

Legislative Fiscal Office

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Joint Committee on Ways and Means

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To: Capital Construction Subcommittee

From: Matt Stayner, Legislative Fiscal Office

Date: February 25, 2022

Subject: SB 1501 – Relating to a negotiated agreement concerning private forestland
Work Session Recommendations

SB 1501 provides the direction for the implementation of several parts of the Private Forest Accord. The measure adds a section to the Oregon Forest Practices Act requiring the Board of Forestry to adopt, amend, or repeal several administrative rules consistent with the Private Forest Accord as a single rule package. This rulemaking is required to be complete by the end of November 2022, however the measure allows the Board of Forestry to amend rules implementing the Oregon Forest Practices Act before July 1, 2023 to make minor changes in conformity with the Private Forest Accord once the single rule package has been adopted. The measure amends statute so that restrictions on the use of real property due to these rules or rules resultant from reports by the Adaptive Management Program Committee and Independent Research Science Team described in the bill are exempt from just compensation statutes.

The measure allows for the State Fish and Wildlife Commission to adopt, amend, or repeal rules as needed to conform with the rulemaking by the Board of Forestry. Such rule changes are exempted from certain provisions of the Administrative Procedures Act for both agencies.

Provisions are included requiring the Board of Forestry to initiate rulemaking under provisions of the Forest Practices Act outside of the single rule package for post-disturbance harvest of trees, and for tethered logging.

The Board of Forestry is directed to procure services for the development and application of landslide modeling as described in the Private Forest Accord, but that procurement is exempted from the requirements of the Public Contracting Code. Additionally, the Board of Forestry is required to submit a proposed habitat conservation plan and incidental take permit, in accordance with the Private Forest Accord prior to January 1, 2023. The Board is required to procure services to draft and develop the plan. That procurement is allowed to proceed without competitive price quotes or competitive proposals.

The measure adds a section to the Forest Practices Act creating an optional set of harvest standards applicable to certain landowners that hold common interest in less than 5,000 acres of forestland. Additional provisions for small woodland owners include the establishment of a Small Forestland Investment in Stream Habitat grant program and fund, and a Small Forestland Owner Assistance Office.

Provisions are included related to taking of beaver, including reporting requirements when a beaver is taken, and requirements for the Oregon Department of Fish and Wildlife (ODFW) to nonlethally locate beaver when possible. ODFW is to adopt rules around these requirements no later than November 30, 2022.

This measure establishes grant program at the ODFW to fund mitigation projects related to aquatic and riparian habitats impacted by forest practices. The Private Forest Accord Mitigation Subaccount is established within the existing Oregon Conservation and Recreation Fund for the purpose of making the grants and paying the administrative costs of the program. The Private Forest Accord Mitigation Advisory Committee is established to advise the State Fish and Wildlife Commission and ODFW on the use of funds in the subaccount.

This measure directs the Oregon Department of Forestry (ODF) to establish by rule an adaptive management program including the establishment of two advisory committees: The Adaptive Management Program Committee and the Independent Research and Science Team. The Adaptive Management Program Committee is tasked with setting the research agendas, making budget recommendations, and assessing scientific findings for the Independent Research and Science Team.

Additional statutory amendments to the Forest Practices Act are included that define specific terms contained in the Private Forest Accord, establish policies and intent around ensuring compliance with, and enforcement of, the Forest Practices Act, penalties for violations of the Act, and conformity of rulemaking under the Act with the provisions of the Private Forest Accord.

The measure explicitly indemnifies the treaty rights or other rights of an Indian tribe and the beneficial ownership interest in lands held in trust or held directly by Indian tribes from the application of provisions and statutory amendments contained in the Act.

Recommended Changes

There are three sets of amendments recommended by the Legislative Fiscal Office.

The -A3 amendment fills in the blank lines in the measure referencing the date of the Private Forest Accord, the date of publication of the Private Forest Accord, and references to specific sections of the Private Forest Accord. These amendments also require that rules established by the Board of Forestry as directed by the measure provide an exemption on restrictions on the use of the small forestland owner minimum option under certain circumstances.

LFO recommends adoption of the -A3 amendment.

The -A5 amendment makes clarifying changes to the protections of the rights of Indian tribes in Oregon from the implementing provisions and amendments to statutes contained in the bill.

LFO recommends adoption of the -A5 amendment.

The -A7 amendment fills in the blank lines in the measure referencing the date of the Private Forest Accord, the date of publication of the Private Forest Accord, and references to specific sections of the Private Forest Accord. The amendment also include General Fund appropriations and Other Funds expenditure limitations for the operational costs of the impacted agencies implementing the measure and a \$10.0 million General Fund appropriation to the Department of Fish and Wildlife to fund the Private Forest Accord Mitigation Subaccount within the existing Oregon Conservation and Recreation Fund.

LFO recommends adoption of the -A7 amendment.

Final Subcommittee Action

LFO recommends that SB 1501, as amended by the -A3, -A5, and -A7 amendments, to be moved to the Ways and Means Full Committee.

Carriers

Full Committee: _____

House Floor: _____

Senate Floor: _____