

# Senate Bill 248

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Forestry Department)

## 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**.

Authorizes State Forester to enter into and administer contracts for activities necessary or convenient for sales of timber from lands owned or managed by State Board of Forestry or State Forestry Department. Exempts activity contracts from public contracting laws.

Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to sales of timber from state lands; amending ORS 279A.025, 279A.050, 530.050 and 530.500;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 530.050 is amended to read:

6 530.050. Under the authority and direction of the State Board of Forestry except as otherwise  
7 provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant  
8 to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state,  
9 and to that end may:

10 (1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with  
11 persons owning lands within the state in the protection of the lands and enter into all agreements  
12 necessary or convenient for the protection of the lands.

13 (2) Sell forest products from the lands, and execute mining leases and contracts as provided for  
14 in ORS 273.551.

15 (3) Enter into and administer contracts for the sale of timber from lands owned or managed by  
16 the State Board of Forestry and the State Forestry Department.

17 (4) **Enter into and administer contracts for activities necessary or convenient for the sale**  
18 **of timber under subsection (3) of this section, either separately from or in conjunction with**  
19 **contracts for the sale of timber, including but not limited to activities such as timber har-**  
20 **vesting and sorting, transporting, gravel pit development or operation, and road con-**  
21 **struction, maintenance or improvement.**

22 [(4)] (5) Permit the use of the lands for other purposes, including but not limited to forage and  
23 browse for domestic livestock, fish and wildlife environment, landscape effect, protection against  
24 floods and erosion, recreation, and protection of water supplies when, in the opinion of the board,  
25 the use is not detrimental to the best interest of the state.

26 [(5)] (6) Grant easements, permits and licenses over, through and across the lands. The State  
27 Forester may require and collect reasonable fees or charges relating to the location and establish-  
28 ment of easements, permits and licenses granted by the state over the lands. The fees and charges  
29 collected shall be used exclusively for the expenses of locating and establishing the easements,

**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 permits and licenses under this subsection and shall be placed in the State Forestry Department  
2 Account.

3 [(6)] (7) Require and collect fees or charges for the use of state forest roads. The fees or charges  
4 collected shall be used exclusively for purposes of maintenance and improvements of the roads and  
5 shall be placed in the State Forestry Department Account.

6 [(7)] (8) Reforest the lands and cooperate with the counties, and with persons owning  
7 timberlands within the state, in the reforestation, and make all agreements necessary or convenient  
8 for the reforestation.

9 [(8)] (9) Require such undertakings as in the opinion of the board are necessary or convenient  
10 to secure performance of any contract entered into under the terms of this section or ORS 273.551.

11 [(9)] (10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may  
12 be negotiated without bidding, provided the appraised value of the materials does not exceed \$2,500.

13 [(10)] (11) Enter into agreements, each for not more than 10 years duration, for the production  
14 of minor forest products.

15 [(11)] (12) Establish a forestry carbon offset program to market, register, transfer or sell forestry  
16 carbon offsets. In establishing the program, the forester may:

17 (a) Execute any contracts or agreements necessary to create opportunities for the creation of  
18 forestry carbon offsets; and

19 (b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of  
20 forestry carbon offsets.

21 [(12)] (13) Do all things and make all rules, not inconsistent with law, necessary or convenient  
22 for the management, protection, utilization and conservation of the lands.

23 **SECTION 2.** ORS 530.500 is amended to read:

24 530.500. In order to accomplish the purposes of ORS 530.490, the State Forester may:

25 (1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with  
26 persons owning lands within the state in the protection of the lands and enter into all agreements  
27 necessary or convenient for the protection of the lands.

28 (2) Enter into and administer contracts for the sale of timber from lands owned or managed by  
29 the State Board of Forestry and the State Forestry Department.

