

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2985**

1 On page 1 of the printed bill, delete lines 4 through 26 and delete pages  
2 2 through 4 and insert:

3 **“SECTION 1. As used in sections 1 to 6 of this 2015 Act:**

4 **“(1) ‘County project coordinator’ means the county forester or a**  
5 **designee of the county forester or, if there is no county forester, a**  
6 **designee of the county governing body.**

7 **“(2) ‘Dealer’ means a person or agent of a person, other than a co-**  
8 **operative, that purchases or contracts to purchase forestry products.**

9 **“(3) ‘Forestland’ means land for which the highest and best use is**  
10 **the growing of forestry products.**

11 **“(4) ‘Forestry product cooperative project’ means a county pro-**  
12 **gram, administered by a county project coordinator, for forestry pro-**  
13 **ducts grown on nonforest land within the county to be commercially**  
14 **produced and marketed through a forestry product cooperative.**

15 **“(5) ‘Forestry products’:**

16 **“(a) Except as provided in paragraph (b) of this subsection, means**  
17 **products from harvested timber.**

18 **“(b) Does not mean products from short rotation fiber grown under**  
19 **agricultural conditions as described in ORS 321.267 (3) or 321.824 (3),**  
20 **western juniper or products from harvested western juniper.**

21 **“(6) ‘Local government’ has the meaning given that term in ORS**  
22 **174.116.**

1       **“(7) ‘Nonforest lands’ means lands other than:**

2       **“(a) Lands in western Oregon that are forestland as defined in ORS**  
3 **321.257; or**

4       **“(b) Lands in eastern Oregon that are forestland as defined in ORS**  
5 **321.805.**

6       **“(8) ‘Party’ means a county, county project coordinator, county**  
7 **employee, producer or dealer that carries out activities or engages in**  
8 **transactions regarding a forestry product cooperative project.**

9       **“(9) ‘Producer’ means a possessor of land on which trees are grown**  
10 **for harvesting as forestry products.**

11       **“SECTION 2. (1) The Legislative Assembly finds and declares that**  
12 **because of the logistical challenges associated with the utilization of**  
13 **individual trees on nonforest lands, and because of the benefits from**  
14 **gains in commercial production and marketing of forestry products**  
15 **that may result from coordinating the activities of producers and**  
16 **buyers, it is in the public interest to establish cooperatives to coordi-**  
17 **nate the tracking, removal and sale of trees and to set prices to ac-**  
18 **complish increased utilization.**

19       **“(2) It is the intent of sections 1 to 6 of this 2015 Act to allow the**  
20 **displacement of competition through a regulatory system for the**  
21 **commercial production and marketing of forestry products under the**  
22 **forestry product cooperative projects of counties to the limited degree,**  
23 **and for the limited period, described in subsection (7) of this section.**  
24 **The regulatory system is intended to grant immunity from federal and**  
25 **state antitrust laws to the parties to a forestry product cooperative**  
26 **project for the limited purpose of allowing the parties to bargain col-**  
27 **lectively and to arrive at a negotiated price for forestry products**  
28 **produced on nonforest land within a county.**

29       **“(3) The activities of any party that comply with the requirements**  
30 **of the regulatory system described in sections 1 to 6 of this 2015 Act**

1 and State Forester rules for carrying out the regulatory system and  
2 forestry product cooperative projects may not be considered to be in  
3 restraint of trade, a conspiracy or combination or any other unlawful  
4 activity in violation of any provision of ORS 646.705 to 646.826 or fed-  
5 eral antitrust laws.

6 “(4) The State Forester shall actively supervise the conduct of a  
7 party in negotiating tentative prices for forestry products bought and  
8 sold as part of a forestry product cooperative project. The State  
9 Forester shall actively supervise, and establish procedures and guide-  
10 lines for, the negotiations between the parties and shall review the  
11 tentative prices established by those negotiations. The State Forester  
12 must set the prices for forestry products bought and sold as part of a  
13 forestry product cooperative project by formal action before the prices  
14 may be implemented. In setting the prices for the forestry products,  
15 the State Forester may give consideration to the tentative prices for  
16 those forestry products negotiated between the parties. The State  
17 Forester must make any adjustments to previously set prices for  
18 forestry products by formal action before the adjustments may be  
19 implemented.

