

## Department of Forestry

	2015-17 Actual	2017-19 Legislatively Adopted	2017-19 Legislatively Approved*	2019-21 CSL LFO	2019-21 Governor's Budget
General Fund	102,048,469	68,242,727	101,093,654	91,726,893	88,317,235
Lottery Funds	6,987,642	2,601,001	2,601,001	2,605,450	2,605,450
Other Funds	273,327,609	340,602,781	449,870,771	249,425,178	262,398,892
Other Funds (Nonlimited)	6,192	-	-	-	
Federal Funds	16,914,057	33,657,195	33,907,251	35,532,252	35,363,903
<b>Total Funds</b>	<b>399,283,969</b>	<b>445,103,704</b>	<b>587,472,677</b>	<b>399,283,969</b>	<b>388,685,480</b>
Positions	1,174	1,181	1,181	1,159	1,150
FTE	867.47	867.30	867.89	852.49	845.83

\* Includes Emergency Board and administrative actions through December 2018.

### Program Description

The Oregon Department of Forestry (ODF) was established in 1911. ODF is directed by the State Forester who is appointed by the State Board of Forestry. The Board's seven members are nominated by the Governor and confirmed by the Senate. ODF has three operating programs: Fire Protection, State Forests, and Private Forests. These programs are supplemented and supported by centralized business services divisions including Agency Administration, Equipment Pool, and Facilities Management.

The Fire Protection Division protects roughly 16 million acres of private and public forestland with a coordinated system of 12 fire districts comprised of 9 ODF operated districts and three private forest protection associations along with other associated federal, state, and local agencies. State Forests operations include forest development, management of Board of Forestry and Common School Trust lands, and the operation of the tree-seed orchard. State Forests manage over 800,000 acres of state forestland for a variety of public purposes including timber sales that provide revenue for the counties in which a sale takes place, the Common School Fund, and to fund the operation of the program. The Private Forests program is the primary administrator of the Oregon Forest Practices Act providing education, inspection, and enforcement of the lawful management of Oregon forestlands along with collaborative activities including monitoring and improving forest health, urban forestry, and family forestland assistance.

### CSL Summary and Issues

The current service level for the agency includes adjustments from the 2017-19 legislatively adopted budget for:

- Legislative actions taken subsequent to the legislatively adopted budget, including 2018 legislative session actions and Emergency Board actions through March 2018

- \$2.5 million General Fund for the funding of severity resources used in the 2017 wildfire season
- \$63,561 for Treasury loan interest costs
- \$36.95 million in unbudgeted fire costs for the 2017 wildfire season
- \$2.43 million for unbudgeted fire district deductibles
- \$7.0 million expenditure limitation to pass-through federal reimbursements to other agencies
- \$5.23 million for position actions including collective bargaining agreements negotiated by the Governor
- \$500,000 funding for Good Neighbor Authority projects
- Biennial reconciliation of positions and position actions: \$3.02 million (including Services and Supplies)
- Debt service for bonds issued in the 2017-19 biennium: \$16.38 million
- Vacancy savings reduction (increase in budgeted expenditures) of \$3.7 million
- Personal Services adjustments not included elsewhere including; temporary appointments, overtime, and associated taxes: \$566,778
- Phase-out of one-time funded activities or programs funded in the 2017-19 budget, including reductions for:
  - \$48.94 million for 2017 fire season costs
  - \$485,993 one-time funded Good Neighbor Authority expenditures
  - \$101 million for bond proceeds and one-time bond issuance costs for the Elliott State Forest
  - \$50,000 for one-time bond issuance costs for Toledo capital construction project
  - \$78,056 for non-position related one-time funding for development of a Habitat Conservation Plan (HCP) for the Elliott State Forest
  - \$1.09 million for one-time costs related to the statewide instance of the Oregon Buys procurement system.
- Inflation, both standard inflation at a rate of 3.8% for most Services and Supplies expenditures, and extraordinary inflation for certain authorized items: \$8.47 million
- Increases in state government service charges: \$2.24 million

