

# Senate Bill 1204

Sponsored by Senators SMITH DB, GIROD, ANDERSON; Senators NASH, WEBER, Representatives BOICE, EDWARDS, GOMBERG, HARTMAN, JAVADI, OSBORNE, WRIGHT

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act tells the DSL to make a pilot program for owners of land to restore salmon habitat. (Flesch Readability Score: 71.0).

Directs the Department of State Lands, in consultation with the State Department of Fish and Wildlife, to develop a salmon credit pilot program to encourage the voluntary restoration of salmonid habitat in the Coquille and Coos watershed basins.

Establishes the Salmon Credit Trust Fund.

Directs the Department of State Lands and the State Department of Fish and Wildlife to consult with the United States Army Corps of Engineers to seek federal authorization for a bank instrument and activities that occur in navigable waters of the United States.

Becomes operative on the date that the federal authorization and bank instrument are approved.

Provides that the Department of State Lands may not approve a salmon credit project on or after January 2 of the sixth year following the federal authorization.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to the creation of credits for the restoration of salmon habitat; and prescribing an effective date.

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

**SECTION 1. Sections 2 to 8 of this 2025 Act are added to and made a part of ORS 196.600 to 196.921.**

**SECTION 2. As used in sections 2 to 8 of this 2025 Act:**

(1) "Compensatory mitigation" has the meaning given that term in ORS 196.600.

(2) "Credit generator" means an agricultural land or forestland owner that develops a salmon credit project on the owner's land.

(3) "Credit purchaser" means a person that purchases a salmon credit.

(4) "Mitigation bank" has the meaning given that term in ORS 196.600.

(5) "Salmon credit" means a credit, as defined in ORS 196.600, applicable to a salmon credit project.

(6) "Salmon credit dividend" means a payment a credit generator is entitled to receive based on retired salmon credits generated by the credit generator's salmon credit project.

(7) "Salmon credit project" means a project on agricultural land or forestland to restore waters of this state that are or have historically been salmonid habitat.

**SECTION 3. (1) The Department of State Lands, in consultation with the State Department of Fish and Wildlife, shall by rule develop a salmon credit pilot program to certify projects as mitigation banks under ORS 196.600 to 196.655 that improve the health of wild coho and chinook salmon in the Coquille watershed basin, which includes the mainstem Coquille River and its forks and tributaries, and the Coos watershed basin. The pilot program must:**

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

3 (b) Allow persons to purchase salmon credits from salmon credit projects located within  
4 the Coquille or Coos watershed basins, in order to comply with a condition imposed on a  
5 permit issued for projects within the Coquille and Coos watershed basins in accordance with  
6 ORS 196.825 (5), an authorization issued in accordance with ORS 196.800 to 196.921 or a re-  
7 solution of a violation of ORS 196.800 to 196.921.

8 (2) In establishing the salmon credit pilot program, the Department of State Lands shall:

9 (a) Identify waters of this state and adjacent agricultural lands and forestlands suitable  
10 for salmon credit projects, utilizing existing state and federal maps of salmonid habitat;

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

12 (A) Restoration project types; and

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

15 (c) Prioritize salmon credit projects that will provide the greatest increase in functions  
16 and values of water resources associated with salmon credit projects and the ability to fulfill  
17 required mitigation values;

18 (d) Utilize current tools for measuring the functions and values of water resources as-  
19 sociated with salmon credit project sites and sites for which a salmon credit will be pur-  
20 chased;

21 (e) Establish procedures for the review, approval, inspection, certification and recertif-  
22 ication of salmon credit projects;

23 (f) Establish criteria for determining whether a salmon credit project is successful;

24 (g) Establish a salmon credit price; and

25 (h) Establish a method for calculating the amount of salmon credit dividend payments  
26 described in section 6 of this 2025 Act.

27 (3)(a) In designing a salmon credit project, a credit generator must:

28 (A) Ensure that a salmon credit project will not cause damage to adjacent properties or  
29 interfere with existing uses on adjacent properties; and

30 (B) Ensure that restoration activities for a salmon credit project will be carried out in  
31 accordance with all applicable laws.

32 (b) The Department of State Lands shall coordinate with the State Department of Agri-  
33 culture, the Water Resources Department, the State Forestry Department and, in accord-  
34 ance with ORS 196.635, other agencies and interested parties, to ensure, consistent with each  
35 agency's existing authorities, that credit generators and salmon credit projects satisfy the  
36 requirements of paragraph (a) of this subsection.

37 (4)(a) If a salmon credit project is located on a parcel that otherwise qualifies for special  
38 assessment as exclusive farm use zone farmland or nonexclusive farm use zone farmland  
39 under ORS 308A.050 to 308A.128, the portion of the property on which the salmon credit  
40 project is located shall be deemed to be used exclusively for farm use, as defined in ORS  
41 308A.056.

42 (b) If a salmon credit project is located on a parcel of land that meets the definition of  
43 forestland under ORS 321.257, the portion of the property on which the salmon credit project  
44 is located shall be deemed to be used for the predominant purpose of growing and harvesting  
45 trees of a marketable species.

1       (5) The price for a salmon credit project must be set at an amount that is double the  
2 amount needed to compensate the credit generator for the average costs of a salmon credit  
3 project.

4       (6) The Department of State Lands shall establish procedures for inspecting a salmon  
5 credit project at least once every three years to ensure that the salmon credit project sat-  
6 isfies the requirements of the pilot program.

