

Enrolled
House Bill 2200

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for State Forestry Department)

CHAPTER

AN ACT

Relating to forestry carbon offsets; creating new provisions; and amending ORS 526.005, 526.725, 530.050 and 530.500.

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

SECTION 1. Sections 2 to 5 of this 2001 Act are added to and made a part of ORS chapter 526.

SECTION 2. (1) The State Forester may enter into agreements with nonfederal forest landowners as a means to market, register, transfer or sell forestry carbon offsets on behalf of the landowners to provide a stewardship incentive for nonfederal forestlands.

(2) The State Forester may enter into an agreement described in this section if all of the following criteria are met:

(a) The agreement must ensure continuous management of the nonfederal forestlands at a standard that, in the judgment of the State Forester, would not occur in the absence of the agreement.

(b) Any forestry carbon offsets managed by the agreement must be attributable to the subject nonfederal forestland as determined by the forestry carbon offset accounting system established in section 3 of this 2001 Act.

(c) Prices for the transfer or sale of forestry carbon offsets may be negotiated on behalf of the nonfederal forest landowner and must be at or greater than fair market value.

(d) The agreement must provide for the following distribution of proceeds from the transfer or sale of forest carbon offsets attributable to the subject nonfederal forestland:

(A) Not less than 50 percent to the nonfederal forest landowner;

(B) Not more than 25 percent to the State Forester to fund programs providing coordinated technical, financial or management planning assistance to nonindustrial private forest landowners; and

(C) Not more than 25 percent to the State Forester to fund administration of the forestry carbon offset program.

(3) All revenues received and any interest earned on moneys distributed to the State Forester under subsection (1)(d)(B) and (C) of this section shall be credited to the State Forestry Department Account and may be expended only for the purposes stated in subsection (1)(d)(B) and (C) of this section.

(4) A person or governmental agency may create a forestry carbon offset by performing, financing or otherwise causing one or more of the following activities:

(a) Afforestation or reforestation of underproducing lands that are not subject to required reforestation under the Oregon Forest Practices Act;

(b) Forest management activities not required under law existing at the point of creation of the forestry carbon offset, including but not limited to the following practices:

(A) Stand density control treatments in overstocked, underproducing stands of timber;

(B) Silvicultural practices that increase forest stand biomass, including but not limited to structure based management, variable retention, uneven age management, longer rotation ages and no harvest reserves;

(C) Expanded riparian buffers and other leave areas; and

(D) Deferred harvest rotations past 50 years or the age of economic maturity, whichever is longer; and

(c) Other activities as defined by rule by the State Board of Forestry.

SECTION 3. As a means of consistently reporting forestry carbon offsets created through programs established under ORS 526.725, 530.050 or 530.500 or sections 2 to 5 of this 2001 Act, the State Forester shall develop a forestry carbon offset accounting system for the registration, transfer or sale of forestry carbon offsets. The forestry carbon offset accounting system shall:

(1) Use accepted principles and standards relating to the creation, measurement, accounting, marketing, verifying, registering, transferring and selling of carbon offsets used as mitigation for carbon dioxide emissions; and

(2) Be consistent with any rules adopted by the State Board of Forestry under section 4 of this 2001 Act.

SECTION 4. (1) The State Board of Forestry may develop administrative rules that define principles and standards relating to the creation, measurement, accounting, marketing, verifying, registering, transferring and selling of forestry carbon offsets from nonfederal forestlands.

(2) Rules adopted by the board under this section shall set standards to ensure that in order to be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of forest management activities that:

(a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon offset accounting system;

(b) Would not otherwise occur but for the carbon storage objective; and

(c) Provide environmental, social and economic benefits for Oregon and its citizens, including but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife habitat and water quality.

