STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1515 By: Morrissette

AS INTRODUCED

An Act relating to cedar trees; creating the Oklahoma Resource Reclamation Act; declaring the public interest in managing private unoccupied lands in the state for certain purpose; specifying certain goals; defining infested lands and abandoned property; stating duty of absentee landowners to manage and control infestations of trees and other fuel sources; stating duty of absentee landowner to remove Eastern Red Cedar trees under certain conditions; causing certain trees, vegetation and fuel sources to be declared abandoned property under certain circumstances; providing for certain notification to and response by landowner; providing for approval or disapproval of the landowner response or fire management plan; authorizing state and local officials to remove infestation upon failure of the absentee landowner to respond; providing a preference for certain harvesters; establishing liability for removal costs; providing for an agreement for reimbursement of costs for removal; encouraging certain insurers to offer incentives for policyholders who implement a certain program; defining term; allowing an owner of certain property to have the property reclassified; directing the county assessor to reclassify certain property; providing for reassessment upon certain conditions; providing in lieu tax treatment for certain property; requiring verification by the county assessor; allowing the county assessor to request additional information; providing for approval in writing; requiring filing of approval and election with county assessor; setting in lieu tax rate; setting filing deadline; providing for payment to county treasurer; providing for apportionment according to existing millage levies; providing for in lieu treatment; disqualifying property for certain exemption;

providing penalty for nonpayment; amending 68 O.S. 2011, Section 2805, which relates to ad valorem taxes; expanding list of in lieu taxes; amending 74 O.S. 2011, Section 85.44D, as amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.44D), which relates to purchasing preferences for products made from Oklahoma-harvested trees; modifying certain date; deleting purchasing preference; requiring the Purchasing Division of the Department of Central Services to register certain manufacturers into the vendor registration system; directing the Department to waive certain fees; providing for codification; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Resource Reclamation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-91 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It is in the public interest that private unoccupied lands within the state be managed to:

1. Discourage the proliferation of wildfires;

2. Reduce and control the infestation of Eastern Red Cedar trees on lands; and

3. Modify the growth of all trees, vegetation and other fuel sources from areas within one hundred (100) feet of homes or other

structures, so as to reduce the threat and severity of wildfires in accordance with the Firewise Program guidelines adopted by the National Fire Protection Association.

B. For purposes of this section, unoccupied private lands shall be considered infested and containing abandoned property if:

1. There are alive and growing Eastern Red Cedar trees, other tree species, vegetation and other fuel sources, excluding endangered species of trees or vegetation and cross timber or valuable hardwood, which are not less than five-feet tall and are at a density of at least fifty trees per acre;

2. The ratio of vegetation and trees that are harmful to open land constitutes a forest within definitions of the Oklahoma Forestry Code; and

3. City or county officials have determined, based on information regarding infestation published on the website of the Oklahoma Department of Agriculture, Food, and Forestry, that the infestation is harmful or threatening to adjacent private or public property.

C. It shall be the duty of every private absentee landowner in each county in the state to manage and control infestation in a manner as shall be sufficient to prevent or reduce the threat of wildfires and will comply with the purposes of the Oklahoma Forestry Code. It shall also be the duty of every private absentee landowner to remove Eastern Red Cedar trees on the property if it is

determined that the property is infested as set forth in subsection B of this section.

D. 1. Failure of an absentee landowner to manage, control and remove infestation deemed to be a fire hazard shall cause those trees, vegetation and other fuel sources declared by local officials, in compliance with local nuisance ordinances, to be abandoned property.

2. By written complaint, the absentee landowner shall be notified of the intent to remove the abandoned property and shall have thirty (30) days to submit a response or to file a forest management plan detailing actions to be taken and intent to comply with fire safety recommendations. The city, county or state officials shall approve or disapprove the response or forest management plan.

3. If the absentee landowner fails to respond to the complaint or to file a forest management plan, city, county or state officials shall determine the most appropriate method for removal of the infestation, based on information regarding infestation published on the website of the Oklahoma Department of Agriculture, Food, and Forestry, and take action to remove the infestation. The city, county or state officials shall give preference to harvesters registered with the Eastern Red Cedar Registry Board. Any costs associated with the removal incurred by city, county or state

officials shall be the responsibility of, and shall be reimbursed by, the absentee landowner.

4. An agreement to reimburse removal costs shall be entered into between the absentee landowner and the county or city whose nuisance or abandoned property ordinance(s) was violated or the state agency whose forest management practices were violated, and whose assets were extended to remove the infestation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-92 of Title 2, unless there is created a duplication in numbering, reads as follows:

Insurers duly licensed in the state writing property insurance are hereby encouraged to provide incentives to policyholders who implement and conform to Firewise Program guidelines adopted by the National Fire Protection Association, including creating a fuel-free defensible zone around homes and other structures.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2902.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature hereby finds that nineteen counties in this state have reported a loss-of-use devaluation due to eastern red cedar encroachment in somewhere between eight million (8,000,000) and ten million (10,000,000) acres thereby threatening the twenty-eight-billion-dollar Oklahoma agricultural industry.