20 “(5) The State Forester may compel the parties to take whatever  
21 action the State Forester considers necessary to:

22 “(a) Ensure that the parties are engaging in conduct that is au-  
23 thorized under sections 1 to 6 of this 2015 Act;

24 “(b) Ensure that the policies of this state are being fulfilled under  
25 a forestry product cooperative project; and

26 “(c) Prevent conduct by any of the parties that is not authorized  
27 under the regulatory system administered by the State Forester or  
28 conduct that, in the opinion of the State Forester, does not advance  
29 the interests of this state in carrying out the regulatory system for  
30 forestry product cooperative projects.

1       **“(6) The State Forester may take any actions the State Forester**  
2 **deems appropriate to resolve disputes between the parties that involve**  
3 **or arise out of a forestry product cooperative project, including but**  
4 **not limited to referring the dispute for mediation, arbitration or**  
5 **hearing.**

6       **“(7) For the period prior to July 1, 2019, the forestry product coop-**  
7 **erative project displaces competition regarding the commercial pro-**  
8 **duction and marketing of forestry products on nonforest land only in**  
9 **those areas of Clackamas County where a forestry product cooperative**  
10 **project is in effect. However, the displacement of competition under**  
11 **this subsection shall cease if the State Forester terminates the**  
12 **forestry product cooperative project in Clackamas County under sec-**  
13 **tion 6 of this 2015 Act.**

14       **“(8) The State Forester may designate employees of the State**  
15 **Forestry Department to carry out the responsibility of actively super-**  
16 **vising the conduct of the parties, including serving as intermediaries**  
17 **between parties or prospective parties.**

18       **“(9) The State Forester may adopt rules to carry out the State**  
19 **Forester’s authority under sections 1 to 6 of this 2015 Act. The de-**  
20 **partment and a county operating a forestry product cooperative**  
21 **project program shall enter into a memorandum of understanding for**  
22 **the county to reimburse the department for the actual costs to the**  
23 **department of providing services for the benefit of the program.**  
24 **Moneys paid by a county as reimbursement shall be deposited in the**  
25 **State Forestry Department Account established under ORS 526.060.**

26       **“SECTION 3. Subject to sections 2 and 4 of this 2015 Act, a county**  
27 **administering a forestry product cooperative project may do the fol-**  
28 **lowing to carry out the program:**

29       **“(1) Negotiate and enter into an agreement with persons, cities or**  
30 **other governmental entities willing to commercially produce forestry**

1 products as members of the forestry product cooperative. The agree-  
2 ment must specify the number, type and location of trees covered by  
3 the agreement. The State Forester may impose additional require-  
4 ments for the contents of agreements described in this subsection. A  
5 tree that is covered by an agreement must be marked for identification  
6 purposes as required by the county. An agreement may not be used  
7 to alter the supply of buildable land within an urban growth boundary.

8 “(2) Negotiate with one or more producers and dealers to establish  
9 the price for forestry products sold through the cooperative. The  
10 dealers may negotiate through a committee that sets forth the views  
11 of the dealers and votes on any issues being negotiated as authorized  
12 by this section, including the price for forestry products. However, a  
13 person that is both a producer and a dealer may not participate in  
14 negotiations under this section.

15 “(3) Enter into intergovernmental agreements with other counties  
16 for the sharing of administrative or other project resources and ser-  
17 vices and to provide for joint action by the counties in the selling of  
18 forest projects. An intergovernmental agreement described in this  
19 subsection may not take effect unless the agreement has been re-  
20 viewed and approved by the State Forester. An intergovernmental  
21 agreement described in this subsection is a part of the forestry product  
22 cooperative project of each county entering into the agreement. An  
23 intergovernmental agreement described in this subsection must in-  
24 clude a provision allowing a county to withdraw from the agreement  
25 after notice to the other party counties and to the State Forester.

