

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2228

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 3

- 1 On page 2 of the printed A-engrossed bill, line 19, delete “or Deschutes County”.
- 2 In line 20, delete “and that is not owned by a resort”.
- 3 In line 27, delete “one” and insert “two”.
- 4 In line 28, delete “year” and insert “years”.
- 5 On page 3, line 23, delete “at least two-thirds must be” and insert “have as its primary purpose
- 6 the provision of”.
- 7 On page 6, line 3, delete “‘Conservation Strategy’ prepared in September of 2006” and insert
- 8 “‘Oregon Conservation Strategy,’ 2006,”.
- 9 Delete lines 5 through 9 and insert:
- 10 “(5) The commission may select up to three pilot projects for the transfer of development rights
- 11 under sections 6 to 8 of this 2009 Act.”.
- 12 Delete lines 13 and 14 and insert:
- 13 “(c) Must contain four or fewer dwelling units per square mile.”.
- 14 In line 21, before “forestlands” insert “agricultural lands or”.
- 15 Delete lines 22 through 29 and insert:
- 16 “(C) Third priority is lands that are within an urban unincorporated community or a rural
- 17 community in an acknowledged comprehensive plan.”.
- 18 In line 37, after “development” insert “allowed under sections 6 to 8 of this 2009 Act”.
- 19 Delete lines 39 and 40.
- 20 In line 41, delete “(e)” and insert “(d)”.
- 21 In line 44, delete “A pilot project must include affordable housing.”.
- 22 On page 7, line 1, after “housing” insert “within an urban growth boundary”.
- 23 In line 3, delete “forestlands,”.
- 24 Delete lines 41 through 45 and delete page 8.
- 25 On page 9, delete lines 1 through 17 and insert:
- 26 **“SECTION 9. (1) As used in this section:**
- 27 **“(a) ‘Community forestlands’ has the meaning given that term in ORS 530.600.**
- 28 **“(b) ‘Skyline Forest’ means that certain real property consisting of approximately 33,000**
- 29 **contiguous acres in Deschutes County owned on June 1, 2009, by Cascade Timberlands**
- 30 **(Oregon) LLC and located within sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30,**
- 31 **31, 32, 33, 34, 35 and 36, township 16 south, range 10 east; sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11,**
- 32 **12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 35 and 36, township 17 south, range 10 east; and sections**
- 33 **6, 7, 8, 9, 17, 18, 19, 20, 29, 30, 31, 32 and 33, township 17 south, range 11 east.**
- 34 **“(c) ‘Skyline Forest Sustainable Development Area’ means a portion of up to 3,000 con-**
- 35 **tiguous acres of the tract known as the Skyline Forest that is located in township 16 south,**

1 range 10 east, Deschutes County: portions of the northwest quarter, southwest quarter,  
2 southeast quarter, northeast quarter of section 7; portions of the northwest quarter, south-  
3 west quarter, southeast quarter of section 8; portions of the southwest quarter of section  
4 16; portions of the northwest quarter, southwest quarter, southeast quarter, northeast  
5 quarter of section 17; portions of the northwest quarter, southwest quarter, southeast  
6 quarter, northeast quarter of section 18; section 19; portions of the northwest quarter,  
7 southwest quarter, northeast quarter of section 20; portions of the northwest quarter of  
8 section 21; portions of the northwest quarter of section 29; and portions of the north half  
9 of section 30.

10 “(d) ‘Skyline Conservation Tract’ means the portion of the Skyline Forest consisting of  
11 approximately 30,000 contiguous acres that is not included within the Skyline Forest  
12 Sustainable Development Area.

