

House Bill 2659

Sponsored by Representative SALINAS, Senator TAYLOR; Representatives NOSSE, POWER (Presession filed.)

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**.

Repeals special assessments and property tax exemptions for forestlands covered by timber plantations and nonforested land. Requires State Forester and county assessors to develop system for forestland owners to estimate area of their forestland that is natural forest, seminatural forest, timber plantations and nonforested lands. Repeals property tax exemptions for environmentally sensitive logging equipment and skyline and swing yarders.

Requires counties to use at least 30 percent of moneys received as result of changes to special assessment and property tax exemption programs for climate adaptation and climate smart forest practices.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax programs related to forestlands; creating new provisions; amending ORS 308.236,
3 321.257, 321.267, 321.272, 321.358, 321.805, 321.824, 321.829 and 321.839; repealing ORS 307.827
4 and 307.831; and prescribing an effective date.

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

6 **SECTION 1.** ORS 321.257 is amended to read:

7 321.257. As used in ORS 321.257 to 321.390, unless the context requires otherwise:

8 (1) "Department" means the Department of Revenue.

9 (2) "Forestland" means land in western Oregon that is being held or used for the predominant
10 purpose of growing and harvesting trees of a marketable species and has been designated as
11 forestland or land in western Oregon, the highest and best use of which is the growing and har-
12 vesting of such trees. Trees of a marketable species may vary in different areas in western Oregon
13 and may change as the utilization of forest trees changes. The size, age, location, quality and con-
14 dition of trees do not necessarily determine marketable species. Forestland often contains isolated
15 openings [*which*] **that**, because of rock outcrops, river wash, swamps, chemical conditions of the soil,
16 brush and other like conditions, prevent adequate stocking of such openings for the production of
17 trees of a marketable species. If the openings in their natural state are necessary to hold the sur-
18 rounding forestland in forest use through sound management practices, the openings are deemed
19 forestland. Forestland does not include buildings, structures, machinery, equipment or fixtures
20 erected upon, under or above the soil. Forestland includes roads described in ORS 308.236.

21 (3) "Land class" or "land classes" means one of the eight classifications of forestland, used for
22 assessment purposes by the department, based upon State Tax Commission Valuation Division Sup-
23 plements published in 1967, and identified in ORS 321.210.

24 (4) "**Natural forest**" means forestland that has not been modified by human uses.

25 (5) "**Nonforested land**" means forestland that is covered by recent clear-cuts, logging
26 roads, infrastructure or other openings.

27 (6) "**Seminatural forest**" means forestland that has been modified by human uses but still

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 **supports a diversity of tree and understory species, tree sizes and tree ages consistent with**
 2 **natural forest conditions.**

3 [(4)] (7) "State Forester" means the State Forester or the authorized representative of the State
 4 Forester.

5 [(5)] (8) "Sustained yield management" means the growing and harvesting of timber crops on a
 6 continuous basis on land that is primarily dedicated to timber production.

7 [(6)] (9) "Taxing district" or "district" means each county, city, school district and other cor-
 8 poration vested with the power to levy property taxes in western Oregon.

9 [(7)] (10) "Timber" means all logs [*which*] **that** can be measured in board feet and other forest
 10 products as determined by department rule.

11 **(11) "Timber plantation" means forestland that has been intensively logged and replanted**
 12 **and is now covered by trees at least five meters in height with a canopy closure of at least**
 13 **40 percent.**

14 [(8)] (12) "Western Oregon" means that portion of the state lying west of a line beginning at the
 15 intersection of the northern boundary of the State of Oregon and the western boundary of Wasco
 16 County, thence southerly along the western boundaries of the counties of Wasco, Jefferson,
 17 Deschutes and Klamath to the southern boundary of the State of Oregon.

18 **SECTION 2.** ORS 321.358 is amended to read:

19 321.358. (1) An owner of land [*desiring that it be*] **seeking to have the land** designated as
 20 forestland shall make application to the county assessor:

21 (a) On or before April 1 of the assessment year for which special assessment as forestland is
 22 first [*desired, and the owner may also do so*] **sought; or**

23 (b) Within 30 days of receipt of notice of [*its assessment*] **the land being assessed** as omitted
 24 property.

25 (2) Notwithstanding subsection (1) of this section, an owner of land may apply to the county
 26 assessor [*by*] **on or before** December 15 to have the land designated as forestland for the assessment
 27 year if:

28 (a) For the prior assessment year the land had been forestland by reason of the land being
 29 highest and best use forestland; and

30 (b) For the current assessment year the land is being assessed at a value reflecting a use other
 31 than highest and best use forestland.

