

Requested by Representative SMITH DB

**PROPOSED AMENDMENTS TO
HOUSE BILL 4148**

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages
2 2 and 3 and insert:

3 **“SECTION 1. Sections 2 to 12 of this 2022 Act are added to and made
4 a part of ORS 196.600 to 196.921.**

5 **“SECTION 2. As used in sections 2 to 12 of this 2022 Act:**

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

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

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

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

17 **“(5) ‘Salmon credit project’ means a project on agricultural land
18 or forestland to restore waters of this state that have historically been
19 salmonid habitat and that results in an increase in available salmonid
20 habitat in this state.**

21 **“SECTION 3. (1) The State Department of Agriculture, in consul-**

1 tation with the Department of State Lands and the State Department
2 of Fish and Wildlife, shall by rule develop a salmon credit program to:

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

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

9 “(2) In establishing the salmon credit program, the State Depart-
10 ment of Agriculture shall:

11 “(a) Identify waters of this state and adjacent agricultural lands
12 and forestlands that are within an area designated as critical habitat
13 for an evolutionarily significant unit of salmonids and otherwise suit-
14 able for salmon credit projects;

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

16 “(A) Restoration project types; and

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

20 “(c) Prioritize salmon credit projects that will provide the increases
21 in functions and values of water resources associated with salmon
22 credit projects in areas where the greatest need has been established;

23 “(d) Monitor the functions and values of water resources associated
24 with salmon credit project sites to show habitat improvement and
25 salmonid uplift;

26 “(e) Establish procedures for the inspection, certification and re-
27 certification of salmon credit projects;

28 “(f) Establish a salmon credit price;

29 “(g) Establish a method for calculating the amount of salmon credit
30 dividend payments described in section 6 of this 2022 Act; and

1 “(h) Create within the department and, after consultation with the
2 Salmon Credit Advisory Council established under section 10 of this
3 2022 Act, fill the position of salmon credit program director.

4 “(3) The salmon credit program established under this section shall
5 serve the area that includes the Coquille River watershed, the
6 Winchuck River watershed and the area between the Coquille River
7 and Winchuck River watersheds, including the western portion of the
8 Rogue River known as the Lower Rogue watershed. Restoration ac-
9 tivities performed outside of the area described in this subsection may
10 not be approved as a salmon credit project.

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

16 “(5) Notwithstanding subsection (3) of this section, rules adopted
17 by the department under this section may not limit the use of salmon
18 credits for permits, authorizations or resolution of violations related
19 to development projects within the same area or watershed as the
20 salmon credit project or the area described in subsection (3) of this
21 section.

22 “(6) Notwithstanding the permit requirements of ORS 196.810, a
23 person is not required to obtain a permit for the removal or fill of any
24 material as part of restoration or reconnection activities associated
25 with a salmon credit project.

26 “SECTION 4. (1) A person may apply to the State Department of
27 Agriculture, in the form and manner prescribed by the department,
28 to become a credit generator. The application must include a de-
29 scription of the area where the salmon credit project will occur and
30 the proposed restoration activities.

1 “(2) Within 60 days after receiving the application, the department
2 shall approve, approve with modifications or deny the application. A
3 denial must be in writing and provide an explanation of the reasons
4 for the denial.

5 “(3) If the department approves an application under this section,
6 the department shall assign an estimated salmon credits value to the
7 project. The approval must state the period of time for which the ap-
8 proval remains valid, after which time the applicant must submit a
9 renewed application.

10 “SECTION 5. (1) A credit generator may begin restoration activities
11 after the approval of a salmon credit project by the State Department
12 of Agriculture under section 4 of this 2022 Act or elect to begin resto-
13 ration activities after a credit purchaser has agreed to purchase the
14 salmon credits generated by the project.

15 “(2) Restoration activities may be performed by a landowner or the
16 landowner’s designee, including a local watershed organization.

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

26 “SECTION 6. (1) The State Department of Agriculture shall make
27 available to potential purchasers of salmon credits a list of currently
28 available salmon credits and potential salmon credit projects that will
29 begin restoration activities once a credit purchaser has agreed to
30 purchase the credits.

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

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

15 “(4) A credit generator is entitled to a salmon credit dividend based
16 on the amount of salmon credits retired from the credit generator’s
17 project for as long as the salmon credit project meets the requirements
18 of the salmon credit program. The department shall annually deter-
19 mine a dividend amount for salmon credits generated by each salmon
20 credit project based on the amount deposited in the fund under sub-
21 section (3) of this section and a rate of return established by the de-
22 partment.

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

26 “(6) The department may revoke the right to receive a salmon
27 credit dividend if the department determines that the salmon credit
28 project on which the dividend was based no longer meets the require-
29 ments for a salmon credit project under sections 2 to 12 of this 2022
30 Act.

