

Analysis

Item 13: Department of State Police / Department of Forestry

Wildfire Response

Analysts: Julie Neburka and Matt Stayner

Request: Allocate \$4.0 million General Fund from the special purpose appropriation made to the Emergency Board for the state's wildfire recovery, prevention and preparedness activities to the Department of State Police, Office of the State Fire Marshal for wildfire response and preparedness; allocate \$13.0 million General Fund from the special purpose appropriation made to the Emergency Board for the state's wildfire recovery, prevention and preparedness activities to the Oregon Department of Forestry to supplement the wildfire aviation program, increase fire program staffing, and expand the partnership and planning program, including federal forest health programs.

Analysis: The Oregon State Fire Marshal (OSFM) requests a \$4.0 million allocation from the Wildfire special purpose appropriation for 25 positions (5.21 FTE), associated services and supplies, and 18 vehicles; and approximately \$2.3 million for distribution to local fire agencies for fire prevention activities, programs, and equipment. Fourteen new positions are proposed to support modernization of the mutual aid system for emergency response and to provide regional staff and resources for fire response and community preparedness. Eleven new positions are proposed to implement the Fire Adapted Communities and Community Preparedness goals identified in the November 2019 Governor's Council on Wildfire Response report.

The request includes \$2.3 million to be granted to local fire agencies for equipment, fire prevention programs, and training. Funds will be distributed to fire agencies in Oregon that have submitted a proposal to OSFM; proposals will then be approved by a scoring committee composed of members of various statewide fire organizations. Funds will be prioritized for fire agencies in under-represented communities, and in communities affected by the 2020 wildfires, and will be awarded no later than May 1, 2021. OSFM operates other programs that provide resources to local fire agencies, so it does not anticipate any difficulties with implementing this one-time grant program in a short time frame.

The Legislative Fiscal Office notes that the timing of this request is problematic from a budgetary standpoint. The number of new positions included in the request increases the size of the OSFM by nearly one third, a significant program change that is more typically discussed in the Ways and Means process during a legislative session. As the Emergency Board typically does not authorize the establishment of permanent positions but leaves that role to the Legislature during a regular or special session, the requested positions should be established and hired as limited duration positions through June 30, 2021. However, this may increase recruitment difficulties already anticipated by the agency due to the compressed timeframe for hiring and onboarding. The 2021-23 rollup costs for the new positions total nearly \$6.0 million and will compete with other priorities for limited General Fund resources during the 2021-23 budget process.

The Oregon Department of Forestry is making three separate requests: \$5.0 million General Fund for the expansion of the wildfire aviation program, commonly referred to as severity resources; \$3.0 million General Fund to expand staffing of the Fire Protection program; and \$5.0 million to expand the capacity of the Partnership and Planning program, including the Federal Forest Restoration

program.

Aviation Program / Severity Resources - \$5.0 Million

The resources, primarily aviation contracts, are meant to span both the base protection and large fire protection layers. Each season, ODF contracts with a number of local and national resources to provide air and ground support with the aim of preventing small fires from growing into large, costly fires. These provide fast-attack resources during periods of multiple fire starts and heightened fire danger.

The revenue that supports these expenditures comes from both the General Fund and Other Funds from the Oregon Forest Land Protection Fund (OFLPF). Statute outlines a cost-share model in which the OFLPF provides 3/5ths of the annual funding for severity resources, up to a cap of \$3.0 million. With \$2.0 million General Fund typically provided in the form of a special purpose appropriation, the total annual funding for severity resources is \$5.0 million. This amount is the funding available to the agency after aviation resources are billed to large fires. When severity resources are utilized on large fires, those expenses are allocated to large fire costs and are not charged against the severity resources budget. Therefore, ODF contracts for severity resources typically exceed the amount of funding provided, but this ensures the availability of the resource during heavy fire seasons. In the event of a qualified fire, the Federal Emergency Management Agency (FEMA) also provides funding for the pre-positioning of severity resources.

