

House Bill 2467

Sponsored by Representative HOLVEY (Pre-session filed.)

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**.

Repeals all forest products harvest taxes except tax for funding fire suppression. Consolidates repealed tax rates with retained tax rate for fire suppression.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to forest products harvest taxation for fire suppression; amending ORS 321.005, 321.015,
3 321.045, 321.145, 321.152, 477.281, 477.750, 477.755, 477.760 and 526.675; repealing ORS 321.017
4 and 321.185; and prescribing an effective date.

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

6 **SECTION 1.** ORS 321.015 is amended to read:

7 321.015. [(1) *For the calendar years beginning January 1, 2016, and January 1, 2017, there is*
8 *levied a privilege tax of 90.00 cents per thousand feet, board measure, upon taxpayers for the privilege*
9 *of harvesting of all merchantable forest products harvested on forestlands. Subject to ORS 321.145, the*
10 *proceeds of the tax shall be transferred as provided in ORS 321.152 (2) to the Forest Research and*
11 *Experiment Account for use for the forest resource research, experimentation and studies described in*
12 *ORS 526.215 and for the Forest Research Laboratory established under ORS 526.225.]*

13 [(2)] (1) Except as provided in ORS 477.760, [*in addition to the tax levied by subsection (1) of this*
14 *section,*] there is levied a forest products harvest tax upon taxpayers of [62.5 cents] **\$3.4787** per
15 thousand feet, board measure, for the privilege of harvesting all merchantable forest products har-
16 vested on forestlands for the payment of benefits related to fire suppression as provided in ORS
17 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

18 [(3) *For the calendar years beginning January 1, 2016, and January 1, 2017, in addition to the*
19 *taxes levied under subsections (1) and (2) of this section, there is levied a privilege tax upon taxpayers*
20 *for the privilege of harvesting all merchantable forest products harvested on forestlands in the amount*
21 *of 110.37 cents per thousand feet, board measure, for the purpose of administering the Oregon Forest*
22 *Practices Act in an amount not to exceed 40 percent of the total expenditures approved by the Legis-*
23 *lative Assembly for this purpose, including salary adjustments approved by the Legislative Assembly*
24 *for fiscal years 2016 and 2017.]*

25 [(4) *For the calendar years beginning January 1, 2016, and January 1, 2017, in addition to the*
26 *taxes levied by subsections (1) to (3) of this section, there is levied a privilege tax of 10 cents per*
27 *thousand feet, board measure, upon taxpayers for the privilege of harvesting all merchantable forest*
28 *products harvested on forestlands. Subject to ORS 321.145, the proceeds of the tax shall be transferred*
29 *as provided in ORS 321.152 (5) to the subaccount established pursuant to ORS 350.520 for use by*
30 *Oregon State University for the purpose of making investments in professional forestry education at the*
31 *College of Forestry.]*

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 [(5)] (2) Subject to subsection [(6)] (3) of this section, the [taxes] **tax** shall be measured by and
 2 be applicable to each per thousand feet, board measure, on the total quantity of forest products
 3 harvested in this state measured by use of any log scale which is or may be in general use in the
 4 logging industry and which is designed to measure total volume of merchantable forest products in
 5 board feet. However, if the Department of Revenue finds that the scale used by any taxpayer in
 6 computing the taxes due under ORS 321.005 to 321.185 and 321.560 to 321.600 does not accurately
 7 reflect the total quantity of merchantable forest products harvested by the taxpayer, it may require
 8 the taxpayer to adopt another log scale in general use in the industry which in the department's
 9 opinion will accurately reflect merchantable harvest in board feet.

10 [(6)] (3) The first 25,000 feet, board measure, of forest products harvested annually by any tax-
 11 payer during each calendar year shall be excluded from the total quantity of harvested forest pro-
 12 ducts that constitutes the measure of the taxes under ORS 321.005 to 321.185 and 321.560 to 321.600.

