

HB 4148 -1, -2 STAFF MEASURE SUMMARY

House Committee On Environment and Natural Resources

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/7, 2/9

WHAT THE MEASURE DOES:

Directs Department of State Lands (DSL), in consultation with Oregon Department of Fish and Wildlife (ODFW), to establish salmon credit program to encourage voluntary restoration of salmonid habitat and allow individuals to meet compensatory mitigation obligations. Requires DSL, in establishing the salmon credit program, to:

1. identify waters of this state and adjacent agricultural lands and forestlands suitable for salmon credit projects;
2. establish requirements for salmon credit projects, including:
3. prioritize salmon credit projects that will provide the greatest increase in functions and values of water resources associated with salmon credit projects;
4. develop a system for measuring the functions and values of water resources associated with salmon credit project sites and sites for which a salmon credit will be purchased;
5. establish procedures for the inspection, certification, and recertification of salmon credit projects;
6. establish a salmon credit price; and
7. establish a method for calculating the amount of salmon credit dividend payments.

Prohibits DSL from adopting rules that would limit the use of salmon credits for permits, authorizations, or resolution of violations related to development projects within the same area or watershed as the salmon credit project. Exempts individuals from obtaining a permit for the removal or fill of any material as part of restoration activities associated with a salmon credit project. Authorizes individuals to apply to DSL to become a credit generator. Requires DSL to approve, approve with modifications, or deny the application within 30 days, and, if approved, assign an estimated salmon credits value to the project. Authorizes credit generators to begin restoration activities after DSL approval of a salmon credit project or elect to begin restoration activities after a credit purchaser has agreed to purchase the salmon credits generated by the project. Requires credit generators to notify DSL after a salmon credit project has been completed. Requires DSL to inspect the project to confirm the project has been completed and certify an amount of salmon credits for the project. Requires DSL to make available to purchasers of salmon credits a list of currently available salmon credits and potential salmon credit projects that will begin restoration activities once a credit purchaser has agreed to purchase the credits. Requires DSL to retire the salmon credit after the department receives payment from a credit purchaser for a salmon credit. Entitles credit generator to a salmon credit dividend based on the amount of salmon credits retired from the credit generator's project for as long as the salmon credit project meets the requirements of the salmon credit program. Requires DSL to annually determine a dividend amount for salmon credits generated by each salmon credit project. Authorizes DSL to calculate costs to the department of implementing the program and establish fees which are charged to salmon credit project applicants and salmon credit purchasers. Requires fees received under this section shall be credited to the Common School Fund. Establishes Salmon Credit Trust Fund in the State Treasury, separate and distinct from the General Fund, with all moneys in the fund are continuously appropriated to DSL for the purpose of paying salmon credit dividends. Requires DSL and ODFW to consult with the U.S. Army Corp of Engineers, and any other relevant federal agencies, to develop a programmatic general permit applicable to restoration activities under the salmon credit program. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

This summary has not been adopted or officially endorsed by action of the committee.

EFFECT OF AMENDMENT:

-1 Defines “salmon credit project” as a project on agricultural land or forestland to restore waters of this state that have historically been salmonid habitat and that results in an increase in available salmonid habitat in this state. Directs Department of Agriculture (ODA), in consultation with Department of State Lands (DSL) and Oregon Department of Fish and Wildlife (ODFW), to establish salmon credit program to encourage voluntary restoration of salmonid habitat and allow individuals to meet compensatory mitigation obligations. Requires ODA, in establishing the salmon credit program, to: identify waters of this state and adjacent agricultural lands and forestlands that are within an area designated as critical habitat for an evolutionarily significant unit of salmonids and otherwise suitable for salmon credit projects; prioritize salmon credit projects that will provide the increases in functions and values of water resources associated with salmon credit projects in areas where the greatest need has been established; monitor the functions and values of water resources associated with salmon credit project sites to show habitat improvement and salmonid uplift; and create within the department and, after consultation with the Salmon Credit Advisory Council, fill the position of salmon credit program director. Authorizes individuals to apply to ODA to become a credit generator. Requires DSL to approve, approve with modifications, or deny the application within 60 days, and, if approved, assign an estimated salmon credits value to the project. Authorizes credit generators to begin restoration activities after ODA approval of a salmon credit project or elect to begin restoration activities after a credit purchaser has agreed to purchase the salmon credits generated by the project. Authorizes a landowner or the landowner’s designee, including a local watershed organization, to perform restoration activities. Requires credit generators to notify ODA after a salmon credit project has been completed. Requires ODA to inspect the project to confirm the project has been completed and certify an amount of salmon credits for the project. Requires ODA to make available to purchasers of salmon credits a list of currently available salmon credits and potential salmon credit projects that will begin restoration activities once a credit purchaser has agreed to purchase the credits. Requires ODA to retire the salmon credit after the department receives payment from a credit purchaser for a salmon credit. Requires ODA to annually determine a dividend amount for salmon credits generated by each salmon credit project. Authorizes ODA to calculate costs to the department of implementing the program and establish fees which are charged to salmon credit project applicants and salmon credit purchasers. Requires fees received under this section shall be credited to the Salmon Credit Program Fund. Establishes Salmon Credit Trust Fund in the State Treasury, separate and distinct from the General Fund, with all moneys in the fund are continuously appropriated to ODA for the purpose of paying salmon credit dividends. Establishes the Salmon Credit Advisory Council (Council), consisting of 11 members appointed by the Governor and subject to confirmation by the Senate, and Council requirements and duties. Requires ODA to provide administrative and staff support and facilities as necessary for the Council to carry out the duties of the Council. Requires ODA, DSL, and ODFW to consult with the U.S. Army Corp of Engineers, and any other relevant federal agencies, to develop a new, or update an existing, programmatic general permit applicable to restoration activities under the salmon credit program.

