

Requested by Senator SMITH DB

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2206**

1 In line 2 of the printed bill, after “habitat” insert “; and prescribing an  
2 effective date”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1. Sections 2 to 8 of this 2023 Act are added to and made  
5 a part of ORS 196.600 to 196.921.**

6 **“SECTION 2. As used in sections 2 to 8 of this 2023 Act:**

7 **“(1) ‘Compensatory mitigation’ has the meaning given that term in  
8 ORS 196.600.**

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

11 **“(3) ‘Credit purchaser’ means a person that purchases a salmon  
12 credit.**

13 **“(4) ‘Mitigation bank’ has the meaning given that term in ORS  
14 196.600.**

15 **“(5) ‘Salmon credit’ means an instrument, based on the measure  
16 of the increase in the functions and values of water resources of this  
17 state achieved at a salmon credit project, that can be used to satisfy  
18 a compensatory mitigation obligation.**

19 **“(6) ‘Salmon credit dividend’ means a payment a credit generator  
20 is entitled to receive based on retired salmon credits generated by the  
21 credit generator’s salmon credit project.**

1       **“(7) ‘Salmon credit project’ means a project on agricultural land**  
2 **or forestland to restore waters of this state that are or have histor-**  
3 **ically been salmonid habitat.**

4       **“SECTION 3. (1) The Department of State Lands, in consultation**  
5 **with the State Department of Fish and Wildlife, shall by rule develop**  
6 **a salmon credit pilot program to improve the health of wild coho and**  
7 **chinook salmon in the Coquille watershed basin, which includes the**  
8 **mainstem Coquille River and its forks and tributaries, and the Coos**  
9 **watershed basin. The pilot program must:**

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

12       **“(b) Allow persons to purchase salmon credits, only from salmon**  
13 **credit projects located within the Coquille or Coos watershed basins,**  
14 **in order to comply with a condition imposed on a permit in accordance**  
15 **with ORS 196.825 (5), an authorization issued in accordance with ORS**  
16 **196.800 to 196.921 or a resolution of a violation of ORS 196.800 to 196.921.**

17       **“(2) In establishing the salmon credit pilot program, the Depart-**  
18 **ment of State Lands shall:**

19       **“(a) Identify waters of this state and adjacent agricultural lands**  
20 **and forestlands suitable for salmon credit projects, utilizing existing**  
21 **state and federal maps of salmonid habitat;**

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

23       **“(A) Restoration project types; and**

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

27       **“(c) Prioritize salmon credit projects that will provide the greatest**  
28 **increase in functions and values of water resources associated with**  
29 **salmon credit projects and the ability to fulfill required mitigation**  
30 **values;**

1       “(d) Utilize current tools for measuring the functions and values  
2 of water resources associated with salmon credit project sites and sites  
3 for which a salmon credit will be purchased;

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

6       “(f) Establish a salmon credit price; and

7       “(g) Establish a method for calculating the amount of salmon credit  
8 dividend payments described in section 6 of this 2023 Act.

9       “(3)(a) In designing a salmon credit project, a credit generator  
10 must:

11       “(A) Ensure that a salmon credit project will not cause damage to  
12 adjacent properties or interfere with existing uses on adjacent prop-  
13 erties; and

14       “(B) Ensure that restoration activities for a salmon credit project  
15 will be carried out in accordance with all applicable laws, including the  
16 provisions of ORS 196.800 to 196.921 and ORS chapter 537.

17       “(b) The Department of State Lands shall coordinate with the State  
18 Department of Agriculture and the Water Resources Department to  
19 ensure that credit generators and salmon credit projects satisfy the  
20 requirements of paragraph (a) of this subsection.

21       “(4)(a) If a salmon credit project is located on a parcel that other-  
22 wise qualifies for special assessment as exclusive farm use zone  
23 farmland or nonexclusive farm use zone farmland under ORS 308A.050  
24 to 308A.128, the portion of the property on which the salmon credit  
25 project is located shall be deemed to be used exclusively for farm use,  
26 as defined in ORS 308A.056.

