

**A-Engrossed**  
**House Bill 2729**

Ordered by the House May 4  
Including House Amendments dated May 4

Sponsored by Representative BURLEY; Representatives HASS, WHISNANT, Senator WESTLUND (at the request of Tom Tuchmann)

**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.

Authorizes city or county to create community forest authority. Authorizes community forest authorities to issue revenue bonds or other revenue obligations to [*acquire and maintain private*] **finance community** forestlands.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to community forest authorities; and declaring an emergency.

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

4 **SECTION 1. As used in sections 1 to 15 of this 2005 Act, unless the context requires**  
5 **otherwise:**

6 (1) "Authority" means a community forest authority created under section 4 of this 2005  
7 Act.

8 (2) "Board" means the board of directors of a community forest authority.

9 (3) "Community forestlands" means private lands that are zoned and permanently man-  
10 aged for commercial forestland use and any interests in those private lands, including related  
11 roads or other improvements financed by a community forest authority.

12 (4) "Municipality" means a city or county.

13 **SECTION 2. To provide the people of the State of Oregon with renewable commercial**  
14 **forest resources that promote community stability and sound conservation practices, the**  
15 **Legislative Assembly finds that it is necessary and desirable to authorize the creation of**  
16 **community forest authorities having the power to finance community forestlands and to**  
17 **authorize those authorities to issue revenue bonds and other obligations for that purpose.**

18 **SECTION 3. The governing body of a municipality may create a community forest au-**  
19 **thority under section 4 of this 2005 Act. An authority may issue obligations on behalf of the**  
20 **municipality creating the authority to finance community forestlands. An authority may not**  
21 **be created or maintained for a purpose other than to finance community forestlands as de-**  
22 **scribed in sections 1 to 15 of this 2005 Act.**

23 **SECTION 4. (1) Upon the written request of three individuals or upon its own motion, the**  
24 **governing body of a municipality may create a community forest authority for the purpose**  
25 **of financing community forestlands.**

26 (2) The governing body of a municipality may create a community forest authority by

**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 ordinance or resolution adopted following a public hearing held according to the laws of the  
2 municipality. The ordinance or resolution shall set forth:

3 (a) The name of the authority.

4 (b) The number of directors of the authority.

5 (c) The term of office of the directors.

6 (d) Other provisions that the governing body determines are necessary and appropriate  
7 and not inconsistent with the provisions of sections 1 to 15 of this 2005 Act.

8 (3) Upon adoption of an ordinance or resolution creating a community forest authority,  
9 the authority is deemed created.

10 (4) A community forest authority created under this section has the power and authority  
11 necessary to perform its duties under sections 1 to 15 of this 2005 Act.

12 (5) The governing body that creates a community forest authority under this section  
13 may, at its sole discretion:

14 (a) Alter or change the structure, organization, programs or activities of the authority,  
15 subject to any limitations imposed by law or contract; and

16 (b) Dissolve the authority at any time if the authority has no outstanding revenue bonds  
17 or other obligations or if the authority makes arrangements regarding outstanding revenue  
18 bonds or other obligations that are satisfactory to creditors.

19 **SECTION 5.** (1) The governing body of a municipality that creates a community forest  
20 authority under section 4 of this 2005 Act shall appoint a board of directors containing not  
21 fewer than five nor more than 11 directors to manage and control the authority. At least  
22 one-third of the directors must represent conservation interests. At least one-third of the  
23 directors must represent business interests and one director must serve as a member of the  
24 governing body that created the authority. The balance of the directors must be members  
25 of the public. A director who is a member of the governing body that created the authority  
26 shall serve as a director only as long as that director is a current member of the governing  
27 body.

28 (2) The term of office of directors of an authority may not exceed four years and the  
29 directors serve at the pleasure of the governing body of the municipality.

30 (3) The directors of an authority serve without compensation but may be reimbursed for  
31 expenses incurred in the performance of their duties.

32 (4) The board of directors of an authority shall adopt rules for conducting meetings and  
33 carrying out the duties of the board. Decisions of the board must be recorded in a minute  
34 book that is a public record. A majority of the directors of the board constitutes a quorum  
35 for the transaction of business and a majority of directors present and voting is sufficient  
36 for the passage of a motion or a resolution.

37 (5) The board may employ and compensate employees, bond counsel, financial advisors,  
38 feasibility consultants, accountants, attorneys or other advisors that the board deems nec-  
39 essary and appropriate.

40 **SECTION 6.** A community forest authority created under section 4 of this 2005 Act does  
41 not have the power or authority to levy taxes.

42 **SECTION 7.** Except as otherwise provided in section 6 of this 2005 Act, a community  
43 forest authority shall have the power necessary to accomplish the purpose of financing  
44 community forestlands under sections 1 to 15 of this 2005 Act, including the power to:

45 (1) Sue and be sued in its own name.

1           (2) Enter into agreements relating to the operation of community forestlands upon terms  
2 and conditions the board deems appropriate.

3           (3) Borrow money by issuing notes, revenue bonds or other revenue obligations for the  
4 purpose of carrying out its powers.