For the 2020 fire season, ODF contracted for \$7,316,276 in severity resource assets. Actual expenditures for severity resources totaled \$9,798,837. Of this amount, \$4,074,965 was the estimated portion assignable to large fires and, therefore, will be paid from monies provided to the agency for emergency firefighting costs. Of the remaining \$5,723,842, \$780,824 is anticipated to be recovered from FEMA for pre-positioning. This leaves a residual balance of \$4,943,049 to be paid from the budget for severity resources (\$5.0 million General Fund and Oregon Forest Land Protection Fund) as outlined above. What is notable about this situation is that it is typical for the agency to contract for costs in excess of its budget for severity resources with the likelihood that a significant portion of those costs will be billable to large fires; this is standard practice for the agency. There does not appear to be an impediment to the agency contracting for the additional resources that it has outlined in the request without this additional funding unless the agency does not believe that the additional costs will be allocatable to large fires. In that case, the increased costs become base fire protection expenses that should be contemplated as a part of the agency's budget development process, not through Emergency Board action. It is also notable that the payment for these contracts is typically made as the services are being rendered or immediately after the fire season.

The requested increase in severity resources is problematic in that an allocation of General Fund from the special purpose appropriation will expire at the end of the current fiscal year; just as the 2021 fire season is beginning. Although the request appears to imply that the approval of funding for this biennium should be carried forward to the next biennium, there is no certainty that General Fund resources will be made available to the agency for this purpose. Additionally, the sharp increase in the General Fund support of the program, moving from 40% to 70%, communicates a significant policy change that is usually contemplated during a legislative session.

Fire Protection Program Expansion - \$3.0 Million

ODF is proposing to establish 29 new positions, including a deputy division chief, and to add between two weeks and one month to 147 seasonal positions, 10.29 FTE total, at a total cost of \$2,610,962

through the end of the current fiscal year, including services and supplies and vehicle costs. An additional \$389,038 would be passed through to the fire protection associations. The agency proposes to fund these expenditures with General Fund. The estimated cost of continuing these positions in the 2021-23 biennium is \$8,443,848 with an additional \$1,556,152 pass-through to fire protection associations for a total of \$10.0 million.

The Fire Protection program is delivered through local Forest Protection Districts and a centralized headquarters function in Salem. Revenue to support the Fire Protection program (including the fire protection districts) comes from a combination of General Fund, Federal Funds, and Other Funds via forest patrol assessments on private and public forest landowners. Statute outlines a pro-rata cost per acre formula segregated between timberland east and west of the crest of the Cascades and grazing lands. Forest patrol assessments charged against subject landowners vary by district, as each district budget is developed independently. Non-public landowner's contributions are capped at no more than 50% of the per-acre rate established for the fire protection district in which the lands lie; the shortfall is funded with the General Fund. The remaining public landowners, including local, state, and federal entities, receive no General Fund match and pay the full cost of their per-acre fire protection assessment. The Governor's proposed budget has a policy package that appears to substantively mirror this request for the 2021-23 biennium. That package also proposes funding of additional Protection program staff entirely with General Fund instead of following the statutorily outlined formula. It is not clear to what extent the individual protection districts were involved with determining the need since there is not explicit support in the form of increased direct financial participation from landowners. A closer examination of the proposed budget policy package and the addressing of unresolved questions could be accomplished during the agency's budget development process during the upcoming legislative session.

The current service level budget for the Fire Protection program in the 2019-21 biennium was roughly \$113 million; \$50 million of this amount is General Fund, \$35 million is from private landowners, and the remainder is from federal sources and other public landowners. The biennial cost of the proposed staffing increases would represent a nine percent increase in overall funding and a 20% increase in General Fund if the positions were continued into the upcoming biennium under the proposed funding. The availability of General Fund for this purpose would not be ensured by the requested allocation.