1 **“SECTION 7. (1) The State Department of Agriculture may estab-**
2 **lish fees calculated to cover the costs to the department of imple-**
3 **menting sections 2 to 12 of this 2022 Act. Fees established under this**
4 **section may be charged to:**

5 **“(a) A person that submits an application for a salmon credit**
6 **project under section 4 of this 2022 Act; and**

7 **“(b) A person that purchases a salmon credit under section 6 of this**
8 **2022 Act.**

9 **“(2) Fees received under this section shall be credited to the Salmon**
10 **Credit Program Fund established under section 9 of this 2022 Act.**

11 **“SECTION 8. (1) The Salmon Credit Trust Fund is established in the**
12 **State Treasury, separate and distinct from the General Fund. The**
13 **Salmon Credit Trust Fund is declared to be a trust fund. Interest**
14 **earned by the Salmon Credit Trust Fund shall be credited to the fund.**
15 **Moneys in the fund may be invested as provided in ORS 293.701 to**
16 **293.857.**

17 **“(2) The fund shall consist of moneys deposited in the fund under**
18 **section 6 of this 2022 Act. All moneys in the fund are continuously**
19 **appropriated to the State Department of Agriculture for the purpose**
20 **of paying salmon credit dividends pursuant to section 6 of this 2022**
21 **Act.**

22 **“SECTION 9. (1) The Salmon Credit Program Fund is established in**
23 **the State Treasury, separate and distinct from the General Fund. In-**
24 **terest earned by the Salmon Credit Program Fund shall be credited to**
25 **the fund.**

26 **“(2) The fund shall consist of moneys deposited in the fund under**
27 **section 7 of this 2022 Act. All moneys in the fund are continuously**
28 **appropriated to the State Department of Agriculture for the purpose**
29 **of carrying out the provisions of sections 2 to 12 of this 2022 Act.**

30 **“SECTION 10. (1) The Salmon Credit Advisory Council is estab-**

1 lished. The council consists of 11 members appointed by the Governor
2 as follows:

3 “(a) One representative of a statewide organization representing
4 Oregon’s agricultural community;

5 “(b) One representative of an irrigation district organized under
6 ORS chapter 545;

7 “(c) One representative of small-plot timber owners;

8 “(d) One representative of farmers or ranchers;

9 “(e) One representative of tribal governments;

10 “(f) One representative of restoration organizations;

11 “(g) One representative of sportfishing interests;

12 “(h) One representative of the commercial fishing industry;

13 “(i) One representative of landowners;

14 “(j) One representative of the tourism industry; and

15 “(k) One member who holds a position as a scientist with a non-
16 governmental organization.

17 “(2) The appointment of each member of the council is subject to
18 confirmation by the Senate in the manner prescribed in ORS 171.562
19 and 171.565.

20 “(3)(a) The term of office of each member of the council is three
21 years, but members serve at the pleasure of the Governor.

22 “(b) Before the expiration of the term of a member, the Governor
23 shall appoint a successor whose term begins on July 1 following the
24 appointment. A member is eligible for reappointment.

25 “(c) If there is a vacancy for any cause, the Governor shall make
26 an appointment to become immediately effective for the unexpired
27 term.

28 “(4) A majority of the voting members of the council constitutes a
29 quorum.

30 “(5) The council shall elect one of its members to serve as chair-

1 person and another to serve as vice chairperson, for the terms and
2 with the duties and powers necessary for the performance of the
3 functions of such offices as the council determines.

4 “(6) The council may meet at times and places specified by the call
5 of the chairperson or of a majority of the members of the council, as
6 necessary, to carry out the duties of the council.

7 “(7) The State Department of Agriculture shall provide administra-
8 tive and staff support and facilities as necessary for the council to
9 carry out the duties of the council.

10 “(8) The council may adopt rules necessary for the operation of the
11 council.

12 **“SECTION 11. The Salmon Credit Advisory Council shall:**

13 “(1) Advise the State Department of Agriculture in the performance
14 of the department’s duties under sections 2 to 12 of this 2022 Act;

15 “(2) Review the salmon credit program and make recommendations
16 to the department on the operation of the program; and

17 “(3) Carry out any other duties, functions and powers vested in the
18 council by law.

19 **“SECTION 12. The State Department of Agriculture, the Depart-**
20 **ment of State Lands and the State Department of Fish and Wildlife**
21 **shall consult with the United States Army Corps of Engineers, and any**
22 **other relevant federal agencies, to develop a new, or update an exist-**
23 **ing, programmatic general permit applicable to restoration activities**
24 **under the salmon credit program established under sections 2 to 12 of**
25 **this 2022 Act.**

26 **“SECTION 13. Notwithstanding the term of office specified in sec-**
27 **tion 10 of this 2022 Act, of the members first appointed to the Salmon**
28 **Credit Advisory Council:**

29 “(1) Three shall serve for a term ending June 30, 2023.

30 “(2) Three shall serve for a term ending June 30, 2024.

1 **“(3) Three shall serve for a term ending June 30, 2025.**

2 **“(4) Two shall serve for a term ending June 30, 2026.**

3 **“SECTION 14. No later than September 15, 2028, the State Depart-**
4 **ment of Agriculture shall report to the interim committees of the**
5 **Legislative Assembly related to natural resources, in the manner pro-**
6 **vided in ORS 192.245, on the department’s success in establishing the**
7 **salmon credit program under sections 2 to 12 of this 2022 Act and in-**
8 **clude recommendations for whether the program should be expanded**
9 **to areas of this state in addition to the area described in section 3 (3)**
10 **of this 2022 Act.**

11 **“SECTION 15. This 2022 Act takes effect on the 91st day after the**
12 **date on which the 2022 regular session of the Eighty-first Legislative**
13 **Assembly adjourns sine die.”.**

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