

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 1501 - A5**81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

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 Date: February 19, 2022

Measure Description:

Directs State Board of Forestry to adopt single rule package on or before November 30, 2022, to implement Private Forest Accord Report.

Government Unit(s) Affected:

Commission on Indian Services (CIS), Department of Fish and Wildlife (ODFW), Department of Land Conservation and Development (DLCD), Oregon Department of Transportation (ODOT), Oregon Watershed Enhancement Board (OWEB), Counties, Department of Forestry (ODF), Department of State Lands (DSL), Oregon Health Authority (OHA), Secretary of State (SOS), Columbia River Gorge Commission (CRGC), Department of Environmental Quality (DEQ), Department of Justice (DOJ), Oregon Department of Agriculture (ODA), Oregon Parks and Recreation Department (OPRD), Water Resources Department (WRD), Confederated Tribes of Grand Ronde, Confederated Tribes of Warm Springs and Coquille Indian Tribe, Confederated Tribes of Siletz, Cities, Department of Administrative Services (DAS), Department of Geology and Mineral Industries (DOGAMI), Office of the Governor, Oregon Judicial Department (OJD), Special Districts

Summary of Fiscal Impact:

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

Summary of Expenditure Impact:

| | 2021-23 Biennium | 2023-25 Biennium |
|--------------------|-------------------------|-------------------------|
| General Fund | \$15,999,348 | \$16,180,172 |
| Other Funds | 2,711,038 | 1,432,615 |
| Federal Funds | -73,876 | -114,465 |
| Total Funds | \$18,636,510 | \$17,498,322 |
| Positions | 75 | 73 |
| FTE | 29.47 | 69.50 |

Analysis:

SB 1501 - A5 implements the Private Forest Accord (PFA). The measure directs the State Board of Forestry to enact a single rulemaking package consistent with the requirements outlined in the Private Forest Accord Report, on or before November 30, 2022. On or before July 1, 2023, the Board may amend rules that implement ORS 527.610 to 527.770 to make minor changes as needed to conform with the PFA. The State Fish and Wildlife Commission may adopt, amend, or repeal rules to conform with the rule package. The rulemaking procedures are not pursuant to the Administrative Procedures Act.

Rules adopted apply to an operation for which notice is filed under ORS 527.670 (6) on or after January 1, 2024; or before, if the operation is not completed by December 31, 2023. Rules amended or adopted as part of the rule package that relate to fish buffers apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

Post-disturbance harvest rulemaking must be completed on or before November 30, 2025. Tethered logging rulemaking is to be initiated not more than three years after the effective date of the measure.

The measure requires landslide modeling by a specific contractor, and exempts ODF from state procurement regulations for this work. Landslide modeling must be developed and incorporated into the Forest Activity Electronic Reporting and Notice System (FERNS) not later than May 1, 2023.

ODF must submit a proposed habitat conservation plan and an application for an incidental take permit supported by the habitat conservation plan, on or before December 31, 2022. ODF is to procure the services of a person to develop and draft the habitat conservation plan; this is not subject to the Public Contracting Code.

This measure includes provisions relating to small forestland owners, including riparian buffer widths and qualifications as a small forestland minimum option for an operation.

This measure directs ODF to adopt by rule a Small Forestland Investment in Stream Habitat Program to provide grants to small forestland owners. This measure establishes the Small Forestland Investment in Stream Habitat Program Fund, separate and distinct from the General Fund, and continuously appropriated to the ODF to be distributed by the newly formed Small Forestland Owner Assistance Office. Work is to be done in coordination with the State Department of Fish and Wildlife (ODFW). ODF is to submit a copy of a report on funded projects to an appropriate committee or interim committee of the Legislative Assembly by September 15 every year.

The measure creates the Small Forestland Owner Assistance Office to support and promote implementation of financial incentives and technical assistance programs for small forestland owners. The Office is to support compliance with the habitat conservation plan and develop and maintain a database of small forestland data.

There are additional requirements related to taking of beaver, reporting to ODFW when a beaver is taken, and requirements for ODFW to nonlethally locate beaver when possible. ODFW is to adopt rules around these requirements no later than November 30, 2022.

