

House Bill 2971

Sponsored by Representatives OWENS, HELM; Representative KROPF (at the request of Deschutes River Conservancy) (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**.

Includes as permissible farm use for purposes of property tax special assessment operation or use of farmland subject to farm-related government program for voluntary in-stream leasing of water rights.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to voluntary in-stream leasing of water rights; creating new provisions; amending ORS
3 215.203, 308A.056 and 308A.743; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308A.056 is amended to read:

6 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment
7 of land for the primary purpose of obtaining a profit in money by:

8 (a) Raising, harvesting and selling crops.

9 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
10 or the produce thereof.

11 (c) Dairying and selling dairy products.

12 (d) Stabling or training equines, including but not limited to providing riding lessons, training
13 clinics and schooling shows.

14 (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
15 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.

16 (f) On-site constructing and maintaining equipment and facilities used for the activities described
17 in this subsection.

18 (g) Preparing, storing or disposing of, by marketing, donation to a local food bank or school or
19 otherwise, the products or by-products raised for human or animal use on land described in this
20 section.

21 (h) Implementing a remediation plan previously presented to the assessor for the county in
22 which the land that is the subject of the plan is located.

23 (i) Using land described in this section for any other agricultural or horticultural use or animal
24 husbandry or any combination thereof.

25 (2) "Farm use" does not include the use of land subject to timber and forestland taxation under
26 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-
27 scribed in ORS 321.267 (3) or 321.824 (3), [(relating to land used to grow certain hardwood timber,
28 including hybrid cottonwood)].

29 (3) For purposes of this section, land is currently employed for farm use if the land is:

30 (a) Farmland, the operation or use of which is subject to any farm-related government

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 program, **including, but not limited to, the voluntary in-stream leasing of water rights under**
 2 **ORS 537.348 (2);**

3 (b) Land lying fallow for one year as a normal and regular requirement of good agricultural
 4 husbandry;

5 (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of
 6 this subsection, prior to maturity;

7 (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special
 8 farm use value in the year prior to planting the current crop and has been planted in orchards,
 9 cultured Christmas trees or vineyards for at least three years;

10 (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
 11 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that
 12 is not currently being used for any economic farm use;

13 (f) Except for land under a single family dwelling, land under buildings supporting accepted
 14 farming practices, including the processing facilities allowed by ORS 215.255 and the processing of
 15 farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213
 16 (2)(c) and 215.283 (2)(a);

17 (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

18 (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
 19 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
 20 in conjunction with farm use;

21 (i) Land lying idle for no more than one year when the absence of farming activity is the result
 22 of the illness of the farmer or a member of the farmer's immediate family, including injury or
 23 infirmity, regardless of whether the illness results in death;

24 (j) Land described under ORS 321.267 (3) or 321.824 (3), [(relating to land used to grow certain
 25 hardwood timber, including hybrid cottonwood)];

26 (k) Land subject to a remediation plan previously presented to the assessor for the county in
 27 which the land that is the subject of the plan is located; [or]

28 (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

29 (A) Only the crops of the landowner are being processed;

30 (B) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
 31 of the landowner; or

32 (C) The landowner is custom processing crops into biofuel from other landowners in the area for
 33 their use or sale[.]; or

34 **(m) Land lying fallow for one or more years, or part of a year, in conjunction with the**
 35 **voluntary in-stream leasing of water rights under ORS 537.348 (2).**

36 (4) As used in this section:

37 (a) "Accepted farming practice" means a mode of operation that is common to farms of a similar
 38 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
 39 arily utilized in conjunction with farm use.

40 (b) "Cultured Christmas trees" means trees:

41 (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
 42 tivation methods such as plowing or turning over the soil;

43 (B) Of a marketable species;

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

1 (D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
2 and brush control and one or more of the following practices:

- 3 (i) Basal pruning;
- 4 (ii) Fertilizing;
- 5 (iii) Insect and disease control;
- 6 (iv) Stump culture;
- 7 (v) Soil cultivation; or
- 8 (vi) Irrigation.