(3) Rules adopted by the board under this section shall establish principles to ensure that the forestry carbon offset accounting system shall:

(a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage or sequestration;

(b) Account for the duration and permanence of the carbon dioxide storage or emission reductions;

(c) Include provisions for establishing the appropriate baseline for projects, practices, rotation ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and credits for carbon storage or sequestration are made;

(d) Account for other relevant and measurable greenhouse gas consequences, specifically credits and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or otherwise as appropriate;

(e) Account for the specific forest management practices used on-site and include provisions for monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the implementation of specific practices;

(f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or sequestration, based on the end product use of harvested biomass;

(g) Account for environmental, social and economic benefits of forestry carbon offsets and ensure that practices with unsustainable, long term consequences are not used to create forestry carbon offsets;

(h) Allow for public access to information in monitoring reports; and

(i) Encourage third-party verification of forestry carbon offsets.

(4) Rules adopted by the board under this section may address qualifications for persons and agencies that provide third-party verification and registration of forestry carbon offsets.

(5) Rules adopted by the board under this section shall be developed with the assistance of an advisory committee appointed by the board. The advisory committee shall consist of at least nine persons and shall contain:

(a) Persons from businesses, governmental agencies and nongovernmental organizations with knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;

(b) At least one person from a nongovernmental forestry conservation organization;

(c) At least one nonindustrial private forest landowner or a representative of an organization that represents nonindustrial private forest landowners;

(d) One representative of the Office of Energy;

(e) One representative of the State Department of Fish and Wildlife, or a designee of the State Department of Fish and Wildlife;

(f) One representative of the Department of Environmental Quality, or a designee of the Department of Environmental Quality;

(g) At least one representative from a qualified organization, as defined in ORS 469.503; and

(h) At least one representative from the State Forestry Department who shall serve as the secretary to the advisory committee.

SECTION 5. Nothing in ORS 526.005, 526.725, 530.050 or 530.500 or sections 2 to 5 of this 2001 Act shall prohibit any person or governmental agency from marketing, selling or transferring forestry carbon offsets independently from the State Forester program established under ORS 526.725, 530.050 or 530.500 or sections 2 to 5 of this 2001 Act. Rules adopted by the State Board of Forestry pursuant to section 4 of this 2001 Act may not prohibit any person from marketing, selling or transferring forestry carbon offsets using principles and standards different than those adopted by the board.

SECTION 6. ORS 526.005 is amended to read:

526.005. As used in this chapter, unless the context otherwise requires:

(1) "Board" means the State Board of Forestry.

(2) "Certified Burn Manager" means an individual, other than the forester, who is currently certified under a program established pursuant to ORS 526.360 (3).

(3) "Department" means the State Forestry Department.

(4) "Forester" means the State Forester or the authorized representative of the forester.

(5) "Forestland" means any woodland, brushland, timberland, grazing land or clearing, which, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the opinion of the forester, a fire hazard, regardless of how the land is zoned or taxed.

(6) "Forestry carbon offset" means a transferable unit based on a measured amount of carbon storage expressed as a carbon dioxide emission equivalent, or other equivalent standard, and accruing on forestland as live or dead matter in trees, shrubs, forest litter and soil.

[(6)] (7) "Nonindustrial private forest landowner" means any forest landowner who does not own a forest products manufacturing facility that employs more than six people.

[(7)] (8) "Nonindustrial private forestland" means any forestland owned by a nonindustrial private forest landowner.

SECTION 7. ORS 526.725 is amended to read:

526.725. (1) The State Board of Forestry **or the State Forester** may enter into agreements with [other] private, [or] governmental **or other** organizations and may accept contributions, gifts or grants from any source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys received by the board **or the State Forester** pursuant to this section shall be deposited in the Forest Resource Trust Fund.

(2) The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease or purchase, land only to the extent necessary to carry out the duties, functions and powers of the trust.

(3) Agreements with private, **governmental or other organizations** [parties] under subsection (1) of this section may specify the terms under which funds are invested and benefits accrue to the [private] **contributing** party to the extent the agreement is consistent with the provisions of ORS 526.700 to 526.775.