32 (3) The application shall be made upon forms prepared by the Department of Revenue and sup-
 33 plied by the county assessor[,] and shall include the following:

34 (a) A description of all land the applicant [*desires to be*] **seeks to have** designated as forestland.

35 (b) Date of acquisition.

36 (c) Whether the land is being held or used for the predominant purpose of growing and har-
 37 vesting trees of marketable species.

38 (d) Whether there is a forest management plan for [*it*] **the land**.

39 (e) If [*so*] **there is a forest management plan for the land**, whether the plan is being imple-
 40 mented, and the nature and extent of implementation.

41 (f) Whether the land is used for grazing.

42 (g) Whether the land has been platted under ORS chapter 92.

43 (h) Whether the land is timberland subject to ORS chapter 477, and if [*it*] **the land** is not, the
 44 reasons [*therefor*] **why not**.

45 (i) Whether the land, or any **portion** of [*it*] **the land**, is subject to a lease or option [*which*] **that**

1 permits *[it]* **the land** to be used for any purpose other than the growing and harvesting of trees.

2 (j) A summary of past experience and activity of the applicant in growing and harvesting trees.

3 (k) A summary of current and continuing activity of the applicant in growing and harvesting
4 trees.

5 (L) A statement that the applicant is aware of the potential tax liability involved *[when]* **if** the
6 land ceases to be designated as forestland.

7 (m) An affirmation that the statements contained in the application are true.

8 (4)(a) The county assessor shall approve an application for forestland designation if the assessor
9 finds that the land is properly classifiable as forestland.

10 (b) The county assessor *[shall]* **may** not find land properly classifiable as forestland if:

11 *[(a)]* (A) The application states the land is not being held or used for the predominant purpose
12 of growing and harvesting trees of marketable species; or

13 *[(b)]* (B) Subject to the provisions of ORS 321.257, the land does not substantially meet minimum
14 stocking or acreage requirements under rules adopted by the department.

15 (c) *[Otherwise,]* The determination **of** whether the land is properly classifiable as forestland shall
16 be made with due regard to all relevant evidence and without any one or more items of evidence
17 necessarily being determinative.

18 (5) The application shall be deemed to have been approved unless, within three months of the
19 date *[such]* **on which the** application was delivered to the assessor or *[prior to]* **before** August 15,
20 whichever is later, the assessor shall notify the applicant in writing of the extent to which the ap-
21 plication is denied.

22 (6) **The State Forester shall collaborate with county assessors to develop a system for**
23 **forestland owners to estimate the area of the forestland owned by them that is natural for-**
24 **est, seminatural forest, timber plantations and nonforested lands for purposes related to**
25 **forest taxation. The system shall make use of the best scientific information available from**
26 **satellite and ground-based measurements.**

27 **SECTION 3.** ORS 321.267 is amended to read:

28 321.267. The following forestland may not be assessed under ORS 321.257 to 321.390:

29 (1) Forestland assessed by the Department of Revenue pursuant to ORS 308.505 to 308.681,
30 308.805 to 308.820 and 308.990.

31 (2) Except as provided in ORS 321.347, land that is prepared using intensive cultivation and
32 tilling and on which all unwanted plant growth is controlled continuously for the exclusive purpose
33 of growing Christmas trees.

34 (3) Land used for the purpose of growing hardwood timber, including but not limited to hybrid
35 cottonwood, if:

36 (a) The land is prepared using intensive cultivation methods and is cleared of competing vege-
37 tation for at least three years after tree planting;

38 (b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing
39 paper products;

40 (c) The timber is harvested on a rotation cycle within 12 years after planting; and

41 (d) The land and timber are subject to intensive agricultural practices such as fertilization, in-
42 sect and disease control, cultivation and irrigation.

43 (4) Small tract forestland qualified under ORS 321.700 to 321.754 and timber harvested from
44 small tract forestland qualified under ORS 321.700 to 321.754.

45 (5) **Any forestland that is not natural or seminatural forest.**

SECTION 4. ORS 321.805 is amended to read:

321.805. As used in ORS 321.805 to 321.855, unless the context requires otherwise:

(1) “Cultured Christmas trees” means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control, and basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation or irrigation.

(2) “Department” means the Department of Revenue.

(3) “Eastern Oregon” means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(4) “Forestland” means land in eastern Oregon that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and that has been designated as forestland under ORS 321.805 to 321.855 or land in eastern Oregon, the highest and best use of which is the growing and harvesting of such trees. Forestland is the land alone. Forestland often contains isolated openings that, because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions, prevent adequate stocking of such openings for the production of trees of a marketable species. If such openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, the openings are deemed forestland.

(5) “Natural forest” means forestland that has not been modified by human uses.

(6) “Nonforested land” means forestland that is covered by recent clear-cuts, logging roads, infrastructure or other openings.

