

## Summary of 2011 forest-related legislation

Oregon's 76<sup>th</sup> Legislative Assembly adjourned its regular session on June 30, 2011. The Legislature passed three bills that originated as Board of Forestry legislative concepts, approved the Department of Forestry budget, and addressed other forest-related topics, including land acquisition, biomass, and land-use policy.

Outcomes of these deliberations are summarized below.

### **Board of Forestry legislative concepts**

**HB 2123 – Authorizing payment of legal defense costs for firefighters alleged to have committed a crime in the course of fire suppression activities.** Passed.

This bill allows the Department to pay costs and reasonable attorney fees to defend against criminal charges stemming from actions taken to suppress a fire. Payment would occur only if the State Forester determines the person charged was acting within the scope of their firefighting responsibilities, and within the reasonable range of actions that could be chosen in fighting the fire.

The bill is a proactive measure for Oregon, prompted by isolated incidents in other states. The likelihood that the Department would use this authority is very low. However, this protection helps to alleviate a possible deterrent to continued development and retention of highly qualified people for firefighting leadership positions.

**HB 2124 – Setting Forest Products Harvest tax rates for Forest Practices Act administration and for the Oregon State University Forest Research Laboratory.** Passed.

The measure sets rates of 87.39 cents per thousand board feet for the Forest Research Laboratory, and \$1.295 cents per thousand board feet for Forest Practices Act administration.

The Forest Practices administration amount reflects a match of 60 percent General Fund and 40 percent harvest tax for these activities, consistent with the historical funding formula. In the previous biennium, harvesters paid 77 cents per thousand board feet under the match formula, but agreed to an additional 37 cents per thousand board feet for field administration of the Act, in light of substantial General Fund reductions to the program.

**HB 2164 – Wildfire Reduction Act: Addressing rising fire danger and suppression costs, adding initial attack capacity in high-fire areas, rebalancing state and landowner shares of costs.**

In an environment of ongoing financial constraints, this bill was not included in the Governor's Balanced Budget or the Legislature's budget proposal, and did not move forward.

**HB 2165 – Streamlining and increased efficiency of certain Forest Practices Act requirements.** Passed.

This bill:

- Allows for rules that would waive written plan requirements for operations within 100 feet of fish-bearing or domestic-use streams or most significant wetlands, if the operations will not affect the water bodies or adjacent riparian management areas.
- Changes to six, from three, the number of working days within which the department must circulate copies of written plans or notices of operation to interested parties (does not change the 15-day waiting period).
- Allows the use of electronic means, in addition to postal mail, to share notices of operation with interested parties.

**Other issues related to forests**

**State forests**

**Acquisition at Gilchrist.** **HB 5036** authorized lottery-backed bonds for a broad range of purposes. The Governor’s office provided strong support in including \$1.98 million in bonding for purchase of about 5,816 acres immediately east of the Gilchrist State Forest, bringing the forest’s total acreage to about 49,000. Subject to future funding availability, opportunities exist for purchase of an additional 20,000 acres for retention as working forest.

**Policy changes.** Several bills sought changes in management policy on state forestland. These included proposals to manage the lands with an industrial emphasis, and to change the definition of Greatest Permanent Value (GPV) to ensure management primarily for timber production. The Board, meeting in April, reaffirmed its support of balance among forest values.

One of the bills, **HB 2001**, proposing the change in GPV, advanced beyond consideration in a policy committee, and was referred to Ways and Means, where it remained at adjournment.

**Conservation areas.** The Legislature did not act on **HB 2736**, authorizing the Board to acquire or designate state forestlands as conservation areas.

**Hunting access.** The Legislature affirmed the importance of recreational hunting with **HB 2875**, which directs that state-owned lands remain open to hunters. The bill does not require preference for hunting over other uses, but directs land-owning agencies, to the greatest extent practicable, to avoid creating a net loss of hunting access. It also directs agencies to give notice to the Oregon Department of Fish and Wildlife of plans to close specific areas to hunting, so that ODFW can post these notices on its Web site. Exceptions to the notification requirement include emergencies and fire prevention closures.

