

Senate Bill 1546

Sponsored by Senator BEYER (at the request of members of the State Land Board) (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**.

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

Creates Elliott State Research Forest Authority to administer Elliott State Research Forest. Provides that authority shall be governed by board of directors to which voting members are appointed by State Land Board.

Describes duties of board of directors. Provides that board of directors constitutes governing body of authority for purposes of public meetings statutes.

Describes duties and powers of State Land Board related to forest.

Describes duties of executive director of authority.

Describes powers of authority. Provides that requirements of public records statutes apply to authority.

Provides that requirements of Administrative Procedures Act do not apply to actions of authority or board of directors. Creates exception allowing judicial review of action principally concerning person's individual rights. Creates exception allowing judicial review of certain other actions.

Authorizes board of directors to request revenue bonding to be used for administering forest.

Authorizes board of directors to request certain general obligation bonding to be used for administering forest.

Authorizes use of certificates of participation financing to finance projects or purchases related to forest.

Provides that provisions related to forest become operative on January 1, 2024, only if certain events occur on or before July 1, 2023.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to Elliott State Research Forest; creating new provisions; amending ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520; and prescribing an effective date.

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

ELLIOTT STATE RESEARCH FOREST

SECTION 1. As used in sections 1 to 21 of this 2022 Act, "forest management plan" has the meaning given that term in ORS 526.455.

SECTION 2. (1) The Elliott State Research Forest shall consist of lands determined by a resolution of the State Land Board, as modified by any subsequent expansion or exchange of lands authorized by section 15 of this 2022 Act.

(2) The mission of establishing the Elliott State Research Forest is to create an enduring, world-class research forest that:

(a) Advances and supports forest health, climate resilience, carbon sequestration, biodiversity, recovery of imperiled species, water quality and quantity, recreational opportunities and local economies.

(b) Is managed to promote collaboration, partnerships, inclusive public processes and equity.

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 (3) The management policies for the forest are to:

2 (a) Further the mission described in subsection (2) of this section.

3 (b) Support scientific inquiry led by Oregon State University.

4 (c) Allow public access for recreational and educational purposes that is compatible with
5 the scientific and conservation purposes and practice of the forest.

6 (d) Advance long-term, operational-scale research, in partnership with the university, on
7 forest management practices, ecosystem function, biodiversity, habitat conservation, water
8 quality and quantity, carbon sequestration, rural livelihoods and the resilience of forests to
9 the impacts of climate change.

10 (e) Support rural economies through active forest management, timber harvest, recre-
11 ation and research.

12 (f) Promote opportunities at all education levels to interact with the forest and advance
13 public understanding of the ecological, economic and social benefits of healthy forest
14 ecosystems.

15 (g) Seek active partnerships with tribal governments to research and demonstrate tra-
16 ditional and contemporary tribal cultural practices and ecological knowledge.

17 (h) Maintain a financially self-sufficient forest management entity capable of operating
18 and overseeing the forest and necessary infrastructure.

19 (i) Prioritize collaborative partnerships that recognize both the local and statewide values
20 the forest provides.

21 (j) Maintain a high level of public accountability and transparency in forest management
22 decisions and operations.

23 (k) Advance equity and inclusion in all aspects of forest management and operations.

24 (4) The Elliott State Research Forest Authority shall administer the forest.

25 **SECTION 3.** Notwithstanding the operative date specified in section 30 (1)(a) of this 2022
26 Act, the State Land Board shall first determine the lands constituting the Elliott State Re-
27 search Forest by resolution, as described in section 2 (1) of this 2022 Act, before the opera-
28 tive date specified in section 30 (1)(a) of this 2022 Act.

29
30 **BOARD OF DIRECTORS OF ELLIOTT STATE RESEARCH FOREST AUTHORITY**

31
32 **SECTION 4.** (1) For the purpose of providing for the administration of the Elliott State
33 Research Forest in a manner consistent with the mission and management policies described
34 in section 2 of this 2022 Act, there is created the Elliott State Research Forest Authority.

35 (2) The authority shall be governed by a board of directors consisting of seven or nine
36 voting members and the Dean of the College of Forestry at Oregon State University, who
37 shall be a nonvoting member.

38 (3) The State Land Board shall:

39 (a) Appoint the voting members for terms of four years and for not more than two con-
40 secutive terms.

41 (b) Fill any vacancy among the voting members by appointing a voting member to serve
42 the remainder of the unexpired term.

43 (c) Consult with, and consider input from, the university and the existing board of di-
44 rectors when determining whom to appoint to the board of directors.