30 **(3) Enter into and administer contracts for activities necessary or convenient for the sale**  
31 **of timber under subsection (2) of this section, either separately from or in conjunction with**  
32 **contracts for the sale of timber, including but not limited to activities such as timber har-**  
33 **vesting and sorting, transporting, gravel pit development or operation, and road con-**  
34 **struction, maintenance or improvement.**

35 [(3)] (4) Permit the use of the lands for other purposes, including but not limited to fish and  
36 wildlife environment, landscape effect, protection against flood and erosion, recreation and pro-  
37 duction and protection of water supplies when the use is not detrimental to the purpose for which  
38 the lands are dedicated.

39 [(4)] (5) Contract with other governmental bodies for the protection of water supplies to facili-  
40 tate the multiple use of publicly owned water supplies for recreational purposes as well as a source  
41 of water for domestic and industrial use.

42 [(5)] (6) Grant permits and licenses on, over and across the lands.

43 [(6)] (7) Reforest the lands and cooperate with persons owning timberlands within the state in  
44 the reforestation, and make all agreements necessary or convenient for the reforestation.

45 [(7)] (8) Establish a forestry carbon offset program to market, register, transfer or sell forestry

1 carbon offsets. In establishing the program, the forester may:

2 (a) Execute any contracts or agreements necessary to create opportunities for the creation of  
3 forestry carbon offsets; and

4 (b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of  
5 forestry carbon offsets.

6 [(8)] (9) Do all things and make all rules and regulations, not inconsistent with law, necessary  
7 or convenient for the management, protection, utilization and conservation of the lands.

8 [(9)] (10) Require such undertakings as in the opinion of the State Forester are necessary or  
9 convenient to secure performance of any agreement authorized in ORS 530.450 to 530.520.

10 **SECTION 3.** ORS 279A.025 is amended to read:

11 279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting  
12 Code applies to all public contracting.

13 (2) The Public Contracting Code does not apply to:

14 (a) Contracts between a contracting agency and:

15 (A) Another contracting agency;

16 (B) The Oregon Health and Science University;

17 (C) A public university listed in ORS 352.002;

18 (D) The Oregon State Bar;

19 (E) A governmental body of another state;

20 (F) The federal government;

21 (G) An American Indian tribe or an agency of an American Indian tribe;

22 (H) A nation, or a governmental body in a nation, other than the United States; or

23 (I) An intergovernmental entity formed between or among:

24 (i) Governmental bodies of this or another state;

25 (ii) The federal government;

26 (iii) An American Indian tribe or an agency of an American Indian tribe;

27 (iv) A nation other than the United States; or

28 (v) A governmental body in a nation other than the United States;

29 (b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or  
30 other authority for establishing agreements between or among governmental bodies or agencies or  
31 tribal governing bodies or agencies;

32 (c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and  
33 414.145 for purposes of source selection;

34 (d) Grants;

35 (e) Contracts for professional or expert witnesses or consultants to provide services or testimony  
36 relating to existing or potential litigation or legal matters in which a public body is or may become  
37 interested;

38 (f) Acquisitions or disposals of real property or interest in real property;

39 (g) Sole-source expenditures when rates are set by law or ordinance for purposes of source se-  
40 lection;

41 (h) Contracts for the procurement or distribution of textbooks;

42 (i) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

43 (j) The procurement, transportation or distribution of distilled liquor, as defined in ORS 471.001,  
44 or the appointment of agents under ORS 471.750 by the Oregon Liquor Control Commission;

45 (k) Contracts entered into under ORS chapter 180 between the Attorney General and private

1 counsel or special legal assistants;

2 (L) Contracts for the sale of timber from lands owned or managed by the State Board of Forestry  
3 and the State Forestry Department;

4 **(m) Contracts for activities necessary or convenient for the sale of timber under para-**  
5 **graph (L) of this subsection, either separately from or in conjunction with contracts for the**  
6 **sale of timber, including but not limited to activities such as timber harvesting and sorting,**  
7 **transporting, gravel pit development or operation, and road construction, maintenance or**  
8 **improvement;**

