

HB 3103 -5 STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/3, 3/31

WHAT THE MEASURE DOES:

The measure directs the State Forester to develop a timber inventory model, use it to establish sustainable harvest levels (SHL) for harvesting timber on state forestland, and offer timber for sale at the SHL. It requires the State Forester to annually report on timber sales relative to the SHL, describe any deficit in timber sales, and address it by offering additional timber, equal to the deficit volume, for sale during following years. The bill confers standing on certain persons to challenge a failure to address the deficit. The measure further directs the State Forester to adopt SHLs, forest management plans, and related policy documents by rule, and establishes procedures and limitations for judicial review of final rules.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

Detailed Summary

Calculation Of Sustainable Harvest Levels

Defines ‘available land’, ‘five-year harvest period’, ‘management change affecting harvest levels’, ‘state forestland’, and ‘sustainable harvest level (SHL)’. Directs the State Board of Forestry (Board) to adopt by rule a SHL as calculated by the State Forester immediately before making any management change affecting harvest levels, and at least every five years. Specifies that any such rule may not take effect less than 21 days after its publishing date and prohibits the Board from making any management changes affecting harvest levels without first adopting such SHL. Requires the State Forester to calculate a SHL by identifying available land, developing a timber inventory model (inventory model), and using the inventory model to derive a SHL that maximizes state land value and accounts for all applicable federal and state legal requirements including forest practices rules and habitat conservation plan requirements. Requires the State Forester to publish a draft of the recommended SHL, including the description, methodology, and constraints of the applied timber inventory model, the rationale behind changes in harvest units of available land, the effects of the recommended SHL on county tax and timber sale revenues, the impact on the Common School Fund, and the predicted economic effects on local communities and consumers of timber products. Specifies that the SHL draft must be published no later than 120 days before the State Forester recommends a SHL to the State Board of Forestry. Requires the State Forester to hold a public meeting on the published documents, allow 60 days for public commentary, and respond to all comments no later than 60 days after public comments are closed. Authorizes the State Forester to incorporate any suggestions or information into a final harvest level, without providing additional opportunities for public input. Requires the State Forester's responses to public comments, as well as the final recommended SHL to be published on a website of the Oregon Forestry Department (ODF). Directs the Board to, by rule, adopt the final recommended SHL no later than 30 days after the final recommended SHL is published, the first one being adopted by December 31, 2026. Appropriates money from the General Fund to the State Forester for inventory model and SHL.

Sales of Timber at Sustainable Harvest Level

Requires the State Forester to offer timber for sale at one-fifth of the applicable harvest level following the publication of a sustainable harvest level (SHL). Defines 'deficit' as a volume of timber sold from the available land during one year that is less than one-fifth of the volume planned to be sold that year during the applicable five-year harvest period.

Requires the State Forester, starting January 1, 2027, to annually by September 15, publish on the department website, a calculation of the volume of timber sold during the previous year, a calculation of any deficit, a description of associated reasons, and a plan to make up sales for any such deficit by offering for sale the full volume of timber planned to be sold under the SHL during the remaining years of the applicable five-year period. Requires, to the extent feasible, any such sold timber volume to be offered for sale within the county or counties most affected by the deficit. Directs the State Forester to roll over any deficit not offered by the end of a five-year period into the next five-year period, unless the additional timber was not harvested due to a catastrophic environmental event.

Authorizes any person that has received revenue from timber harvest on state forestland, or has purchased timber sale contracts in Oregon, to apply to the Circuit Court of Marion County (Court) for a temporary or permanent injunction against the State Forester, if the State Forester does not calculate a SHL or offers the associated calculated timber volume for sale. Authorizes the Court to award costs, but not attorney fees, to the prevailing party in the lawsuit.

Adoption of Policies by Rule

Authorizes the State Forester, under the general supervision of the State Board of Forestry, to adopt by rule forest management plans and SHLs.

