

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2123 - A

Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

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Measure Description:

Authorizes State Forester to authorize payment of costs and reasonable attorney fees of firefighter alleged to have committed misdemeanor or felony in course of fire suppression activities.

Government Unit(s) Affected:

Department of Forestry

Summary of Expenditure Impact: See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The measure allows the Department of Forestry to pay the costs and reasonable attorney fees for a firefighter charged with a misdemeanor or felony in the course of reasonable fire suppression activities. The measure stipulates that the Department has sole discretion regarding the determination and does not confer any right to firefighters for hearing or appeal on the Department's decision.

The fiscal impact of the measure is indeterminate. The number of incidents and potential cases is unknown. The Department of Forestry states that there have been no known cases brought against firefighters in the last 35 years. The Department estimates that legal defense costs could range between \$10,000 and \$50,000 depending on the complexity of the case and that the expenses would be paid using a mix of General Fund and Other Funds. Sources of Other Funds include public and private forest landowners and harvest tax revenues.

The Legislative Fiscal Office notes that the Attorney General provides only civil lawsuit defense for actions that occur within the course and scope of employment, unless those actions involve malfeasance or neglect of duty. In the event that criminal defense is necessary, the Department would be required to seek private legal counsel. If the legal defense costs exceed available funding, the Department may need to return to the legislature or emergency board for additional limitation.