

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

---

<b>Action:</b>	Do Pass the B-Engrossed Measure
<b>Vote:</b>	4 - 0 - 1
<b>Yeas:</b>	Bonamici, Dingfelder, Whitsett, Prozanski
<b>Nays:</b>	0
<b>Exc.:</b>	Kruse
<b>Prepared By:</b>	Aaron Knott, Counsel
<b>Meeting Dates:</b>	5/11

---

**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 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:**

- Washington example of managerial level firefighters facing criminal prosecution for the destruction of property and loss of life which occurred over the course of a major firefighting effort
- Otherwise criminal destruction of property which often occurs as a matter of course during firefighting activities
- Civil liability indemnity statutes protecting firefighters
- Whether the selection of counsel should be left to the accused or the Forester

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**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 measure allows the Department of Forestry to pay legal defense costs when warranted.