Additional changes that were made in the 2017-19 budget for the Department of Forestry after April 2018 are not contemplated in the current service level budget for the agency, but are captured in the legislatively approved budget. Typically, adjustments made to the agency's budget during this part of the interim are for one-time funding or expenditure authority, and therefore, require no additional accommodation in the upcoming biennium's budget. These include an initial increase in expenditure authority of \$68.4 million for 2018 fire season costs and \$1.0 million for additional treatment of Sudden Oak Death.

The current service level budget shows a significant decrease (\$65.8 million or 14.8%) from the legislatively adopted budget, however, the 2017 legislatively adopted budget includes \$102 million of one-time funded items, most notably \$100 million in bond proceeds for the Elliott State Forest. After adjusting the one-time items out of the legislatively adopted budget, the current service level represents a \$36.4 million or 10.6% increase. The three primary contributors of this increase are: debt service, decreased allowance for vacant positions, and inflation.

General fund debt service increases by \$16.63 million due to the issuance of bonds with net proceeds of \$100 million for the Elliott State Forest. Vacancy savings were artificially increased due to statewide adjustments made to produce budgetary reductions in the 2017-19 biennium. Therefore, the base budget for vacancy savings carried forward to the 2019-21 biennium is overstated by \$3.7 million, thus necessitating the significant upward adjustment to bring vacancy savings in line with actual anticipated savings.

Policy Issues

Fire protection continues to dominate the budget environment for the Department. Other significant issues include forest health, climate change, environmental protection, forest management policies, and the general economic climate.

**Fire Cost Funding**

Large fire costs have totaled \$506.54 million during the seven-year period from 2012 through 2018, an average of \$72.36 million per year. The following table illustrates the budgeted funding by fund source.

<b>Summary of Emergency Fire Costs</b>																			
	General Fund		Public Other	Public Total	Federal Funds		Insurance		Private		Total Funds								
<b>2012 Fire Season</b>	\$	3,216,407	\$	723,278	\$	3,939,685	39.57%	\$	-	0.00%	\$	6,016,571	60.43%	\$	9,956,256	100.00%			
<b>2013 Fire Season</b>	\$	43,044,839	\$	1,573,417	\$	44,618,256	33.98%	\$	47,500,000	36.18%	\$	25,000,000	19.04%	\$	14,184,515	10.80%	\$	131,302,771	100.00%
<b>2014 Fire Season</b>	\$	18,259,057	\$	1,483,355	\$	19,742,412	22.35%	\$	30,851,232	34.92%	\$	25,000,000	28.30%	\$	12,748,628	14.43%	\$	88,342,272	100.00%
<b>2015 Fire Season</b>	\$	25,033,277	\$	1,429,705	\$	26,462,982	30.64%	\$	45,172,387	52.30%	\$	-	0.00%	\$	14,732,705	17.06%	\$	86,368,074	100.00%
<b>2016 Fire Season</b>	\$	12,902,268	\$	972,639	\$	13,874,907	53.09%	\$	2,772,625	10.61%	\$	-	0.00%	\$	9,488,971	36.31%	\$	26,136,504	100.00%
<b>2017 Fire Season</b>	\$	27,883,296	\$	1,552,669	\$	29,435,965	53.21%	\$	11,101,866	20.07%	\$	-	0.00%	\$	14,778,458	26.72%	\$	55,316,289	100.00%
<b>2018 Fire Season*</b>	\$	36,798,359	\$	1,348,012	\$	38,146,371	34.96%	\$	58,172,078	53.31%	\$	-	0.00%	\$	12,796,988	11.73%	\$	109,115,437	100.00%
<b>Total</b>	\$	167,137,503	\$	9,083,075	\$	176,220,578	34.79%	\$	195,570,188	38.61%	\$	50,000,000	9.87%	\$	84,746,837	16.73%	\$	506,537,603	100.00%

