

House Bill 3546

Sponsored by Representatives BENTZ, MCKEOWN; Representatives BARKER, ESQUIVEL, FREDERICK, GILLIAM, HUFFMAN, JOHNSON, KENNEMER, KOMP, KRIEGER, PARRISH, SMITH, VEGA PEDERSON, WHISNANT, Senators GIROD, HANSELL, KRUSE, OLSEN, WHITSETT, WINTERS (at the request of Oregon Cattlemen's Association)

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**.

Finds and declares that Baker, Crook, Harney, Lake and Malheur Counties are qualitatively different and unique sage grouse habitat, making counties separate and distinct class for purposes of levying state tax assessment. Requires State Department of Agriculture to impose assessment on cattle raised in Baker, Crook, Harney, Lake or Malheur County. Provides for establishing zero assessment rate if greater sage grouse is listed as endangered under federal Endangered Species Act.

Establishes Sage Grouse Habitat Conservation and Restoration Fund to receive moneys collected from assessment. Appropriates fund moneys to department for purposes of distributing grants to soil and water conservation districts where assessed cattle were raised. Provides for districts to use grant moneys to fund projects for sage grouse conservation or sage grouse habitat conservation or restoration in areas where sage grouse listing would affect or potentially would affect cattle production activities.

Requires department to make assessment effective beginning January 1, 2016.

Sunsets assessment on January 2, 2021.

Sunsets other provisions on January 2, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to habitat projects by cattle producers; creating new provisions; amending ORS 577.520 and
3 604.992; declaring an emergency; and providing for revenue raising that requires a three-fifths
4 majority.

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

6 **SECTION 1. Sections 2 to 6 of this 2015 Act are added to and made a part of ORS chapter**
7 **604.**

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

9 (a) Baker, Crook, Harney, Lake and Malheur Counties possess natural resources that
10 make those counties uniquely well-suited as sage grouse habitat;

11 (b) The quality and quantity of sage grouse habitat in Baker, Crook, Harney, Lake and
12 Malheur Counties makes those counties qualitatively different and distinguishable from all
13 other Oregon counties;

14 (c) If sage grouse are listed as threatened or endangered under the federal Endangered
15 Species Act (16 U.S.C. 1531 et seq.), the quality and quantity of sage grouse habitat in Baker,
16 Crook, Harney, Lake and Malheur Counties is expected to cause cattle producers in those
17 counties to become subject to significant and widespread restrictions that are qualitatively
18 different and unique relative to impacts on cattle producers in other Oregon counties;

19 (d) The distinguishable, qualitatively different and unique nature of Baker, Crook,
20 Harney, Lake and Malheur Counties makes those counties appropriate as a separate and
21 distinct class of subjects for purposes of levying a state tax assessment;

22 (e) The effects that a listing of sage grouse under the federal Endangered Species Act

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 would have on cattle production activities make the cattle production industry an appropri-
 2 ate object of taxation within the class identified in paragraph (d) of this subsection; and

3 (f) The cattle production industry in Baker, Crook, Harney, Lake and Malheur Counties
 4 has a significant effect on the economic and social well-being of the state in general, making
 5 it a matter of state interest to protect the functionality of that industry.

6 (2) In addition to any other assessments or fees, except as provided in this section, the
 7 State Department of Agriculture shall impose an assessment of not less than \$____ and not
 8 more than \$____ per head for cattle described in this subsection that were raised in Baker,
 9 Crook, Harney, Lake or Malheur County. The assessment shall be collected on the same
 10 cattle raised in those counties that are subject to brand inspections under ORS 599.269 or
 11 this chapter. The department may not impose an assessment under this section on cattle
 12 raised as part of a dairy operation.

13 (3) If the department at any time determines that the greater sage grouse (*Centrocercus*
 14 *urophasianus*) has been listed as endangered under the federal Endangered Species Act, the
 15 department shall establish or adjust the amount of the assessment under this section to be
 16 zero and notify any entity described in section 4 of this 2015 Act of the zero assessment rate.

17 **SECTION 3.** The Sage Grouse Habitat Conservation and Restoration Fund is established
 18 in the State Treasury, separate and distinct from the General Fund. Interest earned by the
 19 Sage Grouse Habitat Conservation and Restoration Fund shall be credited to the fund. Mon-
 20 eys in the fund are continuously appropriated to the State Department of Agriculture for the
 21 purpose of issuing block grants to soil and water conservation districts under section 5 of
 22 this 2015 Act. Notwithstanding ORS 561.150, moneys from the assessment imposed under
 23 section 2 of this 2015 Act shall be deposited to the fund and credited to separate subaccounts
 24 as determined by the department and separately accounted for.

25 **SECTION 4.** (1) As used in this section:

26 (a) "Assessment county" means Baker, Crook, Harney, Lake or Malheur County.

