

A-Engrossed
Senate Bill 1513

Ordered by the Senate February 12
Including Senate Amendments dated February 12

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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.

[Establishes cost assistance program for reforestation of small woodlands following loss from catastrophic fire event. Establishes tax credit for reforestation of small woodlands following loss from catastrophic fire event.]

[Establishes Catastrophic Fire Reforestation Assistance Fund. Continuously appropriates moneys in fund to State Forestry Department.]

Makes cost assistance available for reforestation of small forestland following loss from catastrophic fire event. Establishes tax credit for reforestation of commercial forestland following loss from catastrophic fire event. Makes cost assistance and tax credit provisions applicable for losses from catastrophic fire events occurring in whole or in part on or after August 1, 2012, and for which State Forester issues preliminary certificates before January 1, 2020.

Establishes Catastrophic Fire Reforestation Assistance Account. Appropriates moneys to State Forestry Department for carrying out cost assistance and for department costs regarding tax credit.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to reforestation; appropriating money; and prescribing an effective date.

3 Whereas Oregon's richly diverse forests provide all Oregonians with vital products and amen-
4 ities, including jobs, wildlife habitats, clean air and water and recreational opportunities; and

5 Whereas in 2013, wildfires on checkerboard Oregon and California Railroad Lands spread to
6 intermingled private lands, destroying dense, overstocked public forests and neighboring state and
7 private forests; and

8 Whereas proactive management of Oregon's dense and overstocked federal forestlands could
9 minimize catastrophic wildfire events and reduce the risk to adjacent state and private lands; and

10 Whereas the loss of critical surface vegetation on a landscape scale as a result of catastrophic
11 wildfire disasters leaves forestland slopes vulnerable to large-scale soil erosion and flooding during
12 subsequent storm events, threatening the health and safety of downstream communities and natural
13 resources; and

14 Whereas timely reforestation following a major catastrophic event to forest cover is crucial to
15 maintaining forest ecosystems and deriving associated ecological, social and economic benefits; and

16 Whereas reforestation assistance in the aftermath of the catastrophic 2013 fire season would
17 have aided landowners in rehabilitating extensive forestland while also quickly restoring the dev-
18 astated environment and creating future high-paying private sector jobs; now, therefore,

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

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 **SECTION 1.** Sections 2 and 3 of this 2014 Act are added to and made a part of ORS 526.450
2 to 526.475.

3
4 **CATASTROPHIC FIRE REFORESTATION ASSISTANCE ACCOUNT**

5
6 **SECTION 2.** (1) The Catastrophic Fire Reforestation Assistance Account is established
7 within the General Fund. Moneys in the account are appropriated to the State Forestry De-
8 partment for use as provided in this section.

9 (2) The department may expend no more than eight percent of the moneys deposited to
10 the credit of the account for the purpose of administering and enforcing section 3 of this 2014
11 Act and for costs of the department associated with the administration and enforcement of
12 the reforestation tax credit program established under sections 5 and 6 of this 2014 Act.

13 (3) Except as provided under subsection (2) of this section, the department may expend
14 moneys from the account only for the purpose of providing reforestation cost assistance
15 under section 3 of this 2014 Act.

16
17 **REFORESTATION COST ASSISTANCE PROGRAM**

18
19 **SECTION 3.** (1) As used in this section:

20 (a) “Catastrophic fire event” means a fire that:

21 (A) Results in the payment of moneys from the Oregon Forest Land Protection Fund to
22 reimburse emergency fire suppression costs;

23 (B) Causes damage to at least 50 percent of the timber on a forestland property; or

24 (C) Is declared by the State Forester to be a catastrophic fire event.

25 (b) “Fire loss year” means a period of not more than 12 months, ending no later than
26 October 31 each year, identified by State Board of Forestry rule for the collective processing
27 of losses incurred during district fire seasons designated under ORS 477.505.

28 (c) “Net reforestation costs” means reforestation costs minus any salvage value.

29 (d)(A) “Reforestation costs” means the labor, technical and other costs incurred after a
30 catastrophic fire event to log damaged timber other than salvage, remove fuel and dead
31 overstory, prepare a site for replanting and replant forestland in accordance a reforestation
32 project plan approved by the State Forester.

33 (B) “Reforestation costs” does not mean:

34 (i) Any expense eligible for federal cost share assistance;

35 (ii) Any amounts paid or incurred to purchase or otherwise acquire forestland; or

36 (iii) The cost of purchase or other acquisition of tools and equipment with a useful life
37 of more than one year.

