

House Bill 2293

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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**.

Identifies Forest Resource Trust programs as those authorized by State Board of Forestry to further purposes of Forest Resource Trust. Establishes voluntary cost share program. Establishes voluntary environmental services program. Establishes voluntary loan program. Establishes credit for environmental services. Clarifies financial assistance terms for Forest Resource Trust programs. Clarifies State Forestry Department's responsibility to assist State Board of Forestry in carrying out duties of Forest Resource Trust. Clarifies conditions for contracts between State Forester and eligible landowners. Clarifies State Board of Forestry report to Legislative Assembly.

A BILL FOR AN ACT

1
2 Relating to Forest Resource Trust; creating new provisions; and amending ORS 526.700, 526.705,
3 526.710, 526.715, 526.730, 526.735 and 526.783.

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

5 **SECTION 1.** ORS 526.700 is amended to read:

6 526.700. (1) The Forest Resource Trust is established in the State Forestry Department. The
7 Forest Resource Trust shall provide funds for financial, technical and related assistance to [*nonin-*
8 *dustrial private*] **qualified nonfederal** forestland owners for stand establishment and improved man-
9 agement of forestlands for timber production as well as wildlife, water quality and other
10 environmental purposes.

11 (2) The members of the State Board of Forestry shall have overall responsibility for management
12 of the Forest Resource Trust. The board is authorized to establish policies and programs in addition
13 to those created by ORS 526.700 to 526.775 to further the purposes of the trust.

14 (3) The board shall appoint an advisory committee consisting of no more than 15 members rep-
15 resenting the public, nonindustrial private forestland owners, the forest products industry, forest
16 consultants and contractors, the financial community, environmental and conservation organizations
17 and other related interests including affected state agencies. The advisory committee shall assist the
18 board in setting policy for the best use and investment of funds available to the trust and otherwise
19 assist board members in the performance of their duties as trustees.

20 (4) In accordance with any applicable provisions of ORS chapter 183, the board shall adopt rules
21 to carry out the duties, functions and powers of the Forest Resource Trust and to guide implemen-
22 tation of the [*stand establishment program created under ORS 526.705*] **Forest Resource Trust**
23 **programs.**

24 (5) The State Forester is responsible for implementing board policies and programs for the For-
25 est Resource Trust.

26 **SECTION 2.** (1) **The State Board of Forestry shall establish a voluntary cost share pro-**
27 **gram to ensure that the purposes of the Forest Resource Trust are achieved. The purpose**
28 **of the program is to provide financial and other incentives for stand establishment and im-**

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 proved management of nonindustrial private forestlands.

2 (2) In advancing moneys and providing other assistance for stand establishment and im-
 3 proved forest management, the State Forester shall:

4 (a) Give priority, to the extent possible, to lands zoned for forest use under county
 5 comprehensive plans and to other lands with moderate to high probability of success for
 6 long-term stand establishment and improved forest management activities; and

7 (b) Consider the development and maintenance of environmental services.

8 **SECTION 3.** (1) The State Board of Forestry shall establish a voluntary environmental
 9 services program to ensure that the purposes of the Forest Resource Trust are achieved.
 10 The purpose of the program is to provide financial and other incentives for the development
 11 and maintenance of environmental services through stand establishment and improved
 12 management of nonfederal forestlands.

13 (2) In advancing moneys and providing other assistance for the development and main-
 14 tenance of environmental services, the State Forester shall:

15 (a) Give priority, to the extent possible, to sustainable nonindustrial private forestlands,
 16 especially in lands zoned for forest use under county comprehensive plans and other lands
 17 with moderate to high probability of long-term success to develop and maintain environ-
 18 mental services;

19 (b) Give priority, to the extent possible, to habitats and opportunities identified in
 20 Oregon's Comprehensive Wildlife Conservation Strategy, or in other conservation strategies;

21 (c) Give priority, to the extent possible, to landowner cooperatives to improve the effi-
 22 ciency and effectiveness in delivering environmental services;

23 (d) Consider management options that can improve the delivery of high-quality environ-
 24 mental services and also promote sustainable timber management; and

25 (e) Consider other relevant factors necessary to the development and maintenance of
 26 environmental services.

