

STAFF REPORT

Agenda Item No.	C
Title and # of Issue:	Forest Regulation – Issue 6
Objective # & title:	Objective 1 – Public Benefits from Private Forests
Date of Presentation:	April 26, 2007
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SUMMARY

- This report presents an update on legislative changes to three programs designed to assist private forestland owners who provide public benefits. Three bills were introduced this session to improve the Department's ability to support the provision of public benefits from private forests. These bills make changes to the **Forest Trust Program**, **Stewardship Agreements** and **Forest Legacy Program**.
- This report provides information and does not require the Board to take any action.

CONTEXT

Legislative changes have been proposed to three programs, which address the goal to ensure that Oregon's forests provide diverse social, economic, and environmental outputs and benefits valued by the public in a fair, balanced, and efficient manner. The changes are intended to:

- Improve the effectiveness of the Forest Resource Trust and develop a program to help forest landowners obtain benefits from providing ecosystem services.
- Add more defined incentives to Stewardship Agreements.
- Expand opportunities for Forest Legacy Program funds to promote maintenance of forestland for forest uses and other conservation opportunities.

BACKGROUND AND PROGRAM CHANGES

There is general support among constituent groups for the changes. A constituent workgroup was formed to amend the Forest Resource Trust legislation. Amendments to the Stewardship Agreement legislation were developed through informal consultation with interested groups. These legislative changes developed by these processes have support and the bills are moving through the process, with good prospects of passage.

The remainder of the report will provide details on the legislative changes by program. Each section will give a brief background on the program, logic for change, expected result, and status of legislation.

THE FOREST RESOURCE TRUST PROGRAM

Background

The Forest Resource Trust was originally created by statute in 1993; with clarifying statutory amendments passed and adopted into law in 2001. The purpose of the Forest Resource Trust is to provide financial, technical and related assistance to family forest landowners for stand establishment and improved management of forestlands for timber production, wildlife, water quality and other environmental purposes.

House Bill 2293 was developed as a legislative concept in 2006 by the Forest Resource Trust Advisory Committee – a standing committee to the Oregon Board of Forestry with statutory authority under ORS 526.700 to assist the Board in setting policy for the Forest Resource Trust. The first hearing on HB 2293 was January 30. At that hearing the committee called for the formation of a workgroup of interested parties to be lead by the Department to address certain concerns expressed with the original Bill's provisions. The amendments before you today are the result of this workgroup.

The original bill:

- Created a voluntary cost share program.
- Broadened the scope of the Forest Resource Trust's purpose to include qualified nonfederal landowners.
- Established a voluntary environmental services program.

The first hearing on HB 2293 was January 30, 2007. Constituent groups generally supported the legislation, but had objections to the environmental services program. These objections involved the valuation of ecosystem services currently provided by regulations and the role of the Department in developing markets for these services. At the hearing, the committee called for the formation of a workgroup of interested parties to be lead by the Department and asked the Department to bring back bill amendments based on the work group's efforts.

Amendments

Environmental Services/Ecosystem Services Program

The environmental services program section of the bill has been removed. This was the major focus of the workgroup discussions. All members agree that this is an important topic for Oregon. The workgroup concluded this should be a topic for a broader discussion between agencies and stakeholders, before considering specific legislation. The Oregon Department of Forestry is encouraged to promote the development of ecosystem services.

Oversight

The original language called for an evaluation of the trust and a report to the legislature. This evaluation and report was completed once, but it was unclear whether the wording intended periodic reports. The proposed amendment to ORS 526.730 requires a report to the 2011 Legislative Assembly.

Other clarifications:

The original statute made the trust available to non-industrial private landowners. HB 2293 sought to broaden this and had the language “qualified non-federal landowners.” This was further clarified to “qualified private and local government landowners.”

Since establishment of the Forest Resource Trust, the Oregon Department of Fish and Wildlife has developed its first overarching state strategy for conserving fish and wildlife. Language is added to the Forest Resource Trust to give consideration to this strategy when setting priorities.

Summary

As amended, this bill would address the barriers preventing broader use of the Forest Resource Trust by creating a cost share program and amending existing provisions. Passage of House Bill 2293 does the following:

Efficiency Provisions

- Gives the Oregon Board of Forestry the authority to create a voluntary cost share program under the Forest Resource Trust as a proven mechanism for delivering financial and technical assistance.
- Gives the Oregon Board of Forestry the flexibility through rule adoption to broaden the scope of the Forest Resource Trust’s purpose to include qualified private and local government landowners.

Effectiveness Provisions

- Directs Forest Resource Trust programs to:
 - Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with good probability of success for long-term forest management, and
 - Consider the state strategies for conservation of fish and wildlife
- Gives the Oregon Board of Forestry the authority to generalize the Forest Resource Trust’s voluntary loan program to be inclusive of other forest management practices besides stand establishment.

Provisions of House Bill 2293 create efficiencies and effectiveness in the Forest Resource Trust’s ability to provide financial and technical assistance to forest landowners for stand establishment and improved management of forestlands. As a result of HB 2293, Oregonians can expect more acres of underproductive land to be forested and improved forest management on existing forestland, both with increased priority in areas that develop and maintain important ecosystem services.

House Bill 2293 is scheduled for a hearing in the House Agriculture and Natural Resources Committee, and is expected to move forward as amended.

