

**HB 2841 B STAFF MEASURE SUMMARY****Carrier:** Sen. Dembrow**Senate Committee On Environment and Natural Resources****Action Date:** 05/23/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Bentz, Dembrow, Prozanski, Roblan**Exc:** 1 - Olsen**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Beth Patrino, LPRO Analyst**Meeting Dates:** 5/21, 5/23**WHAT THE MEASURE DOES:**

Authorizes Oregon Department of Fish and Wildlife (ODFW) to refuse disclosure of information related to habitat, location, or population of fish or wildlife species that is: threatened or endangered, under consideration for listing as threatened or endangered, or a sensitive species. Authorizes ODFW to refuse to disclose certain locational data if: species has commercial or black market value, there is existing history of harm to a local population, there is a known demand for illegally taking or harassing species, or a species is limited in distribution and concentration or is endemic. Authorizes ODFW to refuse disclosure of telemetry, radio frequency, or other locational data about species or individual member if data related to: present, projected, or recent locations of species; present, projected, or recent habitat of species; results or specific information from unpublished data and findings; or confidential information provided voluntarily by private landowners or representatives of private landowners. Allows ODFW disclose data to: federal government, tribal government, public bodies, public utilities, accredited colleges or universities; owners of, lessees of rights-of-way or holders of easement on private land to which data pertains; holders of public grazing permits for the land to which data pertains; and resource management partners and stakeholders. Requires ODFW to issue proposed order with specified contents when refusing disclosure. Requires ODFW to obtain signed agreement of confidentiality when disclosing information. Establishes that disclosure of information does not require ODFW disclose information to other parties. Establishes that ODFW may not withhold information about total numbers or health of species in Oregon or in a region of Oregon. Prohibits ODFW from withholding information relevant to ongoing petition, litigation, or other administrative or legal action in furtherance of species protection or conservation, or preparation of such actions. Requires that ODFW provide data, to extent practicable, to scale that does not create risk to species. Adds information described in measure to exemption from disclosure in ORS 192.345. Exempts specific ODFW information from disclosure unless public interest requires disclosure in the particular instance (ORS 192.345). Makes disclosure criteria and public record law exemption retroactive to September 1, 2018. Validates ODFW nondisclosures of information since September 1, 2018 and prior to measure effective date. Establishes that specified provisions do not allow ODFW to refuse information in violation of data-sharing commitment or obligation, including under a management plan, entered into by ODFW prior to the effective date of Act. Applies provision to this information requiring ODFW to aggregate data to extent practical to a scale that does not create risk to species or member of species. Sunsets measure on January 2, 2024. Declares emergency, effective upon passage.

**ISSUES DISCUSSED:**

- Public availability of species location information and concern regarding poaching
- Similar laws in other states
- Need for land managers to retain access to information
- Existing management plans that include information-sharing agreements
- Sunset provision to provide an opportunity to see how implementation works

**EFFECT OF AMENDMENT:**

Changes from a requirement to an authorization that Oregon Department of Fish and Wildlife (ODFW) disclose information to specified entities. Expands list of potential recipients. Requires, if ODFW refuses to disclose information because disclosure could harm a species or member of a species, that ODFW issue a proposed order refusing the disclosure request and provide the requester with notice of rights and remedies under ORS 183.415 (notice of right to hearing). Specifies that agreement to maintain confidentiality of information may include, but is not limited to, a proposed protective order for use, if necessary, in a legal proceeding to maintain confidentiality of the information. In circumstances where ODFW is prohibited from withholding the information, agreement may prohibit disclosure by recipient except to further the protection or conservation of the species if the information is relevant to an on-going petition, litigation, or other administrative or legal action or the preparation of same. Sunsets measure on January 2, 2024. Declares emergency, effective upon passage.

**BACKGROUND:**

The Oregon Department of Fish and Wildlife (ODFW) may currently refuse disclosure of information regarding the habitat, location, or population of any threatened or endangered species, unless the public interest requires disclosure in the particular instance (ORS 192.345 (13)). Any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record and to determine if it may be withheld from public inspection (ORS 192.411). ODFW maintains a list of sensitive species, which are subject to a decline in number such that they may become eligible for listing on the state Threatened and Endangered Species List (OAR 635-100-0040).

House Bill 2841B would, with some exceptions, authorize ODFW to refuse disclosure of information regarding the habitat, location, or population of fish and wildlife species listed as threatened or endangered, under consideration for such listing, or identified as a sensitive species under ODFW rules. The measure would sunset on January 2, 2024.