\*The 2018 fire season costs are estimated as of 11/15/18

The first \$20 million of emergency fire costs are split evenly between the Oregon Forest Land Protection Fund (predominately private landowner funds) and the General Fund. The OFLPF however, is statutorily capped at \$13.5 million per-year, inclusive of an ostensible \$3.0 million contribution to severity resources funding and up to \$500,000 for administrative costs of the Emergency Fire Cost Committee. Above the first \$20 million, the liability of the General Fund is unlimited, save that amount that might be recovered from the state’s catastrophic fire insurance policy after the retention amount is met; \$50 million in the 2017 and 2018 fire seasons. This means that in a fire season with a net cost (total costs less federal and insurance funds) of \$50 million, the General Fund would be responsible for \$40 million or 80% of the costs. As shown in the table above, the General Fund share of total fire season costs net of federal funds and insurance proceeds over the past seven fire seasons has totaled 64% and state-based public funds generally totaled 67.5%. In comparison, over this same time, the division of land ownership on lands protected by ODF was 77% private landowner and 23% public landowner.

### ***Elliott State Forest***

The Oregon State Land Board elected to discontinue the management agreement between the Department of State Land and the Department of Forestry for the Elliott State Forest. Oregon Statute (ORS 530.490) provides that notwithstanding any other law, or authority granted thereunder, the State Forester is authorized to manage the Elliott State Forest. It is not clear if the Land Board had the legal authority to end the management of the Elliott by the State Forester. Additionally, The Legislature authorized the issuance of \$100 million in certificates of participation, the proceeds of which were to be used to release the Elliott from its obligation to the Common School Fund. The expenditure authority, and the associated debt service, were allocated to the Department of Forestry. At the October 2018 meeting of the Land Board, the intent was expressed that the payment of the \$100 million in bond proceeds to the Common School Fund would be applied as a “buy-down” reduction in the appraised value, thus reducing the additional amount required by a future purchaser. If the policy is not to have the Department of Forestry involved in the management or the ownership of the Elliott, it may be more appropriate to move the expenditure authority and debt service for the bonds to the Department of Administrative Services.

### ***County Law Suit***

The original complaint was filed in March 2016 as a class action involving all but one county that has state forest land, plus the majority of the approximately 130 local taxing districts. The suit alleges a breach of statutory contract, which class members argue requires the state to maximize revenue as the underlying meaning of “greatest permanent value”. Pre-trial motions have all been filed and the discovery process is being completed. Trial is set for October of 2019, and is expected to last 3-4 weeks. A settlement conference is set for early May 2019. This is a step required by the courts to ensure a trial is needed, but doesn’t mean the state is moving toward a settlement in the case. Total costs as of December 2018 are about \$1.2 million.

### ***Militia Staffing of Emergency Fires***

The Oregon Department of Forestry uses a militia approach to staffing key personnel roles during fire seasons. What this means is that although part-time, seasonal, and contracted resources are generally called upon to do a significant amount of the ground work, the command, control, and operational functions of any given incident are staffed by trained, experienced staff that work in the other operating divisions such as State Forests, Private Forests, and Agency Administration. With the increased severity and length of fire seasons, the use of these non-fire program staff has put operational stresses on the agency. This issue manifests itself budgetarily in the use of overtime, temporary appointments, and overstaffing of non-fire programs.

### **Other Significant Issues and Background**

There are several additional factors to consider when addressing the budgetary needs of the Department of Forestry. Environmental changes have increased the average length of the fire season substantially over the past fifty years. Fire complexity has also increased with many fires now occurring in either remote, roadless areas of difficult terrain or within the urban-forest interface. The use of the militia model by ODF, pulling personnel from other departments outside of the fire protection division, to fight fires has significant impacts on the operational missions of the other divisions.