13 “(e) ‘Southern Conservation Tract’ means that certain real property consisting of ap-  
14 proximately 34,700 contiguous acres in Deschutes and Klamath Counties owned on June 1,  
15 2009, by Cascade Timberlands (Oregon) LLC and located within one of the following areas:

16 “(A) ‘Area one’ consists of approximately 14,000 acres of land located within sections 1,  
17 2, 3, 10, 11, 12, 13, 14, 15, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34 and 35 of township 22 south,  
18 range 9 east, Deschutes County; sections 5, 6, 7, 8, 17, 18, 30 and 31 of township 22 south,  
19 range 10 east, Deschutes County;

20 “(B) ‘Area two’ consists of approximately 9,700 acres of land located within sections 2,  
21 3, 4, 5, 9, 10, 11, 14, 15, 17, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33 and 34 of township 23  
22 south, range 9 east, Klamath County and the portion of Parcel 3, Partition Plat No. 34-08  
23 located in township 23 south, range 9 east, Klamath County; and

24 “(C) ‘Area three’ consists of approximately 11,000 acres of land located within sections  
25 14, 23, 24, 25, 26, 34 and 35 of township 23 south, range 9 east; sections 3, 4 and 9 of township  
26 24 south, range 9 east; section 1 of township 25 south, range 7 east; sections 1, 2, 3, 4, 9, 10,  
27 12, 13, 14, 15, 16 and 17 of township 25 south, range 8 east; Parcel 1, Partition Plat No. 34-08  
28 located in township 24 south, ranges 7 and 8 east, Klamath County; the portion of Parcel 3,  
29 Partition Plat No. 34-08 located in township 24 south, ranges 8 and 9 east, Klamath County  
30 and the land lying west of U.S. Route 97.

31 “(f) ‘Land trust’ means the Deschutes Land Trust, an Oregon nonprofit corporation or  
32 another nonprofit conservation organization that is either accredited by the Land Trust Ac-  
33 creditation Commission or is nationally recognized as a land conservation organization, the  
34 primary mission of which is land conservation.

35 “(2) Contingent upon satisfaction of the requirements of subsection (3) of this section,  
36 the Skyline Forest Sustainable Development Area may be developed and used for the follow-  
37 ing purposes:

38 “(a) The Skyline Forest Sustainable Development Area may contain up to 282 residential  
39 units, a caretaker’s residence, a restaurant, a small community store, a small-scale com-  
40 munity conference center, an equestrian facility, small-scale recreational, commercial and  
41 basic service uses, and all utility, maintenance and security facilities necessary to support  
42 the development. The residential units may be permanent residences, rental units or lodging  
43 units. The specific number of residential units allowed within the Skyline Forest Sustainable  
44 Development Area, up to a maximum of 282, is dependent upon the number of acres of the  
45 Skyline Conservation Tract and the Southern Conservation Tract conveyed to a land trust

1 or a federal or state agency pursuant to this section. Up to:

2 “(A) 137 residential units shall be allowed within the Skyline Forest Sustainable Development  
3 Area in exchange for the conveyance of the Skyline Conservation Tract to a land  
4 trust;

5 “(B) 183 residential units shall be allowed within the Skyline Forest Sustainable Development  
6 Area in exchange for the conveyance of the Skyline Conservation Tract and area one  
7 of the Southern Conservation Tract to a land trust or to a federal or state agency;

8 “(C) 224 residential units shall be allowed within the Skyline Forest Sustainable Development  
9 Area in exchange for the conveyance of the Skyline Conservation Tract, area one  
10 and area two of the Southern Conservation Tract to a land trust or to a federal or state  
11 agency; or

12 “(D) 282 residential units shall be allowed within the Skyline Forest Sustainable Development  
13 Area in exchange for the conveyance of the Skyline Conservation Tract, area one,  
14 area two and area three of the Southern Conservation Tract to a land trust or to a federal  
15 or state agency.

16 “(b) The Skyline Forest Sustainable Development Area may not contain a golf course or  
17 golf-related facilities.

18 “(c) All development, not including access roads and utility lines to the Skyline Forest  
19 Sustainable Development Area and up to five acres for maintenance and security facilities,  
20 shall be located on 1,200 contiguous acres within the Skyline Forest Sustainable Development  
21 Area. The owner shall use the remaining undeveloped 1,800 acres of the Skyline Forest  
22 Sustainable Development Area for the primary purposes of minimizing the risk of wildfire  
23 and maintaining wildlife habitat value. However, an equestrian facility may be located within  
24 the otherwise undeveloped 1,800 acres if the facility is located on no more than 40 acres  
25 contiguous to the developed portion of the Skyline Forest Sustainable Development Area. The  
26 owner shall cause a conservation easement pursuant to ORS 271.715 to 271.795 to be recorded  
27 on the entirety of the undeveloped 1,800 acres prohibiting partitions and development, but  
28 allowing recreational uses, such as picnic grounds, trails and restrooms. The equestrian facility  
29 permitted by this section shall also be allowed within the conservation easement. The  
30 conservation easement must be held by a land trust and shall contain terms agreed to by the  
31 State Department of Fish and Wildlife and the State Forestry Department.