27 **SECTION 4.** (1) The State Board of Forestry shall establish a voluntary loan program to
 28 ensure that the purposes of the Forest Resource Trust are achieved. The purpose of the
 29 program is to provide financial and other incentives for stand establishment and improved
 30 management of nonindustrial private forestlands, thereby establishing forest stands on over
 31 250,000 acres of unstocked and underproducing nonindustrial private forestlands.

32 (2) In advancing moneys and providing other assistance for stand establishment and im-
 33 proved forest management, the State Forester shall:

34 (a) Give priority, to the extent possible, to lands zoned for forest uses under county
 35 comprehensive plans and to other lands with moderate to high probability of success for
 36 long-term stand establishment and improved forest management activities; and

37 (b) Consider the development and maintenance of environmental services.

38 **SECTION 5.** Section 6 of this 2007 Act is added to and made a part of ORS 526.700 to
 39 526.775.

40 **SECTION 6.** (1) On behalf of the Forest Resource Trust, the State Forester may market,
 41 register, transfer and sell credits for environmental services attributable to the lands in
 42 Forest Resource Trust programs. Credits for environmental services shall be based on units
 43 of quantifiable environmental services, including but not limited to provision of clean water
 44 and air, pollination of crops, mitigation of environmental hazards, control of pests and dis-
 45 eases, sequestration of carbon and reduction of carbon dioxide emissions, conservation of

1 **fish and wildlife habitat and ensuring soil productivity.**

2 **(2) Credits for environmental services may be sold or transferred only for the fair market**
3 **value of the credits at the time of the sale.**

4 **(3) To ensure the consistent reporting of credits for environmental services, the State**
5 **Forester shall develop an accounting system for the registration, transfer and sale of credits**
6 **for environmental services. The accounting system shall develop or use accepted principles**
7 **and standards related to creating, measuring, monitoring, marketing, verifying, registering,**
8 **transferring and selling credits for environmental services.**

9 **SECTION 7.** ORS 526.705 is amended to read:

10 526.705. *[(1) To carry out the duties, functions and powers of the Forest Resource Trust, there is*
11 *created a voluntary stand establishment program to finance the establishment and maintenance of*
12 *healthy stands of trees in an environmentally responsible manner on unstocked and underproducing*
13 *nonindustrial private forestlands. The goal of the stand establishment program is to reforest 250,000*
14 *acres by the year 2010.]*

15 *[(2) In advancing moneys and providing other assistance for stand establishment, the State Board*
16 *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; and]*

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

21 *[(3)]* **(1) [The board] The State Board of Forestry by rule** shall establish *[options]* **financial**
22 **agreements** for the repayment of *[advanced]* moneys **advanced** *[consistent with subsection (2) of this*
23 *section and including but not limited to the following, singly or in combination:]*

24 *[(a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts upon*
25 *harvest after payment of harvest and severance taxes;]*

26 *[(b) Financial agreements; and]*

27 *[(c) Repayment in full with interest if a landowner fails to get the stand free to grow as that term*
28 *is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the*
29 *landowner] from the voluntary loan program established by section 4 of this 2007 Act.*

30 *[(4)]* The terms of repayment shall be based on considerations that represent the best use and
31 investment of funds, including:

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

33 *[(b)]* **(a) Rates of return, as established by board rules, that** *[sufficient to]* provide a reasonable
34 *[and prudent]* payback to the Forest Resource Trust of **project** costs *[including, but not limited to,*
35 *site preparation, planting, animal protection, release, planning and layout of treatment units, supervis-*
36 *ing the activities, and accounting and legal work];*

37 *[(c)]* **(b) Offsets** attributable to measurable anticipated public benefits such as job creation, tax
38 revenue, increased timber supply and environmental improvement; and

39 *[(d)]* **(c) The extent to which landowner contributions of money, labor or other resources reduce**
40 **the risk to the Forest Resource Trust.**

41 *[(5)]* **(2) Participating landowners shall not be required to comply with forest practices beyond**
42 **those required by state and federal law with the exception of planting standards which may be more**
43 **than the required minimum. Participating landowners who voluntarily agree to** *[manage the estab-*
44 *lished stand beyond]* **exceed** minimum standards **for forest practices** may be eligible for financial
45 and other incentives *[if consistent with subsections (2) and (3) of this section. Payments to any land-*