This measure directs the establishment of the Private Forest Accord Mitigation Advisory Committee to advise the State Fish and Wildlife Commission and ODFW on the newly established Private Forest Accord Grant Program. The measure establishes the Private Forest Accord Mitigation Subaccount within the existing Oregon Conservation and Recreation Fund, with funds to be used for outreach to help improve riparian areas. ODFW and the Private Forest Accord Mitigation Advisory Committee are to jointly submit a biennial report to the Legislative Assembly regarding expenditures of moneys in the Private Forest Accord Mitigation Subaccount. No date is given for when this report must first be submitted.

This measure directs ODF to establish by rule an adaptive management program, and is to adopt rules prescribing the roles and obligations of the newly established Adaptive Management Program Committee, and the newly established Independent Research and Science Team. The Committee is to guide the adaptive management process and set the research agenda and make budget recommendations for the Independent Research and Science Team.

The measure defines "significant violation" within the Oregon Forest Practices Act, and adds to the Act that is it necessary to conduct onsite inspections and outlines necessities for an effective enforcement program as part of the Forest Practices Act. This measure declares that it is the policy of the State of Oregon that enforcement of the Forest Practices Act must be adequately funded. The State Forester or a representative of the State Forester is directed to conduct a program of inspections of certain forestland to assess compliance with the Forest Practices Act, with inspections to occur on or after the date on which notification is filed pursuant to ORS 527.670 (6), but not more than three years after the date on which an operation has been completed. The State Forester may use a program of photogrammetric mapping to determine whether these operations have been completed. The State Forester may require an operator, timber owner, or landowner to provide financial assurance before conducting

a new operation if the State Forester has found violations within the preceding three years. The measure also modifies rulemaking authority and processes under the Forest Practices Act, to include modifications to the analysis of economic impact required rulemaking; and also modifies civil penalty amounts and violation qualifications.

ODF may adopt rules regarding pesticide applications. ODF is directed to report annually to a committee or interim committee of the Legislative Assembly related to forestry on progress in implementing the requirements of the Private Forest Accord Report. No date is given for when this report must first be submitted.

This measure finally outlines a number of contingencies that must be met for this measure to remain in effect. These contingencies are outside of the two biennia time frame of this fiscal impact statement. This measure declares an emergency and takes effect on passage.

As executive branch agencies, ODF and ODFW must comply with State Chief Information Officer and the office of Enterprise Information Services information technology investment oversight and independent quality management services policies and related statutes. The financial and schedule impacts associated with these due diligence, compliance, and oversight activities have not yet been determined.

Oregon Department of Forestry

The Oregon Department of Forestry (ODF) reports the following fiscal impact as a result of this measure:

- 2021-23 biennium: \$14.0 million General Fund, \$2.6 million Other Funds, 58 positions (20.96 FTE)
- 2023-25 biennium: \$12.8 million General Fund, \$1.3 million Other Funds, 58 positions (54.50 FTE)

The agency anticipates hiring a total of 58 positions, both permanent and limited duration, which will phase in at various points throughout the biennium. A majority of the positions (29) will be part of the Small Forestland Owners Office, including 12 new Natural Resources Specialist 2 positions to provide field assistance to small landowners with compliance and grant programs, with oversight from four new Forest Manager 2 positions; as well as various training, GIS, financial tracking, rulemaking, outreach, grant administration, and administrative positions. There are also five new positions to work on GIS, FERNS updates, and other IT development; three positions related to forest road inventory; one position to facilitate the Adaptive Management Program Committee; three compliance positions; six positions to work in enforcement, including development of training and outreach; five positions to work in rulemaking and policy implementation; and six positions providing administrative support.

