

Enrolled Senate Bill 189

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CHAPTER

AN ACT

Relating to forestland fire protection; creating new provisions; and amending ORS 477.281, 526.005, 526.305, 526.310, 526.320, 526.324, 526.328, 526.332 and 526.340.

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

SECTION 1. ORS 477.281 is amended to read:

477.281. (1) The obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland is limited to:

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund; and

(b) The payment of forest protection district assessments pursuant to ORS **477.060 and** 477.205 to 477.281.

(2) As used in this section, “obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland” does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010.

SECTION 2. ORS 526.005 is amended to read:

526.005. As used in this chapter, unless the context otherwise requires:

(1) “Board” means the State Board of Forestry.

(2) “Certified Burn Manager” means an individual, other than the forester, who is currently certified under a program established pursuant to ORS 526.360 (3).

(3) “Department” means the State Forestry Department.

(4) “Forester” means the State Forester or the authorized representative of the forester.

[(5) “Forestland” means any woodland, brushland, timberland, grazing land or clearing, which, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the opinion of the forester, a fire hazard, regardless of how the land is zoned or taxed.]

(5)(a) “Forestland” means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed.

(b) As used in this subsection, “clearing” means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in paragraph (a) of this sub-

section and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(6) "Forestry carbon offset" means a transferable unit based on a measured amount of carbon storage expressed as a carbon dioxide emission equivalent, or other equivalent standard, and accruing on forestland as live or dead matter in trees, shrubs, forest litter and soil.

(7) "Nonindustrial private forest landowner" means any forest landowner who does not own a forest products manufacturing facility that employs more than six people.

(8) "Nonindustrial private forestland" means any forestland owned by a nonindustrial private forest landowner.

SECTION 3. ORS 526.305 is amended to read:

526.305. As used in ORS 526.305 to 526.370, unless the context requires otherwise:

(1) "Committee" means a [county] forestland classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be.

SECTION 4. ORS 526.310 is amended to read:

526.310. (1) **Pursuant to a request by the State Forester:**

(a) The governing body of [each] a county [containing forestland] may establish a [county] forestland classification committee of [five] **six** persons, of whom one shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service, **one by the State Fire Marshal** and three by the governing body. Of the members appointed by the governing body, one must be an owner of forestland [or a representative thereof], and, **if the land to be investigated and studied by the committee includes or is expected to include grazing land**, one must be an owner of grazing land [or a representative thereof]; **or**

(b) The governing bodies of two or more counties may, by written agreement, establish a joint forestland classification committee. One member of a joint committee shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service and one by the State Fire Marshal. The governing body of each participating county shall appoint two members. Of the members appointed by a governing body to a joint committee, one must be an owner of forestland.

(2) Each appointing authority shall file with the [forester] **State Forester** the name of its appointee or appointees, and the persons so named shall constitute the committee [for the county]. **Unless otherwise provided for by the appointing authority, members of the committee shall serve a term of four years and may be reappointed to any number of terms.** Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the [forester] **State Forester** by that authority of written notice of [removal and] the name of the new appointee.

[2] (3) The committee shall elect from among its members a chair and a secretary and may elect [or employ] other officers[, agents and employees,] as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

[3(a)] (4)(a) The governing body of [the] a county may provide for the committee and its [employees] **members** such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions.

(b) The forester may provide for the committee and its [employees] **members** such accommodations and supplies and such forest protection district funds as the forester finds necessary for the proper performance of the committee's functions.

[4] (5) The members of the committee shall receive no compensation for their services but [the] a governing body or [the forester] a **forest protection district** may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties.

SECTION 5. ORS 526.320 is amended to read:

526.320. Upon establishment of a **forestland classification** committee under ORS 526.310, the committee shall **periodically** investigate and study all *[forestland]* **land** within *[its county]* **the boundaries of its county or counties** and determine which of the land is *[suitable primarily for the production of timber, which is suitable primarily for joint use for timber production and the grazing of livestock, and which is suitable primarily for grazing or other agricultural use]* **forestland**. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved.

SECTION 6. ORS 526.324 is amended to read:

526.324. (1) Upon the basis of its investigation and determination under ORS 526.320, a committee shall assign all forestland within *[its county]* **the boundaries of its county or counties and within a forest protection district** to one of the following *[classes]* **classifications**:

(a) Class 1, timber class, includes *[all]* forestland *[primarily]* suitable for the production of timber **and may include lands on which structures are present**.

