

Establishes Oregon Agricultural Heritage Fund and continuously appropriates moneys in fund to Oregon Watershed Enhancement Board. Authorizes use of moneys for purposes associated with supporting use of land for agricultural production, maintenance or enhancement of fish or wildlife habitat, improving water quality or supporting other natural resource values.

Establishes programs to provide grants for qualifying conservation management plans, working land conservation easements or working land conservation covenants on agricultural lands.

Establishes Oregon Agricultural Heritage Commission and specifies duties of commission.

Requires Department of Revenue to study effect of financial incentives, incremental tax reduction and tax elimination on transfers and succession planning for land used for agricultural production, maintenance or enhancement of fish or wildlife habitat, improving water quality or supporting other natural resource values. Requires department to complete study and report findings to interim legislative committee on or before September 15, 2018.

A BILL FOR AN ACT

Relating to land conservation.

Whereas Oregon's rich agricultural heritage and diverse farm and ranch lands are the cornerstone of the state's rural communities and support a variety of natural resource functions; and

Whereas the economy of Oregon developed through a long tradition of land stewardship that supports both agriculture and natural systems; and

Whereas more than one quarter of Oregon's 63 million acres are private working lands that create agricultural production valued at \$5.4 billion, making agriculture the state's second-largest economic driver; and

Whereas, well-managed agricultural lands support valuable fish and wildlife habitat as well as enhancing other natural resources; and

Whereas, despite Oregon's unique land use protections, Oregon's farms and ranches, and the social, economic and ecological values they support, are increasingly challenged by fragmentation through new land uses, conversion to non-farm uses, complex regulations, and planning for generational transfers; and

Whereas the protection of Oregon agricultural lands, and the social, economic and ecological values they support, can be enhanced by voluntary tools tailored to the needs of individual agricultural landowners or operators; and

Whereas use of these voluntary tools can leverage federal moneys to protect and enhance working lands while maintaining or enhancing support valuable fish and wildlife habitat and other natural resources; now therefore,

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

SECTION 1. As used in sections 1 to 10 of this 2017 Act:

(1) "Agricultural landowner or operator" is the landowner or the person who runs the farm, making day-to-day management decisions. Operator includes the owner, the hired manager, cash tenant, share tenant, and/or partner.

(2) "Working land" means land that is in active agricultural use by the agricultural landowner or operator and that includes, but need not be limited to, use as a farm or ranch.

(3) "Working land conservation covenant" means a nonpossessory interest in working land for a fixed term that imposes limitations or affirmative obligations for purposes that must:

(a) support the use of the land for agricultural production; and

(b) support the maintenance or enhancement of fish and wildlife habitat, improvement of water quality or support of other natural resource values.

(3) "Working land conservation easement" means a permanent nonpossessory interest in working land that imposes limitations or affirmative obligations for purposes that must:

(a) support the use of the land for agricultural production; and

(b) support the maintenance or enhancement of fish and wildlife habitat, improvement of water quality or support of other natural resource values.

SECTION 2. (1) The Oregon Agricultural Heritage Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Agricultural Heritage Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of carrying out sections 1 to 10 of this 2017 Act.

(2) The board may accept contributions to the fund from any public or private source and may agree to any conditions for the expenditure of those contributions that are consistent with the purposes of the fund.

SECTION 3. (1) The Oregon Watershed Enhancement Board may expend moneys from the Oregon Agricultural Heritage Fund to:

(a) Carry out the programs described in section 6 of this 2017 Act;

(b) Pay reimbursements and staff support expenses associated with the activities of the Oregon Agricultural Heritage Commission established under section 7 of this 2017 Act;

(c) Provide succession planning programs with funding recommended by the commission under section 10 of this 2017 Act;

and

(d) Pay the administrative expenses of the board for carrying out sections 1 to 10 of this 2017 Act.

(2) The amount paid from the fund during a biennium for reimbursements and expenses described in subsection (1)(b) and (d) of this section may not exceed 12 percent of the moneys credited to the fund during that biennium.

SECTION 4. (1) An agricultural owner or operator may enter into a conservation management plan on working land with an organization described in subsection (5) of this section for working land to be managed in a manner that supports one or more natural resource priorities. The conservation management plan may be composed of multiple components addressing different natural resource priorities. The plan must be specific to the land and account for the needs of the agricultural owner or operator. If the plan is associated with a working land conservation easement or a working land conservation covenant, the plan must also meet the requirements described in section 5 (3) of this 2017 Act.

