

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 1546 - A2

81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Haylee Morse-Miller
Reviewed by: John Borden, Zane Potter, John Terpening, Amanda Beitel, Walt Campbell, Matt Stayner, Kim To
Date: February 19, 2022

Measure Description:

Establishes Elliott State Research Forest consisting of lands formerly constituting Elliott State Forest.

Government Unit(s) Affected:

Bonding, Confederated Tribes of Siletz, Counties, Department of Forestry (ODF), Department of State Lands (DSL), Public Universities, Confederated Tribes of Grand Ronde, Confederated Tribes of Warm Springs and Coquille Indian Tribe, Department of Fish and Wildlife (ODFW), Department of Justice (DOJ), Oregon Judicial Department (OJD), Oregon State Treasurer (OST), Department of Administrative Services (DAS)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

SB 1546 - A2 decouples the Elliott State Forest from the Common School Fund and management of the State Forester, and establishes the publicly owned Elliott State Research Forest. This measure creates the Elliott State Research Forest Authority, a new state agency that is tasked with operating and overseeing the Forest and necessary infrastructure. The Authority is governed by a seven- or nine-member Board of Directors appointed by the State Land Board immediately after this measure becomes operative, on January 1, 2024.

Before the measure is operative, the following tasks must be completed on or before July 1, 2023:

- The State Land Board ensures that financial obligations to the Common School Fund related to the Elliott State Forest are satisfied.
- The State Land Board votes to decouple the Elliott State Forest from the Common School Fund and authorizes actions necessary to transfer the forest to management described in the measure.
- The National Marine Fisheries Service and the United States Fish and Wildlife Service jointly publish a notice of the availability of a final habitat conservation plan for the Elliott State Forest pursuant to the Endangered Species Act of 1973 and a final environmental impact statement for the forest pursuant to the National Environmental Policy Act.
- The Department of State Lands (DSL) contracts for third-party expertise to provide input to inform the Department's review of a plan submitted by OSU to address the financial viability of forest operations and management consistent with the mission and management policies described in this measure, and DSL concludes that the plan demonstrates financial viability.
- The State Land Board approves a forest management plan for the Elliott State Research Forest.
- The Board of Trustees of Oregon State University (OSU) authorizes the university to participate in management of the Elliott State Research Forest.

The State Land Board is to report to an interim or regular committee of the Legislative Assembly related to forests on or before September 15, 2023, on whether all of the events described above occurred. If they do happen, the measure is largely operative on January 1, 2024. The measure takes effect on the 91st day after the Legislative Assembly adjourns sine die.

Elliott State Research Forest Authority operations

This measure creates the Elliott State Research Forest Authority as a new state agency. The measure exempts the Authority and the Board of Directors from ORS 183.310 to 183.497 (part of the Administrative Procedures Act); these statutes relate to adoption of rules, contested cases, and judicial review. Certain actions by the Authority and Board of Directors do remain subject to judicial review.

The Authority's Board of Directors, after considering public comments, may approve or deny annual budgets, biennial operations reports and plans, recreation plans, education plans, sales of carbon credits or entry into easements or other encumbrances of lands, any proposed amendments to OSU's Elliott State Research Forest Proposal, any submission to federal or state agencies that relates to the forest, or any funding requests made to federal or state agencies or the Legislative Assembly. Through the Board of Directors, the Authority may enter into and administer contracts and agreements; oversee management of the Elliott State Research Forest; participate in available ecosystem services or forestry carbon programs and markets, or enter into easements; hold and ensure compliance with permits, certifications, and permissions from federal, state, and local entities; work and partner with owners of surrounding land on land management; raise funds and advance cross-sector partnerships to further the mission and management policies for the forest and support forest-related programs; and accept and expend proceeds derived from management of the forest, including proceeds derived from marketing, registering and transfer or sale of forest carbon, ecosystem services, forest products or easements. These proceeds are to be used to support the financial obligations of the Authority, conduct research or undertake other program activities in the forest, and create financial reserves to ensure the long-term financial integrity and stability of the Authority as a self-supporting entity.

The Authority's Board of Directors must receive input and approval from the State Land Board in order to approve or deny a forest management plan and any future amendments, any expansion or exchange of lands in the forest, or any amendments to the habitat conservation plan. The Board of Directors must also submit biennial programmatic reviews of Authority operations to the State Land Board. The Board of Directors must submit annual operations reports to the State Land Board in the six calendar years following the operative date of January 1, 2024.

Elliott State Research Forest Authority budget

This measure establishes the Elliott State Research Forest Account, separate and distinct from the General Fund. Moneys in the account may be invested, and moneys are continuously appropriated to the Elliott State Research Forest Authority for carrying out this measure, under the supervision and direction of the State Land Board. The Authority may apply for grants and accept gifts. The measure notes that the Board of Directors may request funding for state-funded debt service; any moneys requested and appropriated by the Legislative Assembly to pay debt service for state bonds must be held by the State Treasurer pursuant to an agreement entered into by the State Treasurer and the Board of Directors.

This measure authorizes the Board of Directors to request the State Treasurer to issue revenue bonds for capital costs related to owning, operating or administering the Elliott State Research Forest. The Board of Directors may request the State Treasurer to sell revenue bonds, to be known as Elliott State Research Forest development revenue bonds, in an amount authorized under ORS 286A.035. The bonds do not constitute a general obligation of the state, and are not a lien on any lands in the Elliott State Research Forest. Revenue bonds may be secured only by moneys in the Elliott State Research Forest Account.

This measure does include some possible revenue-generating activities of the Elliott State Research Forest Authority including funding derived from marketing, registering and transfer or sale of forest carbon, ecosystem services, forest products or easements. It is not clear how the Forest would be supported if these revenues are found insufficient to fund operations of the Elliott State Research Forest.

Decoupling the Forest from the Common School Fund is estimated to cost \$121 million General Fund. The Forest was appraised in 2016 at \$221 million, and \$100 million was paid to the Common School Fund from the proceeds of certificates of participation (COPs) that were authorized for issuance in 2019. The General Fund debt service for these COPs, including principal and interest payments are made by the Oregon Department of Forestry.

OSU currently estimates that an initial investment of approximately \$23 million from 2024-2026 is needed for research equipment and the operational costs associated with starting up the research and operations programs. Federal funds are targeted for these costs, but if federal funds aren't received, it is not known what entity would pay these costs. Additionally, OSU estimates \$17 million in capital costs for research and administrative facilities.

Department of State Lands

Once decoupled, the Forest would transfer from Department of State Lands (DSL) oversight to the newly established Elliott State Research Forest Authority. DSL anticipates no additional administrative costs as a result of this measure as administrative costs related to the Elliott State Forest are already part of the agency's budget. DSL plans to submit a Policy Option Package during the 2023-25 budget development process to request the budget adjustments and funding needed for the Authority's start-up costs and operations.

Impacts on other state agencies

There is likely to be no or minimal fiscal impact for Counties, Department of Forestry, Department of Fish and Wildlife, Oregon State Treasurer, Department of Administrative Services, Department of Justice, and Oregon Judicial Department.

OSU will have ongoing costs for forest management, starting in 2024. The Board of Directors is to contract with OSU for implementation of forest management operations consistent with mission and management policies included in this measure, and a biennial operations plan, unless implementation of forest management operations is otherwise agreed to by the State Land Board, Board of Directors, and OSU. However, those costs are indeterminate at this time.