9 [(m)] (n) Contracts for forest protection or forest related activities, as described in ORS 477.406,  
10 by the State Forester or the State Board of Forestry;

11 [(n)] (o) Contracts entered into by the Housing and Community Services Department in exer-  
12 cising the department's duties prescribed in ORS chapters 456 and 458, except that the department's  
13 public contracting for goods and services is subject to ORS chapter 279B;

14 [(o)] (p) Contracts entered into by the State Treasurer in exercising the powers of that office  
15 prescribed in ORS chapters 178, 286A, 287A, 289, 293, 294 and 295, including but not limited to in-  
16 vestment contracts and agreements, banking services, clearing house services and collateralization  
17 agreements, bond documents, certificates of participation and other debt repayment agreements, and  
18 any associated contracts, agreements and documents, regardless of whether the obligations that the  
19 contracts, agreements or documents establish are general, special or limited, except that the State  
20 Treasurer's public contracting for goods and services is subject to ORS chapter 279B;

21 [(p)] (q) Contracts, agreements or other documents entered into, issued or established in con-  
22 nection with:

23 (A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;

24 (B) The making of program loans and similar extensions or advances of funds, aid or assistance  
25 by a public body to a public or private body for the purpose of carrying out, promoting or sustaining  
26 activities or programs authorized by law; or

27 (C) The investment of funds by a public body as authorized by law, and other financial trans-  
28 actions of a public body that by their character cannot practically be established under the com-  
29 petitive contractor selection procedures of ORS 279B.050 to 279B.085;

30 [(q)] (r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221,  
31 243.275, 243.291, 243.303 and 243.565;

32 [(r)] (s) Contracts for employee benefit plans as provided in ORS 243.860 to 243.886; or

33 [(s)] (t) Any other public contracting of a public body specifically exempted from the code by  
34 another provision of law.

35 (3) The Public Contracting Code does not apply to the contracting activities of:

36 (a) The Oregon State Lottery Commission;

37 (b) The legislative department;

38 (c) The judicial department;

39 (d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to  
40 279.855 and 279A.250 to 279A.290;

41 (e) Oregon Corrections Enterprises;

42 (f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to  
43 279A.290;

44 (g) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

45 (h) The Oregon 529 College Savings Network and the Oregon 529 College Savings Board;

- 1 (i) The Oregon Innovation Council;
- 2 (j) The Oregon Utility Notification Center; or
- 3 (k) Any other public body specifically exempted from the code by another provision of law.

4 (4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with  
 5 qualified nonprofit agencies providing employment opportunities for individuals with disabilities un-  
 6 der ORS 279.835 to 279.855.

7 **SECTION 4.** ORS 279A.050 is amended to read:

8 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting  
 9 agency shall exercise all procurement authority in accordance with the provisions of the Public  
 10 Contracting Code.

11 (b) When a contracting agency has authority under this section to carry out functions described  
 12 in this section, or has authority to make procurements under a provision of law other than the  
 13 Public Contracting Code, the contracting agency is not required to exercise that authority in ac-  
 14 cordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the  
 15 contract or contracting authority.

16 (2) Except as otherwise provided in the Public Contracting Code, for state agencies the Director  
 17 of the Oregon Department of Administrative Services has all the authority to carry out the pro-  
 18 visions of the Public Contracting Code.

19 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation  
 20 has all the authority to:

21 (a) Procure or supervise the procurement of all services and personal services to construct, ac-  
 22 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking  
 23 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

24 (b) Procure or supervise the procurement of all goods, services, public improvements and per-  
 25 sonal services relating to the operation, maintenance or construction of highways, bridges and other  
 26 transportation facilities that are subject to the authority of the Department of Transportation; and

27 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective  
 28 bidders on public improvement contracts related to the operation, maintenance or construction of  
 29 highways, bridges and other transportation facilities that are subject to the authority of the De-  
 30 partment of Transportation.

