

Enrolled Senate Bill 1072

Sponsored by Senator NELSON

CHAPTER

AN ACT

Relating to forestry policy.

Whereas forested lands comprise some of the most important environmental, economic and recreational resources in the State of Oregon; and

Whereas some of Oregon’s forested lands are increasingly jeopardized by vulnerability to drought stress, the risk of severe insect and disease outbreaks and catastrophic wildfires fed by overstocking and unprecedented accumulation of forest fuels; and

Whereas reducing vulnerability to drought stress and the risk of severe insect and disease outbreaks and catastrophic wildfires is of interest to all Oregon residents; and

Whereas such active forest management may restore structural diversity of forest stands, enhance wildlife habitat and create other ecological, economic and social benefits; and

Whereas federal and state funds are not sufficient to carry out the management activities necessary to restore forest resilience and reduce the risk of severe insect and disease outbreaks and catastrophic wildfires; and

Whereas suppressing catastrophic wildfires affects federal, state and county treasuries; and

Whereas increased participation by the residents of this state and by state agencies in the development of federal forestland policies and management plans may improve the management of those lands; and

Whereas the development of a means to utilize biomass harvested from federal lands in an ecologically beneficial manner may assist in reducing the wildfire risk while reducing costs to the state; and

Whereas changes in the management of federal forests may produce a range of benefits to all Oregonians; and

Whereas the State Board of Forestry is charged by ORS chapter 526 with the supervision of all matters of forest policy and management under the jurisdiction of the state; now, therefore,

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

SECTION 1. The Legislative Assembly finds and declares that:

(1) The State Forestry Department is well-positioned, due to experience in managing Oregon forests and its understanding of science-based, active forest management, to facilitate state government participation in forest management on federal lands located within the state.

(2) The State Department of Fish and Wildlife has expertise with fish and wildlife habitat and the Department of Environmental Quality has expertise with water quality. Both departments have an important role to play in the management of federal forests located within the state.

(3) A collaborative relationship between the State Forestry Department, the federal government, other agencies of the executive department, as defined in ORS 174.112, interested persons and nongovernmental organizations may restore the health, diversity and resilience of federal forests by increasing the information shared and by providing a variety of perspectives on site-specific and landscape-level determinations.

(4) In cooperation with the State Forestry Department and the federal government, many communities in wildfire-prone areas have completed a community wildfire protection plan that identifies priority areas for hazardous fuel removal from federal lands.

(5) The federal government has provided opportunities for agencies of the executive department, as defined in ORS 174.112, to become involved, to a greater extent, in the management of federal lands.

SECTION 2. In furtherance of the policy established in section 1 of this 2005 Act, the State Board of Forestry, in consultation with the Governor, may:

(1) In conformance with federal law, including Public Law 108-7, direct the State Forester to facilitate the development of stewardship contracts utilizing private contractors and, when appropriate, to seek and enter into a stewardship contract agreement with federal agencies to carry out forest management activities on federal lands. The State Forester may, under the stewardship contract agreements:

- (a) Perform road and trail maintenance;
- (b) Set prescribed fires to improve forest health, composition, structure and condition;
- (c) Manage vegetation;
- (d) Perform watershed restoration and maintenance;
- (e) Restore wildlife habitat;
- (f) Control exotic weeds and species; and
- (g) Perform other activities related to stewardship.

(2) Create a forum for interagency cooperation and collaborative public involvement regarding federal forest management issues that may include, at the discretion of the board, the appointment of advisory committees, the use of existing advisory committees and procedures for holding public hearings.

(3) Provide guidelines for the State Forestry Department and State Forester to follow that contain directions regarding the management of federal lands and that specify the goals and objectives of the board regarding the management of federal lands.

(4) Participate, to the extent allowed by federal law, in the development of federal forest policies and the forest management planning processes of federal agencies.

(5) Provide guidelines for the department to follow in implementing this section.

(6) Coordinate with Oregon State University, the State Department of Fish and Wildlife, the Oregon Forest Resources Institute, the Department of Environmental Quality, the Economic and Community Development Department, the State Department of Energy and other agencies of the executive department, as defined in ORS 174.112, to assist the State Forestry Department in carrying out the provisions of this section.

SECTION 3. The Legislative Assembly finds and declares that:

(1) Forestlands in federal, state and private ownership comprise some of the most important environmental, economic and recreational resources in the State of Oregon. However, federal lands, and to a lesser extent state and private lands, are increasingly jeopardized by the risk of drought-induced mortality, severe insect and disease outbreaks and catastrophic wildfires.