32 “(d) Roads, utility corridors and all utility facilities necessary to serve the Skyline Forest  
33 Sustainable Development Area shall be allowed as outright permitted uses within the Skyline  
34 Forest Sustainable Development Area, the Skyline Forest and on nearby lands regardless of  
35 the comprehensive plan or zoning designation of the lands.

36 “(e) The uses allowed by this subsection shall be allowed only upon approval of a master  
37 plan as provided by subsection (5) of this section. The master plan shall contain design  
38 criteria and standards to ensure that sustainability principles will be incorporated into the  
39 development and operation uses within the Skyline Forest Sustainable Development Area. The  
40 design criteria and standards shall promote sustainable building design, water conservation  
41 and energy conservation.

42 “(f) The master plan described in subsection (5) of this section shall incorporate design  
43 criteria and standards to ensure that there will be negligible visual impacts under normal  
44 daylight viewing conditions from Awbrey Butte and the Plainview scenic turnout located on  
45 the McKenzie-Bend Highway No. 17, also known as U.S. Route 20, near milepost 9. The design

1 criteria and standards shall also require all outdoor lighting to be downward facing, to the  
2 extent practicable.

3 “(g) The Skyline Forest Sustainable Development Area shall be served by one primary  
4 access route and by one or more emergency and secondary access routes that use existing  
5 roads as much as practicable. The access routes may be private or public roads, including  
6 roads managed by the United States Forest Service. The primary access route shall intersect  
7 the McKenzie-Bend Highway No. 17, also known as U.S. Route 20, between mileposts 3 and  
8 6 to provide access from the eastern boundary of the Skyline Forest Sustainable Develop-  
9 ment Area to the referenced highway.

10 “(h) The Skyline Forest Sustainable Development Area, including all access roads, must  
11 be developed in consultation with the State Department of Fish and Wildlife to minimize  
12 impacts on wildlife, particularly deer and elk populations.

13 “(i) The Skyline Forest Sustainable Development Area, including all access roads, must  
14 be developed in consultation with the State Forestry Department and the United States  
15 Forest Service to minimize wildfire risks.

16 “(j) The owner of the Skyline Forest Sustainable Development Area shall provide ade-  
17 quate firefighting facilities and services to address the needs of the development. All struc-  
18 tures shall be designed and maintained consistent with the default wildfire safety standards  
19 of the Oregon Forestland-Urban Interface Fire Protection Act of 1997, as set forth in ad-  
20 ministrative rules of the State Forestry Department.

21 “(k) Any wells used to provide water for uses within the Skyline Forest Sustainable De-  
22 velopment Area shall be sited to minimize impacts of groundwater use on Whychus Creek  
23 and Melvin Springs.

24 “(3) The land uses described in subsection (2) of this section shall be allowed within the  
25 Skyline Forest Sustainable Development Area upon the satisfaction of the following condi-  
26 tions:

27 “(a) The owner of the Skyline Forest and the Southern Conservation Tract transfers:

28 “(A) The Skyline Conservation Tract to a land trust for the purpose of creating commu-  
29 nity forestlands; and

30 “(B) The Southern Conservation Tract, whether to a single buyer or multiple buyers, to  
31 a land trust for the purpose of creating community forestlands or to a federal or state  
32 agency. However, the owner may choose to retain all or a portion of the Southern Conser-  
33 vation Tract, in which case the number of residential units allowed within the Skyline Forest  
34 Sustainable Development Area shall be limited as set forth in subsection (2)(a) of this sec-  
35 tion.