45 (d) Endeavor to appoint members who have a full complement of relevant experience or

1 expertise in subjects related to the mission and management policies and operations of the
 2 forest and demonstrated interest in the mission and management policies of the forest.

3 (4) Members of the board of directors are not entitled to compensation but may receive
 4 their actual and necessary travel and other expenses incurred in the performance of their
 5 official duties.

6 **SECTION 5.** (1) On or before September 1, 2023, the Director of the Department of State
 7 Lands, the Elliott State Research Forest Advisory Committee formed by the Department of
 8 State Lands and Oregon State University shall develop a list of candidates for appointment
 9 as the first voting members of the board of directors of the Elliott State Research Forest
 10 Authority.

11 (2) As soon as practicable after the operative date specified in section 30 (1)(a) of this
 12 2022 Act, the State Land Board shall appoint the first voting members of the board of di-
 13 rectors from the list of candidates described in subsection (1) of this section.

14 (3) Notwithstanding section 4 (3)(a) of this 2022 Act, of the voting members first ap-
 15 pointed by the State Land Board under subsection (2) of this section:

- 16 (a) Two shall serve for a term ending one year after the date of the appointment.
- 17 (b) Two shall serve for a term ending two years after the date of the appointment.
- 18 (c) Two shall serve for a term ending three years after the date of the appointment.

19 **SECTION 6.** Section 5 of this 2022 Act is repealed on January 2, 2028.

20 **SECTION 7.** (1) The board of directors of the Elliott State Research Forest Authority
 21 shall:

22 (a) Contract with Oregon State University for implementation of forest management op-
 23 erations consistent with the mission and management policies described in section 2 of this
 24 2022 Act and a biennial operations plan, unless implementation of forest management oper-
 25 ations is provided for as otherwise agreed to by the State Land Board, the board of directors
 26 and the university.

27 (b) Ensure that all management policies for the Elliott State Research Forest described
 28 in section 2 of this 2022 Act are effectively implemented.

29 (c) Oversee the operational and fiscal integrity of the authority.

30 (d) Select an executive director of the authority, for which position the board of directors
 31 and the university shall work collaboratively to recruit and nominate candidates in a se-
 32 lection process led by the university.

33 (e) Oversee the activities of, and determine the delegation of responsibilities to, the
 34 executive director.

35 (f) Determine the scope of biennial operations plans.

36 (g) Provide input and guidance to the executive director concerning implementation of
 37 operations and research programs consistent with the mission and management policies for
 38 the forest described in section 2 of this 2022 Act, a forest management plan related to the
 39 forest, any habitat conservation plan related to the forest and the most current version of
 40 the proposal for managing the forest that the university submitted to the State Land Board
 41 on December 8, 2020. The university shall make the current version of the proposal publicly
 42 available on a university website.

43 (h) Approve or deny:

44 (A) Annual budgets.

45 (B) Biennial operations reports.

1 (C) Biennial operations plans. A biennial operations plan must be consistent with an ap-
 2 plicable forest management plan.

3 (D) Recreation plans. A recreation plan must be consistent with an applicable forest
 4 management plan and the mission and management policies described in section 2 of this
 5 2022 Act.

6 (E) Education plans. An education plan must be consistent with an applicable forest
 7 management plan and the mission and management policies described in section 2 of this
 8 2022 Act.

9 (F) A forest management plan applicable to lands in the forest, and any subsequent
 10 amendments to the forest management plan, that the State Land Board has approved. The
 11 forest management plan or amendments must be consistent with the mission and manage-
 12 ment policies described in section 2 of this 2022 Act and the applicable version of the proposal
 13 for managing the forest that the university submitted to the State Land Board on December
 14 8, 2020.

15 (G) Any sale of carbon credits or entry into easements or other encumbrances of lands
 16 in the forest.

17 (H) Any expansion, reduction or exchange of lands in the forest that has been approved
 18 by the State Land Board.

19 (I) Any amendments to a habitat conservation plan related to the forest that have been
 20 approved by the State Land Board. The amendments must be consistent with the mission
 21 and management policies described in section 2 of this 2022 Act.

22 (J) Any other submission to federal or state agencies that relates to the forest.

23 (K) Any funding requests made to federal or state agencies or the Legislative Assembly.

24 (i) Submit to the State Land Board biennial programmatic reviews of authority oper-
 25 ations that address:

26 (A) Functions of the authority relating to the management policies for the forest, in-
 27 cluding the fiscal integrity of the authority and the status of forest operations, research in-
 28 itiatives, tribal partnerships, ties with local and regional economies and ongoing
 29 implementation of conservation, recreation and education programs.