As noted in the discussion of the Oregon State Fire Marshal request above, the Legislative Fiscal Office expresses concern about the agency's ability to recruit and onboard the positions given the limited duration of funding for the requested positions.

Partnership and Planning Capacity Expansion - \$5.0 Million

The Department of Forestry request to expand the Partnership and Planning program is in four parts: additional funding for eight new positions (2.00 FTE); increased funding for partnerships and collaboratives; funding for non-industrial private landowner treatments; and additional funding for federal forest restoration projects.

The new positions would include five field coordinators, two administrative positions, and a federal forest restoration coordinator for the Willamette and Mt. Hood National Forests. The requested funding of \$500,000 General Fund is for the remainder of the current biennium. If the positions were reauthorized for the upcoming biennium, the roll-up costs would be \$1.6 million. It is possible that a portion of those costs may be supported by additional federal funding.

ODF proposed to use \$400,000 General Fund for outreach and media projects related to fire adapted communities in the partnership program as well as \$100,000 General Fund to support the preparation of National Environmental Protection Act work on three projects. An additional \$2.0 million General Fund would be used to provide financial assistance for 13 fuels reduction projects on non-industrial private landowner properties.

The remaining \$2.0 million General Fund would be dedicated to federal forest restoration projects. This includes the expanded use of seasonal and part-time positions, contracted environmental analysis of projects, and a program to solicit requests for proposals that contribute to expedited planning of forest health and resiliency treatments.

Overall, the expansion of the Partnership and Planning program that is contemplated in this request describes an ongoing program, whereas the available funding being requested is only through the end of the biennium. The Legislative Fiscal Office is skeptical of the ability of the agency to complete, or even to substantively begin to implement the projects that are outlined in this request before the end of the current biennium and is concerned that funding this request presupposes a continuation of additional ongoing funding into the 2021-23 biennium.

Recommendation: The Co-Chairs of the Emergency Board recommend that the Emergency Board allocate \$4.0 million General Fund from the special purpose appropriation made to the Emergency Board during the 3rd special session of 2020 for the state's wildfire recovery, prevention, and preparedness activities to the Department of State Police, Office of the State Fire Marshal for wildfire response and preparedness, and authorize the establishment of 25 limited-duration positions (5.21 FTE) through the end of the 2019-21 biennium; and allocate \$13.0 million General Fund from the special purpose appropriation made to the Emergency Board during the 3rd special session of 2020 for the state's wildfire recovery, prevention, and preparedness activities to the Oregon Department of Forestry for the following identified uses: \$5.0 million for the wildfire aviation program, \$3.0 million for Fire Protection program staffing, \$5.0 million for expanding the partnership and planning program, including federal forest health programs; and authorize the establishment of 37 limited-duration positions (12.29 FTE) through the end of the 2019-21 biennium.

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Department of Forestry
Oregon State Police/Office of the State Fire Marshal
Klein/Lisper

Request: Allocate \$17.0 million from the special purpose appropriation made to the Emergency Board for advancing the state's wildfire protection system and preparing for the 2021 fire season and establish 62 limited duration positions (17.50 FTE). Request by each agency:

- Oregon Department of Forestry - \$13 million and 37 limited duration positions (12.29 FTE).
- Oregon State Police/Office of the State Fire Marshal - \$4 million and 25 limited duration positions (5.21 FTE).

Recommendation: Approve the request.

Discussion:

Background and Approach

The Oregon Department of Forestry (ODF) and the Oregon State Police/Office of the State Fire Marshal (OSFM) are requesting funding to create additional capacity in preparation for the 2021 fire season and advance the state's wildfire protection system with Oregon's wildfire landscape in mind. This request will utilize funding identified during the 3rd Special Session of the Oregon Legislature for wildfire recovery, prevention, and preparedness. Both ODF and OSFM utilized the Governor's Council on Wildfire Response recommendations in preparing this request. The request focuses on response, fire-adapted communities, and resilient landscapes.

