

House Bill 2998

Sponsored by Representative READ, Senators HANSELL, ROBLAN, Representatives HOYLE, PARRISH, SMITH; Representatives BARRETO, BENTZ, BUEHLER, CLEM, DAVIS, FREDERICK, GOMBERG, GORSEK, HACK, HELM, HUFFMAN, JOHNSON, MCKEOWN, MCLAIN, NEARMAN, OLSON, POST, REARDON, WHISNANT, WHITSETT, WILSON, WITT, Senators BAERTSCHIGER JR, DEMBROW, EDWARDS, FERRIOLI, GIROD, KNOPP, KRUSE, THOMSEN, WHITSETT, WINTERS

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**.

Requires Oregon Business Development Department to establish programs for providing economic development assistance to persons engaged in business of western juniper harvesting or of manufacturing products from western juniper, for providing technical business assistance to western juniper harvesting and related manufacturing businesses, for providing or funding workforce training assistance for potential western juniper harvesting and related manufacturing business workers and for mapping and identification of high quality marketable stands of western juniper.

Establishes Western Juniper Industry Fund. Appropriates moneys from General Fund to Western Juniper Industry Fund for purposes of newly established programs for western juniper harvesting and related manufacturing businesses during 2015-2017 biennium.

Declares western juniper harvesting to be activity promoting farm use of land. Provides for western juniper harvesting and connected activities to be regulated by State Department of Agriculture as agricultural activity instead of being regulated as forestry activity. Requires State Department of Agriculture to establish regulatory program for western juniper harvesting and connected activities.

Declares emergency, effective July 1, 2015.

A BILL FOR AN ACT

1
2 Relating to western juniper; creating new provisions; amending ORS 468B.100, 468B.105, 468B.110
3 and 527.620; and declaring an emergency.

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

5 **SECTION 1. As used in sections 2 to 5 of this 2015 Act:**

6 (1) **"Business development project" has the meaning given that term in ORS 285B.050.**

7 (2) **"Western juniper" means trees of the species *Juniperus occidentalis*.**

8 **SECTION 2. (1) The Oregon Business Development Department shall establish a program**
9 **to provide economic development assistance to persons engaged in the business of western**
10 **juniper harvesting or of manufacturing products from western juniper. The department may**
11 **provide the economic development assistance for any western juniper harvesting or related**
12 **manufacturing business development project that the department deems reasonable, includ-**
13 **ing but not limited to the provision of moneys for business or infrastructure expansion and**
14 **the hiring or retention of workers.**

15 (2) **The department shall provide economic development assistance under this section**
16 **either as a loan or a grant. If the department provides the economic development assistance**
17 **as a loan, the department shall make the loan subject to partial or full forgiveness if the**
18 **borrower meets detailed performance measures. Subject to subsection (5) of this section, the**
19 **department may provide both loans and grants to a person to meet business development**
20 **project needs for the western juniper harvesting or related manufacturing business of the**
21 **person.**

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 (3) An application for economic development assistance under this section must:

2 (a) Be submitted as a loan application in a form acceptable to the department; and

3 (b) Contain a business development project plan.

4 (4)(a) The department may issue a loan under this section only if the business develop-
5 ment project plan contained in the loan application demonstrates to the satisfaction of the
6 department that:

7 (A) The project is feasible and reasonable from a practical and economic standpoint;

8 (B) The project is unlikely to be developed without economic development assistance
9 from the department; and

10 (C) The western juniper harvesting or related manufacturing business will have a rea-
11 sonable prospect of meeting performance measures required by the department.

12 (b) A loan made under this section may be interest-bearing or interest-free and may be
13 secured by any assets or revenues agreed to by the department and the borrower.

14 (c) The department may establish detailed performance measures that, if met by the
15 borrower, may result in all or part of the loan being forgiven. The performance measures
16 may include, but need not be limited to, employment figures, payroll amounts, sales, limita-
17 tions on expenses and the amounts of western juniper harvested or otherwise removed from
18 lands in this state due to the business. A loan made under this section must require the
19 borrower to repay the loan if the western juniper harvesting or related manufacturing busi-
20 ness fails to meet required performance measures.