30 (B) Compliance with federal and state regulatory requirements and any policy directives
 31 from the executive branch.

32 (j) Submit approved biennial operations plans to the State Land Board.

33 (k) Conduct at least six business meetings per year.

34 (L) Promote transparency around decisions concerning the forest, including forums to
 35 provide input.

36 (m) Form advisory bodies or subcommittees as the board of directors deems necessary
 37 and appropriate.

38 (2) The board of directors constitutes the governing body of the authority for purposes
 39 of the public meetings laws set forth in ORS 192.610 to 192.690.

40 SECTION 8. (1) In the six calendar years following the operative date established in sec-
 41 tion 30 (1)(a) of this 2022 Act, the board of directors of the Elliott State Research Forest
 42 Authority shall submit written annual operations reports to the State Land Board.

43 (2) The State Land Board shall review the reports.

44 SECTION 9. Section 8 of this 2022 Act is repealed on January 2, 2031.

OVERSIGHT BY STATE LAND BOARD

SECTION 10. The State Land Board shall:

(1) Provide policy guidance to the board of directors of the Elliott State Research Forest Authority at the request of the board of directors or Oregon State University and as deemed necessary and appropriate by the State Land Board.

(2) Review, at scheduled meetings of the board, biennial programmatic reviews submitted by the board of directors.

(3) Approve or deny a forest management plan related to the forest and any subsequent amendments to the forest management plan.

(4) Approve or deny any amendments to the habitat conservation plan proposed by the board of directors prior to submittal to federal or state regulatory agencies.

EXECUTIVE DIRECTOR OF ELLIOTT STATE RESEARCH FOREST AUTHORITY

SECTION 11. The executive director of the Elliott State Research Forest Authority reports to the board of directors of the authority and shall:

(1) Manage day-to-day operations of the Elliott State Research Forest.

(2) Oversee implementation of approved biennial operations plans.

(3) Collaborate with Oregon State University or the entity contracted to implement forest management operations as described in section 7 (1)(a) of this 2022 Act to ensure that forest operations and research further the management policies for the forest described in section 2 of this 2022 Act.

(4) Hire and supervise authority staff.

(5) Prepare and submit to the board of directors all documents and plans requiring approval by the board of directors, including the documents and plans described in section 7 (1)(h) of this 2022 Act.

(6) Oversee budget execution, regulatory compliance, contracts or agreements for services or the sale of resources and administration of facilities associated with the authority, if the oversight is delegated to the executive director by the board of directors.

(7) Manage relations with the executive and legislative branches and interested stakeholders and communities.

(8) Work with advisory committees or subcommittees formed by the board of directors.

(9) Ensure that decision-making related to the forest is open and transparent, consistent with state law.

(10) Restrict or prohibit public access to all or a part of the forest for reasonable purposes subject to direction from the board of directors.

ACTIVITIES OF ELLIOTT STATE RESEARCH FOREST AUTHORITY

SECTION 12. (1) Through the board of directors of the Elliott State Research Forest Authority, the authority may:

(a) Enter into and administer contracts and agreements as needed to perform functions related to carrying out the mission and management policies described in section 2 of this 2022 Act and the duties described in this section and section 7 of this 2022 Act.

1 (b) **Oversee management of the Elliott State Research Forest that maintains, protects**
 2 **and improves the functioning condition of the forest and furthers the mission and manage-**
 3 **ment policies for the forest described in section 2 of this 2022 Act.**

4 (c) **Participate in available ecosystem services or forestry carbon programs and markets,**
 5 **or enter into easements, consistent with the management policies described in section 2 of**
 6 **this 2022 Act.**

7 (d) **Accept and expend proceeds derived from management of the forest, including pro-**
 8 **ceeds derived from marketing, registering and transfer or sale of forest carbon, ecosystem**
 9 **services, forest products or easements, to:**

10 (A) **Support financial obligations of the authority.**

11 (B) **Conduct research or undertake other program activities located in the forest.**

12 (C) **Create financial reserves to ensure the long-term financial integrity and stability of**
 13 **the authority as a self-supporting entity.**

14 (e) **Hold and ensure compliance with permits, certifications and permissions from federal,**
 15 **state and local entities, including a habitat conservation plan and related incidental take**
 16 **permit.**

17 (f) **Work and partner with federal, state, tribal, local or private owners of lands sur-**
 18 **rounding the forest concerning land management, research and consolidation.**