Due to the timing of the fire season crossing multiple biennia, both agencies are requesting investments to prepare for the 2021 fire season, but this is only a portion of what would be needed for prevention and preparedness for the entire 2021 fire season. Additional support will be needed in the 2021-23 biennium to continue these efforts for the 2021 fire season and in future fire seasons.

Oregon Department of Forestry Request

The Oregon Department of Forestry (ODF) is requesting \$13 million from the special purpose appropriation for wildfire recovery, prevention and preparedness activities. This request is for prevention and preparedness investments during the 2019-21 biennium for the following three areas:

- Advancement of the wildfire aviation program through procurement of a next generation airtanker, one heavy helicopter, and two single-engine airtankers, bringing available aviation assets to seven, distributed across the state. ODF has estimated this to cost \$5 million through the end of the 2019-21 biennium, but a majority of costs associated with these assets usually occurs later in the fire season (during the 2021-23 biennium).
- Additional fire-line support by investing in fire-line leadership and critical staff support, including: financial operations, fire investigations, firefighter safety, and fire cache coordination. ODF estimates this work to cost \$3 million for the remainder of the 2019-21 biennium and includes 29 new limited duration positions (6.71 FTE), as well as adding additional time to 147 existing positions (3.58 FTE).

- Creation of a Shared Stewardship program by working across boundaries to assist with land management strategies, create fire-adapted communities, and restore resilient landscapes. This funding will also provide match necessary for local and state government projects to better utilize federal funding available. ODF estimates spending \$5 million on these efforts during the remainder of the 2019-21 biennium and requests eight new limited duration positions (2.00 FTE) for this work.

This request will provide ODF funding to start some prevention efforts, as well as prepare for the 2021 fire season. The 2021-23 Governor's Recommended Budget included additional support for aviation resources and fire-line investments, but these resources will need to be included in the Legislatively Adopted Budget to continue these efforts.

Oregon State Police/Office of the State Fire Marshal

The Office of the State Fire Marshal (OSFM) is requesting \$4 million from the special purpose appropriation for the state's wildfire recovery, prevention, and preparedness activities. This request is for investments during the 2019-21 biennium to be used in the following two areas:

- Increased response and community preparedness resources where an additional 25 limited duration positions (5.21 FTE) would begin preparation for the 2021 fire season based on lessons learned from the 2020 fire season and focus on addressing: fire response coordination, community preparedness, safety response capacity, fire leadership, support for the Incident Management Teams, and fire prevention strategies. OSFM estimates this to cost \$2 million through the end of the 2019-21 biennium.
- Funding to local fire departments to provide additional personal protective equipment, ways to address community preparedness, increase mobilization strategies, and address prevention measures. OSFM estimates these activities to cost \$2 million through the end of the 2019-21 biennium.

OSFM is anticipating approval with the hope that the additional limited duration staffing may become permanent as a part of the 2021-23 Legislative Adopted Budget. In order for OSFM to be successful in addressing lessons learned from the 2020 fire season, they will need to start developing and implementing these new practices into a permanent ongoing process.

Legal Reference:

Oregon Department of Forestry

Allocation of \$8,000,000 from the State Emergency Fund, set aside by the special purpose appropriation under section 3, chapter _____, Oregon Laws 2020 (third special session) (Enrolled Senate Bill 5731) to supplement the appropriation made by chapter 664, section 1(2), Oregon Laws 2019, for the Oregon Department of Forestry, Fire Protection Division for the 2019-21 biennium.

Allocation of \$5,000,000 from the State Emergency Fund, set aside by the special purpose appropriation under section 3, chapter _____, Oregon Laws 2020 (third special session) (Enrolled Senate Bill 5731) to supplement the appropriation made by chapter 664, section 1(1), Oregon Laws 2019, for the Oregon Department of Forestry, Agency Administration for the 2019-21 biennium.

