

HOUSE AMENDMENTS TO HOUSE BILL 2206

By COMMITTEE ON AGRICULTURE, LAND USE, NATURAL RESOURCES, AND
WATER

April 10

1 In line 2 of the printed bill, after “habitat” insert “; and prescribing an effective date”.

2 Delete lines 4 through 8 and insert:

3 **“SECTION 1. Sections 2 to 8 of this 2023 Act are added to and made a part of ORS 196.600**
4 **to 196.921.**

5 **“SECTION 2. As used in sections 2 to 8 of this 2023 Act:**

6 **“(1) ‘Compensatory mitigation’ has the meaning given that term in ORS 196.600.**

7 **“(2) ‘Credit generator’ means an agricultural land or forestland owner that develops a**
8 **salmon credit project on the owner’s land.**

9 **“(3) ‘Credit purchaser’ means a person that purchases a salmon credit.**

10 **“(4) ‘Mitigation bank’ has the meaning given that term in ORS 196.600.**

11 **“(5) ‘Salmon credit’ means an instrument, based on the measure of the increase in the**
12 **functions and values of water resources of this state achieved at a salmon credit project,**
13 **that can be used to satisfy a compensatory mitigation obligation.**

14 **“(6) ‘Salmon credit dividend’ means a payment a credit generator is entitled to receive**
15 **based on retired salmon credits generated by the credit generator’s salmon credit project.**

16 **“(7) ‘Salmon credit project’ means a project on agricultural land or forestland to restore**
17 **waters of this state that are or have historically been salmonid habitat.**

18 **“SECTION 3. (1) The Department of State Lands, in consultation with the State Depart-**
19 **ment of Fish and Wildlife, shall by rule develop a salmon credit pilot program to improve the**
20 **health of wild coho and chinook salmon in the Coquille watershed basin, which includes the**
21 **mainstem Coquille River and its forks and tributaries, and the Coos watershed basin. The**
22 **pilot program must:**

23 **“(a) Encourage and create financial incentives for landowners to engage in voluntary**
24 **salmonid habitat restoration projects; and**

25 **“(b) Allow persons to purchase salmon credits, only from salmon credit projects located**
26 **within the Coquille or Coos watershed basins, in order to comply with a condition imposed**
27 **on a permit in accordance with ORS 196.825 (5), an authorization issued in accordance with**
28 **ORS 196.800 to 196.921 or a resolution of a violation of ORS 196.800 to 196.921.**

29 **“(2) In establishing the salmon credit pilot program, the Department of State Lands**
30 **shall:**

31 **“(a) Identify waters of this state and adjacent agricultural lands and forestlands suitable**
32 **for salmon credit projects, utilizing existing state and federal maps of salmonid habitat;**

33 **“(b) Establish requirements for salmon credit projects, including:**

34 **“(A) Restoration project types; and**

35 **“(B) Requirements necessary to preserve the integrity of essential indigenous**

1 **anadromous salmonid habitat, as defined in ORS 196.810, affected by a salmon credit project;**

2 **“(c) Prioritize salmon credit projects that will provide the greatest increase in functions**
3 **and values of water resources associated with salmon credit projects and the ability to fulfill**
4 **required mitigation values;**

5 **“(d) Utilize current tools for measuring the functions and values of water resources as-**
6 **sociated with salmon credit project sites and sites for which a salmon credit will be pur-**
7 **chased;**

8 **“(e) Establish procedures for the inspection, certification and recertification of salmon**
9 **credit projects;**

10 **“(f) Establish a salmon credit price; and**

11 **“(g) Establish a method for calculating the amount of salmon credit dividend payments**
12 **described in section 6 of this 2023 Act.**

13 **“(3)(a) In designing a salmon credit project, a credit generator must:**

14 **“(A) Ensure that a salmon credit project will not cause damage to adjacent properties**
15 **or interfere with existing uses on adjacent properties; and**

16 **“(B) Ensure that restoration activities for a salmon credit project will be carried out in**
17 **accordance with all applicable laws, including the provisions of ORS 196.800 to 196.921 and**
18 **ORS chapter 537.**

19 **“(b) The Department of State Lands shall coordinate with the State Department of Ag-**
20 **riculture and the Water Resources Department to ensure that credit generators and salmon**
21 **credit projects satisfy the requirements of paragraph (a) of this subsection.**