1 *owner for stand establishment shall not exceed \$100,000 in any two-year period*], **as established by**
 2 **board rules.**

3 **SECTION 8.** ORS 526.710 is amended to read:

4 526.710. To assist the State Board of Forestry in carrying out the duties of the Forest Resource
 5 Trust, the State Forestry Department shall:

6 (1) Identify potentially suitable lands, and [*market stand improvement services to*] **educate** the
 7 owners of those lands **on Forest Resource Trust programs.**

8 (2) Provide technical and other management assistance to participating landowners.

9 (3) Monitor compliance with [*the stand establishment program*] **Forest Resource Trust pro-**
 10 **grams** by participating landowners.

11 (4) Encourage involvement of the landowner.

12 (5) Encourage the use of private contractors, consultants and forestry extension programs.

13 (6) Develop project plans in cooperation with landowners that establish clear benchmarks for
 14 compliance with terms of the plan.

15 **SECTION 9.** ORS 526.715 is amended to read:

16 526.715. (1) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter
 17 into contracts with eligible landowners to carry out the provisions of the [*stand establishment pro-*
 18 *gram*] **Forest Resource Trust programs.** The contracts shall include, but are not limited to[, *the*
 19 *following matters*]:

20 (a) [*Providing up*] **Partial** to full financing to the landowner [*for stand establishment*] **for the**
 21 **Forest Resource Trust programs, as specified in rules of the State Board of Forestry,** from
 22 such moneys as may be available in the Forest Resource Trust Fund.

23 (b) [*Setting forth the*] **Any** obligations of the landowner for repayment of moneys advanced for
 24 the [*establishment of the stand including, but not limited to, the following provisions*] **Forest Re-**
 25 **source Trust programs, that shall include, but are not limited to:**

26 (A) Terms for sharing the revenue gained from the sales of timber and forest products, including
 27 salvage, from the tree stands established under the **voluntary loan** program **established by section**
 28 **4 of this 2007 Act;**

29 (B) Release from the financial obligation for any portion of the [*stand established*] **qualified**
 30 **nonfederal forestlands included** under the [*program*] **Forest Resource Trust programs** and ir-
 31 retrievably lost to insects, disease, fire, storm, flood or other natural destruction through no fault
 32 of the landowner;

33 (C) [*Assurance*] **Acknowledgement** that the rights and obligations of the landowner and the
 34 Forest Resource Trust and all of the terms of the contract are covenants that run with the land
 35 upon sale, lease or transfer of the land benefiting from the [*program*] **Forest Resource Trust pro-**
 36 **grams** prior to [*the repayment of moneys advanced*] **termination of the contract;**

37 (D) Financial terms allowing the landowner to terminate the contract [*prior to harvesting timber*
 38 *from the stand established under the program*];

39 (E) Agreement that there is no obligation to repay the moneys advanced prior to sale of timber
 40 and forest products from the land in the **voluntary loan** program;

41 (F) Terms to protect the contract from modification unless agreed to by both parties;

42 (G) Allowance for different prescriptions for stand establishment; [*consistent with the established*
 43 *rate of return; and*]

44 (H) Provisions for access to the land by the State Forester; **and**

45 **(I) Repayment in full with interest if the landowner fails to meet any terms of the con-**

1 **tract.**

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

4 (2) In addition to the contracts provided for in subsection (1) of this section, the State Forester,
 5 on behalf of the Forest Resource Trust, may require landowners to execute security agreements in
 6 favor of the Forest Resource Trust to secure any repayment or other obligations of the landowner
 7 under the [*stand management program*] **voluntary loan program established by section 4 of this**
 8 **2007 Act.** Any such security interest shall have priority from the date of recording or filing.

9 (3)(a) The State Forester shall record a contract described in subsection (1) of this section or
 10 a memorandum of contract with the recording officer of the county or counties in which the
 11 forestland is located.

12 (b) Upon recording, the rights and obligations of the landowner and the Forest Resource Trust
 13 under the contract are covenants that run with the land and are binding upon successors and as-
 14 signs.