Oregon State Police/Office of the State Fire Marshal

Allocation of \$4,000,000 from the State Emergency Fund, set aside by the special purpose appropriation under section 3, chapter _____, Oregon Laws 2020 (third special session) (Enrolled Senate Bill 5731) to supplement the appropriation made by chapter 568, section 1(1), Oregon Laws 2019, for the Oregon State Police, Office of the State Fire Marshal for the 2019-21 biennium.



January 4, 2021

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request

The Office of State Fire Marshal (OSFM) and the Oregon Department of Forestry (ODF) respectfully request permission to appear before the January 2021 Emergency Board to:

1. Request \$17 million (\$13 million to ODF and \$4 million to OSFM) of the \$40 million appropriated for wildfire response to begin the process of advancing the state's wildfire protection system in the critical areas of community preparedness; aircraft capacity; fire-line leadership; critical staff support in areas including financial processing, fire investigations, firefighter safety, and fire cache coordination; and building fire-resilient landscapes. This modernization is necessary to adequately respond to the growing complexity of Oregon's wildfire conditions. The request is only for a portion of the full \$40 million set aside for this purpose in recognition of the fact that there are only six months remaining in this biennium.
2. Discuss the need for continued investment of the full \$40 million as a biennial appropriation to continue advancing the state's wildfire protection system in the 2021-23 biennium.

Agency Action

Background

After the most devastating fire season in Oregon's history and based on the recommendations from the Governor's Council on Wildfire Response, ODF and OSFM—the lead state agencies for wildfire preparedness and response [Emergency Support Function (ESF) 4]—need additional capacity for the 2021 wildfire season, and need that expanded capacity in future biennia, to advance the state's wildfire protection system to a level commensurate with Oregon's wildfire environment. Given this new reality and as we look to future fire seasons, these additional investments ensure that ODF, OSFM, and the more than 300 local fire departments that we partner with frequently (Oregon's Fire Service) can adequately respond when Oregon's communities and forest are at risk.

The Governor's Wildfire Council recommendations are anchored into the National Cohesive Strategy that identifies adequate response, fire-adapted communities, and resilient landscapes as the tenants for a comprehensive wildfire protection system. Oregon's protection system must advance on all of these fronts to meet our growing risk of wildfire and this request represents a critical step towards that end. The devastating wildfire seasons of the last decade have challenged ODF and OSFM and demanded a level of **response** neither agency is staffed for. The **fire-adapted communities** portion of this investment will advance community preparedness, ensuring our communities prioritize fire prevention, preparedness, and response functions. The **resilient landscapes** portion of this investment is critical to providing our first responders with the greatest potential for successful suppression and fire-control efforts by mitigating some of the conditions that have contributed to the increasingly catastrophic fire behaviors we have seen in recent years.

Both agencies urgently need investments now in preparation for the 2021 fire season, which will occur in the first fiscal year of 2021-2023 biennium. The timing between legislative and fire season cycles will require a phased approach to advancing Oregon's wildfire protection system, which will require both the funding requested in this letter for the remainder of the 2019-21 biennium and commitment to carrying these investments into the 2021-23 biennium as current service level.

OSFM investments:

For OSFM, \$8 million in total investment is needed in the 2021-23 biennium's current service level. Due to the timing of fire seasons and legislative cycles across multiple biennia, the office will use a phased approach. For phase one, \$4 million will be required for the remainder of the 2019-21 biennium, which will be allocated to two areas:

- \$2 million for the purpose of response and community preparedness. Funding includes limited duration FTE. This capacity is a critical starting point for increasing boots on ground for fire response, community preparedness, communications and safety response capacity, fire leadership, support for the Incident Management Teams and fire prevention strategies for local communities—all based on critical lessons learned from the 2020 wildfire season. Investments now and in the future (2021-23) are needed to manage the increased workload and risk of medium and large fires, ensure responders are safe and increase training to support an effective statewide Oregon response.
- \$2 million provided to local fire departments to increase mobilization readiness, personal protective equipment, and preventative measures, with fire agencies affected by the Labor Day wildfires as the priority. Funds will also be used to support fire departments impacted by the wildfires of 2020, with fire suppression equipment, training, personal protective equipment and costs incurred by fire departments to stabilize after the wildfires.