13 **SECTION 2. ORS 321.017 and 321.185 are repealed.**

14 **SECTION 3.** ORS 321.005 is amended to read:

15 321.005. As used in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460, unless the
 16 context requires otherwise:

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

18 [(2)] *"Protected forestlands" means those lands which are protected from the starting or spread of*
 19 *fire thereon or therefrom by:]*

20 [(a)] *The State Forester, with the approval of the board;]*

21 [(b)] *The United States of America through contract with the State Forester;]*

22 [(c)] *Any forest protective agency under contract with the State Forester or the board pursuant to*
 23 *ORS 477.406; or]*

24 [(d)] *Any forest protective agency, described in paragraph (c) of this subsection, under an agreement*
 25 *with the United States of America wherein such agency agrees to protect specific federal forestlands*
 26 *and, in return, the United States of America agrees to protect specific lands of such agency.]*

27 [(3)] *"Department" means the Department of Revenue.]*

28 [(4)] (2) "Committee" means the Emergency Fire Cost Committee.

29 (3) **"Department" means the Department of Revenue.**

30 [(5)] (4) "Forestland" means any land producing forest products.

31 [(6)] (5) "Forest products" means products from harvested timber, but does not include products
 32 from short rotation fiber grown under agricultural conditions as described in ORS 321.267 (3) or
 33 321.824 (3), western juniper or products from harvested western juniper.

34 [(7)] (6) "Harvest" means the point at which timber that has been cut, severed, or removed for
 35 purposes of sale or use is first measured in the ordinary course of business as determined by refer-
 36 ence to common practice in the timber industry.

37 [(8)] (7) "Merchantable stand of timber" means any stand on forestlands containing living or
 38 dead timber which is being or can be harvested.

39 [(9)] *"Taxpayer" means the owner of timber at time of harvest.]*

40 [(10)] *"Taxes" means the taxes provided for in ORS 321.015.]*

41 [(11)] (8) "Owner of timber" means any individual or combination of individuals, partnership,
 42 firm, corporation or association of whatever nature holding title to harvested timber by virtue of:

43 (a) An instrument of conveyance;

44 (b) The harvesting of the timber; or

45 (c) The harvesting of the timber and payment therefor.

1 **(9) “Tax” and “taxes” mean the tax imposed under ORS 321.015.**

2 **(10) “Taxpayer” means the owner of timber at time of harvest.**

3 [(12)] **(11) “Timber” means all logs which can be measured in board feet and other forest pro-**
 4 **ducts as determined by department rule.**

5 **SECTION 4.** ORS 321.045 is amended to read:

6 321.045. (1) The *[taxes]* **tax** levied under ORS 321.015 shall be due and payable annually, on or
 7 before the last day of January, for the preceding year. The tax shall be delinquent if not paid by the
 8 due date, which shall be determined without regard to any extension of time for filing the return.

9 (2) Subject to the provisions relating to estimated tax payments provided in subsections (4) and
 10 (5) of this section, on or before the last day of January, each taxpayer shall make out a return on
 11 the form prescribed by the Department of Revenue showing the amount of the tax for which the
 12 taxpayer is liable for the preceding year and the other information the department considers nec-
 13 essary to correctly determine the tax due and shall mail or deliver the return, together with a re-
 14 mittance for the amount of the tax, to the office of the department. The return shall be signed and
 15 verified by the taxpayer or a duly authorized agent of the taxpayer. Whenever in its judgment good
 16 cause exists, the department may allow upon written application made on or before the due date
 17 further time not exceeding 30 days for filing a return.

18 (3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 shall be credited,
 19 first, to penalty and interest accrued, and then to tax due.

20 (4) Each taxpayer expecting to incur a liability pursuant to this section in excess of \$1,500 for
 21 any calendar year shall, on forms prescribed by the Department of Revenue, make and file with the
 22 department on or before the last day of the month following the end of each calendar quarter an
 23 estimate of the taxpayer’s tax liability for the year. At least one-quarter of the estimated tax shall
 24 be remitted to the department with each estimated tax report and the balance shall be remitted to
 25 the department on or before the due date of the tax return required by subsection (2) of this section,
 26 without regard for any extension of the due date thereof.

