

Senate Bill 382

Sponsored by Senator MORRISETTE, Representative WITT; Senators ATKINSON, DEVLIN, MONNES ANDERSON, MONROE, NELSON, PROZANSKI, ROSENBAUM, VERGER, Representatives BUCKLEY, GARRARD, HOLVEY, ROBLAN, G SMITH

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**.

Creates process for forestland owners or cooperative associations of log haulers to petition State Forester to determine rate of compensation for log haulers. Requires forester to determine rate of compensation for log haulers. Prohibits forestland owners from paying rate of compensation lower than rate of compensation determined by forester and from discriminating against person or cooperative association for participating in determination process.

A BILL FOR AN ACT

1
2 Relating to compensation for log haulers.

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

4 **SECTION 1. (1) The Legislative Assembly finds that:**

5 **(a) The forest products industry is a vital component of Oregon's economy and has a di-**
6 **rect relationship to the economic health and welfare of workers, rural communities and**
7 **businesses.**

8 **(b) Central to the viability of Oregon's forest products industry is a stable workforce of**
9 **skilled, experienced loggers and log haulers available to harvest and transport wood from**
10 **Oregon's forests.**

11 **(c) Stability of this workforce is endangered when inadequate compensation rates for log**
12 **haulers induce the log haulers to shortchange safety through inadequate equipment mainte-**
13 **nance, inadequate investment in new equipment and violation of hours of service limitations**
14 **in order to earn a living wage.**

15 **(d) The safety of Oregonians using the public highways is endangered when log haulers**
16 **are induced to compromise safety due to inadequate hourly compensation.**

17 **(e) Many log haulers serving Oregon's forest products industry own and operate a single**
18 **log-hauling vehicle, and a log hauler's compensation from forestland owners compensates the**
19 **log hauler for both the log hauler's personal services and the cost of maintaining and oper-**
20 **ating the log hauler's vehicle.**

21 **(f) The cost of maintaining a log-hauling vehicle in safe operating condition is increased**
22 **by the need to operate the vehicle on unpaved roadways in forest areas.**

23 **(g) Based on patterns and configurations of forestland ownership, the hauling of forest**
24 **products is performed by numerous log haulers who are economically dependent on a small**
25 **group of large commercial forestland owners.**

26 **(h) An imbalance of market power exists when one forestland owner owns, possesses or**
27 **acquires economic control over more than 100,000 acres of forest in a labor market area.**

28 **(i) The imbalance of market power in determining compensation rates and the lack of**

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 opportunity to join together to bargain over compensation rates prevents log haulers from
 2 operating in a manner suitable for the public interest of Oregonians and results in inade-
 3 quate compensation for log haulers.

4 (j) It is in the public interest to ensure a reasonable rate of compensation for log haulers
 5 to ensure that log haulers earn a reasonable living wage without compromising the safety
 6 of their vehicles or the safety of their operation.

7 (k) It is in the public interest to create a process whereby the State Forester will oversee
 8 a system to ensure adequate compensation for log haulers and thereby ensure that the public
 9 welfare of the State of Oregon is protected.

10 (2) The Legislative Assembly further finds that:

11 (a) It is in the public interest to extend to log haulers who are owner-operators that are
 12 not covered by the National Labor Relations Act, their cooperative or labor union rights to
 13 bargain with the largest commercial forestland owners in Oregon, either individually or
 14 through their association, for the purpose of establishing a rate of compensation for log
 15 haulers who are owner-operators to benefit their families and rural timber dependent com-
 16 munities in Oregon.

17 (b) The establishment of a bargaining process to ensure fair and adequate compensation
 18 for log haulers who are owner-operators is consistent with state policies that established
 19 similar processes for other agricultural cooperative community groups such as grass seed
 20 growers and seafood harvesters.

21 (c) The bargaining processes shall be limited to rate of compensation issues such as
 22 hours, wages and working conditions. Labor is not a commodity or article of commerce
 23 under 15 U.S.C. 17 and therefore the right to establish minimum or living wage compensation
 24 is within the purview of state actions that are not preempted by federal legislation.

25 **SECTION 2.** As used in sections 1 to 5 of this 2009 Act:

26 (1) "Cooperative association" means a cooperative nonprofit membership-based entity:

27 (a) Whose purpose is to promote the interests of log haulers through participation in a
 28 process to determine compensation rates under section 3 of this 2009 Act;

29 (b) That is registered as a cooperative corporation with the State of Oregon; and

30 (c) That represents at least 75 log haulers in a labor market area.

31 (2) "Economic control" means the legal right, whether through ownership, contract or
 32 otherwise, to make or influence decisions regarding the harvest of trees and disposition of
 33 logs harvested from the subject land.

34 (3) "Forestland" means agricultural forestland used primarily for the growth of trees to
 35 be harvested for commercial use.

