

HOUSE AMENDMENTS TO HOUSE BILL 2293

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 11

1 On page 1 of the printed bill, line 2, delete “and”.

2 In line 3, after “526.710,” delete the rest of the line and insert “526.725, 526.730, 526.735, 526.775
3 and 526.783; and repealing 526.715.”

4 In line 8, delete “nonfederal” and insert “private and local government”.

5 On page 2, line 7, after “(b)” delete the rest of the line and insert “Assist landowners in securing
6 payments for ecosystem services.”

7 Delete lines 8 through 45 and delete page 3 and insert:

8 “**SECTION 3.** ORS 526.705 is amended to read:

9 “526.705. (1) To carry out the duties, functions and powers of the Forest Resource Trust, there
10 is created a voluntary [*stand establishment*] **loan** program to finance [*the establishment and mainte-*
11 *nance of healthy stands of trees in an environmentally responsible manner on unstocked and under-*
12 *producing nonindustrial private forestlands. The goal of the stand establishment program is to reforest*
13 *250,000 acres by the year 2010*] **establishment of stands of trees and the improved management**
14 **of qualified private and local government forestlands.**

15 “(2) In advancing moneys and providing other assistance for stand establishment, the State
16 Board of Forestry shall:

17 “(a) Give priority to lands zoned for forest uses under county comprehensive plans and to other
18 lands with moderate to high probability of success [*in reforestation or environmental restoration*] **for**
19 **long-term stand establishment and improved forest management activities;** and

20 “[*(b) Consider development of financial and other incentives for good land management, compliance*
21 *with plans for established stands, and for growth to maturity and harvest.*]

22 “**(b) Assist landowners in securing payments for ecosystem services.**

23 “(3) The [*board shall*] **State Board of Forestry may, by rule,** establish [*options*] **financial**
24 **agreements** for the repayment of [*advanced*] moneys **advanced** consistent with subsection (2) of this
25 section and including but not limited to the following, singly or in combination:

26 “(a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts
27 upon harvest after payment of harvest and severance taxes;

28 “(b) Financial agreements; and

29 “(c) Repayment in full with interest if a landowner fails to get the stand free to grow as that
30 term is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the
31 landowner.

32 “(4) The terms of repayment shall be based on considerations that represent the best use and
33 investment of funds including:

34 “[*(a) Reasonable assumptions regarding future timber prices and yield;*]

35 “[*(b)*] **(a) Rates of return, as established by the State Board of Forestry, that** [*sufficient to*]

1 provide a reasonable *[and prudent]* payback to the Forest Resource Trust of **project** costs *[including,*
2 *but not limited to, site preparation, planting, animal protection, release, planning and layout of treat-*
3 *ment units, supervising the activities, and accounting and legal work];*

4 “[(c)] **(b)** *[Offsets attributable to]* Measurable anticipated public benefits such as job creation, tax
5 revenue, increased timber supply and environmental improvement; and

6 “[(d)] **(c)** The extent to which landowner contributions of money, labor or other resources re-
7 duce the risk to the Forest Resource Trust.

8 “(5) Participating landowners shall not be required to comply with forest practices beyond those
9 required by state and federal law with the exception *[of]* **that** planting standards **for stand estab-**
10 **lishment** *[which]* may be more than the required minimum. *[Participating landowners who volun-*
11 *tarily agree to manage the established stand beyond minimum standards may be eligible for financial*
12 *and other incentives if consistent with subsections (2) and (3) of this section. Payments to any land-*
13 *owner for stand establishment shall not exceed \$100,000 in any two-year period.]*

14 “**(6) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter**
15 **into contracts with eligible landowners to carry out the provisions of the voluntary loan**
16 **program. The contracts may include, but are not limited to:**

17 “**(a) Partial to full financing to the landowner, as specified in rules of the State Board**
18 **of Forestry, from such moneys as may be available in the Forest Resource Trust Fund.**

19 “**(b) Any obligations of the landowner for repayment of moneys advanced including, but**
20 **not limited to:**

21 “**(A) Terms for sharing the revenue gained from the sales of timber and forest products,**
22 **including salvage, from the lands enrolled under the voluntary loan program;**

23 “**(B) Acknowledgement that the rights and obligations of the landowner and the Forest**
24 **Resource Trust and all of the terms of the contract are covenants that run with the land**
25 **upon sale, lease or transfer of the land benefiting from the voluntary loan program until all**
26 **future obligations of the contract are met;**

27 “**(C) Financial terms allowing the landowner to terminate the contract;**

28 “**(D) Agreement that there is no obligation to repay the moneys advanced prior to sale**
29 **of timber and forest products from the land;**

30 “**(E) Terms to protect the contract from modification unless both parties consent to**
31 **modification;**

32 “**(F) Allowance for different prescriptions for stand management; and**

33 “**(G) Repayment in full with interest if the landowner fails to meet any terms of the**
34 **contract.**

35 “**(c) Acknowledgement by the landowner that the State Forester may require a statutory**
36 **lien on the forest products.**

37 “**(7) In addition to the contracts provided for in subsection (6) of this section, the State**
38 **Forester, on behalf of the Forest Resource Trust, may require landowners to execute secu-**
39 **rity agreements in favor of the trust to secure any repayment or other obligations of the**
40 **landowner. Any security interest required shall have priority from the date of recording or**
41 **filing.**

42 “**(8)(a) The State Forester shall record a contract described in subsection (6) of this**
43 **section with the recording officer of the county or counties in which the forestland is lo-**
44 **cated.**

45 “**(b) Upon recording, the rights and obligations of the landowner and the Forest Resource**

1 **Trust under the contract shall become covenants that run with the land and shall be binding**
2 **upon successors and assigns.**