9 **SECTION 2.** ORS 308A.743 is amended to read:

10 308A.743. (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to
11 308A.330, 308A.403 to 308A.430, 308A.450 to 308A.465, 321.257 to 321.390, 321.700 to 321.754 or
12 321.805 to 321.855, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may
13 not be disqualified from the special assessment or exemption, and may not be subject to additional
14 taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:

15 (a) Entered into a wildlife habitat conservation and management plan, as described in ORS
16 308A.403 to 308A.430, approved by the State Department of Fish and Wildlife; *[or]*

17 (b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the
18 land:

19 (A) Is managed in compliance with the conservation easement or deed restriction; and

20 (B) Continues to meet the requirements for special assessment or exemption. The existence of
21 the conservation easement or deed restriction may not cause the disqualification of the land from
22 special assessment or exemption or preclude the disqualification of the land from special assessment
23 or exemption for some other reason[.]; **or**

24 **(c) Engaged in the voluntary in-stream leasing of water rights associated with irrigated**
25 **farmland under ORS 537.348 (2).**

26 (2) A property owner who executes a conservation easement may convey the easement to a land
27 trust or other qualified entity without a loss of benefits under this section.

28 (3) In order for land to be subject to this section:

29 (a) The conservation easement, deed restriction or wildlife habitat conservation and management
30 plan must be recorded in the records of the clerk of the county in which the land is located; and

31 (b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and
32 management plan, along with the property tax account number for the land, must be sent to the
33 county assessor.

34 **SECTION 3.** ORS 215.203 is amended to read:

35 215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
36 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
37 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
38 only when such zoning is consistent with the comprehensive plan.

39 (2)(a) As used in this section, "farm use" means the current employment of land for the primary
40 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
41 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
42 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
43 use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage
44 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
45 man or animal use. "Farm use" also includes the current employment of land for the primary pur-

1 pose of obtaining a profit in money by stabling or training equines including but not limited to
2 providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propa-
3 gation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under
4 the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules
5 adopted by the commission. "Farm use" includes the on-site construction and maintenance of
6 equipment and facilities used for the activities described in this subsection. "Farm use" does not
7 include the use of land subject to the provisions of ORS chapter 321, except land used exclusively
8 for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3).

9 (b) As used in this subsection, "current employment" of land for farm use includes:

10 (A) Farmland, the operation or use of which is subject to any farm-related government
11 program, **including, but not limited to, the voluntary in-stream leasing of water rights under**
12 **ORS 537.348 (2);**

13 (B) Land lying fallow for one year as a normal and regular requirement of good agricultural
14 husbandry;

15 (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
16 of this paragraph, prior to maturity;

17 (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special
18 farm use value in the year prior to planting the current crop and has been planted in orchards,
19 cultured Christmas trees or vineyards for at least three years;

20 (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
21 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
22 which is not currently being used for any economic farm use;

23 (F) Except for land under a single family dwelling, land under buildings supporting accepted
24 farm practices, including the processing facilities allowed by ORS 215.255 and the processing of farm
25 crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c)
26 and 215.283 (2)(a);

27 (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

28 (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
29 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
30 in conjunction with farm use;

31 (I) Land lying idle for no more than one year where the absence of farming activity is due to
32 the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph,
33 illness includes injury or infirmity whether or not such illness results in death;

34 (J) Any land described under ORS 321.267 (3) or 321.824 (3); and

35 (K) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

36 (i) Only the crops of the landowner are being processed;

37 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
38 of the landowner; or

39 (iii) The landowner is custom processing crops into biofuel from other landowners in the area
40 for their use or sale.

41 (c) As used in this subsection, "accepted farm practice" means a mode of operation that is
42 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
43 in money, and customarily utilized in conjunction with farm use.

44 (d) As used in this subsection, "cultured Christmas trees" means trees:

45 (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-

1 tivation methods such as plowing or turning over the soil;

2 (B) Of a marketable species;

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

5 (D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
6 and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and
7 disease control, stump culture, soil cultivation or irrigation.

8 **SECTION 4. The amendments to ORS 215.203, 308A.056 and 308A.743 by sections 1 to 3**
9 **of this 2023 Act apply to property tax years beginning on or after July 1, 2023.**

10 **SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023**
11 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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