**Biomass use on state forests.** *Please see biomass section below.*

## **Fire Protection**

**Funding.** Ultimately, the ODF budget, **HB 5023**, became the venue for decision-making in this area. As adopted, the budget maintained the historical 50-50 split between landowners and the General Fund for basic fire protection costs. A bill that would have instituted dollar-for-dollar sharing of the costs of large fires, **HB 2451**, did not move forward. The landowner commitment to pay the first \$10 million of these costs, with the General Fund paying subsequently until the insurance deductible is met, remains in place. The Legislature did set aside a Special Purpose Appropriation for severity firefighting resources, funded at the same level as in the 2009-2011 biennium.

**Radio interoperability.** In **HB 3466**, the Legislature found that the Department's existing communications infrastructure is compatible with those of its public and private partners, and complies with Federal Communications Commission standards. The bill directs the Department to continue to partner with and seek shared efficiencies with other public safety agencies working to enhance their communication infrastructures, but declares that conversion of the Department's system is not necessary.

## **Tax credits**

A joint committee was tasked with an extensive review of existing tax credits, with direction to reduce forgone revenue. Discussion centered largely on energy conservation and video production tax credits. The reforestation tax credit was discontinued, and the tax credit related to biomass was changed from \$10 per green ton to \$10 per dry ton, effectively reducing it by about half.

## **Biomass**

**Roles and authorities for Board and Department.** The Legislature addressed the role of state-owned forests in supplying biomass with passage of **SB 862**. The bill does not provide new authority, but references the Board's existing authority to enter into biomass supply contracts, and adds to the Forest Practices Act a specific reference to woody biomass removal as a regulated practice. It also requires the Department to produce periodic, broad-scale assessments of biomass availability across all ownerships.

**Biomass definition.** **SB 993** distinguishes hog fuel and other mill residual material – along with woody biomass – that is burned in a facility with an air-quality permit issued expressly for that purpose, from the broader, general definition of solid waste. The emission requirements for boilers that burn the woody materials differ from those applied to facilities burning materials such as municipal garbage.

## Ecosystem services

An attempt was made with **HB 3109** to build on 2009 legislation to help develop ecosystem services markets. The bill sought to set roles for state and local governments, the Governor's office, the Institute for Natural Resources and others in encouraging market-based approaches and providing incentives to landowners to conserve ecosystem services. It gained approval in a House committee and moved to Ways and Means, but did not advance further.

## Land use law and forestland

**Transfer of development rights.** The 2009 Legislature created a pilot program intended to help keep farm and forest lands in resource use by allowing transfer of development rights. **HB 2132**, which passed this session, seeks to garner interest in the program with several measures, including authorizing additional receiving areas for development rights, and dropping a requirement that landowners allow public access to properties from which rights are transferred.

**A regional approach to designating farm and forestland.** The Legislature did not approve **HB 3615**, which would have allowed Jackson, Josephine and Douglas counties to petition the Land Conservation and Development Commission to establish definitions of farm and forestland applying specifically to that region. The bill, part of a years-long conversation about flexibility and local input in land-use decisions, advanced as far as Ways and Means.

## Invasive species

**Firewood imports.** **HB 2122** prohibits transportation into the state, for sale or personal use, of firewood that doesn't meet treatment and other requirements from the state Department of Agriculture. Wood harvested from Idaho or Washington is excepted.

## “Wood first”

Several bills were introduced that would have created a preference for wood over other building materials in construction or expansion of state buildings, but none passed. Difficulties included concerns from manufacturers of other construction materials and questions about the oversight and enforcement of such a requirement.

## Job opportunities for young people

Recent regulations enacted by the U.S. Department of Labor have limited forestry-related employment opportunities for youths between 16 and 18 years old. The rules include restrictions on clearing fire trails, patrolling fire lines and other duties important in fire protection as well as career development. With support from ODF, the Legislature approved non-binding **Senate Joint Memorial 17**, introduced at the request of the Coos and Douglas Forest Protective Associations, urging the Department of Labor to revise its regulations.