27 (b) "Raised in an assessment county" means present in one or more assessment counties
 28 for four months or longer during the 12 months preceding the time that the cattle become
 29 subject to brand inspection fee collection.

30 (2) An entity described in ORS 599.269 or 604.066 (3) that collects brand inspection fees
 31 from a cattle producer shall, for all cattle raised in an assessment county, also collect any
 32 assessment due under section 2 of this 2015 Act. When collecting brand inspection fees, the
 33 entity shall obtain information from the cattle producer to determine whether the cattle
 34 were raised in an assessment county. The entity shall keep records in the manner required
 35 by the State Department of Agriculture showing the assessment amount collected and each
 36 of the assessment counties in which the assessed cattle were raised. This subsection does
 37 not require an entity to collect information from the cattle producer if the department has
 38 established a zero assessment rate under section 2 of this 2015 Act.

39 (3) Information collected from a cattle producer under this section is exempt from public
 40 disclosure as provided under ORS 192.501 (5).

41 (4) Except as provided in subsection (5) of this section, an entity collecting an assessment
 42 under this section shall forward the collected assessment moneys and the information de-
 43 scribed in subsection (1) of this section to the department. The department shall deposit the
 44 moneys in the Sage Grouse Habitat Conservation and Restoration Fund. The department
 45 shall determine the subaccounts to be credited for the deposit based on the assessment

1 counties in which the cattle were raised. If cattle were raised in more than one assessment
 2 county, the subaccounts for those assessment counties shall be credited with an equal share
 3 of the assessment on those cattle.

4 (5) An entity that collects and forwards assessments to the department under this sec-
 5 tion may retain the first \$2,000 of assessment moneys that the entity collects under this
 6 section as a one-time allowance for the cost to the entity of establishing and administering
 7 the assessment collection.

8 **SECTION 5.** (1) The State Department of Agriculture shall disburse the available moneys
 9 of the Sage Grouse Habitat Conservation and Restoration Fund as block grants to soil and
 10 water conservation districts formed under ORS 568.210 to 568.808 and located in whole or in
 11 part in Baker, Crook, Harney, Lake or Malheur County for the purpose of enabling the dis-
 12 tricts to fund projects for sage grouse conservation or sage grouse habitat conservation or
 13 restoration in the counties where a sage grouse listing under the federal Endangered Species
 14 Act would affect, or would have the potential to affect, cattle production activities. A grant
 15 that the department issues under this section shall be paid out of a fund subaccount main-
 16 tained for the county in which the district is located. The department shall disburse the
 17 available moneys in the fund as grants not less frequently than once every two months. The
 18 department may deduct its administrative costs incurred under sections 2 to 6 of this 2015
 19 Act prior to making the disbursements, not to exceed four percent of the collected assess-
 20 ment moneys.

21 (2) The department shall issue block grants from the fund subaccount for a county only
 22 to districts that are located in whole or in part in that county. If more than one district is
 23 located within a county, the department shall apportion the grant among those districts
 24 based upon the amount of district land within the county. If a district is located in more than
 25 one county, the district may receive grant moneys from more than one subaccount.

26 (3) Notwithstanding any other provision of this section, if a district declines to accept
 27 grant moneys under this section, the department shall distribute the moneys as described in
 28 subsection (4) of this section.

29 (4) If a district declines to accept grant moneys under this section, the department shall:

30 (a) At the request of the district declining the moneys, redirect the declined moneys as
 31 a grant to a specified district located wholly or partly in the same county; or

32 (b) Except as provided in paragraph (a) of this subsection, apportion the moneys among
 33 all other districts wholly or partly in the same county or, if none, among all other districts
 34 qualifying for the receipt of moneys under this section.

35 **SECTION 6.** (1) As used in this section, “projects for sage grouse conservation or sage
 36 grouse habitat conservation or restoration” means projects for fuel load reduction, fire res-
 37 toration, habitat improvement, invasive species control, juniper removal, water improve-
 38 ments, predator species control or other projects that will conserve, maintain or restore
 39 sage grouse populations or sage grouse habitat.

40 (2) Except as provided in this section, a soil and water conservation district has the sole
 41 discretion to select the projects for sage grouse conservation or sage grouse habitat con-
 42 servation or restoration in the district to be funded with the grant moneys the district re-
 43 ceives under section 5 of this 2015 Act.