7       (7) Rules adopted by the department under this section must limit the use of salmon  
8 credits to mitigation required within the Coquille and Coos watershed basins.

9       (8) The department shall ensure that the salmon credit pilot program is adequately  
10 staffed to ensure that applications to become a credit generator or transactions for the  
11 purchase of salmon credits are processed in an expeditious manner.

12       SECTION 4. (1) A person may apply to the Department of State Lands, in the form and  
13 manner prescribed by the department, to become a credit generator. The application must  
14 include a description of the area where the salmon credit project will occur, the proposed  
15 restoration activities and the estimated cost of the project.

16       (2) If the department approves an application under this section, the department shall  
17 assign an estimated salmon credit value to the project. The approval must state the period  
18 of time for which the approval remains valid, after which time the applicant must submit a  
19 renewed application.

20       SECTION 5. (1) A credit generator may begin a salmon credit project after the approval  
21 of the project by the Department of State Lands under section 4 of this 2025 Act or elect to  
22 begin a salmon credit project after a credit purchaser has agreed to purchase the salmon  
23 credits generated by the project.

24       (2) After a salmon credit project has been completed, the credit generator shall notify  
25 the department. The department shall inspect the project to confirm the project has been  
26 completed and meets success criteria established by the department. If the department de-  
27 termines that the project has been successfully completed, the department shall certify an  
28 amount of salmon credits for the project. If a salmon credit project is completed before a  
29 credit purchaser has agreed to purchase the salmon credits, the department may recertify  
30 the salmon credits generated by the project to account for any increase or decrease in the  
31 functions and values of the water resources associated with the salmon credit project at the  
32 time the credits are purchased.

33       (3)(a) After certification of a salmon credit project, the credit generator shall preserve  
34 the use of the portion of the property on which the salmon credit project is located as  
35 salmonid habitat through an instrument that meets standards prescribed by the department.

36       (b) If the salmon credit project is located on private property, the instrument:

37       (A) Must include an access easement conveyed to the department; and

38       (B) Be recorded in the deed records of the county in which the salmon credit project is  
39 located.

40       (c) A credit generator may not receive a salmon credit dividend until the use of the  
41 property has been preserved in accordance with this subsection.

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

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 paid to the credit generator and deducted from the total price of the salmon  
7 credits paid to the department.

8 (3) Notwithstanding ORS 196.620 (5), 196.643 (1) and 196.645 (2), after the department re-  
9 ceives payment from a credit purchaser for a salmon credit, the department shall retire the  
10 salmon credit. The department shall remit to the credit generator half of the amount re-  
11 ceived, unless the credit purchaser assumed the costs of the project. The department shall  
12 deposit the remaining amount on behalf of the credit generator in the Salmon Credit Trust  
13 Fund established under section 8 of this 2025 Act.

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

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

22 (6) The department may revoke the right to receive a salmon credit dividend if the de-  
23 partment determines that the salmon credit project on which the dividend was based no  
24 longer meets the success criteria established by the department. The department may use  
25 the amount of the salmon credit dividend to purchase salmon credits from another salmon  
26 credit project or to establish appropriate credits, as defined in ORS 196.600, in order to sat-  
27 isfy the unmet compensatory mitigation obligation.

28 **SECTION 7.** (1) The Department of State Lands may establish fees calculated to cover  
29 the costs to the department of implementing sections 2 to 8 of this 2025 Act. Fees established  
30 under this section may be charged to:

31 (a) A person that submits an application for a salmon credit project under section 4 of  
32 this 2025 Act; or

33 (b) A person that purchases a salmon credit under section 6 of this 2025 Act.

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

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

39 (2) Moneys in the fund consist of moneys deposited in the fund under section 6 of this  
40 2025 Act. All moneys in the fund are continuously appropriated to the Department of State  
41 Lands for the purposes of paying salmon credit dividends calculated under section 6 of this  
42 2025 Act and purchasing salmon credits if a salmon credit project no longer meets the re-  
43 quirements under sections 2 to 8 of this 2025 Act.

44 **SECTION 9.** The Department of State Lands, in coordination with the State Department  
45 of Fish and Wildlife, shall consult with the United States Army Corps of Engineers, and any

1 other relevant federal agencies, to develop a federally recognized bank instrument under the  
2 salmon credit pilot program established under sections 2 to 8 of this 2025 Act and to receive  
3 federal approval for the bank instrument and for authorization of activities that occur in  
4 navigable waters of the United States.

5 **SECTION 10.** (1) Sections 2 to 8 of this 2025 Act become operative on the date on which  
6 the federal authorization and bank instrument described in section 9 of this 2025 Act are  
7 approved.

8 (2) The Department of State Lands shall notify the Legislative Counsel upon completion  
9 of the approvals described in subsection (1) of this section.

10 (3) The Department of State Lands may take any action before the operative date speci-  
11 fied in subsection (1) of this section that is necessary to enable the department to exercise,  
12 on and after the operative date specified in subsection (1) of this section, all the duties,  
13 functions and powers conferred on the department by sections 2 to 8 of this 2025 Act.

14 **SECTION 11.** The Department of State Lands may not approve a salmon credit project  
15 under section 4 of this 2025 Act on or after January 2 of the sixth calendar year following  
16 the date on which the federal authorization and bank instrument described in section 9 of  
17 this 2025 Act are approved.

18 **SECTION 12.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
19 regular session of the Eighty-third Legislative Assembly adjourns sine die.  
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