38 (e) “Salvage value” means the monetary amount, after deduction of costs, realizable from
39 the harvesting and selling of trees killed or damaged due to a catastrophic fire event, taking
40 into consideration any legal restrictions.

41 (f) “Small forestland owner” means any private individual, group, Indian tribe or other
42 native group, association, corporation or other nonpublic legal entity owning 10 to 5,000
43 contiguous acres of Oregon commercial forestland.

44 (2) If a catastrophic fire event occurs on forestlands, a small forestland owner whose
45 commercial forestland incurs damage from the catastrophic fire event may apply to the

1 State Forester for a preliminary certificate to receive reforestation cost assistance.

2 (3) To apply for a preliminary certificate under this section, a small forestland owner
3 must file a written request for a preliminary certificate with the State Forester between
4 November 1 and December 31 next following the fire loss year in which the catastrophic fire
5 event occurred. The request must include, at a minimum, a reforestation project plan for the
6 commercial forestland, any information required by board rule and any additional informa-
7 tion that the State Forester considers necessary or useful to determine the applicable com-
8 mercial forestland category under subsection (6) of this section. To the extent practicable,
9 the State Forester shall complete the processing of all preliminary certificate applications
10 under this section no later than March 1 following the close of the application period.

11 (4) The State Forester shall issue the small forestland owner a preliminary certificate
12 under this section if the State Forester determines that:

13 (a) The commercial forestland of the small forestland owner has incurred damage from
14 a catastrophic fire event;

15 (b) The small forestland owner has filed or agreed to an acceptable reforestation project
16 plan for the commercial forestland; and

17 (c) The small forestland owner is likely to incur net reforestation costs under the
18 reforestation project plan.

19 (5) The board shall adopt rules establishing commercial forestland categories for use by
20 the State Forester in calculating the estimated net reforestation costs for commercial
21 forestland damaged by a catastrophic fire event. The factors that the board considers in
22 identifying a commercial forestland category may include, but need not be limited to, slope,
23 age class and tree species.

24 (6) The State Forester shall determine the commercial forestland category applicable to
25 commercial forestland described in a preliminary certificate application. The State Forester
26 shall use the commercial forestland categories to calculate the maximum amount of
27 reforestation cost assistance that would be granted under each preliminary certificate for a
28 fire loss year. However, if the total of the maximum reforestation cost assistance calculated
29 for all preliminary certificates to be issued for a fire loss year would exceed the lesser of \$1
30 million or the amount available in the Catastrophic Fire Reforestation Assistance Account
31 to pay that reforestation cost assistance, the State Forester shall reduce the maximum
32 amount of reforestation cost assistance for each certificate on a pro rata basis.

33 (7) Notwithstanding subsection (6) of this section, if the board determines that an ex-
34 traordinary level of losses from catastrophic fire events were incurred in a fire loss year, the
35 board may authorize the State Forester to seek additional funding of reforestation cost as-
36 sistance from the Emergency Board. If the Emergency Board grants the additional funding,
37 the \$1 million limitation described in subsection (6) of this section will not apply for that fire
38 loss year.

39 (8) The State Forester shall state the maximum amount of reforestation cost assistance
40 available on each preliminary certificate issued under this section. Except as provided in this
41 subsection and subject to subsection (9) of this section, a small forestland owner may receive
42 reforestation cost assistance for 50 percent of the reforestation costs for the forestland, up
43 to the maximum amount stated in the certificate. Reforestation cost assistance may not be
44 paid for reforestation activity performed later than the second calendar year following the
45 calendar year in which the State Forester issued a preliminary certificate for the

1 reforestation cost assistance.

2 (9)(a) To receive payment of reforestation cost assistance, the small forestland owner
3 must annually submit proof acceptable to the State Forester that:

4 (A) The small forestland owner has incurred or is incurring the net reforestation costs
5 on forestland qualifying for the rebate;

6 (B) The land remains commercial forestland; and

7 (C) The small forestland owner has materially complied with the reforestation project
8 plan for the commercial forestland.

9 (b) If a small forestland owner has failed to materially comply with a reforestation
10 project plan, the State Forester may require the small forestland owner to repay all or part
11 of any reforestation cost assistance previously paid under the preliminary certificate.

12 (c) The State Forester may, at any reasonable time, conduct a physical inspection of
13 commercial forestland to verify information described in paragraph (a) of this subsection.