26 “SECTION 4. (1) A forestry product cooperative project shall oper-  
27 ate:

28 “(a) In all areas of a county that are outside of city limits;

29 “(b) On residential or commercial properties, or properties owned  
30 by nonprofit entities, located in a city that elects to allow the project

1 within the city limits; and

2 “(c) On lands owned by any governmental entity that elects to  
3 participate in the project.

4 “(2) An election by a city or other governmental entity to allow or  
5 participate in the project must be by formal action of the governing  
6 body for the city or other governmental entity.

7 “(3) A county may undertake efforts to inform cities and other  
8 governmental entities about a forestry product cooperative project and  
9 the opportunities for the cities and governmental entities to elect to  
10 allow or participate in the project.

11 “(4) A county and a city may work jointly to adopt components of  
12 a forestry product cooperative project within city limits. A city elect-  
13 ing to allow the project may specify how the project is to be adminis-  
14 tered within the city limits, including but not limited to specifications  
15 regarding land use zoning requirements, maintenance requirements  
16 and the issuance of tree removal permits for harvesting of trees en-  
17 rolled in the program. This subsection does not authorize a city to  
18 regulate the project on lands owned by a governmental entity de-  
19 scribed in subsection (1)(c) of this section that are located inside city  
20 limits.

21 “(5) If a change in city limits causes a property that is participating  
22 in a forestry product cooperative project to become located inside city  
23 limits, notwithstanding any other provision of this section, the prop-  
24 erty may continue to participate in the project under the terms of the  
25 agreement described in section 3 (1) of this 2015 Act for that property.

26 **“SECTION 5. (1) Except as provided in this section and section 4 (4)**  
27 **of this 2015 Act, a local government may not enforce an ordinance to**  
28 **require or prohibit the removal of a tree that is subject to a forestry**  
29 **product cooperative project. This subsection does not prohibit a local**  
30 **government from:**

1       “(a) Enforcing a county ordinance approved by the State Forester  
2 for regulating trees subject to a forestry product cooperative project  
3 or regulating land on which a tree that is subject to a forestry product  
4 cooperative project is located;

5       “(b) Enforcing a county ordinance adopted to implement compre-  
6 hensive plan policies developed to address statewide land use goals;

7       “(c) Enforcing a local ordinance regulating a tree that is removed  
8 from a forestry product cooperative project;

9       “(d) Exercising the power of eminent domain to acquire fee title to  
10 the land on which a tree that is subject to a forestry product cooper-  
11 ative project is located; or

12       “(e) Acting or requiring action to remedy or mitigate a hazardous  
13 condition in a tree that presents an imminent threat of serious harm  
14 to persons or property.

15       “(2) This section does not prevent the application of a local ordi-  
16 nance to require or prohibit the removal of a tree if the tree becomes  
17 subject to the forestry product cooperative project more than five  
18 years after the tree is planted.

19       “(3) This section does not require a county project coordinator or  
20 the State Forester to consent to the inclusion or continued inclusion  
21 of a tree in a forestry product cooperative project.

22       “(4) If the land on which a tree subject to a forestry product coop-  
23 erative project is located is sold, the tree shall continue to be a tree  
24 subject to the forestry product cooperative project unless:

25       “(a) The new owner of the land removes the tree from the project;  
26 or

27       “(b) The county project coordinator determines that the tree is not  
28 being maintained as required by the project.

29       “SECTION 6. (1) A county may not have more than one forestry  
30 product cooperative project operating.

1       “(2) The State Forester may terminate the participation of a  
2 forestry product cooperative project in the regulatory system estab-  
3 lished under sections 1 to 6 of this 2015 Act if the State Forester de-  
4 termines that the project is not being conducted in accordance with  
5 sections 1 to 6 of this 2015 Act or rules adopted under section 2 of this  
6 2015 Act.

7       “SECTION 7. Section 2 of this 2015 Act is amended to read:

8       “**Sec. 2.** (1) The Legislative Assembly finds and declares that because of  
9 the logistical challenges associated with the utilization of individual trees  
10 on nonforest lands, and because of the benefits from gains in commercial  
11 production and marketing of forestry products that may result from coordi-  
12 nating the activities of producers and buyers, it is in the public interest to  
13 establish cooperatives to coordinate the tracking, removal and sale of trees  
14 and to set prices to accomplish increased utilization.