27       “(b) If a salmon credit project is located on a parcel of land that  
28 meets the definition of forestland under ORS 321.257, the portion of the  
29 property on which the salmon credit project is located shall be deemed  
30 to be used for the predominant purpose of growing and harvesting

1 trees of a marketable species.

2 “(5) Wetlands certified as a mitigation bank may not be approved  
3 as a salmon credit project.

4 “(6) The purchase of a salmon credit does not change the existing  
5 mitigation obligations that the purchaser will use the salmon credit  
6 to satisfy.

7 “(7) The price for a salmon credit must be set at an amount that  
8 is designed to compensate the credit generator for the average costs  
9 of a salmon credit project and to generate an additional amount for  
10 deposit in the Salmon Credit Trust Fund established under section 8  
11 of this 2023 Act.

12 “(8) The Department of State Lands shall establish procedures for  
13 inspecting a salmon credit project at least once every three years to  
14 ensure that the salmon credit project satisfies the requirements of the  
15 pilot program.

16 “(9) Rules adopted by the department under this section must limit  
17 the use of salmon credits for permits, authorizations or resolution of  
18 violations related to development projects within the Coquille and Coos  
19 watershed basins.

20 “(10) The department shall ensure that the salmon credit pilot pro-  
21 gram is adequately staffed to ensure that applications to become a  
22 credit generator or transactions for the purchase of salmon credits are  
23 processed in an expeditious manner.

24 **“SECTION 4. (1) A person may apply to the Department of State**  
25 **Lands, in the form and manner prescribed by the department, to be-**  
26 **come a credit generator. The application must include a description**  
27 **of the area where the salmon credit project will occur and the pro-**  
28 **posed restoration activities.**

29 “(2) Within 30 days after receiving the application, the department  
30 shall approve, approve with modifications or deny the application. A

1 denial must be in writing and provide an explanation of the reasons  
2 for the denial.

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

8 “SECTION 5. (1) A credit generator may begin restoration activities  
9 after the approval of a salmon credit project by the Department of  
10 State Lands under section 4 of this 2023 Act or elect to begin restora-  
11 tion activities after a credit purchaser has agreed to purchase the  
12 salmon credits generated by the project.

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

22 “(3) Upon completion and certification of a salmon credit project,  
23 the credit generator shall convey a permanent easement to the state  
24 for the portion of the property on which the salmon credit project is  
25 located to preserve the use of the property as salmonid habitat. The  
26 easement must be recorded in the deed records of the county in which  
27 the salmon credit project is located before the credit generator may  
28 receive a salmon credit dividend.

29 “(4) The establishment of a salmon credit project does not affect the  
30 existing rights of the landowner to hunt or fish on the property.

1       **“SECTION 6. (1) The Department of State Lands shall make avail-**  
2 **able to purchasers of salmon credits a list of currently available**  
3 **salmon credits and potential salmon credit projects that will begin**  
4 **restoration activities once a credit purchaser has agreed to purchase**  
5 **the credits.**

6       **“(2) A credit purchaser that intends to purchase salmon credits**  
7 **from a potential salmon credit project may agree to assume the actual**  
8 **costs of the salmon credit project. If a credit purchaser agrees to as-**  
9 **sume the cost of the salmon credit project, the actual cost of the**  
10 **project shall be deducted from the total price of the salmon credits**  
11 **purchased.**

12       **“(3) After the department receives payment from a credit purchaser**  
13 **for a salmon credit, the department shall retire the salmon credit. The**  
14 **department shall remit to the credit generator an amount calculated**  
15 **to reimburse the credit generator for the actual costs of the project,**  
16 **unless the credit purchaser assumed the costs of the project. The de-**  
17 **partment shall deposit the remaining amount of the salmon credit**  
18 **purchase price on behalf of the credit generator in the Salmon Credit**  
19 **Trust Fund established under section 8 of this 2023 Act.**