-2 Defines “salmon credit project” as a project on agricultural land or forestland to restore waters of this state that have historically been salmonid habitat and that results in an increase in available salmonid habitat in this state. Directs Department of Agriculture (ODA), in consultation with Department of State Lands (DSL) and Oregon Department of Fish and Wildlife (ODFW), to establish salmon credit program to encourage voluntary restoration of salmonid habitat and allow individuals to meet compensatory mitigation obligations. Requires ODA, in establishing the salmon credit program, to: identify waters of this state and adjacent agricultural lands and forestlands that are within an area designated as critical habitat for an evolutionarily significant unit of salmonids and otherwise suitable for salmon credit projects; prioritize salmon credit projects that will provide the increases in functions and values of water resources associated with salmon credit projects in areas where the greatest need has been established; monitor the functions and values of water resources associated with salmon credit

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project sites to show habitat improvement and salmonid uplift; and create within the department and, after consultation with the Salmon Credit Advisory Council, fill the position of salmon credit program director. **Requires the salmon credit program to serve the area that includes the Coquille River watershed, the Winchuck River watershed, and the area between the Coquille River and Winchuck River watersheds, including the western portion of the Rogue River known as the Lower Rogue watershed. Prohibits restoration activities performed outside of this area described in this subsection from approval as a salmon credit project.** Authorizes individuals to apply to ODA to become a credit generator. Requires DSL to approve, approve with modifications, or deny the application within 60 days, and, if approved, assign an estimated salmon credits value to the project. Authorizes credit generators to begin restoration activities after ODA approval of a salmon credit project or elect to begin restoration activities after a credit purchaser has agreed to purchase the salmon credits generated by the project. Authorizes a landowner or the landowner's designee, including a local watershed organization, to perform restoration activities. Requires credit generators to notify ODA after a salmon credit project has been completed. Requires ODA to inspect the project to confirm the project has been completed and certify an amount of salmon credits for the project. Requires ODA to make available to purchasers of salmon credits a list of currently available salmon credits and potential salmon credit projects that will begin restoration activities once a credit purchaser has agreed to purchase the credits. Requires ODA to retire the salmon credit after the department receives payment from a credit purchaser for a salmon credit. Requires ODA to annually determine a dividend amount for salmon credits generated by each salmon credit project. Authorizes ODA to calculate costs to the department of implementing the program and establish fees which are charged to salmon credit project applicants and salmon credit purchasers. Requires fees received under this section shall be credited to the Salmon Credit Program Fund. Establishes Salmon Credit Trust Fund in the State Treasury, separate and distinct from the General Fund, with all moneys in the fund are continuously appropriated to ODA for the purpose of paying salmon credit dividends. Establishes the Salmon Credit Advisory Council (Council), consisting of 11 members appointed by the Governor and subject to confirmation by the Senate, and Council requirements and duties. Requires ODA to provide administrative and staff support and facilities as necessary for the Council to carry out the duties of the Council. Requires ODA, DSL, and ODFW to consult with the U.S. Army Corp of Engineers, and any other relevant federal agencies, to develop a new, or update an existing, programmatic general permit applicable to restoration activities under the salmon credit program. **Requires ODA, no later than September 15, 2028, to report to the interim committees of the Legislative Assembly related to natural resources on ODA's success in establishing the salmon credit program and include recommendations for whether the program should be expanded to areas of this state in addition to the area piloted in this 2022 Act.**

BACKGROUND:

When removal-fill permit applicants seek to alter wetlands, streams, or other waters, they are required to reduce adverse effects of the proposed project on these water resources. This is referred to as "mitigation." As part of the application process, applicants must first consider avoiding the impact altogether and, second, minimizing the impact. If adverse effects are unavoidable, applicants may propose compensating for the impact by replacing or providing comparable substitute wetlands, stream, or other water resources.

House Bill 2156 (2009) broadened the definition of "compensatory mitigation" to include activities to preserve functions and values of water resources of this state, not just wetlands, to compensate for removal-fill related adverse effects of a project. The Department of State Lands approves watershed enhancement programs and certifies projects as mitigation banks under ORS 196.600 to 196.655.

House Bill 4148 would direct the Department of State Lands, in consultation with the Oregon Department of Fish and Wildlife, to establish a salmon credit program to encourage voluntary salmonid habitat restoration.