ODF investments:

For ODF, \$32 million will be needed in the 2021-23 biennium's current service level. Due to the timing of fire seasons and legislative cycles across multiple biennia, the department will use a phased approach. For phase one, \$13 million will be required for remainder of the 2019-21 biennium, which will be allocated across the following three areas:

- \$5 million for the advancement of Oregon's wildfire aviation program. Starting with the 2021 fire season, ODF would procure one next generation airtanker and one heavy helicopter on daily availability contracts. ODF currently has no other contracts for these assets and these assets in particular, are often in critical shortage nationally at our greatest times of need. ODF would also procure two single-engine airtankers, advancing our current fleet of these assets to a total of seven distributed across the state. The spending of these dollars typically begins in June, as fire activity increases and securing aviation assets becomes imperative to having resources available when needed for initial attack.
- \$3 million for the advancement of ODF's fire readiness by investing in fire-line leadership and critical staff support in areas including financial processing, fire investigations, firefighter safety and fire cache coordination. Funding includes limited duration FTE. Implementation would begin immediately with the hiring of the limited duration positions for the remainder of the biennium. Additional seasonal fire-line leadership would also be hired in early spring to ready for and respond to the 2021 fire season activity.
- \$5 million to enable the state to work collaboratively across boundaries engaging multiple partners to create a Shared Stewardship approach for implementing meaningful land management activities to create fire adapted communities and restore and maintain resilient landscapes. Funding match relief: One aspect of this ask is to provide match relief to leverage additional federal funding requests for USFS State and Private Forestry funds. The capacity to provide federal assistance is currently limited by the availability of local and state governments to match federal funds.

Action Requested

The Office of State Fire Marshal (OSFM) and the Oregon Department of Forestry (ODF) respectfully request permission to appear before the January 2021 Emergency Board to:

1. Request limited duration positions and \$17 million (\$13 million to ODF and \$4 million to OSFM) of the \$40 million appropriated for wildfire response to begin the process of advancing the state's wildfire protection system in the critical areas of community preparedness; aircraft capacity; fire-line leadership; critical staff support in areas including financial processing, fire investigations, firefighter safety, and fire cache coordination; and building fire-resilient landscapes. This modernization is necessary to adequately respond to the growing complexity of Oregon's wildfire conditions. The request is only for a portion of the full \$40 million set aside for this purpose in recognition of the fact that there are only six months remaining in this biennium.
2. Discuss the need for continued investment of the full \$40 million as a biennial appropriation to continue advancing the state's wildfire protection system in the 2021-23 biennium.

Legislation Affected

Oregon State Police / Office of State Fire Marshal:

SB5530, Chapter 568, section 1(1), Oregon Law 2019 - \$ 4,000,000

Oregon Department of Forestry:

HB5019, Chapter 664, section 1(2), Oregon Laws 2019 - \$8,000,000

HB5019, Chapter 664, section 5(1a), Oregon Laws 2019 - \$5,000,000

Thank you for your time and consideration.

Sincerely,



Terri Davie
Superintendent
Oregon State Police



Peter Daugherty
Oregon State Forester
Oregon Department of Forestry

CC: Constantin Severe, Governor's Office
 Julie Neburka, Legislative Fiscal Analyst
 Michelle Lisper, DAS/CFO Policy & Budget Analyst
 Jon Harrington, OSP Deputy Superintendent
 Traci Cooper, OSP Chief Financial Officer
 Jason Miner, Governor's Office
 Oregon Board of Forestry
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