31 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all  
 32 the authority to procure or supervise the procurement of goods, services and personal services re-  
 33 lated to programs under the authority of the Secretary of State.

34 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the  
 35 authority to procure or supervise the procurement of goods, services and personal services related  
 36 to programs under the authority of the State Treasurer.

37 (6) The state agencies listed in this subsection have all the authority to do the following in ac-  
 38 cordance with the Public Contracting Code:

39 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-  
 40 vices and personal services under ORS 179.040 for the department's institutions and the procurement  
 41 of goods, services and personal services for the construction, demolition, exchange, maintenance,  
 42 operation and equipping of housing for the purpose of providing care to individuals with intellectual  
 43 disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

44 (b) The Oregon Health Authority to procure or supervise the procurement of goods, services and  
 45 personal services under ORS 179.040 and construction materials, equipment and supplies for the

1 authority's institutions and the procurement of goods, services, personal services, construction ma-  
2 terials, equipment and supplies for the construction, demolition, exchange, maintenance, operation  
3 and equipping of housing for persons with chronic mental illness, subject to applicable provisions  
4 of ORS 426.504;

5 (c) The State Department of Fish and Wildlife to procure or supervise the procurement of con-  
6 struction materials, equipment, supplies, services and personal services for public improvements,  
7 public works or ordinary construction described in ORS 279C.320 that is subject to the authority  
8 of the State Department of Fish and Wildlife;

9 (d) The State Parks and Recreation Department to procure or supervise the procurement of all  
10 goods, services, public improvements and personal services relating to state parks;

11 (e) The Oregon Department of Aviation to procure or supervise the procurement of construction  
12 materials, equipment, supplies, services and personal services for public improvements, public works  
13 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon  
14 Department of Aviation;

15 (f) The Oregon Business Development Department to procure or supervise the procurement of  
16 all goods, services, personal services and public improvements related to its foreign trade offices  
17 operating outside the state;

18 (g) The Housing and Community Services Department to procure or supervise the procurement  
19 of goods, services and personal services as provided in ORS 279A.025 [(2)(n)] (2)(o);

20 (h) The Department of Corrections to procure or supervise the procurement of construction  
21 materials, equipment, supplies, services and personal services for public improvements, public works  
22 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-  
23 ment of Corrections;

24 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,  
25 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-  
26 vices and personal services under ORS 179.040 for its institutions;

27 (j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate  
28 broker and principal real estate broker services related to programs under the department's au-  
29 thority;

30 (k) The Oregon Military Department to procure or supervise the procurement of construction  
31 materials, equipment, supplies, services and personal services for public improvements, public works  
32 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon  
33 Military Department;

34 (L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085  
35 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425), to pro-  
36 cure or supervise the procurement of goods, services, personal services and information technology  
37 relating to student assessment; and

38 (m) Any state agency to conduct a procurement when the agency is specifically authorized by  
39 any provision of law other than the Public Contracting Code to enter into a contract.

40 (7) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department  
41 of Administrative Services has exclusive authority, unless the director delegates this authority, to  
42 procure or supervise the procurement of all price agreements on behalf of the state agencies iden-  
43 tified in subsection (6)(a) to (k) of this section under which more than one state agency may order  
44 goods, services or personal services and, except for contracts procured by the Oregon Health Au-  
45 thority, all state agency information technology contracts. This subsection does not apply to con-

1 tracts under which the contractor delivers to the state agency information technology products or  
2 services incidental to the performance of personal services contracts described in ORS chapter 279C  
3 or construction contracts described in ORS chapter 279C. A state agency identified in subsection (3)  
4 or (6)(a) to (k) of this section may not establish a price agreement or enter into a contract for goods,  
5 services, personal services, construction materials, equipment or supplies without the approval of  
6 the director if the director has established a price agreement for the goods, services or personal  
7 services.

8 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**  
9 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
10 **July 1, 2015.**

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