

House Bill 4148

Sponsored by Representatives SMITH DB, HELM, Senator KENNEMER; Representatives EVANS, LEVY, LEWIS, MOORE-GREEN, MORGAN, SCHARF, SCHOUTEN, SMITH G, Senators ANDERSON, HANSELL (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 **as introduced**.

Directs Department of State Lands, in consultation with State Department of Fish and Wildlife, to establish salmon credit program to encourage voluntary restoration of salmonid habitat and allow persons to meet compensatory mitigation obligations.

Establishes Salmon Credit Trust Fund.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to salmonid habitat restoration; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 to 9 of this 2022 Act are added to and made a part of ORS 196.600**
5 **to 196.921.**

6 **SECTION 2. As used in this section:**

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

9 (2) **“Credit purchaser” means a person that purchases a salmon credit.**

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

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

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

17 **SECTION 3. (1) The Department of State Lands, in consultation with the State Depart-**
18 **ment of Fish and Wildlife, shall by rule develop a salmon credit program to:**

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

21 (b) **Allow persons to purchase salmon credits in order to comply with a condition imposed**
22 **on a permit in accordance with ORS 196.825 (5), an authorization issued in accordance with**
23 **ORS 196.800 to 196.921 or a resolution of a violation of ORS 196.800 to 196.921.**

24 (2) **In establishing the salmon credit program, the department shall:**

25 (a) **Identify waters of this state and adjacent agricultural lands and forestlands suitable**
26 **for salmon credit projects;**

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

28 (A) **Restoration project types; and**

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 (B) Requirements necessary to preserve the integrity of essential indigenous anadromous
2 salmonid habitat, as defined in ORS 196.810, affected by a salmon credit project;

3 (c) Prioritize salmon credit projects that will provide the greatest increase in functions
4 and values of water resources associated with salmon credit projects;

5 (d) Develop a system for measuring the functions and values of water resources associ-
6 ated with salmon credit project sites and sites for which a salmon credit will be purchased;

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

9 (f) Establish a salmon credit price; and

10 (g) Establish a method for calculating the amount of salmon credit dividend payments
11 described in section 6 of this 2022 Act.

12 (3) The price for a salmon credit must be set at an amount that is designed to compen-
13 sate the credit generator for the average costs of a salmon credit project and to generate
14 an additional amount for deposit in the Salmon Credit Trust Fund established under section
15 8 of this 2022 Act.

16 (4) Rules adopted by the department under this section may not limit the use of salmon
17 credits for permits, authorizations or resolution of violations related to development projects
18 within the same area or watershed as the salmon credit project.

19 (5) Notwithstanding the permit requirements of ORS 196.810, a person is not required to
20 obtain a permit for the removal or fill of any material as part of restoration activities asso-
21 ciated with a salmon credit project.

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

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

29 (3) If the department approves an application under this section, the department shall
30 assign an estimated salmon credits value to the project. The approval must state the period
31 of time for which the approval remains valid, after which time the applicant must submit a
32 renewed application.

33 **SECTION 5.** (1) A credit generator may begin restoration activities after the approval of
34 a salmon credit project by the Department of State Lands under section 4 of this 2022 Act
35 or elect to begin restoration activities after a credit purchaser has agreed to purchase the
36 salmon credits generated by the project.

37 (2) After a salmon credit project has been completed, the credit generator shall notify
38 the department. The department shall inspect the project to confirm the project has been
39 completed and certify an amount of salmon credits for the project. If a salmon credit project
40 is completed before a credit purchaser has agreed to purchase the salmon credits, the de-
41 partment may recertify the salmon credits generated by the project to account for any in-
42 crease or decrease in the functions and values of the water resources associated with the
43 salmon credit project at the time the credits are purchased.

44 **SECTION 6.** (1) The Department of State Lands shall make available to purchasers of
45 salmon credits a list of currently available salmon credits and potential salmon credit

1 projects that will begin restoration activities once a credit purchaser has agreed to purchase
2 the credits.

3 (2) A credit purchaser that intends to purchase salmon credits from a potential salmon
4 credit project may agree to assume the actual costs of the salmon credit project. If a credit
5 purchaser agrees to assume the cost of the salmon credit project, the actual cost of the
6 project shall be deducted from the total price of the salmon credits purchased.

7 (3) After the department receives payment from a credit purchaser for a salmon credit,
8 the department shall retire the salmon credit. The department shall remit to the credit
9 generator an amount calculated to reimburse the credit generator for the actual costs of the
10 project, unless the credit purchaser assumed the costs of the project. The department shall
11 deposit the remaining amount of the salmon credit purchase price on behalf of the credit
12 generator in the Salmon Credit Trust Fund established under section 8 of this 2022 Act.

13 (4) A credit generator is entitled to a salmon credit dividend based on the amount of
14 salmon credits retired from the credit generator's project for as long as the salmon credit
15 project meets the requirements of the salmon credit program. The department shall annually
16 determine a dividend amount for salmon credits generated by each salmon credit project
17 based on the amount deposited in the fund under subsection (3) of this section and a rate
18 of return established by the department.

19 (5) The right to receive a salmon credit dividend is not transferable, except in connection
20 with the sale or transfer of the real property on which the salmon credit project is located.

21 (6) The department may revoke the right to receive a salmon credit dividend if the de-
22 partment determines that the salmon credit project on which the dividend was based no
23 longer meets the requirements for a salmon credit project under sections 2 to 9 of this 2022
24 Act.

25 SECTION 7. (1) The Department of State Lands may establish fees calculated to cover
26 the costs to the department of implementing sections 2 to 9 of this 2022 Act. Fees established
27 under this section may be charged to:

28 (a) A person that submits an application for a salmon credit project under section 4 of
29 this 2022 Act; and

30 (b) A person that purchases a salmon credit under section 6 of this 2022 Act.

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

32 SECTION 8. (1) The Salmon Credit Trust Fund is established in the State Treasury, sep-
33 arate and distinct from the General Fund. The Salmon Credit Trust Fund is declared to be
34 a trust fund. Interest earned by the Salmon Credit Trust Fund shall be credited to the fund.
35 Moneys in the fund may be invested as provided in ORS 293.701 to 293.857.

36 (2) Moneys in the fund consist of moneys deposited in the fund under section 6 of this
37 2022 Act. All moneys in the fund are continuously appropriated to the Department of State
38 Lands for the purposes of paying salmon credit dividends calculated under section 6 of this
39 2022 Act.

40 SECTION 9. The Department of State Lands and the State Department of Fish and
41 Wildlife shall consult with the United States Army Corps of Engineers, and any other rele-
42 vant federal agencies, to develop a programmatic general permit applicable to restoration
43 activities under the salmon credit program established under sections 2 to 9 of this 2022 Act.

44 SECTION 10. This 2022 Act takes effect on the 91st day after the date on which the 2022
45 regular session of the Eighty-first Legislative Assembly adjourns sine die.