21 (5) The department may issue a grant under this section only if a loan application is
22 submitted under subsection (3) of this section and the department determines that the re-
23 payment of a loan for a needed business development project would create an undue hardship
24 that would impair the viability of the western juniper harvesting or related manufacturing
25 business. The department may use a grant issued in accordance with this subsection to
26 supplement or replace economic development assistance that the department provides as a
27 loan under this section.

28 (6) Loans and grants authorized under this section shall be made from the Western
29 Juniper Industry Fund established under section 6 of this 2015 Act. Any principal and inter-
30 est paid to the department by a borrower on a loan made under this section shall be depos-
31 ited in the fund.

32 **SECTION 3.** The Oregon Business Development Department shall establish a program to
33 provide technical business assistance to persons engaged in, or proposing to engage in, the
34 business of western juniper harvesting or of manufacturing products from western juniper.
35 The department may provide standardized or customized technical business assistance to
36 support the creation, growth or development of a western juniper harvesting or related
37 manufacturing business, including but not limited to assistance designed to improve business
38 efficiency, stability, transparency and profitability.

39 **SECTION 4.** (1) The Oregon Business Development Department shall establish a program
40 to provide, or to partially or fully fund the provision of, workforce training assistance to
41 persons engaged in the business of western juniper harvesting or of manufacturing products
42 from western juniper. The department may provide or fund standardized or customized
43 worker training to support the growth and development of a business under this section,
44 including but not limited to training designed to qualify workers in harvesting, commercial
45 driving and milling.

1 (2) The department shall give preference to creating basic worker skills, but may also
 2 provide or fund training to assist in the maintenance or advancement of worker skills to
 3 ensure the viability of western juniper harvesting or related manufacturing businesses in
 4 this state. The department, the Employment Department, local governments as defined in
 5 ORS 174.116, nonprofit organizations and private associations may enter into cooperative
 6 agreements for:

7 (a) Identifying the projected workforce needs of western juniper harvesting or related
 8 manufacturing businesses, potential workers for those businesses and the training needs of
 9 those potential workers; and

10 (b) Providing workforce training assistance to meet the needs described in paragraph (a)
 11 of this subsection.

12 (3) Workforce training assistance described in this section must be designed to increase
 13 the likelihood that individuals in the local areas near western juniper harvesting or related
 14 manufacturing businesses will have the necessary skill sets to obtain work in those busi-
 15 nesses. The Oregon Business Development Department may give preference to training in-
 16 dividuals in the local areas who are unemployed.

17 **SECTION 5.** The Oregon Business Development Department shall, in consultation with
 18 the State Forester and the Director of Agriculture, establish a program to identify and map
 19 high quality marketable stands of western juniper that can be harvested in a commercially
 20 and environmentally reasonable manner for use in manufacturing. The department shall de-
 21 sign the program to maximize the use of remote sensing technology to carry out the mapping
 22 and identification. To the extent practicable, the department shall design the program to
 23 make use of information developed from other state efforts to map western juniper and as-
 24 sociated landscape scale restoration and wildlife initiatives. The department shall make the
 25 mapping and identification information available without charge for use by persons engaged
 26 in the business of western juniper harvesting or of manufacturing products from western
 27 juniper. The department may periodically review and update the program results.

28 **SECTION 6.** The Western Juniper Industry Fund is established in the State Treasury,
 29 separate and distinct from the General Fund. Interest earned by the Western Juniper In-
 30 dustry Fund shall be credited to the fund. The fund shall consist of any moneys appropriated,
 31 allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.
 32 Moneys in the fund are continuously appropriated to the Oregon Business Development De-
 33 partment for the purpose of carrying out programs established under sections 2 to 5 of this
 34 2015 Act. Any moneys deposited in the fund for the purpose of carrying out a particular
 35 program shall be kept in a separate subaccount of the fund and accounted for separately.