19 (g) **Raise funds and advance cross-sector partnerships that further the management**
 20 **policies for the forest described in section 2 of this 2022 Act and support programs related**
 21 **to the forest.**

22 (2) **Any contract entered into by the authority must be consistent with any applicable**
 23 **approved biennial operations plan.**

24 (3) **The public records laws set forth in ORS 192.311 to 192.478 apply to the authority.**

25 **SECTION 13. Directors, officers and employees of the Elliott State Research Forest Au-**
 26 **thority may receive their actual and necessary travel and other expenses incurred in the**
 27 **performance of their official duties.**

28 **SECTION 14. (1) The requirements of ORS 183.310 to 183.497 do not apply to actions of**
 29 **the Elliott State Research Forest Authority or the board of directors of the authority, in-**
 30 **cluding the adoption or approval of a document that describes or establishes how the Elliott**
 31 **State Research Forest is managed, such as:**

32 (a) **A forest management plan;**

33 (b) **A biennial operations report;**

34 (c) **A biennial operations plan;**

35 (d) **A habitat conservation plan;**

36 (e) **A recreation plan; or**

37 (f) **An education plan.**

38 (2) **Notwithstanding subsection (1) of this section, an action of the authority or the board**
 39 **of directors, except for the actions enumerated in subsection (1) of this section, that princi-**
 40 **pally concerns a person's individual rights may be subject to judicial review as provided in**
 41 **ORS 183.484.**

42 (3) **Notwithstanding subsection (1) of this section, the following actions by the authority**
 43 **or the board of directors are subject to judicial review as described in ORS 183.484, 183.486,**
 44 **183.490, 183.497 and 183.500:**

45 (a) **Approval of a forest management plan or amendments to a forest management plan**

1 that are materially inconsistent with:

2 (A) The mission and management policies described in section 2 of this 2022 Act; or

3 (B) The applicable version of the proposal for managing the forest that Oregon State
4 University submitted to the State Land Board on December 8, 2020.

5 (b) Approval of a biennial operations plan, recreation plan or education plan that is
6 materially inconsistent with an applicable forest management plan.

7 (c) Approval of amendments to a habitat conservation plan related to the forest that is
8 materially inconsistent with the mission and management policies described in section 2 of
9 this 2022 Act.

10 (d) Entry into a contract for undertaking forest operations that is materially inconsistent
11 with any applicable biennial operations plan.

12
13 **EXPANSION OR EXCHANGE OF LANDS**

14
15 **SECTION 15.** (1) The board of directors of the Elliott State Research Forest Authority
16 may propose to the State Land Board, and the State Land Board may approve, an expansion
17 of lands in the Elliott State Research Forest, or an exchange of lands in the forest or timber
18 on the lands, that furthers the mission and management policies described in section 2 of
19 this 2022 Act.

20 (2) Lands in the forest may be exchanged:

21 (a) Only if the exchange consolidates the forest.

22 (b) Only for lands of approximately equal aggregate value or a combination of lands and
23 monetary consideration of approximately equal aggregate value.

24 (c) Only if the county commissioners of the county or counties containing the lands ap-
25 prove the exchange.

26 (3) Timber on lands in the forest may be exchanged only for lands of approximately equal
27 aggregate value.

28 (4) After the Attorney General approves title to lands involved in the expansion or ex-
29 change, the authority shall consummate the expansion or exchange by legal conveyance.

30 (5) Lands acquired by expansion or exchange shall be part of the forest.

31 (6) After an expansion or exchange, the State Land Board shall establish by resolution
32 the lands constituting the forest.

33
34 **ELLIOTT STATE RESEARCH FOREST ACCOUNT**

35
36 **SECTION 16.** (1) The Elliott State Research Forest Account is established in the State
37 Treasury, separate and distinct from the General Fund. Interest earned by the account shall
38 be credited to the account.

39 (2) The account shall consist of all moneys deposited in the account or otherwise trans-
40 ferred to the account. Moneys in the account are continuously appropriated to the Elliott
41 State Research Forest Authority for carrying out sections 1 to 21 of this 2022 Act, under the
42 supervision and direction of the State Land Board.

43 (3) The authority may receive gifts, grants, bequests, endowments and donations of
44 moneys, labor or materials from public and private sources for the purpose of contributing
45 to the management and enhancement of the Elliott State Research Forest, including activ-

ities such as recreation, education, interpretation, research and monitoring, cultural resources management and habitat improvement.