For the 2018 fire season, The United States Bureau of Land Management (BLM) decided to forgo the renewal of a fire-protection contract wherein BLM acted as a private landowner making assessed contributions to the Oregon Forest Land Protection Fund (OFLPF) and receiving large-fire protection services on BLM owned forestlands from ODF. This contract limited, generally, BLM's financial risk exposure from fire to the amount contributed to the OFLPF. Instead, BLM entered in to a one-year contract with ODF for the 2018 fire season whereby the terms of the agreement require BLM to pay the actual cost of firefighting on BLM lands protected by ODF. This was a significant change in policy for BLM. Fire costs on BLM lands have totaled over \$18.6 million in the 2018 fire season. Had ODF and BLM entered into a contract with similar terms to the five-year agreement preceding the 2018 fire season, roughly \$10 million of the additional cost would have been borne on the General Fund with the remaining \$8.6 coming from insurance proceeds.

Managing cash flow remains and ongoing issue for ODF. A significant portion (46.6%) of the total cost of unbudgeted fire costs for the past six years are subject to reimbursement from federal funds or insurance proceeds. There is a large time gap between the statutory vendor payment obligation that ODF is subject to and the finalization of payment from reimbursable sources. A lesser portion of this has been due to operational constraints of ODF due to the personnel demands of fire seasons and budgetary limitations within the Administrative Services Division. The majority of the delay is due to the finalization of fire costs, which can take several years and often span multiple biennia. The increasing financial severity of fire seasons has exacerbated this situation and ODF has had to use credit facilities from the Oregon State Treasurer. The Treasury charges ODF interest on these loans, however the interest expenses are paid from the General Fund; a wash for the agency, but an overall loss to the state of foregone interest earnings for the General Fund.

#### Governor's Proposed Budget:

There are three significant items in the Governor's budget proposal. Two of these require statutory changes to enact.

1. The Governor has proposed creating a "blue-ribbon" panel for examining the funding and organizational structures of forest firefighting in Oregon. The ODF budget proposed by the Governor includes \$400,000 General Fund to engage a contract consultant to facilitate this work. During the 2015-17 biennium, ODF dedicated a substantial amount of time and resources to this same question. The agency convened a panel of stakeholders and ultimately divided the question in to three subgroups; one to address ongoing funding, one to address organizational issues related to firefighting, and the other to address wildfire policy. The few recommendations that were produced by this process tended to support the status quo while advocating small increases to existing funding sources or shifting the public portion of large fire costs to lottery funds.
2. Shifting the cost of administering the Forest Practices Act (FPA) so that it is funded on a 50/50 basis from the General Fund and Harvest Excise Tax. Currently statute limits the use of Harvest Tax proceeds to no more than 40% of the cost to administer the FPA. The resulting change would create a General Fund savings of \$2.0 million in the 2019-21 biennium. The statutory limitation is contained in ORS 321.015 which is contemplated in the "Harvest Tax Bill" (LC 478) although the language affecting the change is not

yet included in the bill. Based on the average harvest volume over the past 22 years, the change would result in a cost of roughly \$0.255 per thousand board feet.

3. Changing the allocation of emergency forest fire costs so that they are split evenly between the General Fund and landowner funds. Currently, the General Fund and the Oregon Forest Land Protection Fund (revenue from a number of landowner assessments and a portion of Harvest tax receipts) split the first \$20 million of emergency fire costs dollar for dollar. After that first \$20 million, however, the General Fund pays all costs save those amounts that may be eligible for reimbursement under the state's catastrophic wildfire insurance policy; the retention amount of which is currently \$50 million. ORS 477.750 through 477.777 provide the statutory outline for the OFLPF and include specific limitation on the use and amount of funds available for any given fire season. The Governor's proposed budget calls out the amount retained in the General-Purpose Emergency Fund as inclusive of a 50-50 split between private landowners and the General Fund for large fire costs. LFO is not aware of currently proposed legislation to affect this change.