

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 2228

STATUS: A Engrossed

SUBJECT: Rural Unemployment Reductions and Living-Wage Job Opportunities Bring Stability Act and Oregon Transfer of Development Rights Pilot Program

GOVERNMENT UNIT AFFECTED: Department of Land Conservation and Development, Oregon Department of Forestry, Oregon Department of Agriculture, Cities and Counties

PREPARED BY: Dawn Farr

REVIEWED BY: Laurie Byerly, Susie Jordan and Paul Siebert

DATE: May 6, 2009

2009-2011

2011-2013

EXPENDITURES:

See Comments.

REVENUES:

See Comments.

EFFECTIVE DATE: On Passage.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This bill is to be known as the Rural Unemployment Reductions and Living-Wage Job Opportunities Bring Stability Act; establishes definitions; allows one or two small-scale recreational communities to be established on forestlands in conjunction with a transfer of development opportunity from a Metolius resort site; establishes conditions for the communities; establishes the Oregon Transfer of Development Rights Pilot Program in the Department of Land Conservation and Development (DLCD); directs DLCD to work with the Department of Forestry (ODF), Department of Agriculture (ODA) and local government to implement the pilot program; directs the Land Conservation and Development Commission to adopt rules to implement the pilot program; allows counties to change its comprehensive plan and land use regulations if DLCD has approved a concept plan for the pilot project; allows participants of the pilot program to hold, monitor or enforce conservation easements; and, requires DLCD to make a report to the Seventy-seventh Legislative Assembly evaluating the Oregon Transfer of Development Rights Pilot Program that recommends whether the pilot program should be continued, modified, expanded or terminated. The bill also provides a process and criteria for forestland transfers specific to the Skyline Forest and the South County Tract, which include development opportunities and potential future state land ownership.

DLCD indicates that the fiscal for the bill is expected to be minimal and absorbable within existing resources. Implementation of the bill will require that DLCD conduct a simple rulemaking process to set up the procedures for selection of pilot projects; the associated cost for rulemaking is estimated at \$30,000. In addition, the Department anticipates little involvement in the pilot program as the workload associated with development of pilot projects would occur at the county and city level. DLCD's role would be one of providing guidance and project review, which the Department anticipates will require minimal resources such that no other program activities will be displaced as a result of this activity. The Legislative Fiscal Office is concerned that if five pilot projects are approved, DLCD may need to divert

more existing resources than anticipated to the implementation and monitoring of the pilot program. If the requirements of this bill, or the cumulative impacts of a number of bills passing this legislative session exceeds DLCD's capacity and existing resources, the Department will need to postpone implementation until a budget adjustment by the Legislature or the Emergency Board is made to continue implementation. DLCD operations are primarily funded by General Fund.

Based on DLCD's assessment that implementation will require a simple rulemaking effort and minimal support to cities and counties, ODA and the DOF have indicated that they anticipate a minimal fiscal impact associated with rulemaking and support for pilot projects which is not expected to exceed \$20,000 in existing Other Funds resource expenditures. ODF also anticipates a one-time minimal fiscal impact associated with mitigation of wildfire risks on the Skyline Forest and South County Tract, should these to become pilot projects. Again, the Legislative Fiscal Office is concerned that if five pilot projects are approved, ODA and DOF may need to divert more existing resources than anticipated to the implementation and monitoring of the pilot program. ODA and DOF operations are funded by a mixture of General Fund and Other Funds.

Section 9(2)(a) of the bill covers owner transfers, which creates the possibility that new community forestlands might be established in a land trust or to be given to federal or state land management agencies. The language of the bill is not clear as to which state agencies might be impacted by this bill; however, ODF indicates that if the Department were asked to manage the South County Track management expenditures would be between \$60,000 and \$70,000 per biennium.

The League of Oregon Cities (LOC) indicates that the fiscal impact associated with the bill would be dependent upon the location of the pilots. If a pilot had a receiving area inside an urban growth boundary, cities anticipate incurring costs for feasibility analysis, intergovernmental agreements, and legal fees which could range between \$40,000 and \$80,000 per project. LOC also anticipates some costs to participate in the DLCD rulemaking.

The Association of Oregon Counties (AOC) indicates that the fiscal impact associated with the bill is indeterminate. Sections 2 to 5 of the bill provide an opportunity for a small scale recreation community via a conditional use permit instead of a destination resort permit; however, county fee schedules for conditional use permits often do not cover the cost associated with issuance. Sections 6 and 7 of the bill relate to the pilot program, and put the burden on counties to incur the costs of the pilot activities and any related revisions that might be made as a result to comprehensive plans. AOC indicates that while counties may recover pilot project costs through fees, any comprehensive plan revisions, which range in cost from \$50,000 to \$100,000, would not be covered by fees. Further, if pilot projects cross jurisdictions AOC anticipates additional expenditures for intergovernmental agreements and legal fees, plus additional complexity in dealing with the consequences resulting from potential property tax revenue losses across counties. Section 9 of the bill stipulates conditions that AOC believes equate to "super siting" for the Skyline Forest development project in Deschutes County, which means the county must approve the project. AOC is concerned that this limits the county's role and modifies development processes such that there is a risk that the county may not be able to assess normal fees or make typical requirements of the developer to pay for infrastructure costs.