5           (4) Mortgage, assign and pledge its assets, or a portion of its assets, whether then owned  
6 or thereafter acquired, to pledge and assign the revenues and receipts from the assets, to  
7 acquire, hold and dispose of mortgages or other similar documents relating to community  
8 forestlands and to arrange and provide for guarantees and other security agreements.

9           (5) Lend money to a nonprofit corporation for the acquisition, furnishing or extension  
10 of and improvements to community forestlands.

11           (6) Enter into contracts, leases and other undertakings in its own name.

12           (7) Adopt and amend ordinances and resolutions.

13           **SECTION 8.** (1) To accomplish its purposes, a community forest authority created under  
14 section 4 of this 2005 Act may issue revenue bonds or other revenue obligations payable from  
15 the revenues derived from the repayment of loans to nonprofit corporations whose purpose  
16 is to own and operate community forestlands. The issuance of revenue bonds or other re-  
17 venue obligations is governed by the provisions of this section and is not subject to the prior  
18 approval of the electors of the municipality that created the authority.

19           (2) An authority may issue and sell revenue bonds or other revenue obligations payable  
20 as to principal and interest only out of the fund or funds established under this section or  
21 other assets of the authority that are pledged by the board of directors to secure the revenue  
22 bonds or other revenue obligations. The bond resolution:

23           (a) Must specify the public purposes for which the proceeds of the revenue bonds or other  
24 revenue obligations will be expended and declare the estimated cost of carrying out those  
25 purposes.

26           (b) Must contain covenants and provide for the issuance and sale of revenue bonds or  
27 other revenue obligations in a form, amount and manner that the directors determine. In  
28 declaring the estimated cost, the directors may include the moneys necessary for working  
29 capital, reserves, capitalized interest, the payment of financing and legal expenses, the re-  
30 payment of advances and the start-up costs.

31           (c) May provide that community forestlands subsequently acquired by a nonprofit corpo-  
32 ration shall be deemed betterments or additions to, or extensions of, the community  
33 forestlands, whether or not physically connected.

34           (d) Must provide for the establishment of one or more special funds under the control  
35 of the board or a trustee.

36           (e) Must obligate the authority to deposit and expend the proceeds of the revenue obli-  
37 gations only into and from the fund or funds established under this section and to set aside  
38 and pay into the fund or funds a fixed proportion or fixed amount of the revenues derived  
39 from the community forestlands or other corporate activities as the board finds in the best  
40 interest of the authority and the payment of its obligations.

41           (3) A revenue bond or other revenue obligation issued against a fund or funds established  
42 under this section is a valid claim of the holder only as against the fund or funds, the pro-  
43 portion or amount of the revenues pledged to the fund or funds and the other assets pledged,  
44 assigned or encumbered by the authority to secure the revenue bond or other revenue obli-  
45 gation. Each revenue bond or other revenue obligation must state on its face that:

1 (a) The bond or obligation is payable from a special fund or funds and name the fund or  
2 funds and the resolution that established the fund or funds; or

3 (b) That the bond or obligation is payable from other assets and identify those other as-  
4 sets and the resolution pledging, assigning or encumbering them.

5 (4) A pledge, assignment or encumbrance of revenues or other moneys or obligations or  
6 other assets made by an authority shall be valid and binding from the time that the pledge  
7 or assignment is made against a party with a subsequent claim of any kind in tort, contract,  
8 or otherwise against the authority, irrespective of whether the party has actual notice of the  
9 pledge, assignment or encumbrance. The pledge, assignment or encumbrance must be noted  
10 in the board's minute book or bond transcripts, which shall be constructive notice thereof  
11 to all parties, and neither the resolution nor other instrument by which a pledge, assignment  
12 or encumbrance is created need be otherwise recorded, nor shall the filing of a financing  
13 statement under the Uniform Commercial Code be required to perfect the pledge, assignment  
14 or encumbrance. Revenues or other moneys or assets pledged, assigned or encumbered and  
15 later received by an authority are subject to the lien of the pledge immediately without  
16 physical delivery or further act.

17 (5) A revenue bond or other revenue obligation issued under the provisions of this section  
18 shall bear the date or dates, mature at the time or times, be in denominations and in a form,  
19 either coupon or registered or both, carry registration privileges, be made transferable,  
20 exchangeable and interchangeable, be payable in the medium, at the place or places, contain  
21 the covenants and be subject to the terms of redemption that the board may declare in the  
22 bond resolution.

23 (6) The revenue bonds or other revenue obligations issued by an authority may be sold  
24 by the board upon the terms and conditions and at the rate or rates of interest and for the  
25 price or prices that the authority deems most advantageous to the authority, with or without  
26 public bidding. The authority may make contracts for future sale from time to time of re-  
27 venue bonds or other revenue obligations by which the contract purchasers are committed  
28 to the prices, terms and conditions stated in the contract, and the board may pay the con-  
29 sideration that the board deems proper for the commitments.

30 (7) The board by resolution may provide for the issuance of funding and refunding re-  
31 venue bonds or other revenue obligations in order to take up and refund a series, or portion  
32 of a series, of outstanding revenue bonds or other revenue obligations at a time determined  
33 by the board. Refunding revenue bonds or other revenue obligations may be sold or ex-  
34 changed at a price that the board determines is in the best interest of the authority.