36 “(b) The consideration for any transfer does not exceed the fair market value of the  
37 property as established by an appraisal based on the hypothetical condition or assumption  
38 that all development rights on the properties, whether actual or potential, have been extin-  
39 guished as contemplated by subsection (6) of this section. The appraisal must comply with  
40 the Uniform Standards of Professional Appraisal Practice. The appraisal shall comply with  
41 the Uniform Appraisal Standards for Federal Land Acquisitions if:

42 “(A) The land trust or state agency proposes, in part or in whole, to use federal funds  
43 to purchase the property and has demonstrated a reasonable likelihood that federal funds  
44 will be secured for the purchase; or

45 “(B) The property is being conveyed to a federal agency.

1       “(c) The Skyline Conservation Tract and the Southern Conservation Tract will be man-  
2 aged so that wildlife and recreational values are safeguarded and the overall forest health,  
3 including sustainable timber production and wildfire prevention, is maintained over the long  
4 term.

5       “(d) The owner of the Skyline Forest Sustainable Development Area obtains the land use  
6 approvals required by subsection (5) of this section.

7       “(4) The uses authorized by subsection (2) of this section shall be allowed as outright  
8 permitted uses by Deschutes County, following approval of the master plan required by sub-  
9 section (5) of this section by Deschutes County. The uses allowed by subsection (2) of this  
10 section are allowed notwithstanding those provisions of ORS 215.700 to 215.780 relating to lot  
11 size and dwelling standards on forestlands, those statewide land use planning goals relating  
12 to agricultural lands, forestlands, public facilities and services, transportation and  
13 urbanization and those provisions of Deschutes County’s comprehensive plan and land use  
14 regulations limiting uses of forestlands. Approval of the master plan and land division appli-  
15 cations required by subsection (5) of this section for the development and use of the Skyline  
16 Forest Sustainable Development Area and all associated road and utility corridors may not  
17 require exceptions to any statewide planning goal or amendment of any local comprehensive  
18 plan or land use regulation. Deschutes County shall apply only the provisions of this section  
19 as standards and criteria for an application for, or amendment to, a master plan or land di-  
20 vision application or other development permit applications submitted pursuant to this sec-  
21 tion.

22       “(5) The owner of the Skyline Forest Sustainable Development Area may submit an ap-  
23 plication to Deschutes County for approval of a master plan for the development and use of  
24 the area. The application must be submitted within five years after the effective date of this  
25 2009 Act, subject to the following:

26       “(a) The master plan shall demonstrate compliance with subsection (2) of this section and  
27 include a tentative land division application to create the lots within the Skyline Forest  
28 Sustainable Development Area.

29       “(b) Deschutes County shall process the master plan and all land division applications  
30 pursuant to the procedural review provisions of its local land use regulations. However,  
31 Deschutes County shall approve the master plan and any tentative or final land division ap-  
32 plications if the applications are consistent with subsections (2) and (3) of this section. No  
33 additional land use or land division standards shall apply to the approval and development  
34 of the Skyline Forest Sustainable Development Area.

35       “(c) Deschutes County shall condition final approval of the master plan and land division  
36 applications on the execution of an agreement to record a conservation easement in accord-  
37 ance with subsection (2)(c) of this section, an agreement to transfer the Skyline Conserva-  
38 tion Tract to a land trust for the purpose of creating community forestlands and, if  
39 applicable, an agreement to transfer all or a portion of the Southern Conservation Tract ei-  
40 ther to a land trust for the purpose of creating community forestland or to a federal or state  
41 agency. The agreements shall specify that recordation of the conservation easement, trans-  
42 fer of the Skyline Conservation Tract and transfer of all or a portion of the Southern Con-  
43 servation Tract shall be contingent upon the following terms:

44       “(A) The owner of the Skyline Forest Sustainable Development Area shall obtain all fed-  
45 eral, state and local licenses, permits, rights and other entitlements necessary for develop-

1 ment of the Skyline Forest Sustainable Development Area, each of which shall be final and  
2 no longer subject to appeal;

3 “(B) The land trust or the federal or state agencies, as applicable, shall obtain adequate  
4 funding to purchase the Skyline Conservation Tract or the Southern Conservation Tract, as  
5 applicable, in accordance with subsection (3)(b) of this section; and

6 “(C) The land trust or the federal or state agencies shall develop and implement man-  
7 agement standards that provide reasonable assurance to the owner of the Skyline Forest  
8 Sustainable Development Area that the Skyline Conservation Tract and the Southern Con-  
9 servation Tract will be managed to establish forest health, manage wildfire risk and maintain  
10 compatibility with the Skyline Forest Sustainable Development Area.