20       **“(4) A credit generator is entitled to a salmon credit dividend based**  
21 **on the amount of salmon credits retired from the credit generator’s**  
22 **project for as long as the salmon credit project meets the requirements**  
23 **of the salmon credit pilot program. The department shall annually**  
24 **determine a dividend amount for salmon credits generated by each**  
25 **salmon credit project based on the amount deposited in the fund under**  
26 **subsection (3) of this section and a rate of return established by the**  
27 **department.**

28       **“(5) A salmon credit dividend payment is first due one year after**  
29 **the department retires a salmon credit.**

30       **“(6) The right to receive a salmon credit dividend is not**

1 transferable, except in connection with the sale or transfer of the real  
2 property on which the salmon credit project is located.

3 “(7) The department may revoke the right to receive a salmon  
4 credit dividend if the department determines that the salmon credit  
5 project on which the dividend was based no longer meets the require-  
6 ments for a salmon credit project under sections 2 to 8 of this 2023 Act.

7 **“SECTION 7. (1) The Department of State Lands may establish fees**  
8 **calculated to cover the costs to the department of implementing**  
9 **sections 2 to 8 of this 2023 Act. Fees established under this section may**  
10 **be charged to:**

11 **“(a) A person that submits an application for a salmon credit**  
12 **project under section 4 of this 2023 Act; or**

13 **“(b) A person that purchases a salmon credit under section 6 of this**  
14 **2023 Act.**

15 **“(2) Fees received under this section shall be credited to the Com-**  
16 **mon School Fund.**

17 **“SECTION 8. (1) The Salmon Credit Trust Fund is established in the**  
18 **State Treasury, separate and distinct from the General Fund. The**  
19 **Salmon Credit Trust Fund is declared to be a trust fund. Interest**  
20 **earned by the Salmon Credit Trust Fund shall be credited to the fund.**  
21 **Moneys in the fund may be invested and reinvested as provided in ORS**  
22 **293.701 to 293.857.**

23 **“(2) Moneys in the fund consist of moneys deposited in the fund**  
24 **under section 6 of this 2023 Act. All moneys in the fund are contin-**  
25 **uously appropriated to the Department of State Lands for the purposes**  
26 **of paying salmon credit dividends calculated under section 6 of this**  
27 **2023 Act.**

28 **“SECTION 9. The Department of State Lands and the State De-**  
29 **partment of Fish and Wildlife shall consult with the United States**  
30 **Army Corps of Engineers, and any other relevant federal agencies, to**

1 develop a programmatic general permit, or identify an existing  
2 programmatic general permit that may be modified, to authorize res-  
3 toration activities under the salmon credit pilot program established  
4 under sections 2 to 8 of this 2023 Act that occur in navigable waters  
5 of the United States.

6 **“SECTION 10.** (1) Sections 2 to 8 of this 2023 Act become operative  
7 on the date that a federal programmatic general permit described in  
8 section 9 of this 2023 Act is established.

9 **“(2)** The Department of State Lands shall notify the Legislative  
10 Counsel upon the establishment of a programmatic general permit  
11 described in section 9 of this 2023 Act.

12 **“(3)** The Department of State Lands may take any action before the  
13 operative date specified in subsection (1) of this section that is neces-  
14 sary to enable the department to exercise, on and after the operative  
15 date specified in subsection (1) of this section, all the duties, functions  
16 and powers conferred on the department by sections 2 to 8 of this 2023  
17 Act.

18 **“SECTION 11.** The Department of State Lands may not approve a  
19 salmon credit project under section 4 of this 2023 Act on or after Jan-  
20 uary 2 of the sixth calendar year following the establishment of a  
21 programmatic general permit described in section 9 of this 2023 Act.

22 **“SECTION 12.** This 2023 Act takes effect on the 91st day after the  
23 date on which the 2023 regular session of the Eighty-second Legislative  
24 Assembly adjourns sine die.”.

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