35 (8) A revenue bond or other revenue obligation issued pursuant to this section is a legal  
36 security that may be used by any insured institution or trust company, as those terms are  
37 defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city  
38 treasurer, as security for deposits in lieu of a surety bond under a law relating to deposits  
39 of public moneys and constitutes legal investments for public bodies, trustees and other  
40 fiduciaries, banks, savings and loan associations, and insurance companies. All revenue bonds  
41 and obligations and all coupons appertaining thereto shall be negotiable instruments within  
42 the meaning of and for all purposes of the law of this state.

43 **SECTION 9.** A community forest authority created under section 4 of this 2005 Act may  
44 borrow from banks, investment banks or other lenders sums of money on terms that the  
45 board deems necessary or advisable. An authority may also issue, sell and assume bond an-

1 participation notes or the equivalent that bear a date, mature at a time, be in denominations  
2 and in a form, be payable in a medium, at a place, and be subject to the terms of redemption  
3 that the board deems necessary or advisable.

4 **SECTION 10.** Revenue bonds and other revenue obligations of a community forest au-  
5 thority created under section 4 of this 2005 Act are not a general obligation of the munici-  
6 pality nor a charge upon the tax revenues of the municipality.

7 **SECTION 11.** The board of directors of a community forest authority created under sec-  
8 tion 4 of this 2005 Act shall establish loan repayment terms and other charges at least ade-  
9 quate to pay the principal of and interest on the obligations of the authority as the same  
10 become due, including payments to a special fund or funds, together with the financing and  
11 other costs of the authority.

12 **SECTION 12.** (1) The powers and responsibilities provided in sections 1 to 15 of this 2005  
13 Act may be exercised and discharged by two or more community forest authorities acting  
14 jointly to effectuate the purposes of sections 1 to 15 of this 2005 Act. In addition, one or more  
15 community forest authorities may authorize by resolution, ordinance or agreement the is-  
16 suance of revenue bonds or other revenue obligations on behalf of the authorities or to oth-  
17 erwise exercise the powers of an authority within the boundaries of the authorities.

18 (2) A community forest authority may not finance the acquisition of community  
19 forestlands located outside the boundaries of the municipality that created the authority  
20 without the written consent of each municipality in which the community forest is located.

21 **SECTION 13.** (1) A community forest authority created under section 4 of this 2005 Act  
22 is deemed a municipal corporation performing a public function. An authority, all assets  
23 owned by the authority, the income earned by those assets and the interest earned by re-  
24 venue bonds or other revenue obligations issued by an authority are exempt from taxation  
25 in the State of Oregon.

26 (2) Notwithstanding subsection (1) of this section:

27 (a) A municipality shall determine the extent to which community forestlands acquired  
28 or financed by an authority and located within the boundaries of the municipality are subject  
29 to property taxation.

30 (b) Real and personal property owned by the authority and leased to a third party is  
31 subject to property taxation if the property would be subject to taxation if owned by the  
32 lessee of the property.

33 (c) A district, as defined in ORS 198.010 or 198.180, may elect to continue imposing taxes  
34 on property within the district that is acquired or financed by an authority and is otherwise  
35 exempt from property taxation under this section without regard to the determination of a  
36 municipality under paragraph (a) of this subsection.

37 (3) Revenue bonds issued by an authority are deemed to be securities issued by a political  
38 subdivision of the State of Oregon.

39 **SECTION 14.** The earnings of a community forest authority created under section 4 of  
40 this 2005 Act in excess of the amount required for the retirement of indebtedness or the  
41 accomplishment of the purposes of sections 1 to 15 of this 2005 Act shall not inure to the  
42 benefit of a person or body other than the municipality creating the authority. An authority  
43 may transfer, from time to time, to the municipality creating the authority any excess  
44 moneys not needed to pay the authority's expenses or to pay the authority's bonds or other  
45 obligations, and the municipality may use such transferred funds for any lawful purpose of

1 **the municipality. Upon dissolution of an authority, any asset remaining after provision for**  
2 **payment of the obligations and expenses of the authority becomes an asset of the munici-**  
3 **pality.**

4 **SECTION 15. (1) Sections 1 to 15 of this 2005 Act contain complete authority for the or-**  
5 **ganization of a community forest authority and for the issuance and sale of revenue bonds,**  
6 **including refunding revenue bonds, and other revenue obligations.**

7 **(2) ORS 288.320 and ORS chapters 198, 279A, 279B and 294 do not apply to the organization**  
8 **of an authority and the issuance and sale of revenue bonds pursuant to sections 1 to 15 of**  
9 **this 2005 Act.**

10 **(3) Nothing in sections 1 to 15 of this 2005 Act restricts or limits a power that an au-**  
11 **thority has under a law of this state or the charter of the municipality creating the authority**  
12 **except as explicitly provided in sections 1 to 15 of this 2005 Act.**

13 **SECTION 16. This 2005 Act being necessary for the immediate preservation of the public**  
14 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
15 **on its passage.**

16

---