(2) A conservation management plan must be for the purpose of developing and implementing conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural owner or operator. The plan may include provisions for addressing particular priorities related to natural resource values, including but not limited to soil, water, plants, animals, energy and human need considerations. The plan must:

(a) Meet the standards established by Oregon Watershed Enhancement Board rules;

(b) Provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances;

(c) Provide for regular monitoring by the organization to ensure agricultural landowner or operator adherence to the management plan provisions;

(3) For plans of no less than 20 years and no more than 50 years, an organization described in subsection (5) may request funds for costs directly associated with the development and implementation of a conservation management plan. Costs can be calculated as an annual payment to the agricultural landowner or operator based on annual implementation of the management plan.

(4) In order to receive payments associated with a conservation management plan, the agricultural landowner or operator must adhere to the plan and agree to annual monitoring by the eligible entity prior to receiving the annual payment.

(5) An organization that enters into, or proposes to enter into, a conservation management plan may apply to the Oregon Watershed Enhancement Board for a grant to fund the plan if the organization is:

(a) A holder, as defined in ORS 271.715, other than a state agency;

(b) A watershed council; or

(c) Tax exempt under section 501(c)(3) of the Internal Revenue Code.

SECTION 5. (1) An agricultural landowner may grant a working land conservation easement with an organization, or enter into a working land conservation covenant for a term of no less than 20 years and no more than 50 years to an organization, for both the purposes of ensuring the continued use of land for agricultural purposes and maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values on the land.

(2) If the organization accepting the working land conservation easement or entering into the working land conservation covenant is a holder, as defined in ORS 271.715, other than a state agency, in addition

to the purposes required under subsection (1) of this section, the easement or covenant may provide for carrying out any purposes of a conservation easement consistent with this 2017 Act, as defined in ORS 271.715. The easement or covenant must provide for carrying out those additional purposes in a manner consistent with ORS 271.715 to 271.795.

(3) In addition to costs for acquiring the easement or covenant, funds may be used to provide reimbursement for other costs directly associated with acquiring, stewarding or monitoring the working land conservation easement or covenant and development of the associated conservation management plan.

(5) An agricultural landowner may sell a working land conservation easement to an organization at any time that the land is subject to a conservation management plan or upon expiration of a conservation management plan.

(6) An organization that enters into, or proposes to enter into, a working land conservation easement, or a working land conservation covenant may apply to the board for a grant to fund the easement, covenant if the organization is a holder, as defined in ORS 271.715, other than a state agency.

(6) An application under subsection (5) of this section may be combined with an application under section 4 of this 2017 Act for funding a conservation management plan associated with the working land conservation easement or working land conservation covenant, or for funding costs associated with the conservation management plan.

SECTION 6. (1) The Oregon Watershed Enhancement Board shall establish programs to provide grants from the Oregon Agricultural Heritage Fund for the purposes of:

- (a) Assisting agricultural landowners or operators with succession planning for working lands;
- (b) Funding conservation management plans, working land conservation covenants or working land conservation easements described in section 4 or 5 of this 2017 Act, or costs associated with the plans, covenants or easements; and
- (c) Providing technical assistance to organizations that enter into, or propose to enter into, agreements resulting in conservation management plans, working land conservation easements, working land conservation or covenants .

(2) The board, after consultation with the Oregon Agricultural Heritage Commission established in section 7 of this 2017 Act, shall adopt rules that establish a process for submitting and processing applications for grants under section 4 or 5 of this 2017 Act. To the extent practicable, the board shall design the process to:

- (a) Allow flexibility and responsiveness to program participant needs; and
- (b) Ensure compatibility with federal working land conservation easement programs and other programs for the conservation of lands used for working farms or ranches.

(3) The board, in consultation with the commission, shall appoint one or more technical committees to evaluate and rank conservation management plans, working land conservation easements, working land conservation or covenants or associated costs described in applications filed under section 4 or 5 of this 2017 Act based on criteria that include, but need not be limited to:

- (a) The extent to which the plan, easement, or covenant would protect, maintain or enhance farm or ranch operations on working land;
 - (b) The extent to which the plan, easement, or covenant would protect, maintain or enhance fish or wildlife habitat, improve water quality or support other natural resource values;
 - (c) The extent to which the plan, easement, or covenant would protect agricultural outcomes, benefits or other investment gains;
 - (d) The capacity and competence of an organization to enter into a conservation management plan, accept a working land conservation easement or working land conservation covenant ; and
 - (e) The ability to maximize the benefit to the state from the investment based on the ability to leverage grant moneys with other funding sources and on the duration and extent of the conservation management plan, working land conservation easement, or working land conservation covenant.
- (4) Proposals under sections 4 and 5 of this 2017 Act shall be ranked separately.
- (5) For purposes of evaluating and ranking a plan, easement, or covenant under subsection (3) of this section, the type of farm, ranch or other agricultural purpose for which the working land is used may not be considered as a ranking criteria.
- (6) The board may issue a grant to fund a conservation management plan, working land conservation easement, working land conservation or covenant described in section 4 or 5 of this 2017 Act only if:
- (a) There is a cash contribution from funding other than the Oregon Agricultural Heritage Fund, or a contribution of in-kind services or other types of investments in the plan, easement, or covenant;
 - (b) The plan, easement, or covenant is reviewed by a technical committee that has expertise relevant to the described plan, easement, or covenant; and
 - (c) The commission reviews and recommends funding of the plan, easement, or covenant.
- (7) Except as provided in this subsection, an agricultural landowner or operator or an organization that receives a grant from the board for a conservation management plan may receive matching contributions, other financial assistance, in-kind services or investments, rental or easement payments, tax benefits or other benefits from a federal, state or private entity in return for practices related to the implementation of the conservation management plan. The board may not, however, provide payments that would be duplicative of any federal, state or private payments for the same measures directed to maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values within the plan.
- (8) An agricultural landowner or operator or an organization receiving a grant from the board for a conservation management plan, a working land conservation easement, a working land conservation covenant associated costs may receive matching contributions, other financial assistance, in-kind services or investments from any public or private source for purposes of purchasing or carrying out the plan, easement, or covenant.

SECTION 7. (1) The Oregon Agricultural Heritage Commission is established, consisting of 12 members appointed by the Oregon Watershed Enhancement Board. The board shall appoint one board member

to serve on an ex officio basis as a nonvoting member of the commission. The board shall appoint 11 voting members from among persons recommended as provided in subsection (2) of this section.

(2)(a) Four members shall be persons recommended by the State Board of Agriculture who are actively engaged in farming or ranching. The members must represent diverse types of agricultural commodities and be from geographically diverse areas of this state.

(b) One member shall be recommended by the Director of the Oregon State University Extension Service.

(c) Two members shall be persons recommended by the State Fish and Wildlife Commission who have expertise regarding fish and wildlife habitat.

(d) One member shall be a person recommended by the State Board of Agriculture who has expertise in agricultural water quality.

(e) One member shall be a person recommended by the Land Conservation and Development Commission who has expertise in conservation easements and similar land transactions.

(f) One member shall be a person selected by the Oregon Watershed Enhancement Board who is a representative of natural resource value interests.

(g) One member shall be a person selected by the Oregon Watershed Enhancement Board who is a tribal representative.

(3) The term of office of each voting member of the commission is four years, but the Oregon Watershed Enhancement Board may remove a member if requested by the authority that recommended the member. Before the term of a member expires, the authority that recommended the member shall make recommendations to the board regarding the appointment of a successor. An authority may recommend the reappointment of a member, but a member may not serve more than two consecutive terms. If there is a vacancy for any cause, the authority that recommended the vacating member shall make recommendations to the board regarding the appointment of a successor to serve for the unexpired term.

SECTION 8. (1) The Oregon Agricultural Heritage Commission shall select one of its voting members as chairperson and another voting member as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(2) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every 12 months at a time and place determined by the Oregon Watershed Enhancement Board. The commission also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the commission.

(4) Members of the commission are not entitled to compensation but, at the discretion of the board, may be reimbursed from funds available in the Oregon Agricultural Heritage Fund for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495.

(5) The board shall provide staff support for the work of the commission.

SECTION 9. (1) In accordance with applicable provisions of ORS chapter 183, the Oregon Agricultural Heritage Commission may adopt rules necessary for the administration of the laws that the commission is charged with administering.

(2) The commission may establish any advisory or technical committee the commission considers necessary to aid and advise the commission in the performance of its functions. The committees may be continuing or temporary committees. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint the members of the committees. The commission chairperson shall be a nonvoting member of each committee.

(3) Members of advisory or technical committees established by the commission are not entitled to compensation but, at the discretion of the commission and with the consent of the Oregon Watershed Enhancement Board, may be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495.