14 (10) A small forestland owner may not receive a preliminary certificate under this section
15 if the State Forester has issued a preliminary certificate under section 5 of this 2014 Act for
16 a loss from a catastrophic fire event on the same forestland during the same fire loss year.

17
18 **REFORESTATION TAX CREDIT PROGRAM**

19
20 **SECTION 4.** Sections 5 and 6 of this 2014 Act are added to and made a part of ORS
21 chapter 315.

22 **SECTION 5.** (1) As used in this section and section 6 of this 2014 Act:

23 (a) “Catastrophic fire event,” “fire loss year,” “net reforestation costs” and
24 “reforestation costs” have the meanings given those terms in section 3 of this 2014 Act.

25 (b) “Commercial forestland” and “landowner” have the meanings given those terms in
26 ORS 526.455.

27 (2) To apply for a preliminary certificate allowing a tax credit under section 6 of this 2014
28 Act, a landowner must file a written request for a preliminary certificate with the State
29 Forester during the period beginning November 1 and ending December 31 next following the
30 fire loss year in which the catastrophic fire event occurred. The request must include, at a
31 minimum, a reforestation project plan for the commercial forestland, any information re-
32 quired by State Board of Forestry rule and any additional information that the State
33 Forester considers necessary or useful to determine the applicable commercial forestland
34 category under subsection (5) of this section. To the extent practicable, the State Forester
35 shall complete the processing of all written requests for preliminary certificates for a fire
36 loss year no later than March 1 following the close of the request filing period.

37 (3) The State Forester shall issue the landowner a preliminary certificate under this
38 section if the State Forester determines that:

39 (a) The commercial forestland of the landowner has incurred damage from a catastrophic
40 fire event;

41 (b) The landowner has filed or agreed to an acceptable reforestation project plan for the
42 commercial forestland; and

43 (c) The landowner is likely to incur net reforestation costs under the reforestation
44 project plan.

45 (4) The board shall adopt rules establishing commercial forestland categories for use by

1 the State Forester in calculating the maximum net reforestation costs resulting from a
2 catastrophic fire event for which a tax credit could be allowed under section 6 of this 2014
3 Act. The factors that the board considers in identifying a commercial forestland category
4 may include, but need not be limited to, slope, age class and tree species.

5 (5) The State Forester shall determine the commercial forestland category applicable to
6 commercial forestland described in a preliminary certificate application. The State Forester
7 shall use the commercial forestland categories to calculate, for each preliminary certificate,
8 the maximum net reforestation costs for which a tax credit could be allowed under section
9 6 of this 2014 Act. However, if the total of the net reforestation costs for all preliminary
10 certificates to be issued under this section for a fire loss year would exceed \$6 million, the
11 Sate Forester shall reduce the maximum net reforestation costs for each certificate on a pro
12 rata basis.

13 (6) In accordance with applicable provisions of ORS chapter 183, the board may adopt
14 rules necessary for the administration of this section.

15 **SECTION 6.** (1) Except as provided in subsections (5) and (6) of this section, a credit
16 against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation,
17 under ORS chapter 317 or 318 shall be allowed to a taxpayer possessing a preliminary cer-
18 tificate issued under section 5 of this 2014 Act.

19 (2) For the tax year in which the preliminary certificate is issued, the amount of the
20 credit is the lesser of:

21 (a) Fifty percent of the net reforestation costs actually paid or incurred by the taxpayer
22 during the tax year due to a catastrophic fire event; or

23 (b) Twelve and one-half percent of the maximum net reforestation costs allowed under
24 the preliminary certificate.

25 (3) For the two tax years next following the tax year in which the preliminary certificate
26 is issued, the amount of the credit is the lesser of:

27 (a) Fifty percent of the net reforestation costs incurred since issuance of the preliminary
28 certificate, reduced by the amount of any credits claimed under the certificate in prior years;
29 or

30 (b) Twelve and one-half percent of the maximum net reforestation costs allowed under
31 the preliminary certificate.

32 (4) For the third tax year next following the tax year in which the preliminary certificate
33 is issued, the amount of the credit is the lesser of:

34 (a) Fifty percent of the net reforestation costs incurred since issuance of the preliminary
35 certificate, reduced by the amount of any credits claimed under the certificate in prior years;
36 or

37 (b) Fifty percent of the maximum net reforestation costs allowed under the preliminary
38 certificate, reduced by the amount of any credits claimed under the certificate in prior years.