(4) The authority may apply for, accept and utilize grants from any source, including federal, state or local governments or a private entity, to further the mission and management policies described in section 2 of this 2022 Act.

(5) The authority shall deposit moneys received under subsection (3) or (4) of this section in the account. The authority may expend moneys, materials or labor received under subsection (3) or (4) of this section only for purposes specified in the gift, grant, bequest, endowment or donation. If no purpose is specified, the authority may use the moneys, materials or labor for the management and enhancement of the forest, consistent with the mission and management policies described in section 2 of this 2022 Act.

(6) The authority shall keep a record of all moneys deposited in the account or otherwise transferred to the account. The record shall indicate the sources of moneys and the individual activity or program against which each withdrawal from the account is charged.

REVENUE BONDING

SECTION 17. (1) In compliance with the applicable provisions of ORS chapter 286A, the board of directors of the Elliott State Research Forest Authority may request the State Treasurer to issue the revenue bonds described in section 18 of this 2022 Act for administering the Elliott State Research Forest and to sell revenue bonds under section 18 of this 2022 Act in the manner the State Treasurer deems advisable.

(2) The net proceeds derived from the sale of the revenue bonds, after the payment of bond-related costs, shall be paid into the State Treasury and credited to the Elliott State Research Forest Account to be used exclusively for purposes related to administering the forest.

(3) The board of directors may establish one or more subaccounts, as it determines are desirable for administration of the net proceeds, in the Elliott State Research Forest Account.

SECTION 18. (1) The board of directors of the Elliott State Research Forest Authority may request the State Treasurer to sell revenue bonds of the State of Oregon, to be known as Elliott State Research Forest development revenue bonds, in an amount authorized under ORS 286A.035.

(2) The bonds shall not constitute a general obligation of the state, nor be a lien on any lands in the Elliott State Research Forest.

(3) Revenue bonds issued under this section may be secured only by moneys in the Elliott State Research Forest Development Revenue Bond Fund established in section 20 of this 2022 Act.

(4) The bonds shall bear interest at a rate to be determined by the State Treasurer.

SECTION 19. Revenue bonds issued under section 18 of this 2022 Act may be refunded as provided under ORS chapter 286A.

SECTION 20. (1) The Elliott State Research Forest Development Revenue Bond Fund is established separate and distinct from the General Fund. Interest earned by the Elliott State Research Forest Development Revenue Bond Fund shall be credited to the fund. Moneys in the fund may be invested as provided in ORS 286A.025 and 293.701 to 293.857. All moneys in

1 the fund are continuously appropriated to the board of directors of the Elliott State Research
 2 Forest Authority for the purposes of paying bond-related costs when due on the revenue
 3 bonds issued under section 18 of this 2022 Act.

4 (2) The fund may be credited with:

5 (a) Moneys deposited in the fund from the Elliott State Research Forest Account, to the
 6 extent that the board of directors allocates proceeds from the sale of revenue bonds issued
 7 under section 18 of this 2022 Act to the payment of bond-related costs; and

8 (b) Gifts, grants or any other unrestricted moneys paid to the authority or appropriated
 9 by the Legislative Assembly that may be used for the purpose set forth in this section.

10 (3) The board of directors may make covenants related to, or pledge moneys deposited
 11 in, the fund that the board of directors, after consultation with the State Treasurer, deter-
 12 mines to be necessary or desirable for the repayment of revenue bonds and the payment of
 13 bond-related costs.

14
 15 **GENERAL OBLIGATION BONDING**

16
 17 **SECTION 21.** Pursuant to procedures described in ORS 286A.824, the board of directors
 18 of the Elliott State Research Forest Authority may request the State Treasurer to issue
 19 bonds for financing under Article XI-Q of the Oregon Constitution to be used for adminis-
 20 tering the Elliott State Research Forest.

21
 22 **CERTIFICATES OF PARTICIPATION FINANCING**

23
 24 **SECTION 22.** ORS 283.085 is amended to read:

25 283.085. As used in ORS 283.085 to 283.092:

26 (1) "Available funds" means funds appropriated or otherwise made available by the Legislative
 27 Assembly to pay amounts due under a financing agreement for the fiscal period in which the pay-
 28 ments are due, unexpended proceeds of the financing agreement and reserves or other amounts that
 29 have been deposited in trust to pay amounts due under the financing agreement.

30 (2) "Credit enhancement agreement" means any agreement or contractual relationship between
 31 the state and any bank, trust company, insurance company, surety bonding company, pension fund
 32 or other financial institution providing additional credit on or security for a financing agreement
 33 or certificates of participation authorized by ORS 283.085 to 283.092.

