

# House Bill 2984

Sponsored by Representatives PARRISH, BUEHLER, WITT; Representatives BARKER, BARTON, BOONE, BUCKLEY, DAVIS, DOHERTY, ESQUIVEL, EVANS, FAGAN, GALLEGOS, GOMBERG, GORSEK, HACK, HELM, HUFFMAN, JOHNSON, KENNEMER, KENY-GUYER, KRIEGER, LIVELY, MCKEOWN, MCLAIN, NOSSE, OLSON, READ, REARDON, SMITH WARNER, TAYLOR, WEIDNER, WHITSETT, WILLIAMSON, Senators BAERTSCHIGER JR, BOQUIST, DEVLIN, EDWARDS, GIROD, HANSELL, HASS, JOHNSON, KNOPP, MONROE, OLSEN, RILEY, ROBLAN, SHIELDS, STEINER HAYWARD, THATCHER, THOMSEN, WINTERS

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Clackamas County to develop pilot program for forestry products grown on nonforest land in county to be commercially produced and marketed through forestry product cooperative. Exempts pilot program and parties from antitrust laws. Requires State Forester to establish regulatory system for overseeing actions of parties to Clackamas County pilot program. Requires county to develop program model for use by other Oregon counties.

Allocates moneys during biennium beginning July 1, 2015, from Administrative Services Economic Development Fund to Clackamas County as grant for pilot program development. Requires county to make multiple reports on program development progress.

Sunsets pilot program on January 2, \_\_\_\_\_.

Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to forestry product cooperatives; and declaring an emergency.

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

4 **SECTION 1. As used in sections 1 to 4 of this 2015 Act:**

5 (1) **“Clackamas Forestry Product Cooperative Project” means the pilot program estab-**  
6 **lished by Clackamas County under section 3 of this 2015 Act for forestry products grown on**  
7 **nonforest land within the county to be commercially produced and marketed through a**  
8 **forestry products cooperative.**

9 (2) **“Dealer” means a person or agent of a person, other than a cooperative, that pur-**  
10 **chases or contracts to purchase forestry products through the Clackamas Forestry Product**  
11 **Cooperative Project.**

12 (3) **“Forestry products” means trees or tree products suitable for use to sustain a**  
13 **sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.**

14 (4) **“Nonforest lands” means lands other than forestland as defined in ORS 321.257.**

15 (5) **“Party” means Clackamas County or a Clackamas County employee or a producer or**  
16 **dealer that carries out activities or engages in transactions regarding the Clackamas**  
17 **Forestry Product Cooperative Project.**

18 (6) **“Producer” means a possessor of land on which trees are grown for harvesting as**  
19 **forestry products.**

20 **SECTION 2. (1) It is the intent of sections 1 to 4 of this 2015 Act to displace competition**  
21 **through a regulatory system for the commercial production and marketing of forestry pro-**  
22 **ducts on nonforest land under a Clackamas County program, referred to in sections 1 to 4**  
23 **of this 2015 Act as the Clackamas Forestry Product Cooperative Project, to a limited degree.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 The regulatory system is intended to grant immunity from federal and state antitrust laws  
 2 to the Clackamas Forestry Product Cooperative Project parties for the limited purposes of  
 3 allowing the parties to bargain collectively and to arrive at a negotiated price for forestry  
 4 products produced on nonforest land within Clackamas County.

5 (2) The activities of any party that comply with the regulatory system described in  
 6 sections 1 to 4 of this 2015 Act and State Forester rules for carrying out the regulatory  
 7 system and the Clackamas Forestry Product Cooperative Project may not be considered to  
 8 be in restraint of trade, a conspiracy or combination or any other unlawful activity in vio-  
 9 lation of any provision of ORS 646.705 to 646.826 or federal antitrust laws.

10 (3) The State Forester shall actively supervise the conduct of a party in establishing the  
 11 price of forestry products bought and sold as part of the Clackamas Forestry Product Coop-  
 12 erative Project. The State Forester shall supervise, and may establish procedures and  
 13 guidelines for, the negotiations between the parties, review the prices established by the  
 14 negotiations and approve the prices proposed by the parties before the prices take effect.  
 15 Any adjustments to previously approved prices must be approved by the State Forester be-  
 16 fore the adjustments may be implemented.

