



Council of Forest Trust Land Counties

1212 Court St. NE | Salem, Oregon 97301

AOC ASSOCIATION OF
OREGON COUNTIES

SB 795 Testimony on behalf of AOC- Association of Oregon Counties and CFTLC – Council of Forest Trust Land Counties

Senate Natural Resources Committee

February 27, 2023

Dear Chair Golden, Vice Chair Girod and members of the Senate Natural Resources Committee:

For the Record my name is Branden Pursinger and I am the Legislative Affairs Manager for Natural Resource related issues at the Association of Oregon Counties as well as the Executive Director for the Council of Forest Trust Land Counties.

The Association of Oregon Counties and the Council of Forest Trust Land Counties stand in support and urge passage of SB 795.

The Council of Forest Trust Land Counties is a formal organization made up of 15 counties in Oregon that have, within their borders, approximately 745,000 acres of forest land which the counties acquired through tax foreclosure, and which were turned over voluntarily to the State for timber management. Most of these lands were transferred to the State between 1939-1950.

The 15 counties in CFTLC consist of: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Columbia, Clackamas, Washington, Polk, Marion, Benton, Linn, Josephine, and Klamath.

Background:

In the late 1930s, the wood products industry across the nation believed the value was in the tree and not in the land; the result of this belief created a “cut and run” operation. When the trees were harvested, lands were abandoned, and counties would reclaim the land through tax foreclosure proceedings. Devastating fires in the 1930’s and 1940’s also laid waste to thousands of areas of timberland, which had also previously been abandoned, and finally placed in county ownership. In December of 1936, the State Planning Board sent a report to Governor Charles Henry Martin [1935-1939] that over 1.7 million acres of timber and grazing lands were in county ownership through tax foreclosures. By 1939, Governor Charles Arthur Sprague [1939-1943] saw that figure rise to 2,000,000 acres. The largest of these blocks of timberland in county ownership were in Douglas, Tillamook, and Deschutes Counties. The largest blocks of grazing land were in Harney, Malheur, and Lake Counties.

These lands were held in fee by the counties. Because of this, the land generated no taxes. County governments had two options, they could sell the land and place the lands back on the tax

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rolls, or they could keep the land as they were. Local governments, dependent upon property taxes for revenues, were nearly bankrupt.

Beginning in 1939 and following in subsequent Legislative sessions, the Legislature in partnership with the Counties, enacted a series of laws which provided a third option for the timber land ... the lands would be held in trust by the Board of Forestry, under a contract agreement with the counties. The contract was to share the revenues generated from harvesting the lands. Judge Duane Erstgaard of Marion Circuit Court (Case # 135593) found that this agreement was a contract between the counties and the state. The state however had promised payments to the counties but little if any revenue was forthcoming. The little funds raised from the forests simply supported the state's management of the lands.

Recognizing this, Governor Sprague began to support (and subsequent Governors Earl Wilcox Snell [1943-1947] and James Douglas McKay [1949-1952] did so as well) a program which provided for the funding of the rehabilitation of the land. Legislation was enacted in 1947 to place on the forthcoming ballot an addition to the Oregon Constitution. A vote of the people to create a new type of bonding authority for the state, what became Article XI-E Bonds. General Obligation bonds would be used to provide the needed funds for reforestation, rehabilitation and protection of the lands.

By 1965, the Legislature stated that the major benefits of the program would go to the counties, and counties should consider assuming responsibility for payment of the costs of the rehabilitated bonds. The Legislature directed the Department of Forestry to meet with the counties and determine if an appropriate agreement might be reached for repayment of the debt. Meetings were held over a three-year period, and the foundation for what became the Council of Forest Trust Land Counties was created.

Counties and the Department of Forestry met to discuss and consider proposals. A final meeting of the group was held in December of 1968 when the counties gave their approval to proposed legislation which subsequently became ORS 530.115 (2).

By 1969, State Forester Ed Schroeder began conversations with county officials suggesting a need for a regularly constituted group of county individuals to meet with the Department of Forestry officials on a working basis. Conversations were also had with Governor Tom McCall [1967-1975]. At the annual Conference for the Association of Oregon Counties (AOC) in November of 1978, Schroeder again broached the subject with county leaders. He emphasized that a close working relationship between the 15 counties and his department would be of benefit to both. The first meeting between the counties and the Department was held on December 28, 1978.