34 (3) "Financing agreement" means a lease purchase agreement, an installment sale agreement, a
 35 loan agreement or any other agreement:

36 (a) To finance real or personal property that is or will be owned and operated by the state or
 37 any of its agencies;

38 (b) To finance infrastructure, including but not limited to telecommunications systems, systems
 39 for water, sewage, electricity, steam or natural gas and other equipment or improvements that are
 40 necessary or appropriate to support a facility that is, or will be, owned or operated by the state;

41 (c) To finance infrastructure components that are, or will be, owned or operated by a local
 42 government agency of this state if the Director of the Oregon Department of Administrative Services
 43 determines that financing the infrastructure facilitates the construction or operation of an adult or
 44 juvenile corrections facility or a public safety training facility owned or operated by the state or
 45 any of its agencies;

1 (d) To finance all or a portion of the state’s pension liabilities for retirement, health care or
 2 disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer’s
 3 estimate of those liabilities based on information provided to the State Treasurer by the Public
 4 Employees Retirement System;

5 [(e) To finance:]

6 [(A) The release of all or a portion of the Elliott State Forest from restrictions resulting from
 7 ownership of that forest by the Common School Fund; or]

8 [(B) Compensation paid to the Common School Fund for the preservation of noneconomic benefits
 9 of the forest through the imposition, transfer or sale of restrictions such as easements, use requirements
 10 or other methods that preserve noneconomic benefits of the forest for the public, including recreation,
 11 aesthetics, wildlife or habitat preservation or other environmental and quality of life considerations;
 12 or]

13 **(e) To finance projects or purchases related to the Elliott State Research Forest; or**

14 (f) To refinance previously executed financing agreements.

15 (4) “Financing costs” means costs or expenses that the director determines are necessary or
 16 desirable in connection with entering into financing agreements and maintaining the certificate of
 17 participation program, including but not limited to payment of:

18 (a) Amounts due under financing agreements;

19 (b) Costs and obligations the director or any other agency of the state incurs in connection with
 20 the exercise of a power granted by ORS 283.085 to 283.092; and

21 (c) Amounts due in connection with the investment of proceeds of financing agreements.

22 (5) “Personal property” means tangible personal property, software and fixtures.

23 (6) “Property rights” means, with respect to personal property, the rights of a secured party
 24 under ORS chapter 79, and, with respect to real property, the rights of a trustee or lender under a
 25 lease authorized by ORS 283.089 (1)(e).

26 (7) “Software” means software and training and maintenance contracts related to the operation
 27 of computing equipment.

28
 29 **DECOUPLING ELLIOTT STATE FOREST**

30
 31 **SECTION 23. ORS 530.450 is added to and made a part of sections 1 to 21 of this 2022 Act.**

32 **SECTION 24. ORS 530.450 is amended to read:**

33 530.450. Any lands in the national forests on February 25, 1913, selected by, and patented to, the
 34 State of Oregon, for the purpose of establishing a state forest, hereby are withdrawn from sale ex-
 35 cept as provided in [ORS 530.510] **section 15 of this 2022 Act.** The state forest **formerly known**
 36 **as the Elliott State Forest** shall be known as the Elliott State **Research Forest and managed**
 37 **as described in sections 1 to 21 of this 2022 Act.**

38 **SECTION 25. ORS 530.480 is amended to read:**

39 530.480. As the Common School Forest Lands are determined as required by ORS 530.450 to
 40 530.520, such lands shall be described by legal subdivision. The State Land Board and the State
 41 Board of Forestry, respectively in their regular meetings, shall by separate board resolutions desig-
 42 nate and set aside such lands as a part of the Common School Forest Lands[; *lands in the Elliott*
 43 *State Forest, as determined by ORS 530.450, shall be similarly described and reserved]. A copy of each*
 44 board resolution certified by the Director of the Department of State Lands or the State Forester,
 45 respectively, together with the description of the lands involved, shall be filed with the Secretary

1 of State, who shall keep such copies and descriptions in conjunction with the auditing records of the
2 State Forestry Department Account.