(7) “Seminatural forest” means forestland that has been modified by human uses but still supports a diversity of tree and understory species, tree sizes and tree ages consistent with natural forest conditions.

[(5)] (8) “State Forester” means the State Forester or the authorized representative of the State Forester.

[(6)] (9) “Summit of the Cascade Mountains” means a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

[(7)] (10) “Timber” means all logs [*which*] **that** can be measured in board feet and other forest products as determined by department rule, but does not include western juniper or products from harvested western juniper.

(11) “Timber plantation” means forestland that has been intensively logged and replanted and is now covered by trees at least five meters in height with a canopy closure of at least 30 percent.

SECTION 5. ORS 321.839 is amended to read:

321.839. (1) An owner of land [*desiring that it be*] **seeking to have the land** designated as

1 forestland for purposes of ORS 321.805 to 321.855 shall make application to the county assessor:

2 (a) On or before April 1 of the assessment year for which special assessment as forestland is
 3 first *[desired, and the owner may also do so]* **sought; or**

4 (b) Within 30 days of receipt of notice of *[its assessment]* **the land being assessed** as omitted
 5 property.

6 (2) Notwithstanding subsection (1) of this section, an owner of land may apply to the county
 7 assessor *[by]* **on or before** December 15 to have the land designated as forestland for the assessment
 8 year if:

9 (a) For the prior assessment year the land had been forestland by reason of the land being
 10 highest and best use forestland; and

11 (b) For the current assessment year the land is being assessed at a value reflecting a use other
 12 than highest and best use forestland.

13 (3) The application shall be made upon forms prepared by the Department of Revenue and sup-
 14 plied by the county assessor[,] and shall include the following:

15 (a) A description of all land the applicant *[desires to be]* **seeks to have** designated as forestland.

16 (b) Date of acquisition.

17 (c) Whether the land is being held or used for the predominant purpose of growing and har-
 18 vesting trees of marketable species.

19 (d) Whether there is a forest management plan for *[it]* **the land**.

20 (e) If *[so]* **there is a forest management plan for the land**, whether the plan is being imple-
 21 mented, and the nature and extent of implementation.

22 (f) Whether the land is being held or used for the predominant purpose of grazing or raising of
 23 livestock.

24 (g) Whether the land has been platted under ORS chapter 92.

25 (h) Whether a permit has been granted for harvesting for excepted purposes under the Oregon
 26 Forest Practices Act.

27 (i) Whether the land is timberland subject to ORS chapter 477, and if *[it]* **the land** is not, the
 28 reasons *[therefor]* **why not**.

29 (j) Whether the land, or any **portion** of *[it]* **the land**, is subject to a lease or option *[which]* **that**
 30 permits *[it]* **the land** to be used for any purpose other than the growing and harvesting of trees.

31 (k) A summary of past experience and activity of the applicant in growing and harvesting trees.

32 (L) A summary of current and continuing activity of the applicant in growing and harvesting
 33 trees.

34 (m) A statement that the applicant is aware of the potential tax liability involved *[when]* **if** the
 35 land ceases to be designated as forestland.

36 (n) An affirmation that the statements contained in the application are true.

37 (4)(a) The county assessor shall approve an application for forestland designation if the assessor
 38 finds that the land is properly classifiable as forestland.

39 (b) The county assessor *[shall]* **may** not find land properly classifiable as forestland if the ap-
 40 plication states the land is not being held or used for the predominant purpose of growing and
 41 harvesting trees of marketable species.

42 (c) *[Otherwise,]* The determination **of** whether the land is properly classifiable as forestland shall
 43 be made with due regard to all relevant evidence and without any one or more items of evidence
 44 necessarily being determinative.

45 (5) The application shall be considered to have been approved unless, within three months of the

1 date *[such]* **on which the** application was delivered to the assessor or *[prior to]* **before** August 15,
 2 whichever is later, the assessor shall notify the applicant in writing of the extent to which the ap-
 3 plication is denied.

4 **(6) The State Forester shall collaborate with county assessors to develop a system for**
 5 **forestland owners to estimate the area of the forestland owned by them that is natural for-**
 6 **est, seminatural forest, timber plantations and nonforested lands for purposes related to**
 7 **forest taxation. The system shall make use of the best scientific information available from**
 8 **satellite and ground-based measurements.**

9 **SECTION 6.** ORS 321.824 is amended to read:

10 321.824. *[(1) Lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.681 or*
 11 *308.805 to 308.820]* **The following forestland** may not be assessed under ORS 321.805 to 321.855[.]:

12 **(1) Lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.681 or**
 13 **308.805 to 308.820.**

14 **(2) Land used exclusively for growing cultured Christmas trees** *[may not be assessed under ORS*
 15 *321.805 to 321.855].*