17 (4) The State Forester may compel the parties to take whatever action the State  
 18 Forester considers necessary to:

19 (a) Ensure that the parties are engaging in conduct that is authorized under sections 1  
 20 to 4 of this 2015 Act;

21 (b) Ensure that the policies of this state are being fulfilled under the Clackamas Forestry  
 22 Product Cooperative Project; and

23 (c) Prevent conduct by any of the parties that is not authorized by the regulatory system  
 24 administered by the State Forester or conduct that, in the opinion of the State Forester,  
 25 does not advance the interests of this state in carrying out the regulatory system for the  
 26 Clackamas Forestry Product Cooperative Project.

27 (5) The State Forester may take any actions the State Forester deems appropriate to  
 28 resolve disputes between the parties that involve or arise out of the Clackamas Forestry  
 29 Product Cooperative Project, including but not limited to referring the dispute for mediation,  
 30 arbitration or hearing.

31 (6) The State Forester may designate employees of the State Forestry Department to  
 32 carry out the responsibility of actively supervising the conduct of the parties, including  
 33 serving as intermediaries between parties or prospective parties.

34 (7) The State Forester may adopt rules to carry out the State Forester's authority under  
 35 sections 1 to 4 of this 2015 Act. The department and the county shall enter into a memo-  
 36 randum of understanding for the county to reimburse the department for the actual costs  
 37 to the department of providing services for the benefit of the Clackamas Forestry Product  
 38 Cooperative Project. Moneys paid by the county as reimbursement shall be deposited in the  
 39 State Forestry Department Account established under ORS 526.060.

40 SECTION 3. (1) Clackamas County shall establish the Clackamas Forestry Product Co-  
 41 operative Project as a pilot program. In addition to promoting economic development within  
 42 Clackamas County, the purpose of the project shall be to develop a program model for use  
 43 by counties in this state that wish to promote economic development by using cooperatives  
 44 to provide for the commercial production and marketing of forestry products from lands that  
 45 are not forestlands as defined under ORS 321.257 or as defined under ORS 321.805. Subject

1 to section 2 of this 2015 Act, Clackamas County may do the following to carry out the pilot  
2 program:

3 (a) Negotiate and enter into an agreement with any person or governmental entity willing  
4 to commercially produce forestry products as a member of the Clackamas Forestry Product  
5 Cooperative Project. The agreement must specify the number, type and location of trees  
6 covered by the agreement. The State Forester may impose additional requirements for the  
7 contents of agreements described in this paragraph.

8 (b) Negotiate with one or more producers and dealers to establish the price for the  
9 forestry products sold through the cooperative. The dealers may negotiate the price for the  
10 forestry products through a committee that sets forth the views of the dealers and votes on  
11 any issues being negotiated as authorized by this section, including the price for forestry  
12 products. However, a person that is both a producer and a dealer may not participate in  
13 negotiations under this section.

14 (2) A tree that is covered by an agreement under subsection (1)(a) of this section must  
15 be marked for identification purposes as required by the county. A marked tree that is cov-  
16 ered by an agreement may be harvested as provided in the agreement without being subject  
17 to any state or local restrictions on tree removal.

18 (3) An agreement under subsection (1)(a) of this section may not be used to alter the  
19 supply of buildable land within an urban growth boundary.

20 **SECTION 4.** The county program model that Clackamas County develops through the  
21 Clackamas Forestry Product Cooperative Project must include, but need not be limited to:

22 (1) A training manual to guide counties in establishing and administering cooperatives  
23 for the commercial production and marketing of forestry products on lands that are not  
24 forestlands as defined under ORS 321.257 or as defined under ORS 321.805;

25 (2) Information identifying tree species best suited for use in western Oregon for  
26 producing forestry products;

27 (3) An Internet website for use by the county, producers and dealers to establish agree-  
28 ments under the program;

29 (4) Standardized memorandums of understanding setting forth the services provided and  
30 the terms of program participation;

31 (5) Care instructions and identification of best practices for the production of forestry  
32 products;

33 (6) Means for identifying and monitoring the status of trees in the program; and

34 (7) Materials for the marketing of, and promoting demand for, forestry products.

35 **SECTION 5.** (1) Clackamas County shall report on progress in the development of the  
36 Clackamas Forestry Product Cooperative Project described in sections 1 to 4 of this 2015 Act:

37 (a) To an interim committee of the Legislative Assembly dealing with economic develop-  
38 ment during the month of September 2015;

39 (b) To the 2016 regular session of the Legislative Assembly; and

40 (c) To an interim committee of the Legislative Assembly dealing with economic develop-  
41 ment during the month of September 2016.

42 (2) The reports made under this section must be accompanied by accountings sufficient  
43 to establish that expenditures of moneys described in section 6 of this 2015 Act are used  
44 solely for the purpose of developing, implementing and administering the Clackamas Forestry  
45 Product Cooperative Project.