36 **SECTION 7.** In addition to and not in lieu of any other appropriation, there is appropri-
 37 ated to the Western Juniper Industry Fund, for the biennium beginning July 1, 2015, out of
 38 the General Fund, the amount of \$900,000, which may be expended by the Oregon Business
 39 Development Department as follows:

- 40 (1) \$500,000 for carrying out the program required by section 2 of this 2015 Act.
- 41 (2) \$200,000 for carrying out the program required by section 3 of this 2015 Act.
- 42 (3) \$100,000 for carrying out the program required by section 4 of this 2015 Act.
- 43 (4) \$100,000 for carrying out the program required by section 5 of this 2015 Act.

44 **SECTION 8.** (1) As used in this section, “western juniper” means trees of the species
 45 *Juniperus occidentalis*.

1 **(2) The Legislative Assembly finds and declares that:**

2 **(a) Western juniper harvesting promotes the preservation and reclamation of land for**
 3 **farm use by slowing or halting the spreading of western juniper on or to agricultural land,**
 4 **regardless of whether the harvest site is agricultural land; and**

5 **(b) Regulation of western juniper harvesting as an agricultural activity may reasonably**
 6 **be expected to facilitate the development of businesses engaged in western juniper harvesting**
 7 **or in manufacturing products from western juniper.**

8 **(3) Western juniper harvesting, and activity connected with western juniper harvesting,**
 9 **on land of any classification is declared to be an agricultural activity carried out in con-**
 10 **nection with the farm use of land. Western juniper harvesting, and activity connected with**
 11 **western juniper harvesting, conducted in accordance with the program described in sub-**
 12 **section (4) of this section is exempt from the Oregon Forest Practices Act.**

13 **(4) The State Department of Agriculture shall establish a program to regulate western**
 14 **juniper harvesting within this state. The department may adopt any rules the department**
 15 **considers appropriate for carrying out the program. The department shall design the pro-**
 16 **gram to ensure that western juniper harvesting, and activity connected with western juniper**
 17 **harvesting:**

18 **(a) Prioritizes environmental benefit to land that has high ecological and economic value;**
 19 **and**

20 **(b) May be performed at a rate that satisfies the needs of businesses engaged in manu-**
 21 **facturing products from western juniper and in a manner that is consistent with applicable**
 22 **federal and state laws, including but not limited to laws for rangeland fire prevention, ero-**
 23 **sion control, water quality preservation and the protection or benefit of fish and wildlife.**

24 **(5) The department may design the program to give priority to western juniper harvest-**
 25 **ing, and activity associated with western juniper harvesting, that:**

26 **(a) Produces a substantial environmental benefit to land that has high ecological values;**

27 **(b) Produces a substantial economic or environmental benefit to land that is in farm use;**
 28 **or**

29 **(c) Ensures the economic viability of businesses engaged in western juniper harvesting**
 30 **or in manufacturing products from western juniper.**

31 **(6) The department shall design the program so that, among those harvesting and activ-**
 32 **ity projects that utilize public funds, preference is given to projects that implement**
 33 **collaboratively developed best management practices to maintain environmental function and**
 34 **benefit on lands that have high ecological value.**

35 **(7) Notwithstanding subsections (4) and (5) of this section, the program described in this**
 36 **section need not include the regulation of any matter that the Director of Agriculture deems**
 37 **is regulated to the same or a greater extent under other programs of the department.**

38 **SECTION 9.** ORS 468B.100 is amended to read:

39 468B.100. As used in ORS 468B.105 and 468B.110[,]:

40 **(1) “Forestlands” and “operation” have the [meaning for] meanings given those terms**
 41 **[provided] in ORS 527.620.**

42 **(2) “Western juniper harvesting” means any activity authorized under the State Depart-**
 43 **ment of Agriculture program established under section 8 of this 2015 Act and conducted in**
 44 **accordance with that program.**

45 **SECTION 10.** ORS 468B.105 is amended to read:

1 468B.105. Upon request of the State Board of Forestry, the Environmental Quality Commission
2 shall review any water quality standard that affects forest operations on forestlands. **Upon request**
3 **of the State Board of Agriculture, the commission shall review any water quality standard**
4 **that affects western juniper harvesting.** The commission's review may be limited to or coordi-
5 nated with the triennial or any other regularly scheduled review of the state's water quality stan-
6 dards, consistent with ORS 468B.048 and 468B.110 and applicable federal law.