In addition to costs of positions, the agency's other costs in the 2021-23 biennium include:

- Capital Outlay costs of \$1.0 million, for 24 vehicles for the new field positions and new office staff.
- Special Payments of \$1.0 million for an interagency transfer of funds for administrative services. Some of the Other Funds costs from this measure are related to expenditure of the interagency transfer of funds to support these administrative costs.
- \$733,658 for position-related Services and Supplies.
- \$350,000 for compliance monitoring.
- \$2.0 million to contract for the habitat conservation plan.
- \$2.0 million to contract for landslide modeling.
- \$2.5 million to contract for LIDAR analysis in areas that do not have existing data.
- \$1.0 million for hydrology modeling.
- An estimated \$1.65 million for technology updates, including for FERNS, GIS, and other work, though actual costs of this work have not yet been fully developed.

There are also some ongoing costs related to this measure that are not included here. ODF plans to submit a policy option package for these additional expenses as part of the 2023-25 budget development cycle.

Finally, in addition to the costs above, ODF will likely need additional Other Funds expenditure limitation to administer the Small Forestland Investment in Stream Habitat Program if funding is received for that program. No funding is included in this measure for the Small Forestland Investment in Stream Habitat Program.

A portion of the monies raised by the Forest Products Harvest Tax are used to pay up to 40% of the administration of the Forest Practices Act. Although the renewal of this portion of the Harvest Tax is currently being contemplated by the Legislature, this fiscal impact statement assumes that \$1.8 million from the Harvest Tax will be available to support the changes to the administration of the Forest Practices Act as contemplated in this measure, with the remainder of the costs paid for with General Fund. The Legislative Fiscal Office notes that while this fiscal impact largely cites General Fund costs in the current and 2023-25 biennia, these General Fund monies are anticipated to be rebalanced by the agency during the budgeting process for the 2023-25 biennium so that the costs of this measure that relate to the Forest Practices Act are supported with Forest Products Harvest Tax funds up to the standard 40% split.

Oregon Department of Fish and Wildlife

The Oregon Department of Fish and Wildlife (ODFW) reports the following fiscal impact from this measure:

- 2021-23 biennium: \$1.6 million General Fund, \$64,907 Other Funds, 15 positions (7.25 FTE)
- 2023-25 biennium: \$2.9 million General Fund, \$134,476 Other Funds, 13 positions (13.00 FTE)

Other Funds revenue is derived from the Oregon Conservation and Recreation Fund. ODFW notes that in addition to the costs above, they will likely need additional Other Funds expenditure limitation to administer the Private Forest Accord Grant Program if funding is received for that program. No funding is included in this measure for the Private Forest Accord Grant Program.

Positions are all permanent, full-time, and 0.50 FTE in 2021-23 and 1.00 FTE in 2023-25, except where noted. These include:

- One limited duration Operations and Policy Analyst 3 (0.50 FTE in 2021-23), one limited duration Information Systems Specialist 6 (0.25 FTE in 2021-23), one limited duration Information Systems Specialist 5 (0.50 FTE in 2021-23 and 1.00 FTE in 2023-25), and two Information Systems Specialist 5s to develop and manage stream classification data, assist with updates to FERNS, and work on modelled layers and mobile field applications for streamflow.
- One Natural Resource Specialist 3 and one Administrative Specialist 2 to run the Private Forest Accord Grant Program.
- Two Natural Resource Specialist 2s to conduct work around beaver management.
- Six Natural Resource Specialist 2s to survey streams across the state.

Additional costs under this measure for ODFW are driven by position-related Services and Supplies, as well as additional costs related to fieldwork, travel, and beaver management equipment.

Department of Environmental Quality

The Department of Environmental Quality (DEQ) reports the following fiscal impact as a result of this measure:

- 2021-23 biennium: \$352,217 General Fund, two positions (1.26 FTE)
- 2023-25 biennium: \$559,075 General Fund, two positions (2.00 FTE)

DEQ anticipates that they will need two new permanent, full-time positions, a Natural Resources Specialist 3 and a Natural Resources Specialist 4 (each 0.63 FTE in 2021-23, and 1.00 FTE in 2023-25) to provide technical assistance related to water quality and aquatic ecosystems on forested land. This would include technical consultation on rulemaking, working on the adaptive management program, consulting on mapping of streams and road abandonment, review of remediation site plans, and other water-related activities.

Other entities

All other agencies report no or minimal impacts from this measure.