



## **HB 1502: Small Woodland Owners Tax Credit - Improved but not finished**

Testimony for Senate Finance & Revenue – Jody Wiser – 2.16.2022

My name is Jody Wiser, and I speak on behalf of Tax Fairness Oregon, a group of volunteers who advocate for a rational and equitable tax code.

I have been closely following this timber issue since the news stories about the timber industry's successful campaign to undo its taxation regime broke 18 months ago; reading studies, providing presentations, and working with multiple partners.

When the Natural Resources and Wildfire Recovery Committee considered this bill on February 3<sup>rd</sup>, I outlined six areas of concern.

The -1 amendment was responsive and improves the bill, and those improvements are included in the -3. But, the -3 also introduced a new subsidy area that came from out of the blue yesterday. I will get to that in a moment.

Two of the most important issues have been addressed.

- 1) The definition of "stumpage value" is corrected.
- 2) The tax credits can no longer be transferred outside of the family.

Other issues remain unaddressed or have inconsistencies:

- A) While all other tax credits can be used in the year received, and can usually also be carried forward for 3, 5 or 10 years, these small woodland tax credits have an unending life and can be passed forward to future generations. Never before have we seen such a provision.
- B) There is no sunset for the small woodland tax credit. The bill and amendments continue to say in section 7 that "Notwithstanding ORS 315.037 section 2 of this 2022 Act applies to all tax years beginning on or after January 1, 2023." Under ORS 315.037 tax credits are given a sunset after six years – but not this one. This is likely to be a very costly provision; it should not be an exception. It needs the sideboard of a six-year sunset to make sure it is working for both the landowners and for the state.
- C) When the state issues a tax credit for the value of the standing timber, the state is buying those trees for 50 years. Logically, any owner that violates that agreement should pay the same interest and penalties. The amendments make improvements for subsequent buyers of property with this 50 year deed restriction, but different kinds of owners are treated in

different ways if they harvest the trees early. If the deal is broken by any party, the state should receive equal pay. The trees that the public paid for are now larger, but cut down and sold for a profit. Say it's 25 years later. If the state loses a now higher value stand of trees the state should be repaid with interest and penalties. All offending owners should be treated the same if they break the deal. But under the -1 and -3 amendments:

- If the original owner breaks the 50-year agreement, it forfeits any unused tax credits and repays any tax credits it has used with interest, but without penalties.
- If a subsequent buyer breaks the 50-year agreement, it repays the full value of all the tax credits plus interest and penalties from the date of purchase, but not for the years before. So if it purchases and harvests in the same year, neither it nor the original owner pays interest or penalties for any tax credits used prior to the purchase.
- If the estate of the owner breaks the 50-year agreement, it pays tax, interest and penalties, but only on any of the tax credits used against liabilities of the estate. It pays nothing for violating the agreement, or for the use of the tax credits by the original owner.

These three may look good if you are the deal breaker, but not if you are the state.

- D) Springing a new provision for this tax credit on legislators and the public with so little notice challenges even sophisticated observers. The new, likely expensive provision is found in Section 4 (1)(c) and (3) includes in the amount of the tax credit trees in "an adjacent area of no-harvest buffer required on a dry channel of a small nonfish perennial stream, the small forestland owner may include in the credit amount one-half of the stumpage value of the mandatory retained timber within the area between the inside edge of the small forest owner minimum option and the edge of the dry stream channel." From where did this new provision emerge? If this is mandatory, why is there a tax credit? The small woodland tax credit is for the landowner who chooses to meet higher-than-mandatory requirements, and is for the value of the optional trees left standing, not for the mandatory stream buffers.

The Private Forest Accord deal was announced on October 30<sup>th</sup>. But now with only 24 hours notice this new provision shows up? I have been following this timber issue for a year and a half, giving it considerable attention, and I don't understand the new words in Section 4. I don't even understand what piece of land this refers to, and yet the committee is to understand, concur and vote on it?

You don't have a revenue estimate, you don't have a sunset, and you don't have a clean bill. Please, don't create another BETC (Business Energy Tax Credit).

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