16 **(3) Land that is used to grow hardwood timber, including but not limited to hybrid cottonwood,**
 17 *[may not be assessed under ORS 321.805 to 321.855] if:*

18 **(a) The land is prepared using intensive cultivation methods and is cleared of competing vege-**
 19 **tation for at least three years after tree planting;**

20 **(b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing**
 21 **paper products;**

22 **(c) The timber is harvested on a rotation cycle within 12 years after planting; and**

23 **(d) The land and timber are subject to intensive agricultural practices such as fertilization, in-**
 24 **sect and disease control, cultivation and irrigation.**

25 **(4) Any forestland that is not natural or seminatural forest.**

26 *[(4) Nothing contained in ORS 321.805 to 321.855 shall prevent:]*

27 *[(a) The collection of ad valorem property taxes that became a lien against timber prior to July 1,*
 28 *1962.]*

29 *[(b) The collection of taxes, charges or assessments made pursuant to law for protection.]*

30 *[(c) The collection of taxes levied under the provisions of ORS 321.005 to 321.185 and 321.560 to*
 31 *321.600.]*

32 **SECTION 7. Section 8 of this 2019 Act is added to and made a part of ORS 321.805 to**
 33 **321.855.**

34 **SECTION 8. Nothing contained in ORS 321.805 to 321.855 shall prevent:**

35 **(1) The collection of ad valorem property taxes that became a lien against timber prior**
 36 **to July 1, 1962.**

37 **(2) The collection of taxes, charges or assessments made pursuant to law for protection.**

38 **(3) The collection of taxes levied under the provisions of ORS 321.005 to 321.185 and**
 39 **321.560 to 321.600.**

40 **SECTION 9.** ORS 308.236 is amended to read:

41 308.236. (1) The availability, usefulness and cost of using roads, including all roads of the owner
 42 of land or timber and all roads that the owner has the right to use, shall be taken into consideration
 43 in determining the real market value of land.

44 (2) Farm or grazing land roads *[and forest roads themselves, except principal exterior timber ac-*
 45 *cess roads,] [shall] may* not be appraised, valued or assessed and *[they shall] may* not be classed as

1 improvements under ORS 308.215. The underlying land upon which roads are constructed shall be
 2 assessed if [it] **the underlying land** is otherwise subject to assessment.

3 (3) As used in this section[:],

4 [(a)] “road” includes fills, ballast, bridges, culverts, drains, surfacing and other appurtenances
 5 of a like kind commonly associated with roads but excludes railroads.

6 [(b)] “Principal exterior timber access roads” means those portions of high standard main-line pri-
 7 vate roads that provide access from a conversion center or public way to the exterior boundary of the
 8 principal forest area served by the road. A high standard main-line private road is a permanent road
 9 of two lanes or more that is paved or macadamized or that has a fine-gravel surface that is permanently
 10 and continuously maintained.]

11 **SECTION 10.** ORS 321.272 is amended to read:

12 321.272. All timber in western Oregon **on forestland that is natural or seminatural forest**
 13 shall be exempt from ad valorem property taxation.

14 **SECTION 11.** ORS 321.829 is amended to read:

15 321.829. All timber in eastern Oregon **on forestland that is natural or seminatural forest**
 16 shall be exempt from ad valorem property taxation.

17 **SECTION 12.** ORS 307.827 and 307.831 are repealed.

18 **SECTION 13.** The amendments to ORS 308.236, 321.257, 321.267, 321.272, 321.358, 321.805,
 19 321.824, 321.829 and 321.839 by sections 1 to 6 and 9 to 11 of this 2019 Act and the repeal of
 20 ORS 307.827 and 307.831 by section 12 of this 2019 Act apply to property tax years beginning
 21 on or after July 1, 2020.

22 **SECTION 14.** (1) Counties shall allocate no less than 30 percent of the moneys received
 23 as a result of the amendments to ORS 308.236, 321.257, 321.267, 321.272, 321.358, 321.805,
 24 321.824, 321.829 and 321.839 by sections 1 to 6 and 9 to 11 of this 2019 Act and the repeal of
 25 ORS 307.827 and 307.831 by section 12 of this 2019 Act for the purposes of climate adaptation
 26 and climate smart forest practices, including afforestation, reforestation, restoration of tree
 27 plantations to seminatural forests and alternatives to clear-cut harvesting.

28 (2) Moneys described in subsection (1) of this section shall be deposited in a separate fund
 29 of the county and used solely for the purposes described in subsection (1) of this section.

30 **SECTION 15.** This 2019 Act takes effect on the 91st day after the date on which the 2019
 31 regular session of the Eightieth Legislative Assembly adjourns sine die.

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