39 (5)(a) To qualify for a tax credit under this section, a landowner must submit an annual
40 certificate issued by the State Forester. The annual certificate must accompany the claim
41 for the credit or be otherwise filed in a manner acceptable to the Department of Revenue.
42 The State Forester may issue a landowner an annual certificate for the tax year only if the
43 State Forester is satisfied that:

44 (A) The landowner has actually incurred the reforestation costs to be claimed as a credit;

45 (B) The land remains commercial forestland; and

1 (C) The landowner has materially complied with the reforestation project plan for the
2 commercial forestland.

3 (b) The State Forester may, at any reasonable time, conduct a physical inspection of
4 commercial forestland to verify information described in paragraph (a) of this subsection.

5 (6) A credit may not be claimed under this section for net reforestation costs that a
6 taxpayer incurs after the third tax year following the year in which a preliminary certificate
7 is issued.

8 (7) The credit provided under this section shall be in addition to and not in lieu of any
9 depreciation or amortization deduction to which the taxpayer otherwise may be entitled with
10 respect to the reforestation project, and the credit does not affect the computation of basis
11 for the forestland. The credit may not be claimed for reforestation on land for which the
12 landowner has been issued a preliminary certificate under section 3 of this 2014 Act.

13 (8) In accordance with applicable provisions of ORS chapter 183, the Department of Re-
14 venue and the State Forestry Department may adopt rules necessary for the administration
15 of this section.

16 (9) Any landowner affected by a determination regarding the net reforestation costs tax
17 credit made by:

18 (a) The State Forester may appeal that determination in the manner provided for in ORS
19 526.475 (1).

20 (b) The Department of Revenue may appeal that determination in the manner provided
21 for in ORS 526.475 (2).

22 **SECTION 7.** (1) As used in this section, “catastrophic fire event,” “fire loss year” and
23 “small forestland owner” have the meanings given those terms in section 3 of this 2014 Act.

24 (2) For any catastrophic fire event that occurred on forestlands in whole or in part on
25 or after August 1, 2012, and before December 31, 2013, a small forestland owner whose com-
26 mercial forestland has incurred damage from the catastrophic fire event may apply to the
27 State Forester for issuance of a preliminary certificate under section 3 of this 2014 Act.
28 Notwithstanding section 3 (3) of this 2014 Act, the small forestland owner must file the ap-
29 plication between November 1, 2014, and December 31, 2014.

30 (3) For purposes of section 3 of this 2014 Act, catastrophic fire losses of small forestland
31 owners participating in the reforestation costs rebate program under this section are con-
32 sidered to be losses incurred in a fire loss year separate and distinct from all other fire loss
33 years.

34 (4) Notwithstanding section 2 (3) of this 2014 Act, the State Forestry Department may
35 expend moneys from the Catastrophic Fire Reforestation Assistance Account for carrying
36 out this section.

37 **SECTION 8.** (1) As used in this section, “catastrophic fire event,” “fire loss year” and
38 “landowner” have the meanings given those terms in section 5 of this 2014 Act.

39 (2) For any catastrophic fire event that occurred on forestlands in whole or in part on
40 or after August 1, 2012, and before December 31, 2013, a landowner whose commercial
41 forestland has incurred damage from the catastrophic fire event may apply to the State
42 Forester for issuance of a preliminary certificate under section 5 of this 2014 Act.
43 Notwithstanding section 5 (2) of this 2014 Act, the landowner must file the written request
44 between November 1, 2014, and December 31, 2014.

45 (3) For purposes of section 5 of this 2014 Act, catastrophic fire losses for which land-

1 owners file written requests for preliminary certificates under this section are considered
2 to be losses incurred in a fire loss year separate and distinct from all other fire loss years.

3 (4) Notwithstanding section 2 (3) of this 2014 Act, the State Forestry Department may
4 expend moneys from the Catastrophic Fire Reforestation Assistance Account for carrying
5 out this section.

6
7 **APPLICABILITY**

8
9 **SECTION 9.** Notwithstanding ORS 315.050, this 2014 Act applies to losses from cat-
10 astrophic fire events for which the State Forester issues preliminary certificates before
11 January 1, 2020.

12
13 **CAPTIONS**

14
15 **SECTION 10.** The unit captions used in this 2014 Act are provided only for the conven-
16 ience of the reader and do not become part of the statutory law of this state or express any
17 legislative intent in the enactment of this 2014 Act.

18
19 **EFFECTIVE DATE**

20
21 **SECTION 11.** This 2014 Act takes effect on the 91st day after the date on which the 2014
22 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.
23
