

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Judiciary by Prior Reference
Vote:	8 - 0 - 0
Yeas:	Boone, Cowan, Esquivel, Johnson, Schaufler, Sprenger, Clem, Jenson
Nays:	0
Exc.:	0
Prepared By:	Beth Herzog, Administrator
Meeting Dates:	2/28, 3/16

WHAT THE MEASURE DOES: Authorizes State Forester (Forester) to approve payment of costs and reasonable attorney fees from State Forestry Department revolving account for firefighter alleged to have committed misdemeanor or felony in course of fire suppression activities. Requires State Forester to determine firefighter was performing fire suppression activities under Forester's direction, alleged actions are likely to have occurred in course of firefighter's performance of fire suppression activities and alleged actions are within range of reasonable actions that could be chosen in good faith by firefighter. Stipulates firefighter does not have any right to hearing or appeal regarding Forester's determinations.

ISSUES DISCUSSED:

- At least two events in other states where firefighting decision-makers were charged with criminal offenses
- Prospect of criminal prosecution poses concern to firefighters
- Ten other states provide a mechanism for paying for legal defense

EFFECT OF COMMITTEE AMENDMENT: Clarifies alleged actions must be within range of reasonable fire suppression actions.

BACKGROUND: In the past decade, there have been several incidents in other states in which wildland firefighting decision-makers have been criminally charged, or threatened with charges, as a result of injury or death of firefighters who have been overtaken by fire. Under ORS 477.125, wildland firefighters are protected from civil liability if their official duties result in harm to people or property, except for willful misconduct or gross negligence. However, in the event of criminal charges, the Department of Justice will not be able to provide legal defense. This concept would allow the Department of Forestry to pay legal defense costs when warranted.