SECTION 10. (1) The Oregon Agricultural Heritage Commission shall:

(a) Assist the Oregon Watershed Enhancement Board with the development of rules for the administration of programs under sections 1 to 10 of this 2017 Act;

(b) Adopt rules establishing three or more permissible terms of years for working land conservation covenants formed under section 5 of this 2017 Act, which must be of terms that are not less than 20 years and not more than 50 years in length;

(c) Recommend policies and priorities for use by the board in evaluating the farm or ranch values, and the fish or wildlife habitat, water quality or other natural resource values, on working land described in a grant application filed under section 4 or 5 of this 2017 Act;

(d) Review and consider the recommendations of technical committees appointed under section 6 of this 2017 Act;

(e) Consult with the board concerning grant applications;

(f) Provide conservation management plan, working land conservation easement, working land conservation covenant or associated cost funding recommendations to for board concurrence based on the availability of funding from the Oregon Agricultural Heritage Fund; and

(g) Provide funding recommendations to the Legislative Assembly, or recommendations for grant funding to the board, to provide training and support to agricultural landowners or operators, or persons advising agricultural landowners or operators, regarding succession planning for working lands.

(2) The commission's recommendations for funding under subsection (1)(g) of this section may include recommendations for funding succession planning programs through the Oregon State University Extension Service only if the university has presented the commission with a program proposal for review. If a commission recommendation for funding succession planning programs through the

university extension service is adopted, the university shall provide the commission with an annual report regarding each program.

SECTION 11. (1) As used in this section:

(b) "Working land" has the meaning given that term in section 1 of this 2017 Act.

(2) The Department of Revenue, in consultation with the State Department of Agriculture, shall conduct a study examining financial incentives, incremental tax reduction and tax elimination with regard to land transfer and succession planning for land that is used as working lands. The study must include, but need not be limited to, the identification of potential tax incentives and financial management tools that may improve the likelihood for land transfer and succession planning that supports the continued use of working land for agricultural production while maintaining or enhancing fish or wildlife habitat, improving water quality or supporting other natural resource values of the land.

(3) In conducting the study, the Department of Revenue shall consult with state agencies and members of the public that have an interest in policy considerations related to the identification and proposal of potential tax incentives and financial management tools.

(4) The department shall complete the study and report its findings and any recommendations to an interim committee of the Legislative Assembly related to natural resources, in the manner provided by ORS 192.245, no later than September 15, 2018.

(5) Funds from the Oregon Agricultural Heritage Fund can be used to complete this study.

SECTION 12. Notwithstanding the term of office specified by section 7 of this 2017 Act, of the members first appointed to the Oregon Agricultural Heritage Commission:

(1) One of the members recommended by the State Board of Agriculture who is actively engaged in farming or ranching shall serve for a term ending January 1, 2019.

(2) One of the members recommended by the State Board of Agriculture who is actively engaged in farming or ranching shall serve for a term ending January 1, 2020.

(3) One of the members recommended by the State Board of Agriculture who is actively engaged in farming or ranching shall serve for a term ending January 1, 2021.

(4) One of the members recommended by the State Board of Agriculture who is actively engaged in farming or ranching shall serve for a term ending January 1, 2022.

(5) The member recommended by the Director of the Oregon State University Extension Service shall serve a term ending January 1, 2020.

(6) One member recommended by the State Fish and Wildlife Commission shall serve for a term ending January 1, 2019.

(7) The member selected by the Oregon Watershed Enhancement Board who is a representative of natural resource value interests shall serve for a term ending January 1, 2020.

(8) The member recommended by the State Board of Agriculture who has expertise in agricultural water quality shall serve for a term ending January 1, 2021.

(9) The member recommended by the Land Conservation and Development Commission shall serve for a term ending January 1, 2020.

(10) One member recommended by the State Fish and Wildlife Commission shall serve for a term ending January 1, 2021.

(11) The member selected by the Oregon Watershed Enhancement Board who is a representative of Indian tribal interests shall serve for a term ending January 1, 2022.

SECTION 13. Notwithstanding section 3 of this 2017 Act, the amounts paid from the Oregon Agricultural Heritage Fund for the administrative expenses of the Oregon Watershed Enhancement Board and the reimbursements and staff support expenses of activities associated with the Oregon Agricultural Heritage Commission during the biennium beginning July 1, 2017, may exceed 12 percent of the moneys credited to the fund during the biennium.

SECTION 14. Sections 1 to 10 of this 2017 Act apply to agreements and interests in land created on or after the effective date of this 2017 Act.