15       “[(2) *It is the intent of sections 1 to 6 of this 2015 Act to allow the dis-*  
16 *placement of competition through a regulatory system for the commercial pro-*  
17 *duction and marketing of forestry products under the forestry product*  
18 *cooperative projects of counties to the limited degree, and for the limited pe-*  
19 *riod, described in subsection (7) of this section. The regulatory system is in-*  
20 *tended to grant immunity from federal and state antitrust laws to the parties*  
21 *to a forestry product cooperative project for the limited purpose of allowing the*  
22 *parties to bargain collectively and to arrive at a negotiated price for forestry*  
23 *products produced on nonforest land within a county.]*

24       “[(3)] (2) The activities of any party that comply with the requirements  
25 of the regulatory system described in sections 1 to 6 of this 2015 Act and  
26 State Forester rules for carrying out the regulatory system and forestry  
27 product cooperative projects may not be considered to be in restraint of  
28 trade, a conspiracy or combination or any other unlawful activity in vio-  
29 lation of any provision of ORS 646.705 to 646.826 or federal antitrust laws.

30       “[(4)] (3) The State Forester shall actively supervise the conduct of a



1 party in negotiating tentative prices for forestry products bought and sold  
2 as part of a forestry product cooperative project. The State Forester shall  
3 actively supervise, and establish procedures and guidelines for, the negoti-  
4 ations between the parties and shall review the tentative prices established  
5 by those negotiations. The State Forester must set the prices for forestry  
6 products bought and sold as part of a forestry product cooperative project  
7 by formal action before the prices may be implemented. In setting the prices  
8 for the forestry products, the State Forester may give consideration to the  
9 tentative prices for those forestry products negotiated between the parties.  
10 The State Forester must make any adjustments to previously set prices for  
11 forestry products by formal action before the adjustments may be imple-  
12 mented.

13 “[5] (4) The State Forester may compel the parties to take whatever  
14 action the State Forester considers necessary to:

15 “(a) Ensure that the parties are engaging in conduct that is authorized  
16 under sections 1 to 6 of this 2015 Act;

17 “(b) Ensure that the policies of this state are being fulfilled under a  
18 forestry product cooperative project; and

19 “(c) Prevent conduct by any of the parties that is not authorized under  
20 the regulatory system administered by the State Forester or conduct that, in  
21 the opinion of the State Forester, does not advance the interests of this state  
22 in carrying out the regulatory system for forestry product cooperative  
23 projects.

24 “[6] (5) The State Forester may take any actions the State Forester  
25 deems appropriate to resolve disputes between the parties that involve or  
26 arise out of a forestry product cooperative project, including but not limited  
27 to referring the dispute for mediation, arbitration or hearing.

28 “[7] *For the period prior to July 1, 2019, the forestry product cooperative*  
29 *project displaces competition regarding the commercial production and mar-*  
30 *keting of forestry products on nonforest land only in those areas of Clackamas*

1 *County where a forestry product cooperative project is in effect. However, the*  
2 *displacement of competition under this subsection shall cease if the State*  
3 *Forester terminates the forestry product cooperative project in Clackamas*  
4 *County under section 6 of this 2015 Act.]*

5 “[8] (6) The State Forester may designate employees of the State  
6 Forestry Department to carry out the responsibility of actively supervising  
7 the conduct of the parties, including serving as intermediaries between par-  
8 ties or prospective parties.

9 “[9] (7) The State Forester may adopt rules to carry out the State  
10 Forester’s authority under sections 1 to 6 of this 2015 Act. The department  
11 and a county operating a forestry product cooperative project program shall  
12 enter into a memorandum of understanding for the county to reimburse the  
13 department for the actual costs to the department of providing services for  
14 the benefit of the program. Moneys paid by a county as reimbursement shall  
15 be deposited in the State Forestry Department Account established under  
16 ORS 526.060.

17 **“SECTION 8. The amendments to section 2 of this 2015 Act by sec-**  
18 **tion 7 of this 2015 Act become operative July 1, 2019.”.**

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