3 **SECTION 26.** ORS 530.490 is amended to read:

4 530.490. (1) Notwithstanding the provisions of any other law, or authority granted thereunder,
5 after the State Board of Forestry and State Land Board resolutions and legal descriptions are filed
6 with the Secretary of State as required by ORS 530.480, the State Forester hereby shall be author-
7 ized, under the supervision of the State Board of Forestry and the regulations of that board, to
8 manage, control and protect the Common School Forest Lands. [*Also, notwithstanding the provisions*
9 *of any other law, or authority granted thereunder, the State Forester hereby is authorized, under the*
10 *supervision of the State Board of Forestry and the regulations of that board, to manage, control and*
11 *protect the Elliott State Forest Lands. In each instance]* The State Forester shall manage, control and
12 protect such forests and forestlands so as to secure the greatest permanent value of the lands to the
13 whole people of the State of Oregon, particularly for the dedicated purposes of the lands and the
14 common schools to which the resources of the lands are devoted.

15 (2) Easements on, over and across the Common School Forest Lands [*and the Elliott State Forest*
16 *Lands]* may be granted as follows:

17 (a) Permanent easements determined by the State Forester and State Board of Forestry as nec-
18 cessary to accomplish the dedicated purposes of such lands may be granted by the Department of
19 State Lands.

20 (b) Easements other than permanent may be granted by the State Forester under joint rules of
21 the State Board of Forestry and Department of State Lands.

22 (3) The authority granted the State Forester in this section shall not supersede the authority
23 of the Department of State Lands to grant easements on or leases for the Common School Forest
24 Lands [*and Elliott State Forest Lands]* for grazing purposes or for the exploration and development
25 of minerals, oil or gas, and any consideration received by the Department of State Lands therefor
26 shall be excepted from the provisions of ORS 530.520. However, the Department of State Lands shall
27 cooperate with the forestry program of the State Forester in granting such easements and leases
28 and make provisions therein for continuing the primary purposes for which such land has been
29 dedicated.

30 **SECTION 27.** ORS 530.510 is amended to read:

31 530.510. (1) The State Forester may propose and initiate any exchange of [*land of the Elliott*
32 *State Forest or]* Common School Forest Lands, or propose and initiate any exchange of timber on
33 such lands, for land of approximately equal aggregate value, when any such exchange is in the
34 furtherance of the purposes of ORS 530.450 to 530.520. However:

35 [(1) *Any exchange of land of the Elliott State Forest must be for the consolidation of the forest;*]

36 [(2)] (a) The State Land Board and the State Board of Forestry shall, each separately, approve
37 such exchanges by resolutions of the respective boards; and

38 [(3)] (b) The county court or board of county commissioners of the county, or counties, in which
39 such land is situated, shall approve such exchange, and after such approval the exchanges shall be
40 consummated by legal conveyance from the Department of State Lands.

41 [(4)] (2) Under the authority granted in this section, in addition to land to be exchanged, a
42 monetary consideration may be provided or received where necessary to make the values comply
43 with this section. No exchange shall be made until title to the lands to be received has been ap-
44 proved by the Attorney General. All lands received in exchange shall have the same status and be
45 subject to the same provisions of law as the lands given in exchange therefor.

1 **SECTION 28.** ORS 530.520 is amended to read:

2 530.520. (1) Excepting receipts from the easements and leases designated in ORS 530.490 (3), all
3 receipts from [*the Elliott State Forest and*] the Common School Forest Lands shall be paid into the
4 Common School Fund and are continuously appropriated to the Department of State Lands for the
5 purposes for which other moneys in the Common School Fund may be used and to reimburse the
6 Common School Forest Revolving Fund as provided in subsection (2) of this section.

7 (2)(a) The Common School Forest Revolving Fund, in an amount not exceeding \$300,000, is es-
8 tablished as a fund, separate and distinct from the General Fund, in the State Treasury. Interest
9 earned by the fund shall be credited to the fund. The revolving fund is continuously appropriated
10 to the State Forester for the payment of administrative expenses incurred by the State Forester in
11 the management, control and protection of [*the Elliott State Forest and*] the Common School Forest
12 Lands and in processing the sale of forest products and the disposal of privileges under ORS 530.500.
13 The revolving fund shall be reimbursed at least once each month by submission to the Department
14 of State Lands of a claim for payment approved by the State Forester and payment of the claim to
15 the revolving fund out of the Common School Fund, that payment representing a portion of receipts
16 paid into the Common School Fund under subsection (1) of this section.

17 (b) As used in paragraph (a) of this subsection, “administrative expenses” means a classification
18 of expenses incurred by the State Forester in performing functions referred to in paragraph (a) of
19 this subsection as a whole, rather than expenses incurred in performing any specific function that
20 is a part of the whole; and it means expenditures recognized as operating costs of a current or past
21 period, including refund of overpayments in the sale of forest products, and capital expenditures for
22 buildings, furniture, fixtures or equipment.

