

# House Bill 2729

Sponsored by Representative BURLEY; Representative 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 **as introduced**.

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 forest lands.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to community forest authorities; and declaring an emergency.

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

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

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

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

(3) "Community forest lands" means private lands that are zoned for forest use and any interests in those private lands, including related roads or other improvements financed by or owned, leased or otherwise acquired by a community forest authority.

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

**SECTION 2. To provide the people of the State of Oregon with renewable forest resources that promote community stability and sound conservation practices, the Legislative Assembly finds that it is necessary and desirable to authorize the creation of community forest authorities having the power to finance, acquire, own, operate, lease, sell, encumber and otherwise dispose of community forest lands and to authorize those authorities to issue revenue bonds and other obligations for those purposes.**

**SECTION 3. The governing body of a municipality may create a community forest authority under section 4 of this 2005 Act. An authority may issue obligations on behalf of the municipality creating the authority to provide community forest lands. An authority may not be created or maintained for a purpose other than to provide community forest lands as described in sections 1 to 15 of this 2005 Act.**

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

(2) The governing body of a municipality may create a community forest authority by ordinance or resolution adopted following a public hearing held according to the laws of the municipality. The ordinance or resolution shall set forth:

(a) The name of the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **SECTION 7.** Except as otherwise provided in section 6 of this 2005 Act, a community  
40 forest authority shall have the power necessary to accomplish the purpose of providing  
41 community forest lands under sections 1 to 15 of this 2005 Act, including the power to:

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

43 (2) Acquire, by purchase, exchange, gift, lease or otherwise, improve, extend, maintain,  
44 equip and furnish community forest lands that may be either within or without the corporate  
45 limits of the municipality that created the authority.

1 (3) Operate or enter into agreements for the operation of community forest lands upon  
2 such terms and conditions as the board deems appropriate.

3 (4) Lease community forest lands to a political subdivision of this state or to a nonprofit  
4 corporation that operates community forest lands upon terms and conditions that the board  
5 deems appropriate or to charge and collect rents.

6 (5) Enter into options and agreements for the renewal or extension of leases of commu-  
7 nity forest lands or for the conveyance of community forest lands.

8 (6) Sell, exchange, donate or convey community forest lands or other assets.

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

11 (8) Mortgage, assign and pledge its assets, or a portion of its assets, whether then owned  
12 or thereafter acquired, to pledge and assign the revenues and receipts from the assets, to  
13 acquire, hold and dispose of mortgages or other similar documents relating to community  
14 forest lands and to arrange and provide for guarantees and other security agreements.

15 (9) Lend money to a nonprofit corporation for the acquisition, furnishing or extension  
16 of and improvements to community forest lands.

17 (10) Enter into contracts, leases and other undertakings in its own name.

18 (11) Adopt and amend ordinances and resolutions.

19 **SECTION 8.** (1) To accomplish its purposes, a community forest authority created under  
20 section 4 of this 2005 Act may issue revenue bonds or other revenue obligations payable from  
21 the revenues derived from the repayment of loans or from the ownership, operation or sale  
22 of community forest lands or other assets of the authority. The issuance of revenue bonds  
23 or other revenue obligations is governed by the provisions of this section and is not subject  
24 to the prior approval of the electors of the municipality that created the authority.

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

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

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

37 (c) May provide that community forest lands subsequently acquired by the authority or  
38 by a nonprofit corporation shall be deemed betterments or additions to, or extensions of, the  
39 community forest lands, whether or not physically connected.

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

42 (e) Must obligate the authority to deposit and expend the proceeds of the revenue obli-  
43 gations only into and from the fund or funds established under this section and to set aside  
44 and pay into the fund or funds a fixed proportion or fixed amount of the revenues derived  
45 by it from its community forest lands or other corporate activities as the board finds in the

1 best interest of the authority and the payment of its obligations.

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

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

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

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

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

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

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

41 (8) A revenue bond or other revenue obligation issued pursuant to this section is a legal  
42 security that may be used by any insured institution or trust company, as those terms are  
43 defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city  
44 treasurer, as security for deposits in lieu of a surety bond under a law relating to deposits  
45 of public moneys and constitutes legal investments for public bodies, trustees and other

1 fiduciaries, banks, savings and loan associations, and insurance companies. All revenue bonds  
2 and obligations and all coupons appertaining thereto shall be negotiable instruments within  
3 the meaning of and for all purposes of the law of this state.

4 **SECTION 9.** A community forest authority created under section 4 of this 2005 Act may  
5 borrow from banks, investment banks or other lenders sums of money on terms that the  
6 board deems necessary or advisable. An authority may also issue, sell and assume bond an-  
7 ticipation notes or the equivalent that bear a date, mature at a time, be in denominations  
8 and in a form, be payable in a medium, at a place, and be subject to the terms of redemption  
9 that the board deems necessary or advisable.

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

13 **SECTION 11.** The board of directors of a community forest authority created under sec-  
14 tion 4 of this 2005 Act shall establish rentals, selling prices, loan repayment terms and other  
15 charges at least adequate to pay the principal of and interest on the obligations of the au-  
16 thority as the same become due, including payments to a special fund or funds, together with  
17 the financing and other costs of the authority.

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

24 (2) A community forest authority may not acquire or finance the acquisition of commu-  
25 nity forest lands located outside the boundaries of the municipality that created the au-  
26 thority without the written consent of each municipality in which the community forest is  
27 located.

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

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

34 (a) A municipality shall determine the extent to which community forest lands acquired  
35 or financed by an authority and located within the boundaries of the municipality are subject  
36 to property taxation.

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

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

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

1       **SECTION 14.** The earnings of a community forest authority created under section 4 of  
2 this 2005 Act in excess of the amount required for the retirement of indebtedness or the  
3 accomplishment of the purposes of sections 1 to 15 of this 2005 Act shall not inure to the  
4 benefit of a person or body other than the municipality creating the authority. An authority  
5 may transfer, from time to time, to the municipality creating the authority any excess  
6 moneys not needed to pay the authority's expenses or to pay the authority's bonds or other  
7 obligations, and the municipality may use such transferred funds for any lawful purpose of  
8 the municipality. Upon dissolution of an authority, any asset remaining after provision for  
9 payment of the obligations and expenses of the authority becomes an asset of the munici-  
10 pality.

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

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

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

20       **SECTION 16.** This 2005 Act being necessary for the immediate preservation of the public  
21 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect  
22 on its passage.  
23