



SB 1502: this small woodland tax credit bill needs amendments

Testimony for Senate Natural Resources & Wildfire Recovery – Jody Wisner – 2.3.2022

We were very hopeful that Tax Fairness Oregon would be able to support this bill. It supports provisions in the Private Forest Accord and with the time spent in drafting, we assumed the kinks would be worked out. Unfortunately, we don't believe they are. SB 1502 need amendments.

We see several potential problems:

- 1) On page 1, lines 24-26 the definition given for "stumpage value" puts the value of the tax credit halfway between the common uses of the terms "stumpage value" and "pond value".

"Pond value" is the price paid for timber harvested and delivered to the pond at the mill. "Stumpage value," the value of the trees standing in the forest, is considerably less, as it doesn't include the costs of harvest and transportation. Standing timber's stumpage value is what the public is getting and is what they should be getting.

Without a change in this definition, which deducts for transport but not harvest, the timber owners will get more than their standing trees are worth.

- 2) Tax credits in Oregon have a limited life. If the taxpayer doesn't have enough tax liability to use all of the tax credit in the first year, it can be carried forward. Usually the law allows for three, five, or 10 years of tax credit carry forward. Never before have we seen a tax credit which can be carried forward to "any succeeding tax year" (page 2, lines 40-42). This is a radical change, and recipients of the many other business tax credits – you can see them listed on the last page of the bill – would have every right to come asking for a similar provision. It is simply beyond reasonable to expect the Department of Revenue to audit multiple owners and/or estates over an unending number of years.
- 3) The bill itself has no sunset. SECTION 7 says "this 2022 Act applies to all tax years beginning on or after January 1, 2023." Will the automatic six-year provision apply? Given the uncertainty about the cost of this bill we would recommend a four-year sunset. Often when a new tax credit is developed for which the revenue impact is really difficult to establish, there is a cap placed on it, or the bill has a four year sunset. Many remember BETC and the mess created before the provision was properly reviewed. Sunsets exist so that. The legislature remains in control of budget spending through the tax code, not every two years, but at least every six years.

- 4) We may be reading SECTION 5 incorrectly, but it appears that if a forestland owner or heir breaks the 50-year agreement, they will have to pay back any credits they have used (page 4, lines 33-38). Will that include interest and penalty? On page 5, lines 26-27 it seems only the remaining credit will be subject to interest and penalties. If the 50 year commitment is broken, shouldn't all of the credit, not just the remaining credit, should be recouped

Further, it seems that if a buyer breaks the 50 year agreement, the full tax credit, interest and penalty will not be recouped, only the part since the purchase (page 4, lines 39-45). Won't this allow some or all of the tax credits to be used even though the commitment isn't met? The seller's price will surely include the fact that the restriction exists on the land, and the value of used and unused tax credits. We are concerned that this issue could be a hit to the General Fund.

- 5) The original documents we read about the Private Forest Accord said that the forestland owner would be responsible for the cost of having their trees appraised. The bill (page 4, lines 7-9) puts that cost onto the General Fund. Further, it provides no mechanism for dealing with an appraisal that is inaccurate or is for all of the owner's trees not just those that are to be left standing.
- 6) On page 2, line 39, the new says that the land shall be classified as Land Class FX. There are eight different classes of forestland. The classes are based on the productivity of the land, its ability to grow trees, including as we recall soil and terrain. The cited ORS does not describe these classifications. But why would all forest land in this program have the same classification?

We're sorry, we simply didn't have much time to review SB 1502, or talk with others to get more clarity. Some of our comments may come from not following every link, or a simple misunderstanding of the bill's language of the bill. But we felt it important to put these issues before less rushed and better eyes.