7 **SECTION 11.** ORS 468B.110 is amended to read:

8 468B.110. (1) Except as provided in subsection (2) of this section, as necessary to achieve and
9 maintain standards of water quality or purity adopted under ORS 468B.048, the Environmental
10 Quality Commission or Department of Environmental Quality may, by rule or order, impose and
11 enforce limitations or other controls [*which*] **that** may include total maximum daily loads, wasteload
12 allocations for point sources and load allocations for nonpoint sources, as provided in the Federal
13 Water Pollution Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued pursuant
14 thereto.

15 (2) Unless required to do so by the provisions of the Federal Water Pollution Control Act, nei-
16 ther the Environmental Quality Commission nor the Department of Environmental Quality shall
17 promulgate or enforce any effluent limitation upon nonpoint source discharges of pollutants result-
18 ing from forest operations on forestlands in this state **or, except as provided in ORS 568.930, from**
19 **western juniper harvesting.** Implementation of any limitations or controls applying to nonpoint
20 source discharges or pollutants resulting from forest operations are subject to ORS 527.765 and
21 527.770. **Implementation of any limitations or controls applying to nonpoint source discharges**
22 **or pollutants resulting from western juniper harvesting are subject to State Department of**
23 **Agriculture rules adopted under section 8 of this 2015 Act.** However, nothing in this section is
24 intended to affect the authority of the commission or the Department of Environmental Quality
25 provided by law to impose and enforce limitations or other controls on water pollution from sources
26 other than forest operations **or western juniper harvesting.**

27 (3) When the Environmental Quality Commission establishes instream water quality standards
28 to protect designated beneficial uses in the waters of the state, [*it*] **the commission** shall consider,
29 where applicable, available scientific information including, but not limited to, streamflow,
30 geomorphology and other factors representing the variability and complexity of hydrologic systems
31 and intrinsic water quality conditions.

32 (4) When the Environmental Quality Commission establishes instream water quality standards,
33 [*it*] **the commission** will also issue guidelines describing how the Department of Environmental
34 Quality and the commission will determine whether water quality standards in waters affected by
35 nonpoint source activities are being met. In developing these guidelines, the commission shall in-
36 clude, where applicable, those physical characteristics such as streamflow, geomorphology, seasons,
37 frequency, duration, magnitude and other factors [*which*] **that** represent the variability and com-
38 plexity of forested and other appropriate hydrologic systems.

39 **SECTION 12.** ORS 527.620 is amended to read:

40 527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:

41 (1) "Board" means the State Board of Forestry.

42 (2) "Cumulative effects" means the impact on the environment which results from the incre-
43 mental impact of the forest practice when added to other past, present and reasonably foreseeable
44 future forest practices regardless of what governmental agency or person undertakes such other
45 actions.

1 (3) “DBH” means the diameter at breast height which is measured as the width of a standing
2 tree at four and one-half feet above the ground, on the uphill side.

3 (4) “Edge of the roadway” means:

4 (a) For interstate highways, the fence.

5 (b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the
6 shoulder.

7 (5) “Forest practice”:

8 (a) **Except as provided in paragraph (b) of this subsection**, means any operation conducted
9 on or pertaining to forestland, including but not limited to:

10 [(a)] (A) Reforestation of forestland;

11 [(b)] (B) Road construction and maintenance;

12 [(c)] (C) Harvesting of forest tree species;

13 [(d)] (D) Application of chemicals;

14 [(e)] (E) Disposal of slash; and

15 [(f)] (F) Removal of woody biomass.

16 (b) **Does not mean the harvesting of western juniper as defined in section 8 of this 2015**
17 **Act on forestland, or any activity connected with western juniper harvesting on forestland,**
18 **if the harvesting or activity is authorized under and conducted in accordance with the State**
19 **Department of Agriculture program described in section 8 of this 2015 Act.**

20 (6) “Forest tree species” means any tree species capable of producing logs, fiber or other wood
21 materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest
22 products except **western juniper as defined in section 8 of this 2015 Act** or trees grown to be
23 Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.

24 (7) “Forestland” means land that is used for the growing and harvesting of forest tree species,
25 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
26 or regulations are applied.