B. As used in this section, "qualifying eastern red cedar property" means property:

1. Either:

a. classified as cropland, improved pasture, native pasture or timber waste which does not have improvements such as a homestead exemption filed on the property and is infested with red cedar encroachment of more than fifty trees per acre which are at least five (5) feet tall, or

b. classified as nonagricultural and which is infested with red cedar encroachment of more than fifty trees per acre which are at least five (5) feet tall;

2. Registered pursuant to the Eastern Red Cedar Registry Board Act; and

3. On which the owner is actively engaged in the removal of red cedar.

C. An owner of qualifying eastern red cedar property may apply to the county assessor for the county in which the property is located to have the property reclassified to timber waste or the lowest classification category allowed in the county. If the county assessor verifies that the property is qualifying eastern red cedar property, the county assessor shall reclassify the property outside of the regular interval of reassessment, with or without visual inspection. The qualifying eastern red cedar property shall remain

at the reclassified category until the owner has removed the infestation of eastern red cedar, at which time the county assessor may reassess the property and assign a different classification and the property owner may apply for the in lieu tax treatment pursuant to this section.

D. An owner of qualifying eastern red cedar property who has removed the infestation may apply for in lieu tax treatment for a single tax year pursuant to this section. The owner must reapply and be approved pursuant to this section for each additional tax year.

E. Upon application by a property owner for the in lieu tax treatment, the county assessor for the county in which the property is located shall verify that the applicant satisfies the provisions of subsection B of this section for the applicable tax year and has removed the infestation. The county assessor may request such additional information as may be necessary in order to complete the verification required by this subsection. If approved, the county assessor shall provide the approval to qualifying property owners in writing specifying the tax year for which the property qualifies pursuant to this section.

F. Beginning January 1, 2014, an owner of qualifying eastern red cedar property that has been approved pursuant to subsection D of this section who then files an election with the county assessor of the county in which the property is located to be subject to the

in lieu tax payment requirements imposed by this section shall be subject to an in lieu tax which shall be levied at the rate of One Dollar ($1.00) per acre of qualifying eastern red cedar property for the applicable tax year. An election authorized by this subsection shall be filed not later than March 15 of the applicable tax year. Once the election to be subject to the in lieu tax treatment provided by this section has been filed, it shall be irrevocable and the in lieu tax treatment for the applicable tax year shall not be subject to modification.

G. The in lieu payment required by this section shall be paid to the county treasurer of the county or counties in which qualifying eastern red cedar property is located not later than December 1 of the applicable tax year.

H. The revenue derived from the in lieu tax required by this section shall be apportioned by the county treasurer each year based upon the ratio that the millage levy of each local taxing jurisdiction in which the qualifying eastern red cedar property is located bears to the total amount of all millage levies imposed by all local taxing jurisdictions in which the qualifying eastern red cedar property is located. The provisions of this subsection shall be applicable to general fund millage levies, building fund millage levies and sinking fund millage levies imposed each year.

I. The payment of the tax imposed pursuant to the provisions of this section shall be in lieu of any and all ad valorem taxes that

would otherwise be imposed as a result of the millage levied against the taxable value of the qualifying eastern red cedar property for the applicable tax year.

J. If qualifying eastern red cedar property is subject to the in lieu payment required by the provisions of this section, the qualifying eastern red cedar property owner shall not be eligible for the exemption for qualifying manufacturing concerns otherwise authorized pursuant to Section 2902 of Title 68 of the Oklahoma Statutes.

K. If the in lieu tax payment required by this section is not paid by December 31 of the applicable tax year, the principal amount of the in lieu tax payment shall bear interest at the rate of fifteen percent (15%) per annum and there shall be imposed an additional penalty of Five Hundred Dollars ($500.00) for each month after December that the in lieu tax is not paid. The penalty shall accrue at the end of each month if the in lieu tax has not been paid as of that date. Interest and penalty shall be apportioned in the same manner as prescribed by this section for the principal amount of the in lieu tax payment.

SECTION 5. AMENDATORY 68 O.S. 2011, Section 2805, is amended to read as follows:

Section 2805. The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem

tax, whether in lieu of real property tax, personal property tax, or both as provided by law:

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;

2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;

3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;

4. The registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;

5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;

6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;

7. The tax imposed upon gross receipts pursuant to Section 1803 of this title;

8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;

9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;

10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to Sections ~~1~~ 5401 through ~~4~~ 5404 of this ~~act~~ title;

11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; ~~and~~

12. The tax imposed on qualifying eastern red cedar property pursuant to Section 4 of this act; and

13. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 85.44D, as amended by Section 757, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 85.44D), is amended to read as follows:

Section 85.44D A. It is the intent of the Legislature that all state agencies procure and use products or materials made from or utilizing materials from trees harvested in Oklahoma when such products or materials are available.

B. By ~~July 1, 2011~~ November 1, 2013, the Purchasing Division of the Office of Management and Enterprise Services ~~when accepting bids for state purchases of products and materials~~ shall ~~give preference to the suppliers of wood products made from or products manufactured utilizing materials from trees harvested in Oklahoma if the price for the products and materials is not substantially higher than the price for other wood products and materials and the quality and~~

~~grade requirements are otherwise comparable~~ register any manufacturer of products made from trees harvested in Oklahoma which is registered with the Eastern Red Cedar Registry Board pursuant to Section 18-404 of Title 2 of the Oklahoma Statutes on the central purchasing vendor registration system for state agency purchasing, in the appropriate category or categories of commodities. The Department shall waive any registration fee for the manufacturer for the first year of registration.

C. By July 1, 2011, the Purchasing Division of the Office of Management and Enterprise Services shall promulgate rules and implement a program for extending state procurement specifications to products made from or manufactured utilizing materials from trees harvested in Oklahoma and identifying the products.

SECTION 7. This act shall become effective November 1, 2013.

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