11 “(d) The master plan and all associated land division plans shall govern development of  
12 the Skyline Forest Sustainable Development Area in perpetuity and shall not expire. Regu-  
13 lations requiring the submittal of final plats within a specified time period following tentative  
14 plan approval shall not apply to the Skyline Forest Sustainable Development Area. The  
15 master plan may be amended at any time following an administrative review by Deschutes  
16 County. Deschutes County shall approve the amendments if the amended master plan re-  
17 mains consistent with subsections (2) and (3) of this section.

18 “(6) The Deschutes Land Trust, an Oregon nonprofit corporation, shall have a right of  
19 last opportunity to purchase the Skyline Conservation Tract and the Southern Conservation  
20 Tract, and any purchase agreement shall provide a minimum of three years for the  
21 Deschutes Land Trust to obtain funding for any purchase. If at any time after two years  
22 from the date of any purchase agreement or the date of filing of a master plan under sub-  
23 section (5) of this section, whichever is later, the Deschutes Land Trust has failed to dem-  
24 onstrate a reasonable likelihood it will be able to obtain the funds necessary to complete the  
25 purchase, the owner of the Skyline Conservation Tract and the Southern Conservation Tract  
26 may seek alternative buyers for any property that is the subject of a purchase agreement  
27 under this subsection. The Deschutes Land Trust will in good faith notify the owner of the  
28 Skyline Conservation Tract and the Southern Conservation Tract if at any time during the  
29 period of any purchase agreement the Deschutes Land Trust concludes it does not wish to  
30 complete the purchase or will be unable to obtain the necessary funding to complete the  
31 purchase.

32 “(7) Development and construction uses within the Skyline Forest Sustainable Develop-  
33 ment Area may proceed according to the approved master plan once the transfer of fee title  
34 of the Skyline Conservation Tract and, as applicable, all or a portion of the Southern Con-  
35 servation Tract, is complete. Following transfer of fee title of the Skyline Conservation Tract  
36 and, as applicable, all or a portion of the Southern Conservation Tract, all development  
37 rights on the conveyed lands are extinguished and the conveyed lands shall be thereafter  
38 managed as community forestlands or as federal or state forestlands.

39 “(8) At any time within five years after the effective date of this 2009 Act, the owner of  
40 the Skyline Forest Sustainable Development Area may either file an application for a master  
41 plan pursuant to subsection (5) of this section, or submit written notice to Deschutes County  
42 and the Deschutes Land Trust stating the owner’s intent to relinquish the development op-  
43 portunities authorized by this section. Until the owner of the Skyline Forest Sustainable  
44 Development Area files a master plan application or submits a notice of relinquishment un-  
45 der this subsection, the owner may not divide, develop, obtain a lot of record determination

1 or prohibit public access to any portion of the Skyline Forest. If the owner of the Skyline  
2 Forest Sustainable Development Area submits a notice of relinquishment under this sub-  
3 section, or the owner allows the five-year time period to elapse without taking any action  
4 under this subsection, the development opportunities authorized by this section shall expire  
5 and the owner may divide, develop and prohibit public access to any portion of Skyline Forest  
6 pursuant to the laws in effect at that time.

7 “(9) If the owner of the Skyline Forest Sustainable Development Area does not file a  
8 master plan within five years of the effective date of this 2009 Act or if Deschutes County  
9 does not approve a master plan as provided in subsection (5) of this section within 15 years  
10 of the effective date of this 2009 Act, then the provisions of subsection (2) of this section  
11 shall cease to have any force or effect.

12 “(10) The development opportunities provided by this section are fully transferable and  
13 will run with the land in the event of a change of ownership of the Skyline Forest or all or  
14 a portion of the Southern Conservation Tract.”.

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