27 (5) If the amount remitted with an estimated tax report filed on or before the due date thereof
 28 is at least 25 percent of the tax of the taxpayer as due for the calendar year preceding the year for
 29 which the report is made or at least 20 percent of the taxpayer’s tax liability as due for the year
 30 for which the report is made, or 100 percent of the tax liability on the actual merchantable forest
 31 products harvested for the calendar quarter preceding the due date of the estimated tax report, no
 32 penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate estab-
 33 lished under ORS 305.220 for each month or fraction thereof shall be assessed for the period of de-
 34 linquency calculated on the difference between the payment made and the payment that would have
 35 been due had the taxpayer estimated the liability for the quarter in an amount equal to the liability
 36 as due for such quarter. The provisions of ORS chapters 305 and 314 relating to penalties and in-
 37 terest shall not apply to the estimated tax payments described in this section.

38 **SECTION 5.** ORS 321.145 is amended to read:

39 321.145. (1) The revenue from the taxes levied by ORS 321.005 to 321.185 and 321.560 to 321.600
 40 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under
 41 the provisions of ORS 293.445.

42 (2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay re-
 43 funds of the *[taxes]* **tax** levied under ORS 321.015 [(1) to (4)] hereby is appropriated continuously to
 44 the Department of Revenue from the suspense account referred to in subsection (1) of this section,
 45 and shall be used by the department for the payment of all refunds of *[taxes]* **the tax** levied under

1 ORS 321.015 [(1) to (4)] that have been audited and approved by the department. Any penalties, in-
 2 terest and [taxes] tax then due from the taxpayer shall be applied in that order in computing any
 3 refund, and only the balance due the taxpayer, if any, shall be refunded. The department shall on
 4 its records charge each refund against the revenue from the tax with respect to which the refund
 5 is made.

6 **SECTION 6.** ORS 321.152 is amended to read:

7 321.152. [(1)] Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue's
 8 suspense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10
 9 of each year shall be transferred to [*the respective appropriation accounts described in subsections (2)*
 10 *to (5) of this section*] **the Oregon Forest Land Protection Fund described in ORS 477.750.**

11 [(2) *That part of the moneys derived from taxes levied by ORS 321.015 (1) shall be transferred to*
 12 *the Forest Research and Experiment Account described in ORS 321.185.*]

13 [(3) *That part of the moneys derived from taxes levied by ORS 321.015 (3) shall be transferred to*
 14 *the State Forestry Department Account referred to in ORS 526.060. Notwithstanding ORS 291.238, the*
 15 *moneys transferred to the State Forestry Department Account under this section are appropriated con-*
 16 *tinuously for and shall be used by the State Forester, under the supervision and direction of the State*
 17 *Board of Forestry, for the purposes of administering the Oregon Forest Practices Act and the forest*
 18 *practices monitoring program.*]

19 [(4) *That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be transferred to*
 20 *the Oregon Forest Land Protection Fund described in ORS 477.750.*]

21 [(5) *That part of the moneys derived from taxes levied by ORS 321.015 (4) shall be transferred to*
 22 *the subaccount established pursuant to ORS 350.520.*]

23 **SECTION 7.** ORS 477.281 is amended to read:

24 477.281. (1) The obligation of an owner of timberland or grazing land for payment of assessments
 25 and taxes for fire protection of forestland is limited to:

26 (a) The payment of moneys pursuant to ORS 321.015 [(2)], 477.277, 477.295, 477.760 (4) and
 27 477.880 to maintain the Oregon Forest Land Protection Fund; and

28 (b) The payment of forest protection district assessments pursuant to ORS 477.060 and 477.205
 29 to 477.281.

30 (2) As used in this section, "obligation of an owner of timberland or grazing land for payment
 31 of assessments and taxes for fire protection of forestland" does not include the duties or obligations
 32 of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included
 33 in a rural fire protection district pursuant to ORS 478.010.