STEWARDSHIP AGREEMENT PROGRAM

Summary

HB 2114 proposes improvements to the Stewardship Agreement specifically focused on defining incentives for forest landowners. At the initial hearing before the House Agriculture and Natural Resource Committee, it was agreed to seek some clarifying amendments before asking to move this Bill forward. All those testifying spoke in general support of the Bill. The amendments currently drafted appear to be acceptable to interested parties.

- Sections 1 and 2: The Bill retains proposed language creating, but not funding a separate stewardship grant fund. This was originally envisioned as a joint fund between the cooperating agencies of agriculture and forestry, but legislative counsel did not feel a joint appropriation was possible, so it is focused as an instrument of the Board of Forestry only. Department of Agriculture does not feel the same need because agricultural producers have had better access to federal programs. The Department has administered federal cost share programs, and has the processes in place to administer the program as proposed. The Watershed Improvement Grant fund operates on lottery funds and focuses on watershed and riparian conservation activities. The Flexible Incentives Account is currently unfunded, but focuses on strategies to protect and restore native fish, wildlife and plants. The addition of a stewardship agreement account fund is intended to provide a mechanism for receiving funds and assisting landowners with stewardship activities which may not fall within the parameters of the other funds.
- Section 4: Language specifically listing activities to achieve the purposes of Stewardship Agreements as a purpose for providing grants from the Watershed Improvement Fund will be dropped. OWEB assured the Committee that Stewardship Agreement projects can be included under existing authority for general watershed and riparian habitat conservation activities, and agreed to work with Forestry to develop this source to be more understandable and accessible to forest landowners.
- Section 5 (7): Efforts have been made to clarify the language providing "regulatory certainty" at the state level. The intent although still not clearly apparent is to apply this narrowly. If by stewardship agreement a landowner agrees to voluntarily exceed current regulatory protection requirements for a specific resource, they could be granted an exception from meeting even more stringent requirements for that specific resource if adopted in the future as recognition of the benefits derived by their earlier action.
- Section 6: The exception from individual written plan requirements under the Forest Practices Act is reinstated. No change from original bill language.
- Section 7: The exemption from public disclosure of management plans will be moved from the section of law providing absolute exemption to the section providing exemption unless public interest requires disclosure in the particular instance. With this move, the Newspaper Publisher's Association supports the proposal.

The Bill has been delayed for reasons unrelated to the Bill itself, but is anticipated to be scheduled for hearing in early April, and is expected to move forward.

THE FOREST LEGACY PROGRAM

Background

House Bill 2468 addresses the scope of the Forest Legacy Program (FLP), a U.S. Department of Agriculture Forest Service program that works in partnership with states. The FLP is designed to support state and local efforts to protect threatened forestlands from conversion to non-forest use. Forest Legacy is strictly a voluntary program. FLP seeks to promote maintenance of forestland for forest uses and other conservation opportunities. Both purchased and donated lands and interests in lands through the use of conservation easements and fee-simple purchase may be used in meeting Forest Legacy purposes from willing sellers or donors. In the 2005, the legislature permitted the Oregon Department of Forestry to participate in the FLP within Urban Growth Boundaries.

A 2002 assessment of need identified areas where the FLP could help protect important forests that were threatened by development. Since the initial assessment of need, economic pressures, the realities of BM 37, and high land values have significantly increased the development pressures on forest land. Ownership patterns are changing. Publicly traded industrial forestland organizations have restructured, separating wood processing facilities and forestland ownership. Ownership of these forestlands has moved to Timber Investment Management Organizations (TIMOs) or Real Estate Investment Trusts (REITs). These forestlands are managed as an investment to be maximized, which leads to the sale and conversion of forestlands to other uses when the market value exceeds the value for growing timber. Industrial forestlands are currently for sale as smaller parcels in central and northeastern Oregon.

Amendments

HB 2468 eliminates the requirement that proposed forest legacy land be wholly within an urban growth boundary. The removal of the urban growth boundary limit allows the program to address the increased development pressures on private forestland. These pressures have significantly increased the need for a tool to maintain working and other important forestland.

The revised statute will improve the ability to maintain working forests by using conservation easements or purchases where necessary. Conservation easements buy defined development rights from the landowner, allowing the landowner to capture development value while managing the property within the limits of all remaining property rights.

HB 2468 also eliminates language specifying that the use to which forest legacy land will be put is allowable use under local comprehensive plan and adds language that requires that State Forestry Department ensure implementation of the program complies with land use laws and regulations. This results in no net change to the Bill in terms of compliance with land use laws including comprehensive plans. Other laws already require that state agencies act compatibly with the land use program through a State Agency Coordination Program.

Summary

Passage of the bill will increase the forestland area eligible to participate in the FLP. This change in potential participants will require developing a revised assessment of need and developing procedures to ensure compliance with State Agency Coordination requirements. The assessment of need will be completed in partnership with interested agencies, organizations and the public to ensure evaluation of all important forests that are threatened by land use conversion. The costs of this assessment should be covered by a Federal grant. The program is highly competitive nationally and has limited funds. The broader authority, as provided by the Bill, will likely increase the probability that Oregon proposals will be funded.

Other possible consequences related to local taxes and economic values of jobs sustained are complex. The program will be administered to optimize the value of the program to local communities by maintaining working forests that would otherwise be converted to non-forest use while minimizing or preventing changes to local government revenues.

House Bill 2468 has passed in the House and has moved to the Senate.