22 **“(4)(a) If a salmon credit project is located on a parcel that otherwise qualifies for special**
23 **assessment as exclusive farm use zone farmland or nonexclusive farm use zone farmland**
24 **under ORS 308A.050 to 308A.128, the portion of the property on which the salmon credit**
25 **project is located shall be deemed to be used exclusively for farm use, as defined in ORS**
26 **308A.056.**

27 **“(b) If a salmon credit project is located on a parcel of land that meets the definition of**
28 **forestland under ORS 321.257, the portion of the property on which the salmon credit project**
29 **is located shall be deemed to be used for the predominant purpose of growing and harvesting**
30 **trees of a marketable species.**

31 **“(5) Wetlands certified as a mitigation bank may not be approved as a salmon credit**
32 **project.**

33 **“(6) The purchase of a salmon credit does not change the existing mitigation obligations**
34 **that the purchaser will use the salmon credit to satisfy.**

35 **“(7) The price for a salmon credit must be set at an amount that is designed to com-**
36 **pensate the credit generator for the average costs of a salmon credit project and to generate**
37 **an additional amount for deposit in the Salmon Credit Trust Fund established under section**
38 **8 of this 2023 Act.**

39 **“(8) The Department of State Lands shall establish procedures for inspecting a salmon**
40 **credit project at least once every three years to ensure that the salmon credit project sat-**
41 **isfies the requirements of the pilot program.**

42 **“(9) Rules adopted by the department under this section must limit the use of salmon**
43 **credits for permits, authorizations or resolution of violations related to development projects**
44 **within the Coquille and Coos watershed basins.**

45 **“(10) The department shall ensure that the salmon credit pilot program is adequately**

1 staffed to ensure that applications to become a credit generator or transactions for the
2 purchase of salmon credits are processed in an expeditious manner.

3 **“SECTION 4. (1) A person may apply to the Department of State Lands, in the form and**
4 **manner prescribed by the department, to become a credit generator. The application must**
5 **include a description of the area where the salmon credit project will occur and the proposed**
6 **restoration activities.**

7 **“(2) Within 30 days after receiving the application, the department shall approve, approve**
8 **with modifications or deny the application. A denial must be in writing and provide an ex-**
9 **planation of the reasons for the denial.**

10 **“(3) If the department approves an application under this section, the department shall**
11 **assign an estimated salmon credits value to the project. The approval must state the period**
12 **of time for which the approval remains valid, after which time the applicant must submit a**
13 **renewed application.**

14 **“SECTION 5. (1) A credit generator may begin restoration activities after the approval**
15 **of a salmon credit project by the Department of State Lands under section 4 of this 2023 Act**
16 **or elect to begin restoration activities after a credit purchaser has agreed to purchase the**
17 **salmon credits generated by the project.**

18 **“(2) After a salmon credit project has been completed, the credit generator shall notify**
19 **the department. The department shall inspect the project to confirm the project has been**
20 **completed and certify an amount of salmon credits for the project. If a salmon credit project**
21 **is completed before a credit purchaser has agreed to purchase the salmon credits, the de-**
22 **partment may recertify the salmon credits generated by the project to account for any in-**
23 **crease or decrease in the functions and values of the water resources associated with the**
24 **salmon credit project at the time the credits are purchased.**

25 **“(3) Upon completion and certification of a salmon credit project, the credit generator**
26 **shall convey a permanent easement to the state for the portion of the property on which the**
27 **salmon credit project is located to preserve the use of the property as salmonid habitat. The**
28 **easement must be recorded in the deed records of the county in which the salmon credit**
29 **project is located before the credit generator may receive a salmon credit dividend.**

30 **“(4) The establishment of a salmon credit project does not affect the existing rights of**
31 **the landowner to hunt or fish on the property.**

32 **“SECTION 6. (1) The Department of State Lands shall make available to purchasers of**
33 **salmon credits a list of currently available salmon credits and potential salmon credit**
34 **projects that will begin restoration activities once a credit purchaser has agreed to purchase**
35 **the credits.**

