws 1989, bear to the total amount of  
25 dedicated revenues.

26 “(6) The board may accept, from whatever source, gifts or grants for the purposes of fish res-  
27 toration and enhancement. All moneys so accepted shall be deposited in the subaccount referred to  
28 in ORS 496.283. Unless otherwise required by the terms of a gift or grant, gifts or grants shall be  
29 expended as provided in subsection (5) of this section.

30 “(7) As used in this section:

31 “(a) ‘Enhancement’ includes, but is not limited to, the following activities:

32 “(A) Angler access.

33 “**(B) Access for the recreational taking of shellfish.**

34 “[~~(B)~~] (C) New fishways and screens.

35 “[~~(C)~~] (D) Habitat.

36 “[~~(D)~~] (E) New hatchery equipment and technology.

37 “[~~(E)~~] (F) Public education.

38 “[~~(F)~~] (G) Aquatic inventories.

39 “(b) ‘Restoration’ includes, but is not limited to, the following activities:

40 “(A) Modification of existing fishways and existing screens.

41 “(B) Hatchery restoration.

42 “(C) Liberation equipment.

43  
44 “**COLLABORATIVE PUBLIC SHELLFISH MONITORING PROGRAM**  
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1       “**SECTION 35.** Section 36 of this 2017 Act is added to and made a part of the wildlife laws.

2       “**SECTION 36.** The State Fish and Wildlife Commission shall adopt by rule a collaborative  
3 public shellfish monitoring program. The program shall provide opportunities for the State  
4 Department of Fish and Wildlife to collaborate with members of the public, federally recog-  
5 nized Oregon Indian tribes and private and nonprofit organizations to engage in activities  
6 including, but not limited to:

7       “(1) Shellfish stock assessments;

8       “(2) Data collection for habitat characterization of estuarine areas in this state;

9       “(3) Collection of shellfish fisheries data; and

10       “(4) Public outreach and education activities related to shellfish.

11       “**SECTION 37.** In addition to and not in lieu of any other appropriation, there is appro-  
12 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
13 out of the General Fund, the amount of \$50,000, which may be expended for the program  
14 required by section 36 of this 2017 Act.

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16                                   “RESEARCH ON IMPACTS OF NONNATIVE SHELLFISH SPECIES

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18       “**SECTION 38.** (1) The State Department of Fish and Wildlife, in collaboration with the  
19 State Department of Agriculture and appropriate stakeholders, shall research and study the  
20 impacts in this state of nonnative shellfish species on wild stocks of native shellfish and on  
21 the commercial cultivation of oysters, clams and mussels.

22       “(2) The State Department of Fish and Wildlife shall submit a report on the results of  
23 the study to the interim committees of the Legislative Assembly related to natural resources  
24 no later than September 15, 2021.

25       “**SECTION 39.** Section 38 of this 2017 Act is repealed on the date of the convening of the  
26 2022 regular session of the Legislative Assembly as specified in ORS 171.010.

27       “**SECTION 40.** In addition to and not in lieu of any other appropriation, there is appro-  
28 priated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 2017,  
29 out of the General Fund, the amount of \$100,000, to be expended for conducting the research  
30 required by section 38 of this 2017 Act.

31  
32                                   “CAPTIONS

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34       “**SECTION 41.** The unit captions used in this 2017 Act are provided only for the conven-  
35 ience of the reader and do not become part of the statutory law of this state or express any  
36 legislative intent in the enactment of this 2017 Act.

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38                                   “EMERGENCY CLAUSE

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40       “**SECTION 42.** This 2017 Act being necessary for the immediate preservation of the public  
41 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
42 on its passage.”.