34 **SECTION 8.** ORS 477.750 is amended to read:

35 477.750. (1) The Oregon Forest Land Protection Fund is created, separate and distinct from the
 36 General Fund. This fund shall be held by the State Treasurer as a trust fund for the uses and pur-
 37 poses provided in ORS 477.750 to 477.775 and 477.880. The State Treasurer shall deposit and invest
 38 moneys in the fund as provided by law, taking into account its uses and purposes. Interest earned
 39 by the fund shall be credited to the fund.

40 (2) Notwithstanding any other law and as limited by ORS 477.750 to 477.775 and 477.880, that
 41 part of the suspense account created by ORS 321.145 that is derived from the tax levied by ORS
 42 321.015 [(2)] after refunds and other costs permitted by law, shall be credited to the Oregon Forest
 43 Land Protection Fund.

44 **SECTION 9.** ORS 477.755 is amended to read:

45 477.755. (1) As used in this section, "annual expenditure" means the expenses of the Oregon

1 Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire
 2 Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire
 3 costs.

4 (2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are
 5 continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

6 (a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest pro-
 7 tection district;

8 (b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legis-
 9 lative Assembly each biennium;

10 (c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject
 11 to the payment limitation established in ORS 477.775 (4);

12 (d) Paying costs related to the availability and mobilization of emergency fire suppression re-
 13 sources on a statewide basis; and

14 (e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression
 15 resources that will enhance the ability of the forester to perform fire protection responsibilities
 16 within a forest protection district.

17 (3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest
 18 Land Protection Fund from revenues received from ORS 321.015 [(2)], 477.277 (1), 477.295 (1) and (2),
 19 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

20 (a) \$13.5 million; or

21 (b) The sum of:

22 (A) The lesser of \$5 million or 50 percent of the eligible annual fire suppression costs determined
 23 by the committee;

24 (B) The lesser of \$5 million or the amount by which the eligible annual emergency fire sup-
 25 pression costs exceed \$10 million but do not exceed the policy deductible for emergency fire sup-
 26 pression costs insurance purchased under ORS 477.775;

27 (C) Necessary administrative expenses as determined by the committee and authorized under the
 28 limit described in subsection (2)(b) of this section;

29 (D) Contributions to the payment of emergency fire suppression costs insurance premiums, sub-
 30 ject to the payment limitation established in ORS 477.775 (4);

31 (E) The lesser of \$3 million or three-fifths of the actual cost of activities described in ORS
 32 477.777 (1)(b) and (c); and

33 (F) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this sec-
 34 tion.

35 **SECTION 10.** ORS 477.755, as amended by section 3, chapter 619, Oregon Laws 2013, is
 36 amended to read:

37 477.755. (1) As used in this section, “annual expenditure” means the expenses of the Oregon
 38 Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire
 39 Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire
 40 costs.

41 (2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are
 42 continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

43 (a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest pro-
 44 tection district;

45 (b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legis-

1 lative Assembly each biennium;

2 (c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject
3 to the payment limitation established in ORS 477.775 (4);

4 (d) Paying costs related to the availability and mobilization of emergency fire suppression re-
5 sources on a statewide basis; and

6 (e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression
7 resources that will enhance the ability of the forester to perform fire protection responsibilities
8 within a forest protection district.

9 (3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest
10 Land Protection Fund from revenues received from ORS 321.015 [(2)], 477.277 (1), 477.295 (1) and (2),
11 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

12 (a) \$13.5 million; or

13 (b) The sum of:

14 (A) The lesser of \$10 million or 50 percent of the eligible annual fire suppression costs deter-
15 mined by the committee;

16 (B) Necessary administrative expenses as determined by the committee and authorized under the
17 limit described in subsection (2)(b) of this section;

18 (C) Contributions to the payment of emergency fire suppression costs insurance premiums, sub-
19 ject to the payment limitation established in ORS 477.775 (4);

20 (D) The lesser of \$3 million or three-fifths of the actual cost of activities described in ORS
21 477.777 (1)(b) and (c); and

22 (E) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this sec-
23 tion.