Discussions at this first meeting found that (1) counties should be familiar with the development of their forest lands to protect county interests and to correct a growing assumption that the lands could be manipulated unilaterally by the state; (2) the deeds which transferred the lands to the state were in fact ‘contracts’ and continued in effect so far as the Department of Forestry was concerned, but this point needed to be strengthened; (3) there is a continuing need for regular meetings between county officials and the Department of Forestry; and (4) the Attorney General had been asked for an opinion on the county repayment program for the rehabilitation of the bond debt.

By 1979, State Forester Ed Schroeder found that the estimated revenues annually from the lands would soon bring somewhere between \$75 million and \$100 million. Revenues from these Forest Trust Lands are shared with the counties and the Department of Forestry. The first 15% off the top of all revenues go to the Department, the remainder in 1980 was divided 75% to the counties and 25% to the Department. (ORS 530.110). The 15% off the top would go to maintain a constant fund of \$475,000. Today, the counties receive 63.75% of the revenue generated and the Department of Forestry receives 37.25% of the revenue generated.

Issues around the “Crabtree Caper” of 1978 made it clear to the counties they needed to come together in a formal organization to represent and protect their interests. The Council of Forest Trust Land Counties (CFTLC) was formed.

CFTLC was established with five main objectives:

- 1) Protect the trust and contractual relationship between the forest trust land counties and the state of Oregon.
- 2) Support sound, active management of county forest trust lands.
- 3) Protect the flow of revenues from county forest trust lands for essential local public services.
- 4) Support forest trust land counties.
- 5) Provide an organization that will effectively communicate these objects.

Senate Bill 795:

SB 795 directs the State Board of Forestry to convey the forest lands within a county to that county, if the Board of Commissioners determines they would be better at securing greatest permanent value of the lands than the Department of Forestry.

Greatest Permanent Value, found in ORS 530.050 and also defined in OAR 629-035-0020, is defined as:



Healthy, productive, and sustainable forest ecosystems that over time and across the landscape provide a full range of social, economic, and environmental benefits to the people of Oregon. These benefits include but are not limited to:

- a) Sustainable and predictable production of forest products that generate revenues for the benefit of the state, counties, and local taxing districts;*
- b) Properly functioning aquatic habitats for salmonids, and other native fish and aquatic life;*
- c) Habitats for native wildlife;*
- d) Productive soil, and clean air and water;*
- e) Protection against floods and erosion; and*
- f) Recreation.*

[OAR 629-035-0020]

The lands would be transferred from the state back to the county in the condition that the forest is currently in at the time of the vote. All encumbrances, easements, roads, etc. would be transferred along with the forest.

Reason for Support:

The Department of Forestry has made output projections and harvested yields which have greatly decreased over time.

<i>2017 Timber Value harvested off the Trust Land Forests 2017FY</i>	<i>~265 MMBF</i>
<i>2018 Business Case Analysis of a possible Habitat Conservation Plan</i>	<i>~250 MMBF</i>
<i>2022 Draft Environmental Impact Statement</i>	<i>~225 MMBF</i>
<i>2023 Modeling of the Implementation Plan</i>	<i>~165-182 MMBF</i>

Senate Bill 795 would allow for the land to be returned to local communities. It would empower counties, through their elected commissioners, to assess whether management by the state is meeting the needs of their communities. Counties and the Department began this relationship in partnership with each other; however today, local communities are questioning if the issues and concerns being voiced by the counties are even being heard by the members of the Board of Forestry.



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The revenue from tree harvests is essential for county and special district budgets as well as family wage, fully benefited, jobs in our communities. The reason for voluntary transfer during the 1930s was to ensure revenue off the forest lands. The Contract with the state was to ensure revenue was transferred to the counties because of these deeded lands in trust. In the 1930s, the Great Depression didn't allow counties to manage the forests; however today, counties are in a much better position to manage these lands. Trust Counties humbly request the option to reacquire their lands if they so decide.

AOC and CFTLC highly encourages and supports the passage of SB 795.

Information in the "Background" section was taken from the 'A history with the Crabtree Caper by Kess Cannon – AOC 1984.'

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