36 (4) "Forestland owner" means:

37 (a) A person or public body, as defined in ORS 174.109, that owns directly, or through
 38 affiliated persons, or possesses economic control over, more than 100,000 acres in the State
 39 of Oregon; or

40 (b) An agent or subsidiary of a person or public body described in paragraph (a) of this
 41 subsection if that agent or subsidiary is involved in contracting or negotiating contracts or
 42 other arrangements, written or oral, with forest products harvesters or log haulers.

43 (5) "Labor market area" means:

44 (a) Counties whose commercial forestland is composed primarily of Douglas fir located
 45 predominantly in western Oregon; or

1 (b) Counties whose commercial forest is composed primarily of pine located predomi-
2 nantly in eastern Oregon.

3 (6) "Log hauler" means a person having a place of business in this state who is engaged
4 in the agricultural activity of hauling trees harvested from Oregon forestland under a con-
5 tract or subcontract, directly or indirectly, with a forestland owner.

6 **SECTION 3.** (1) It is the intent of sections 1 to 5 of this 2009 Act to displace competition
7 with a system for mediation in the Oregon log-hauling industry to a limited degree. The
8 regulatory program grants immunity from federal and state antitrust laws to Oregon log
9 haulers and forestland owners for the limited purpose of allowing the log haulers and
10 forestland owners to engage in negotiations for a compensation rate for the transportation
11 of logs by log haulers from forestlands in Oregon. The activities of any party that comply
12 with sections 1 to 5 of this 2009 Act do not constitute a conspiracy or a combination in re-
13 straint of trade or any other unlawful activity in violation of a provision of ORS 646.705 to
14 646.826 or federal antitrust laws.

15 (2) A cooperative association may negotiate with one or more forestland owners or an
16 association of forestland owners to establish a compensation rate for members of the coop-
17 erative association who haul logs. The forestland owners may negotiate the compensation
18 rate for hauling logs in this state by means of a committee that sets forth the views of the
19 forestland owners and votes on issues being negotiated as authorized by this section, in-
20 cluding the compensation rate for hauling logs. Participation by a forestland owner in nego-
21 tiations is voluntary.

22 (3) If forestland owners negotiate a compensation rate by means of a committee under
23 subsection (2) of this section, nonparticipating forestland owners are not bound by the acts
24 of the committee.

25 (4) Any agreement that arises from negotiations conducted under subsection (2) of this
26 section are binding only on the parties that participate in the negotiations and agree to be
27 so bound.

28 (5) The State Forester is authorized to actively supervise the conduct of a cooperative
29 association and a representative committee of forestland owners in establishing a compen-
30 sation rate for hauling logs from forestlands in Oregon. The State Forester is authorized to
31 supervise the negotiations between the parties, review the compensation rate established by
32 the negotiations and approve the compensation rate proposed by the parties. The State
33 Forester must approve the proposed compensation rate and any adjustments to previously
34 approved rates before the compensation rate may be implemented.

35 (6) The State Forester may compel the parties to take whatever action the State
36 Forester considers necessary to:

37 (a) Ensure that the parties are engaging in conduct that is authorized under this section;

38 (b) Ensure that the policies of this state are being fulfilled under the regulatory program;
39 and

40 (c) Enjoin conduct by any of the parties that is not authorized by the State Forester or
41 conduct that the State Forester finds does not advance the interests of this state in carrying
42 out the regulatory program.

43 (7) The State Forester may adopt rules to carry out the State Forester's authority under
44 this section.

45 (8) The State Forester may designate persons as deemed necessary to carry out the re-

1 responsibility of actively supervising the conduct of the parties, including persons to serve as
2 intermediaries between the respective parties. Persons designated by the State Forester un-
3 der this subsection must be employees of the State Forestry Department.

4 (9) The State Forester by rule may set and collect fees from the parties who are partic-
5 ipants in a regulatory program as needed.

6 (10) The State Forester may approve a proposed rate of compensation only if the rate is
7 adequate to ensure a sufficient number of log haulers and to ensure that log haulers earn a
8 living wage within existing or future regulations regarding hours of service, fuel costs,
9 weight and equipment maintenance.

10 **SECTION 4.** A forestland owner may not:

11 (1) Discriminate against any person, trade association, labor union or cooperative asso-
12 ciation that participates in a compensation rate determination process under sections 1 to 5
13 of this 2009 Act.

14 (2) Once a compensation rate has been determined by the State Forester, the rate may
15 not be lowered by those forestland owners that participated in the process in that labor
16 market area for 12 months.

17 **SECTION 5.** (1) Sections 1 to 5 of this 2009 Act are intended to displace existing market
18 forces based on a legislative finding that the existing market forces do not permit the af-
19 fected market to function normally and do not ensure the safety and stability of the log-
20 hauling industry or the safety of the general public.

21 (2) Activities carried out under sections 1 to 5 of this 2009 Act do not constitute a con-
22 spiracy or a combination in restraint of trade or an illegal monopoly, nor are they carried
23 out for the purposes of lessening competition or fixing prices arbitrarily, as long as the ac-
24 tivities are carried out for the purpose of preparing for, initiating or participating in a com-
25 pensation rate determination process under sections 1 to 5 of this 2009 Act.

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