

Submitter: Kristen Shelman

On Behalf Of:

Committee: Senate Committee On Natural Resources

Measure: SB199

Honorable Chair Golden, honorable vice chair Girod, members of the committee
My name is Kristen Shelman, and I'm a Harney County Commissioner.

I am opposed SB 199.

1. SB 199 intends to give the Oregon Fish and Wildlife Commission very broad authority to manage predatory animals, without placing any limitations or prescribing any policy for what kinds of "rule requirements or prohibitions" it could enact.

2. It is unconstitutional for the legislature to prescribe "standardless" power to agencies. As seen in, *Demers v. Peterson*, 197 Or. 466, 469–70, 254 P.2d 213, 215 (1953), "It is well established that the legislature cannot grant an administrative agency the power to regulate unless some standard or yardstick is provided in the act as a guide to the administrative agency". But, that is precisely what this bill seems to do.

3. Relatedly, this will likely create a conflict between two agencies, where Oregon Department of Agriculture is supposed to have primary jurisdiction over predatory animals under ORS Chapter 610. SB 199 would likely substantially frustrate ODA's ability to carry out its statutory duties under ORS 610.002 and risk transferring primary jurisdiction over predatory animals from ODA to the OFW Commission.

4. This could also create "takings" issue to the extent it empowers OFW Commission to adopt rules or prohibitions that would frustrate private landowners from addressing private property damage by predatory animals.

5. Overall, this is just bad policy. We have a system where ODA administers Legislative policies governing predatory animals. SB 199 would act as a wrench in the gears of ODA's predatory animal programs by giving the OFW Commission standardless powers to regulate the take of predatory animals, while not being directly subject to the legislative policies governing ODA's administrative of predatory animal policies adopted by the Legislature. All this Bill would do is lead to uncertainty and litigation about the conflicting authority between ODA and the OFWC over predatory animals.

I ask you to oppose SB-199.. Thank you, Commissioner Kristen Shelman.