3 **“(c) The interest of the Forest Resource Trust created by recording the contract con-**
4 **stitutes a purchaser’s interest in real property for purposes of ORS 93.640.**

5 **“(d) A memorandum of contract must include, but is not limited to:**

6 **“(A) The date of execution of the contract;**

7 **“(B) The name of each landowner of the forestland identified in the contract;**

8 **“(C) A legal description of the forestland subject to the contract that conforms with ORS**
9 **93.600; and**

10 **“(D) If the contract is secured by a lien as provided in ORS 526.735 to 526.775, a statement**
11 **from each landowner acknowledging the lien.**

12 **“(9) As used in this section, ‘eligible landowner’ means a qualified private or local gov-**
13 **ernment forestland owner who:**

14 **“(a) Owns land that qualifies as forestland, as defined by the State Board of Forestry.**

15 **“(b) Has not received an exemption from reforestation requirements pursuant to rules**
16 **adopted by the board under ORS 527.760.”.**

17 On page 4, delete lines 1 and 2.

18 In line 3, delete “8” and insert “4”.

19 In line 12, delete “and” and insert a comma and after “programs” insert “, nongovernmental
20 organizations and landowner cooperatives”.

21 After line 14, insert:

22 **“(7) Release from financial obligation for any portion of the qualified private and local govern-**
23 **ment forestlands included under Forest Resource Trust programs and irretrievably lost to insects,**
24 **disease, fire, storm, flood or other natural destruction through no fault of the landowner.**

25 **“(8) Secure provisions for access to the land by the State Forester.**

26 **“(9) Give consideration to conservation plans or strategies adopted by the State Department of**
27 **Fish and Wildlife when setting priorities for Forest Resource Trust programs.”.**

28 Delete lines 15 through 45.

29 On page 5, delete lines 1 through 41 and insert:

30 **“SECTION 5.** ORS 526.730 is amended to read:

31 **“526.730. The State Board of Forestry, after consultation with the advisory committee appointed**
32 **pursuant to ORS 526.700, shall prepare and submit a [biennial] report to the **Seventy-sixth** Legis-**
33 **lative Assembly [with regard to program accomplishments, the future structure of the Forest Resource**
34 **Trust, alternatives to delivery of trust services by the State Forestry Department and changes to qual-**
35 **ifications for landowner participation in the program. The board shall also enter into an agreement**
36 **with an independent party to evaluate program goals, administration, problems and outcomes. The**
37 **evaluation shall be made a part of any biennial report to the Legislative Assembly and shall be used**
38 **by the board in consultation with the advisory committee in modifying terms and policies of the Forest**
39 **Resource Trust] that contains the following information regarding the Forest Resource Trust**
40 **Fund:**

41 **“(1) Program accomplishments;**

42 **“(2) Financial assistance payments to participating landowners;**

43 **“(3) Revenues received by the fund; and**

44 **“(4) Expenditures made from the fund.”.**

45 In line 42, delete “11” and insert “6”.

1 In line 45, delete “526.715” and insert “526.705”.
2 After line 45, insert:
3 “(2) ‘Ecosystem services’ means environmental benefits arising from the conservation and man-
4 agement of forestland, including, but not limited to, fish and wildlife habitat, clean water and air,
5 pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration,
6 avoidance of carbon dioxide emissions and maintenance of soil productivity.”
7 On page 6, line 1, delete “(2)” and insert “(3)”.
8 In line 4, delete “(3)” and insert “(4)”.
9 In line 6, delete “(4)” and insert “(5)”.
10 In line 7, after “voluntary” delete the rest of the line and line 8 and insert “loan program es-
11 tablished by ORS 526.705”.
12 In line 9, delete “this 2007 Act”.
13 In line 11, delete “(5)” and insert “(6)” and delete “nonfederal” and insert “private or local
14 government” and after “a” insert “private or local government”.
15 In line 13, delete “12” and insert “7”.
16 After line 21, insert:
17 **“SECTION 8. ORS 526.715 is repealed.**
18 **“SECTION 9.** ORS 526.725 is amended to read:
19 “526.725. (1) The State Board of Forestry or the State Forester may enter into agreements with
20 private, governmental or other organizations and may accept contributions, gifts or grants from any
21 source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys re-
22 ceived by the board or the State Forester pursuant to this section shall be deposited in the Forest
23 Resource Trust Fund.
24 “(2) The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease
25 or purchase, land only to the extent necessary to carry out the duties, functions and powers of the
26 trust.
27 “(3) Agreements with private, governmental or other organizations under subsection (1) of this
28 section may specify the terms under which funds are invested and benefits accrue to the contribut-
29 ing party to the extent the agreement is consistent with the provisions of ORS 526.700 to 526.775.
30 “(4) The State Forester may, on behalf of the Forest Resource Trust, market, register, transfer
31 or sell forestry carbon offsets attributable to the lands enrolled in the stand establishment program
32 under ORS [526.715] **526.705**. Prices for the transfer or sale of forestry carbon offsets may be nego-
33 tiated but must be at or greater than fair market value.
34 “(5) Nothing in ORS 526.700 to 526.775 is intended to create an enforceable trust on any agency
35 or officer of the State of Oregon.
36 **“SECTION 10.** ORS 526.775 is amended to read:
37 “526.775. Notwithstanding ORS 526.735 to 526.775, if the forest landowner and the State Forester
38 entered into a contract as provided in ORS [526.715] **526.705** and the contract is terminated or
39 breached, and there are no forest products or accounts receivable subject to the lien created under
40 ORS 526.740, any judgment entered against the landowner for breach or termination of the contract
41 may be executed on any property of the landowner.”
42