44 (3) A district may use the grant moneys only to fund projects for sage grouse conserva-
 45 tion or sage grouse habitat conservation or restoration carried out by cattle producers that

1 **paid an assessment imposed under section 2 of this 2015 Act during the 12 months imme-**
 2 **diately prior to seeking project funding from the district. Any information received by a**
 3 **district to verify that a cattle producer qualifies for the receipt of funding is exempt from**
 4 **disclosure under ORS 192.501 (5).**

5 (4) **A district may use the grant moneys only to fund projects for sage grouse conserva-**
 6 **tion or sage grouse habitat conservation or restoration in locations where a sage grouse**
 7 **listing under the federal Endangered Species Act would affect, or would have the potential**
 8 **to affect, cattle production activities. Except as provided in this subsection, a district may**
 9 **fund only projects that are located in whole or in part within the district. If a district has**
 10 **declined to accept grant moneys under section 5 of this 2015 Act, a cattle producer proposing**
 11 **a project within that district may seek funding from any other district that received the**
 12 **declined moneys under section 5 (4) of this 2015 Act.**

13 (5) **A district shall give notice to interested parties regarding projects for sage grouse**
 14 **conservation or sage grouse habitat conservation or restoration for which funding is sought**
 15 **and allow an opportunity for cattle producers to submit comments. The comments may in-**
 16 **clude, but need not be limited to, comments submitted by advisory committees appointed by**
 17 **the district to review and make recommendations regarding project funding.**

18 **SECTION 7.** ORS 577.520 is amended to read:

19 577.520. (1) The operators of all stockyards, slaughterhouses, packing plants and livestock auc-
 20 tion markets shall deduct from the proceeds of sale owing by them to the respective owners of ani-
 21 mals the assessments authorized by ORS 577.512 **and section 2 of this 2015 Act.**

22 (2) When an operator sends or gives any written statement to an owner or agent relating to the
 23 proceeds owing the owner, the operator shall include a statement of the amount deducted from the
 24 proceeds for Oregon Beef Council purposes, the amount deducted from the proceeds for federal as-
 25 sessments, **the amount deducted for assessments under section 2 of this 2015 Act** and the
 26 amount deducted from the proceeds for brand inspection services.

27 (3) In accordance with the provisions of law, operators shall promptly pay directly to the State
 28 Department of Agriculture all contributions collected by them.

29 **SECTION 8.** ORS 577.520, as amended by section 7 of this 2015 Act, is amended to read:

30 577.520. (1) The operators of all stockyards, slaughterhouses, packing plants and livestock auc-
 31 tion markets shall deduct from the proceeds of sale owing by them to the respective owners of ani-
 32 mals the assessments authorized by ORS 577.512 [*and section 2 of this 2015 Act*].

33 (2) When an operator sends or gives any written statement to an owner or agent relating to the
 34 proceeds owing the owner, the operator shall include a statement of the amount deducted from the
 35 proceeds for Oregon Beef Council purposes, the amount deducted from the proceeds for federal
 36 assessments[, *the amount deducted for assessments under section 2 of this 2015 Act*] and the amount
 37 deducted from the proceeds for brand inspection services.

38 (3) In accordance with the provisions of law, operators shall promptly pay directly to the State
 39 Department of Agriculture all contributions collected by them.

40 **SECTION 9.** ORS 604.992 is amended to read:

41 604.992. (1) Violation of any of the provisions of this chapter, or the administrative rules
 42 **adopted** or orders [*promulgated thereunder*] **issued under this chapter**, is a Class B misdemeanor.

43 (2) Notwithstanding ORS 14.030 to 14.080, an action for violation of brand inspection require-
 44 **ments or of assessment payment requirements under section 2 of this 2015 Act** may be com-
 45 menced and tried in either the county where the cattle movement originated or the county where

1 the cattle movement terminated.

2 **SECTION 10.** ORS 604.992, as amended by section 9 of this 2015 Act, is amended to read:

3 604.992. (1) Violation of any of the provisions of this chapter, or the administrative rules adopted
4 or orders issued under this chapter, is a Class B misdemeanor.

5 (2) Notwithstanding ORS 14.030 to 14.080, an action for violation of brand inspection require-
6 ments [*or of assessment payment requirements under section 2 of this 2015 Act*] may be commenced
7 and tried in either the county where the cattle movement originated or the county where the cattle
8 movement terminated.

9 **SECTION 11.** The amendments to ORS 577.520 by section 8 of this 2015 Act become op-
10 erative January 2, 2021.

11 **SECTION 12.** The amendments to ORS 604.992 by section 10 of this 2015 Act become op-
12 erative January 2, 2021.

13 **SECTION 13.** The State Department of Agriculture shall make the initial assessment that
14 the department imposes under section 2 of this 2015 Act effective beginning January 1, 2016.

15 **SECTION 14.** Section 2 of this 2015 Act is repealed January 2, 2021. The repeal of section
16 2 of this 2015 Act by this section does not relieve any person of responsibility for an assess-
17 ment incurred prior to January 2, 2021.

18 **SECTION 15.** Sections 3, 4, 5 and 6 of this 2015 Act are repealed January 2, 2022. A soil
19 and water conservation district shall repay to the state for deposit to the Department of
20 Agriculture Account any grant moneys received by the district under section 5 of this 2015
21 Act that remain unexpended and uncommitted on January 2, 2022.

22 **SECTION 16.** This 2015 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
24 on its passage.

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