Judicial Review of Rules Adopting Policies

Confers standing on a person that has received revenue from timber harvest on state forestland or that has purchased timber sale contracts in Oregon to institute a proceeding for judicial review of final rules related to forest management plans or SHLs. Specifies petition filing and service procedures. Authorizes the State Forester to suspend a rule for reconsideration, and subsequent readoption, amendment, or permanent suspension, at any time after the petition is filed and prior to its hearing date; specifies follow-up procedures. Limits the scope of judicial review and circumstances when a rule may be declared invalid. Prohibits a reviewing court from considering whether the rule secures the greatest permanent value of lands, from examining any State Forester, Board of Forestry, or Department of Forestry interpretation of the applicability of legal requirements on the federal or state level, including an approved habitat conservation plan, or from declaring a rule invalid solely for noncompliance with rulemaking procedures under certain circumstances. Awards costs and attorney fees to the petitioner under certain conditions. Authorizes any party to the proceeding to appeal the judgment of the court. Specifies which SHL remain in effect until the final resolution of a petition.

Forest Management Reports

Directs the State Forester to orally present their biennial report on forest management to natural resources related committees or interim committees of the legislature after the end of each fiscal year and specifies reporting timelines. Requires that the report include a description of the timber inventory model and the applicable SHL. Modifies publication requirements to include the publication of a public draft and a 30-day period for public written comment prior to finalizing the report. Modifies the requirement for the State Forester to conduct biennial public hearings to include biennial public hearings before the Forest Trust Land Advisory Committee.

Takes effect on the 91st day following adjournment sine die.

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ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-5 The amendment replaces the measure, and directs the State Forester to, under the authority and direction of the Oregon Board of Forestry, adopt by rule a sustainable timber harvest level (STHL) and, to the degree consistent with other legal requirements, manage available state lands to produce the STHL.

Detailed Summary

Replaces the measure. Defines ‘available state forestland’, ‘material change in management’, and ‘sustainable timber harvest level’. Requires the State Forester to determine available state forestland and authorizes them to periodically adjust the determination of such.

Directs the State Forester to:

- Under the authority and direction of the Oregon Board of Forestry (Board), adopt by rule a sustainable timber harvest level (STHL) before making a material change in management, if the condition of available state forestland has changed materially, and at least once every 10 years.
- Take the condition of the available forestland, lawfully issued policies and directives by the State Forester, including a policy to implement, prior to federal approval, the material terms of a habitat conservation plan, and all applicable federal and state legal requirements, including the habitat conservation plan, the Oregon Forest Practices Act, and forest management related rules adopted by the Board, into account when determining a STHL.
- In adopting a STHL, include any timber that was previously expected to be harvested but was not, unless prevented by factors like disease, wildfire, or storm damage.
- To the degree consistent with other legal requirements, manage available state forest land to produce the applicable adopted STHL.
- Adopt an initial STHL by July 1, 2026.

Specifies that the measure does not alter the State Forester’s obligation to manage lands in accordance with current forest management statutes or, unless in conflict with this measure, restrict the State Forester and the Board to adopt rule for state forestland management. Authorizes any person to apply to the Circuit Court for Marion County (court) for a temporary or permanent injunction if the State Forester does not determine a STHL in time. Authorizes any person who had commented on rulemaking establishing or adjusting a STHL to apply to the court for a temporary or permanent injunction if the State Forester does manage available state forestland as directed by the STHL. Directs the Court to defer to the interpretation of the State Forester when interpreting any legal federal requirement under this measure. Appropriates \$_____ General Fund moneys to the State Forester for implementation. Declares an emergency, and takes effect on passage.

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BACKGROUND:

State forest lands comprise three percent of Oregon’s forested landscape. Their operations are guided by long-range management plans created by the Oregon Department of Forestry which balance certain social, economic, and environmental benefits of the managed forest land to address statutorily required management directives for both Board of Forestry Lands and Common School Forest Lands.