(4) The State Forester may, on behalf of the Forest Resource Trust, market, register, transfer or sell forestry carbon offsets attributable to the lands enrolled in the stand establishment program under ORS 526.715. Prices for the transfer or sale of forestry carbon offsets may be negotiated but must be at or greater than fair market value.

[4] (5) Nothing in ORS 526.700 to 526.775 is intended to create an enforceable trust on any agency or officer of the State of Oregon.

SECTION 8. ORS 530.050 is amended to read:

530.050. Under the authority and direction of the State Board of Forestry except as otherwise provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant to ORS 530.010 to 530.040 so as to secure the greatest permanent value of such lands to the state, and to that end may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in such protection and enter into all agreements necessary or convenient therefor.

(2) Sell forest products from the lands, and execute mining leases and contracts as provided for in ORS 273.551.

(3) Permit the use of the lands for other purposes, including but not limited to forage and browse for domestic livestock, fish and wildlife environment, landscape effect, protection against floods and erosion, recreation, and protection of water supplies when, in the opinion of the board, such use is not detrimental to the best interest of the state.

(4) Grant easements, permits and licenses over, through and across the lands; also, may require and collect reasonable fees or charges relating to the location and establishment of easements, permits and licenses granted by the state over such lands, which moneys shall be used for the expenses of such location and establishment. Any moneys derived hereunder shall be placed in the State Forestry Department Account and used exclusively for such purposes.

(5) Require and collect fees or charges for the use of state forest roads, which moneys shall be used for purposes of maintenance and improvements of such roads. Any moneys derived hereunder shall be placed in the State Forestry Department Account and used exclusively for such purposes.

(6) Reforest the lands and cooperate with the counties, and with persons owning timberlands within the state, in such reforestation, and make all agreements necessary or convenient therefor.

(7) Require such undertakings as in the opinion of the board are necessary or convenient to secure performance of any contract entered into under the terms of this section, or ORS 273.551.

(8) Sell rock, sand, gravel, pumice and other such materials from the lands; such sale may be negotiated without bidding provided the appraised value of such does not exceed \$2,500.

(9) Enter into agreements, each for not more than 10 years duration, for the production of minor forest products.

(10) Establish a forestry carbon offset program to market, register, transfer or sell forestry carbon offsets. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.

[(10)] **(11)** Do all things and make all rules, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.

SECTION 9. ORS 530.500 is amended to read:

530.500. In order to accomplish the purposes of ORS 530.490, the State Forester may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in such protection and enter into all agreements necessary or convenient therefor.

(2) Sell forest products from the lands and execute contracts thereby required.

(3) Permit the use of the lands for other purposes, including but not limited to fish and wildlife environment, landscape effect, protection against flood and erosion, recreation and production and protection of water supplies when such use is not detrimental to the purpose for which such lands are dedicated.

(4) Contract with other governmental bodies for the protection of water supplies to facilitate the multiple use of publicly owned water supplies for recreational purposes as well as a source of water for domestic and industrial use.

(5) Grant permits and licenses on, over and across the lands.

(6) Reforest the lands and cooperate with persons owning timberlands within the state in such reforestation, and make all agreements necessary or convenient therefor.

(7) Establish a forestry carbon offset program to market, register, transfer or sell forestry carbon offsets. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.

[(7)] **(8)** Do all things and make all rules and regulations, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.

[(8)] **(9)** Require such undertakings as in the opinion of the State Forester are necessary or convenient to secure performance of any agreement authorized in ORS 530.450 to 530.520.

Passed by House June 19, 2001

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Chief Clerk of House

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Speaker of House

Passed by Senate June 25, 2001

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President of Senate

Received by Governor:

.....M,....., 2001

Approved:

.....M,....., 2001

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Governor

Filed in Office of Secretary of State:

.....M,....., 2001

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Secretary of State