(2) Enhancing forest health, wildlife habitat and other ecological values and reducing the risk of severe insect and disease outbreaks and catastrophic wildfires through forest management are of interest to the residents of this state. Federal and state funds have not proved sufficient to carry out the management activities necessary to achieve these goals on federal lands, and it is unlikely that the funds will be available on a continuous basis.

(3) The development of new market-based solutions to reduce the risk of severe insect and disease outbreaks and catastrophic wildfires may reduce the requirement for public funding. The development of biomass markets, including energy markets, that use forest biomass unsuitable for lumber, pulp and paper products as a primary source of raw material may assist in the creation of a sustainable, market-based model for restoring complexity and structure to Oregon's forests.

(4) A biomass-based industry may provide a renewable source of energy, reduce net greenhouse gas emissions, reduce air pollution from wildfires, improve fish and wildlife habitat, create jobs and provide economic benefits to rural communities. Through the collection and conversion of forest biomass, ancillary benefits may be realized through the improvement in forest health, the protection of infrastructure and the stabilization of soils within critical watersheds.

(5) The collection and conversion of forest biomass diminishes fuel loads and is an ecologically and economically sustainable practice where the reintroduction of fire is not appropriate.

(6) The policy of this state is to support efforts to build, and place in service, biomass-fueled energy production facilities that utilize biomass collected from forests or derived from other sources such as agricultural crop residue when:

(a) The facilities utilize sustainable supplies of biomass from cost-effective sources;

(b) The use of woody biomass for energy maintains or enhances the biological productivity of the land, taking into consideration transportation costs, existing forest conditions, management objectives, vegetation growth rates and the need to sustain water quality and fish and wildlife habitat; and

(c) The set of forest values to be sustained, in addition to wood and biomass for energy, is considered. Forest values include forest products, water, wildlife and recreation.

(7) As used in this section and section 4 of this 2005 Act:

(a) "Biomass" means any organic matter, including woody biomass, agricultural crops, wood wastes and residues, plants, aquatic plants, grasses, residues, fibers, animal wastes, municipal wastes and other waste materials.

(b) "Woody biomass" means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.

SECTION 4. In furtherance of the policy established in section 3 of this 2005 Act, the State Forester shall:

(1) Establish a policy of active and inclusive communication with the federal government, public bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization of woody biomass produced through forest health restoration. The State Forester shall actively utilize the statutory provisions of the National Forest Management Act of 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration Act of 2003 that allow the state to participate in federal policy development in a manner that expresses the policy established in section 3 of this 2005 Act.

(2) Promote public involvement in the identification of the areas of interface between urban lands and forestlands that pose the highest potential to threaten lives and private property.

(3) Solicit public comment on the location of biomass-based energy projects and conversion facilities.

(4) Promote public understanding, through education and outreach, of forest conditions, forest management options, the potential benefits and potential consequences of woody biomass utilization, the quality and quantity of woody biomass on federal lands and the po-

tential for woody biomass utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience. The State Forestry Department may coordinate with the State Department of Energy, the Economic and Community Development Department, Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other entities in any education and outreach performed pursuant to this subsection.

(5) Allow the State Forestry Department to conduct inventories of the types of woody biomass available and to serve as an information resource for persons seeking to utilize woody biomass for energy development. Notwithstanding ORS 192.501, reports on any inventories of biomass conducted by the department shall be made available for public inspection.

(6) Promote public understanding that woody biomass utilization may be an effective tool for restoration of forest health and for economic development in rural communities.

(7) Develop and apply, with advice from the forestry program at Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other sources, the best available scientific knowledge and technologies pertaining to forest and wildlife habitat restoration and woody biomass utilization when developing rules under ORS 527.630.

(8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and private forests.

(9) Prepare a report every three years utilizing, to the greatest extent practicable, data collected from state and federal sources that specify the effect of woody biomass collection and conversion on the plant and wildlife resources and on the air and water quality of this state. The report shall identify any changes that the State Forester determines are necessary to encourage woody biomass collection and conversion and to avoid negative effects on the environment from woody biomass collection and conversion. The State Forester shall submit the report to the Governor and to an appropriate legislative interim committee with jurisdiction over forestry issues.

SECTION 5. The State Forester shall prepare a report referred to in section 4 (9) of this 2005 Act no later than October 1, 2008.

Passed by Senate July 26, 2005

Received by Governor:

Repassed by Senate August 4, 2005

.....M.,....., 2005

Approved:

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Secretary of Senate

.....M.,....., 2005

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President of Senate

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Governor

Passed by House August 1, 2005

Filed in Office of Secretary of State:

Repassed by House August 4, 2005

.....M.,....., 2005

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Speaker of House

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Secretary of State