(b) Class 2, timber and grazing class, includes *[all]* forestland *[primarily]* suitable for joint use for timber production and the grazing of livestock, *[as a permanent or semipermanent joint use, or as a temporary joint use during the interim between logging and reforestation]* **and may include lands on which structures are present**.

(c) Class 3, agricultural class, includes *[all]* forestland *[primarily]* suitable for grazing of livestock or other agricultural use **and may include lands on which structures are present**.

(2) The committee *[first]* shall adopt *[a]* preliminary *[classification]* **classifications** and *[upon its completion]* shall cause notice thereof to be published once a week for two consecutive weeks in *[a newspaper of general circulation in the county]* **one or more newspapers of general circulation within the boundaries of its county or within the boundaries of each of its counties** and to be posted in three public places within the *[county]* **boundaries of its county or within the boundaries of each of its counties**. The notice shall state the time and place for *[hearing or receiving objections, remonstrances or suggestions as to the proposed classification and the place where a statement of the preliminary classification]* **the public hearing required pursuant to ORS 526.328 and where maps of the preliminary classifications** may be inspected.

SECTION 7. ORS 526.328 is amended to read:

526.328. (1) The committee shall hold a public hearing **within the boundaries of its county or within the boundaries of each of its counties** at the time and place stated in the notice published under ORS 526.324 (2), or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the *[proposed classification]* **preliminary classifications**. Following the hearing the committee may make such changes *[in]* **to** the preliminary *[classification]* **classifications** as it finds to be proper, and thereafter shall *[make its]* **adopt** final *[classification]* **classifications**.

(2) All action by the committee in *[classifying or reclassifying forestland]* **adopting final classifications** shall be by formal written order *[which]* **that** must include a statement of findings of fact on the basis of which the order is made, and must include a *[map showing the]* **list of tax lots affected by the classifications or reclassifications** *[made]*. **The committee shall prepare one or more maps showing the final classifications, but the maps may not be included as part of the formal written order**. The original of the order shall be filed *[immediately]* with the county clerk of *[the]* **its county**, *[who shall maintain it available for public inspection.]* **or with the county clerk of each of its counties. The order need not meet the requirements of ORS 205.232, 205.234 and 205.236 to be filed and recorded.** A copy of the order certified by the secretary of the committee shall be sent to the State *[Board of Forestry]* **Forester**.

SECTION 8. ORS 526.332 is amended to read:

526.332. (1) Any owner of land classified under ORS 526.328 or 526.340 who is aggrieved by the classification may, within 30 days after the date of the order making the classification, appeal to the circuit court for the county. *The appeal shall be taken by serving the* **in which the property is located. If the forestland classification committee has been established for more than one**

county and the property is located in more than one of those counties, the owner of the land may appeal to the circuit court for any of those counties. Notice of an appeal shall be promptly served on the secretary of the committee or, if the classification was made under ORS 526.340, on the State Forester, and by filing such a notice with the county clerk.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury.

SECTION 9. ORS 526.340 is amended to read:

526.340. (1) *[In the event no classification of forestland is made by a committee within a county in which such land is situated because no committee was appointed for a period of time exceeding two years or, if appointed,]* **The State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:**

(a) The governing body of a county has failed to establish a forestland classification committee within two years after the State Forester made a request under ORS 526.310 (1);

(b) A forestland classification committee *[did not act for a period of time exceeding two years or acted]* has failed to adopt and file a final classification pursuant to ORS 526.328 within the five-year period after the date the forestland classification committee was first established; or

(c) A forestland classification committee has failed to act in a manner *[inconsistent with law, the State Forester may make the final classifications that were otherwise to be made by a committee.]* consistent with ORS 526.310, 526.320, 526.324 and 526.328.

(2) Classifications by the State Forester have the same force and effect as though made by a forestland classification committee *[for that county]*. However, classifications made by the State Forester cease to be effective if replaced by classifications made pursuant to ORS 526.320, 526.324 and 526.328 *[by the appropriate committee]*.

SECTION 10. Section 11 of this 2009 Act is added to and made a part of ORS 526.305 to 526.340.

SECTION 11. The State Board of Forestry may adopt rules as necessary to implement ORS 526.305 to 526.340.

Passed by Senate March 4, 2009

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Secretary of Senate

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President of Senate

Passed by House April 7, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State