

A-Engrossed
House Bill 2379

Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representative SMITH DB (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Prohibits State Fish and Wildlife Commission from approving operation of Cole M. Rivers Hatchery by State Department of Fish and Wildlife, unless United States Army Corps of Engineers agrees to fish return goals set by commission.]

Makes legislative findings regarding failure of United States Army Corps of Engineers to operate Cole M. Rivers Hatchery in conformance with fish return goals.

Provides special statute of limitation for commencement of actions against corps by affected counties for damages resulting from failure to operate hatchery in conformance with fish return goals. Makes special statute of limitation operative retroactively to revive extinguished causes of action.

A BILL FOR AN ACT

1
2 Relating to fish return goals.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. The Legislative Assembly finds and declares that:**

5 **(1) The United States Army Corps of Engineers has failed to operate the Cole M. Rivers**
6 **Hatchery located on the Rogue River in conformance with the fish return goals under the**
7 **mitigation requirements agreed to in the hatchery Final Environmental Impact Statement**
8 **dated May 8, 1972.**

9 **(2) The environmental impact statement referred to in subsection (1) of this section re-**
10 **quires that 13,020 hatchery spring Chinook adults be returned to the Cole M. Rivers Hatchery**
11 **annually while the returning spring Chinook population also supports a robust in-river fish-**
12 **ing season and harvest.**

13 **(3) In 1972, the angling limit for spring Chinook was three fish, but the limit is now two**
14 **fish.**

15 **(4) The number of spring Chinook returning to the Cole M. Rivers Hatchery has declined**
16 **during the past 14 years to a level that is 60 percent below the average hatchery spring**
17 **Chinook adult return goal set in the environmental impact statement referred to in sub-**
18 **section (1) of this section.**

19 **(5) Despite the environmental impact statement requirement that 13,020 hatchery spring**
20 **Chinook adults be returned to the Cole M. Rivers Hatchery annually, the number that actu-**
21 **ally returned was 1,846 in 2016, 2,963 in 2017 and 4,074 in 2018.**

22 **(6) The shortfall in returning hatchery spring Chinook adults causes economic loss to the**
23 **area counties at the rate of \$576 per fish.**

24 **SECTION 2. Notwithstanding any statute of limitation or statute of ultimate repose un-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **der ORS chapter 12:**

2 **(1) The period available to Curry, Josephine and Jackson Counties for commencement of**
3 **any action against the United States Army Corps of Engineers seeking damages resulting**
4 **from failure of the corps to operate the Cole M. Rivers Hatchery in conformance with the**
5 **fish return goals under the mitigation requirements agreed to in the hatchery Final Envi-**
6 **ronmental Impact Statement dated May 8, 1972, shall continue until January 1, 2030.**

7 **(2) An action described in subsection (1) of this section may seek, and a court may award,**
8 **damages for all economic loss incurred by a county due to the number of hatchery adult**
9 **spring Chinook actually returning to the hatchery being less than the fish return goals under**
10 **the mitigation requirements agreed to in the hatchery Final Environmental Impact State-**
11 **ment dated May 8, 1972.**

12 **(3) Except as provided in this subsection, subsections (1) and (2) of this section operate**
13 **retroactively to revive any extinguished cause of action against the United States Army**
14 **Corps of Engineers for damages resulting from failure of the corps to operate the Cole M.**
15 **Rivers Hatchery in conformance with the fish return goals under the mitigation require-**
16 **ments agreed to in the hatchery Final Environmental Impact Statement dated May 8,**
17 **1972. This section does not apply to any cause of action for which a judgment was entered**
18 **before the effective date of this 2019 Act.**

19