15 (c) The interest of the Forest Resource Trust created by recording the contract or the memo-
 16 randum of contract constitutes a purchaser’s interest in real property for purposes of ORS 93.640.

17 (d) [*If*] A memorandum of contract [*is to be recorded, the memorandum of contract*] must
 18 include, **but is not limited to** [*the following information*]:

19 (A) The date of execution of the contract;

20 (B) The name of each landowner of the forestland identified in the contract;

21 (C) A legal description that conforms with ORS 93.600 of the forestland subject to the contract;
 22 and

23 (D) [*An acknowledgment that*] **If** the contract is secured by a lien as provided in ORS [*526.735*]
 24 **526.700 to 526.775, a statement from each landowner acknowledging the lien.**

25 (4) For purposes of this section, “eligible landowner” means a landowner who:

26 (a) Owns land that qualifies as [*underproducing nonindustrial private*] forestland as defined **by**
 27 **rule adopted** by the [*State Forester*] **board.**

28 (b) Has not used ORS 527.760 to avoid reforestation.

29 (c) Has not begun conversion of acreage prior to entering into a contract with the State
 30 Forester.

31 **SECTION 10.** ORS 526.730 is amended to read:

32 526.730. The State Board of Forestry, after consultation with the advisory committee appointed
 33 pursuant to ORS 526.700, shall prepare and submit a biennial report to the Legislative Assembly
 34 [*with regard to program*] **on the accomplishments of the Forest Resource Trust programs,** the
 35 future structure of the Forest Resource Trust, alternatives to delivery of trust services by the State
 36 Forestry Department and changes to qualifications for landowner participation in the [*program*]
 37 **Forest Resource Trust programs.** The board shall also enter into an agreement with an inde-
 38 pendent party to evaluate [*program*] **the** goals, administration, problems and outcomes **of the Forest**
 39 **Resource Trust programs.** The evaluation shall be made a part of any biennial report to the
 40 Legislative Assembly and shall be used by the board in consultation with the advisory committee in
 41 modifying terms and policies of the Forest Resource Trust.

42 **SECTION 11.** ORS 526.735 is amended to read:

43 526.735. As used in ORS [*526.735*] **526.700** to 526.775, unless the context otherwise requires:

44 (1) “Contract” means the contract signed by the forestland owner and the State Forester, acting
 45 on behalf of the Forest Resource Trust pursuant to ORS 526.715.

1 (2) "Forestland owner" means the individual, corporation, limited liability company, partnership,
2 association, joint stock company, trustee, business trust or unincorporated organization holding fee
3 simple ownership of land capable of producing forest products.

4 (3) "Forest products" includes, but is not limited to, trees, logs, poles, lumber, chips or pulp that
5 flow from investment of the Forest Resource Trust.

6 (4) **"Forest Resource Trust programs" means the voluntary cost share program estab-**
7 **lished by section 2 of this 2007 Act, the voluntary environmental services program estab-**
8 **lished by section 3 of this 2007 Act, the voluntary loan program established by section 4 of**
9 **this 2007 Act and other programs administered by the State Board of Forestry to further the**
10 **purposes of the Forest Resource Trust pursuant to ORS 526.700 to 526.775.**

11 (5) **"Qualified nonfederal forestland owner" means a forestland owner that qualifies for**
12 **a specific Forest Resource Trust program, as described in rules adopted by the board.**

13 **SECTION 12.** ORS 526.783 is amended to read:

14 526.783. As a means of consistently reporting forestry carbon offsets created through programs
15 established under ORS 526.725, 526.780 to 526.789, 530.050 or 530.500, the State Forester shall de-
16 velop a forestry carbon offset accounting system for the registration, transfer or sale of forestry
17 carbon offsets. The forestry carbon offset accounting system shall:

18 (1) Use accepted principles and standards relating to [*the creation, measurement, accounting*]
19 **creating, measuring, monitoring**, marketing, verifying, registering, transferring and selling [*of*]
20 carbon offsets used as mitigation for carbon dioxide emissions; and

21 (2) Be consistent with any rules adopted by the State Board of Forestry under ORS 526.786.

22