23 (3) After the end of each six-month period the State Forester shall submit to the Department
24 of State Lands a statement of capital asset account balances as of the end of that period for
25 buildings, furniture, fixtures and equipment held by the State Forester in performing functions re-
26 ferred to in subsection (2)(a) of this section and in which the Common School Fund has a vested
27 interest, showing the amount of that interest.

28 **SECTION 29.** ORS 30.949 is amended to read:

29 30.949. (1) As used in this section:

30 (a) “Access road” means a road owned or maintained by the State Forestry Department.

31 (b) “Forest practice” has the meaning given that term in ORS 527.620.

32 (c) “State forestland” means:

33 (A) Forestland acquired under ORS 530.010 to 530.040; and

34 (B) Common School Forest Lands [*and Elliott State Forest Lands*] managed under ORS 530.490.

35 (2) A private entity that contracts with the State Forestry Department to perform a forest
36 practice has a right of action for the amount of actual damages against any person that, while on
37 state forestland or an access road on state forestland, intentionally commits an act that hinders,
38 impairs or obstructs or is an attempt to hinder, impair or obstruct, the performance of the forest
39 practice by the private entity. A court shall award a plaintiff prevailing under this section reason-
40 able attorney fees and costs.

41 (3) If the contract between the private entity and the department provides for the private entity
42 to perform forest practices in a defined area of state forestland that lies in more than one county,
43 venue for a cause of action under this section is proper in any county containing part of the area
44 of state forestland defined by the contract terms in effect on the date the cause of action arose.

45 (4) An action under this section must be commenced within two years after the date of the act

1 giving rise to the cause of action.

2
3 **OPERATIVE DATES**

4
5 **SECTION 30.** (1)(a) Sections 1, 2, 4, 6 to 21 and 23 of this 2022 Act and the amendments
6 to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 22 and 24 to
7 29 of this 2022 Act become operative on January 1, 2024.

8 (b) Sections 3 and 5 of this 2022 Act become operative upon completion of all of the
9 events described in subsection (2) of this section.

10 (2) Notwithstanding subsection (1) of this section, sections 1 to 21 and 23 of this 2022 Act
11 and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by
12 sections 22 and 24 to 29 of this 2022 Act do not become operative unless, on or before July
13 1, 2023:

14 (a) The State Land Board ensures that financial obligations to the Common School Fund
15 related to the Elliott State Forest are satisfied;

16 (b) The State Land Board votes to decouple the Elliott State Forest from the Common
17 School Fund and authorizes actions necessary to transfer the forest to management de-
18 scribed in sections 1 to 21 of this 2022 Act;

19 (c) The National Marine Fisheries Service or the United States Fish and Wildlife Service
20 publishes notice of a record of decision approving a habitat conservation plan for the Elliott
21 State Forest pursuant to the Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 to
22 1544);

23 (d) The State Land Board approves a forest management plan, as defined in ORS 526.455,
24 for the Elliott State Forest; and

25 (e) The Board of Trustees of Oregon State University authorizes the university to par-
26 ticipate in management of the Elliott State Research Forest.

27 (3) The State Forester may take any action upon completion of all of the events described
28 in subsection (2) of this section and before the operative date specified in subsection (1)(a)
29 of this section that the State Land Board, the State Board of Forestry, the State Forestry
30 Department or the State Forester deems necessary to prepare for the establishment of the
31 Elliott State Research Forest as described in sections 1 to 21 and 23 of this 2022 Act and the
32 amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections
33 22 and 24 to 29 of this 2022 Act.

34
35 **REPORT TO LEGISLATIVE ASSEMBLY**

36
37 **SECTION 31.** The State Land Board shall report by September 15, 2023, to an interim or
38 regular committee of the Legislative Assembly related to forests, in the manner described
39 in ORS 192.245, on whether all of the events described in section 30 (2) of this 2022 Act oc-
40 curred on or before July 1, 2023.

41
42 **CAPTIONS**

43
44 **SECTION 32.** The unit captions used in this 2022 Act are provided only for the conven-
45 ience of the reader and do not become part of the statutory law of this state or express any

1 legislative intent in the enactment of this 2022 Act.

2

3

EFFECTIVE DATE

4

5 **SECTION 33.** This 2022 Act takes effect on the 91st day after the date on which the 2022
6 regular session of the Eighty-first Legislative Assembly adjourns sine die.

7