27 (8) “Harvest type 1” means an operation that requires reforestation but does not require wildlife
28 leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free to grow
29 seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of
30 the board that represents adequate utilization of the productivity of the site.

31 (9) “Harvest type 2” means an operation that requires wildlife leave trees but does not require
32 reforestation. A harvest type 2 does not require reforestation because it has an adequate combined
33 stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

34 (a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an
35 equivalent basal area in larger trees, per acre;

36 (b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equiv-
37 alent basal area in larger trees, per acre; or

38 (c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent
39 basal area in larger trees, per acre.

40 (10) “Harvest type 3” means an operation that requires reforestation and requires wildlife leave
41 trees. This represents a level of stocking below which the size of operations is limited under ORS
42 527.740 and 527.750.

43 (11) “Landowner” means any individual, combination of individuals, partnership, corporation or
44 association of whatever nature that holds an ownership interest in forestland, including the state
45 and any political subdivision thereof.

1 (12) "Operation" means any commercial activity relating to the establishment, management or
 2 harvest of forest tree species except as provided by the following:

3 (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on
 4 land used solely for the production of Christmas trees.

5 (b) The establishment, management or harvest of hardwood timber, including but not limited to
 6 hybrid cottonwood, that is:

7 (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared
 8 of competing vegetation for at least three years after tree planting;

9 (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper pro-
 10 ducts;

11 (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

12 (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect
 13 control and disease control.

14 (c) The establishment, management or harvest of trees actively farmed or cultured for the pro-
 15 duction of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

16 (d) The establishment, management or harvest of ornamental, street or park trees within an
 17 urbanized area, as that term is defined in ORS 221.010.

18 (e) The management or harvest of a juniper species **that is not excepted under subsection (6)**
 19 **of this section from being a forest tree species, if the management or harvest is** conducted
 20 in a unit of less than 120 contiguous acres within a single ownership.

21 (f) The establishment or management of trees intended to mitigate the effects of agricultural
 22 practices on the environment or fish and wildlife resources, such as trees that are established or
 23 managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed
 24 lands.

25 (g) The development of an approved land use change after timber harvest activities have been
 26 completed and land use conversion activities have commenced.

27 (13) "Operator" means any person, including a landowner or timber owner, who conducts an
 28 operation.

29 (14) "Single ownership" means ownership by an individual, partnership, corporation, limited li-
 30 ability company, trust, holding company or other business entity, including the state or any political
 31 subdivision thereof. Single ownership includes ownership held under different names or titles where
 32 the same individual or individuals, or their heirs or assigns, are shareholders (other than those of
 33 public corporations whose stock is traded on the open market), partners, business trustees or offi-
 34 cers, or otherwise have an interest in or are associated with each property.

35 (15) "State Forester" means the State Forester or the duly authorized representative of the State
 36 Forester.

37 (16) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield logs
 38 or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other
 39 forest products.

40 (17) "Timber owner" means any individual, combination of individuals, partnership, corporation
 41 or association of whatever nature, other than a landowner, that holds an ownership interest in any
 42 forest tree species on forestland.

43 (18) "Visually sensitive corridor" means forestland extending outward 150 feet, measured on the
 44 slope, from the outermost edge of the roadway of a scenic highway referred to in ORS 527.755, along
 45 both sides for the full length of the highway.

1 (19) "Wildlife leave trees" means trees or snags required to be retained as described in ORS
2 527.676 (1).

3 (20) "Written plan" means a document prepared by an operator, timber owner or landowner that
4 describes how the operation is planned to be conducted.

5 **SECTION 13. Notwithstanding section 8 of this 2015 Act and the amendments to ORS**
6 **527.620 by section 12 of this 2015 Act, the Oregon Forest Practices Act applies to western**
7 **juniper harvesting, and activity connected with western juniper harvesting, that occurs prior**
8 **to the effective date of initial rules adopted by the State Department of Agriculture for the**
9 **purpose of carrying out the provisions of section 8 of this 2015 Act.**

10 **SECTION 14. Section 13 of this 2015 Act is repealed on January 2, 2017.**

11 **SECTION 15. This 2015 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
13 **July 1, 2015.**