

**HB 2298 A STAFF MEASURE SUMMARY**

Carrier: Sen. Golden

**Senate Committee On Natural Resources and Wildfire Recovery****Action Date:** 04/26/21**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Golden, Kennemer, Patterson, Prozanski**Exc:** 1 - Heard**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Beth Patrino, LPRO Analyst**Meeting Dates:** 4/19, 4/26**WHAT THE MEASURE DOES:**

Makes legislative findings regarding effect of beaver dams on small eastern Oregon streams. Defines "environmental restoration weir" (weir) to mean one or more structures that are constructed: for purpose of delaying, or slowing, but not preventing, streamflow to promote restoration of stream and habitat conditions; such that structures do not store or appropriate water in a manner that would require a permit from the Water Resources Department (WRD); to be no larger than necessary to cause overbank flooding onto lands constituting the ancient floodplain during ordinary periods of high streamflow; and from wood, earth, dirt, rock or other natural materials. Directs Oregon Department of Fish and Wildlife (ODFW) to administer a program to authorize voluntary stream restoration and habitat improvement projects through the construction of weirs. Allows ODFW to authorize a project under the program if the project involves construction of weirs on one or more qualifying streams located in any closed basin east of the summit of the Cascade Mountains; construction of the weir is completed no later than July 1, 2031; and the project complies with local floodplain regulation, if applicable. Requires program rules to identify criteria for evaluating projects. Requires fish passage if ODFW determines native migratory fish are present in the stream prior to date of weir construction; if, after weir construction, ODFW determines that native migratory fish have returned to the stream, authorizes ODFW to require that person engaged in project provide fish passage or mitigation. Allows ODFW, for up to 10 years after completion of weir, to require maintenance and monitoring of weir project. Directs ODFW, in coordination with WRD, to require weir modification if weir is found by WRD to result in injury to existing water right or if ODFW finds weir to have a significant detrimental impact on native migratory fish. Establishes that planting or removal of brush and trees from stream banks and riparian areas as part of a weir project is not subject to riparian management requirements under the Forest Practices Act. Establishes that removal fill statutes (ORS 196.800 – 196.921) do not apply to weir projects. Establishes that provisions of measure do not create any new requirement or exemption with respect to obtaining a permit or certificate to use, store, or appropriate water. Requires ODFW to coordinate with Oregon Department of Transportation (ODOT) to consider potential project impacts on existing or planned transportation infrastructure, including roads, culverts, or bridges. Authorizes ODFW, in coordination with ODOT, to require person engaging in project to modify weir if it is found to adversely impact transportation infrastructure. Establishes requirements for third party monitoring. Requires ODFW to adopt rules establishing program in time for rules to become operative no later than one year after effective date of Act. Establishes requirements for ODFW reporting to interim legislative committees not later than December 31, 2027 and September 15, 2032. Makes findings and policy statements. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Providing incentives and removing impediments to landowners to enhance floodplain and riparian areas
- Requirement that environmental restoration weirs be constructed of natural materials
- Fish passage requirements

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

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- Local conditions for beaver habitat

### **EFFECT OF AMENDMENT:**

Revises definition of "environmental restoration weir" to require structure to be constructed from "wood, earth, dirt, rock or other natural materials."

### **BACKGROUND:**

Historically, many small streams in eastern Oregon were inhabited by beaver populations and strongly influenced by beavers' unique ability to modify their physical surroundings. Beaver dams have the effect of slowing the flow of water, allowing for natural overflow onto surrounding ancient floodplains, and providing many positive benefits to stream ecosystems and their hydrologic function.

A "weir" is a low barrier built across a channel (such as a stream or river) to change its water flow characteristics.

House Bill 2298 A would require the Oregon Department of Fish and Wildlife to administer a program authorizing voluntary projects for stream restoration and habitat improvement through the construction of environmental restoration weirs.