24 **SECTION 11.** ORS 477.760 is amended to read:

25 477.760. (1) The reserve base of the Oregon Forest Land Protection Fund is \$22.5 million. On
26 or about the last day of February of each year the Emergency Fire Cost Committee shall meet and
27 determine the unencumbered balance of the fund as of the preceding February 16.

28 (2) In order to maintain the reserve base of the fund at \$22.5 million, the Emergency Fire Cost
29 Committee may request and the State Treasurer may approve transfers to the fund in accordance
30 with ORS 293.205 to 293.225, if the moneys in this fund fall below the reserve base, whether or not
31 there are sufficient moneys in the fund to pay the obligations of the fund. Repayment of any such
32 transfers shall be made from moneys paid into the fund pursuant to ORS 321.015 [(2)], 477.277 and
33 477.880 and from such other moneys as may be credited to the fund therefor.

34 (3) If the committee determines that the moneys in the fund exceed:

35 (a) The reserve base, and that no repayment obligations are outstanding from transfers made
36 pursuant to subsection (2) of this section, then the Department of Revenue shall reduce the taxes
37 described in ORS 321.015 [(2)] by 50 percent for the following calendar year and the surcharge for
38 each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880
39 shall be reduced by 50 percent for the following fiscal year.

40 (b) \$30 million, and that no repayment obligations are outstanding from transfers made pursuant
41 to subsection (2) of this section, then the Department of Revenue may not collect the taxes described
42 in ORS 321.015 [(2)] for the following calendar year and the surcharge for each improved lot or
43 parcel described in ORS 477.277 and the assessments described in ORS 477.880 may not be collected
44 until the calendar year or fiscal year following the determination of the committee that the unen-
45 cumbered balance in the fund is less than or equal to \$22.5 million.

1 (4)(a) Notwithstanding any other provision of law, if the funds referred to in subsection (2) of
 2 this section are inadequate to cover repayment of transfers from the State Treasurer or from other
 3 sources, the State Forester shall increase the following taxes, assessments and charges in an amount
 4 adequate to ensure repayment of the transfers, and any interest accrued thereon, allowing for con-
 5 tingencies in valuation, assessment and collection:

6 (A) The harvest tax referred to in ORS 321.015 [(2)].

7 (B) The surcharge on developed lots referred to in ORS 477.277.

8 (C) The minimum assessment referred to in ORS 477.295.

9 (D) The acreage assessments referred to in ORS 477.880 (2).

10 (b) The increases to taxes, assessments and charges shall be apportioned based upon the
 11 proportionate levels of revenues received from each source by the Oregon Forest Land Protection
 12 Fund. Any such increases shall be computed on or before January 1 of each year, and shall be based
 13 upon revenues received during the previous four quarters. Any such increases shall be made in the
 14 appropriate calendar or fiscal year following that in which the requested transfers from the State
 15 Treasurer or from other sources are made.

16 **SECTION 12.** ORS 526.675 is amended to read:

17 526.675. [(1)] The Oregon Forest Resources Institute Fund is created in the State Treasury,
 18 separate and distinct from the General Fund. Except as otherwise provided by law, all moneys re-
 19 ceived by the Oregon Forest Resources Institute shall be paid into the State Treasury and credited
 20 to the fund. All moneys in the fund are appropriated continuously to the institute to carry out its
 21 duties, functions and powers. Interest earnings on all moneys in the fund shall be retained in the
 22 fund.

23 [(2) *The board of directors of the institute may repay moneys from the fund to persons who paid*
 24 *a privilege tax levied under ORS 321.017. The board may repay the amount of tax paid upon applica-*
 25 *tion by the person who paid the tax. The board shall adopt rules necessary for the implementation of*
 26 *this subsection. Rules adopted by the board shall include standards for the repayment of moneys and*
 27 *limits on the amount that may be requested.*]

28 **SECTION 13. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 29 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**