36 **“(2) A credit purchaser that intends to purchase salmon credits from a potential salmon**
37 **credit project may agree to assume the actual costs of the salmon credit project. If a credit**
38 **purchaser agrees to assume the cost of the salmon credit project, the actual cost of the**
39 **project shall be deducted from the total price of the salmon credits purchased.**

40 **“(3) After the department receives payment from a credit purchaser for a salmon credit,**
41 **the department shall retire the salmon credit. The department shall remit to the credit**
42 **generator an amount calculated to reimburse the credit generator for the actual costs of the**
43 **project, unless the credit purchaser assumed the costs of the project. The department shall**
44 **deposit the remaining amount of the salmon credit purchase price on behalf of the credit**
45 **generator in the Salmon Credit Trust Fund established under section 8 of this 2023 Act.**

1 “(4) A credit generator is entitled to a salmon credit dividend based on the amount of
2 salmon credits retired from the credit generator’s project for as long as the salmon credit
3 project meets the requirements of the salmon credit pilot program. The department shall
4 annually determine a dividend amount for salmon credits generated by each salmon credit
5 project based on the amount deposited in the fund under subsection (3) of this section and
6 a rate of return established by the department.

7 “(5) A salmon credit dividend payment is first due one year after the department retires
8 a salmon credit.

9 “(6) The right to receive a salmon credit dividend is not transferable, except in con-
10 nection with the sale or transfer of the real property on which the salmon credit project is
11 located.

12 “(7) The department may revoke the right to receive a salmon credit dividend if the de-
13 partment determines that the salmon credit project on which the dividend was based no
14 longer meets the requirements for a salmon credit project under sections 2 to 8 of this 2023
15 Act.

16 “SECTION 7. (1) The Department of State Lands may establish fees calculated to cover
17 the costs to the department of implementing sections 2 to 8 of this 2023 Act. Fees established
18 under this section may be charged to:

19 “(a) A person that submits an application for a salmon credit project under section 4 of
20 this 2023 Act; or

21 “(b) A person that purchases a salmon credit under section 6 of this 2023 Act.

22 “(2) Fees received under this section shall be credited to the Common School Fund.

23 “SECTION 8. (1) The Salmon Credit Trust Fund is established in the State Treasury,
24 separate and distinct from the General Fund. The Salmon Credit Trust Fund is declared to
25 be a trust fund. Interest earned by the Salmon Credit Trust Fund shall be credited to the
26 fund. Moneys in the fund may be invested and reinvested as provided in ORS 293.701 to
27 293.857.

28 “(2) Moneys in the fund consist of moneys deposited in the fund under section 6 of this
29 2023 Act. All moneys in the fund are continuously appropriated to the Department of State
30 Lands for the purposes of paying salmon credit dividends calculated under section 6 of this
31 2023 Act.

32 “SECTION 9. The Department of State Lands and the State Department of Fish and
33 Wildlife shall consult with the United States Army Corps of Engineers, and any other rele-
34 vant federal agencies, to develop a programmatic general permit, or identify an existing
35 programmatic general permit that may be modified, to authorize restoration activities under
36 the salmon credit pilot program established under sections 2 to 8 of this 2023 Act that occur
37 in navigable waters of the United States.

38 “SECTION 10. (1) Sections 2 to 8 of this 2023 Act become operative on the date that a
39 federal programmatic general permit described in section 9 of this 2023 Act is established.

40 “(2) The Department of State Lands shall notify the Legislative Counsel upon the estab-
41 lishment of a programmatic general permit described in section 9 of this 2023 Act.

42 “(3) The Department of State Lands may take any action before the operative date
43 specified in subsection (1) of this section that is necessary to enable the department to ex-
44 ercise, on and after the operative date specified in subsection (1) of this section, all the du-
45 ties, functions and powers conferred on the department by sections 2 to 8 of this 2023 Act.

1 **“SECTION 11. The Department of State Lands may not approve a salmon credit project**
2 **under section 4 of this 2023 Act on or after January 2 of the sixth calendar year following**
3 **the establishment of a programmatic general permit described in section 9 of this 2023 Act.**

4 **“SECTION 12. This 2023 Act takes effect on the 91st day after the date on which the 2023**
5 **regular session of the Eighty-second Legislative Assembly adjourns sine die.”**

6
