Senate Bill 1536

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.


Makes reasonable and prudent investment that electric company incurs to develop, implement or operate wildfire protection plan or to mitigate risk, severity or extent of wildfire recoverable as rates charged by company.

Requires consumer-owned utility to operate in compliance with risk-based wildfire mitigation plan approved by governing body of utility. Requires periodic submission of new plan. Requires submission of initial plan no later than December 31, 2021.

Requires consumer-owned utility to conduct wildfire risk assessment of utility facilities. Requires review and revision of assessment as required by governing body of utility.

Requires consumer-owned utility to construct, maintain and operate electrical lines and equipment in manner designed to reduce likelihood of wildfire.

Requires Public Utility Commission workshops to develop and share information for best practices regarding wildfire.

Requires Department of Land Conservation and Development to oversee and coordinate development and maintenance of comprehensive statewide map of wildfire risk. Requires department to establish minimum standards and provide consultation to cities and counties to implement and maintain wildfire risk planning and zoning and to develop wildfire risk mitigation standards. Requires Insurance Commissioner to order insurers to identify and provide incentives for policyholder actions to reduce wildfire risk.

Requires State Fire Marshal to establish minimum defensible space requirements. Requires local government to administer and enforce applicable State Fire Marshal defensible space requirements. Allows local government to adopt local defensible space requirements in excess of State Fire Marshal requirements.

Requires local government to periodically report to State Fire Marshal regarding compliance with defensible space requirements. Requires State Fire Marshal to maintain map of defensible space requirements and compliance.

Requires State Fire Marshal to administer and enforce program to provide assistance to local governments for administration and enforcement of defensible space requirements. Establishes Wildfire Defensible Space Fund. Establishes creation of defensible space on lands of certain underserved populations as priority use of financial assistance.

Requires Department of Land Conservation and Development to establish program to assist counties and cities to adopt local building code provisions and local wildfire safety requirements that exceed state requirements. Creates Local Wildfire Response Fund.

Requires Oregon Health Authority to establish standards for residential smoke filtration systems. Requires authority to establish program to increase availability of systems among vulnerable persons residing in areas susceptible to wildfire smoke. Authorizes authority to increase availability of systems. Creates Wildfire Smoke Abatement Fund.


Requires State Forestry Department to establish program for reducing fuel load on forestlands. Establishes Forestland Treatment Fund.

Requires State Forester to establish baseline level of wildfire protection for lands susceptible to wildfire.

Requires county to assist landowners and jurisdictions to form, expand or change boundaries of jurisdiction that provides wildfire protection. Requires county to assist jurisdiction in developing adequate wildfire protection facilities, equipment, training and other resources. Requires that county ensure lands susceptible to wildfire are provided with wildfire protection meeting or exceeding baseline level no later than January 1, 2025.

Requires State Forestry Department to contract for services of private consultant to evaluate and make recommendations on specified issues regarding wildfires. Requires consultant to report to
Governor and legislative committee no later than September 15, 2022.
Allows Governor to authorize joint state-federal partnerships to direct wildfire strategy based
on recommendations of Governor's Council on Wildfire Response.
Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to wildfires; and declaring an emergency.
Be It Enacted by the People of the State of Oregon:

UTILITIES

SECTION 1. Sections 2 to 5 of this 2020 Act are added to and made a part of ORS chapter
757.

SECTION 2. (1) As used in this section, “electric company” has the meaning given that
term in ORS 757.600.
(2) An electric company must have and operate in compliance with a risk-based wildfire
protection plan acknowledged by the Public Utility Commission.
(3) An electric company shall submit a risk-based wildfire protection plan to the com-
mission every three years. The plan must, at a minimum:
(a) Identify areas within the service territory of the electric company that are subject
to a heightened risk of wildfire.
(b) Identify a means for mitigating wildfire risk that is cost effective and reflects a rea-
sonable balancing of mitigation costs with the resulting reduction of wildfire risk.
(c) Identify preventative actions and programs that the electric company will carry out
to minimize the risk of electric company facilities causing a wildfire.
(d) Identify a protocol for the deenergizing of power lines and adjusting power system
operations to mitigate wildfires, promote the safety of the public and first responders and
preserve health and communication infrastructure.
(e) Describe the procedures, standards and time frames that the electric company will
use to inspect company infrastructure in areas that the company identifies under paragraph
(a) of this subsection.
(f) Describe the procedures, standards and time frames that the electric company will
use to carry out vegetation management in areas that the company identifies under para-
graph (a) of this subsection.
(g) Identify the development, implementation and administration costs for the plan.
(h) Identify the community outreach and public awareness efforts that the electric com-
pany will use before, during and after a wildfire season.
(4) The commission, in consultation with the State Forestry Department and local
emergency services agencies, shall review a wildfire protection plan that an electric company
subsists under this section. The commission shall:
(a) Acknowledge the submitted plan; or
(b) Disapprove the submitted plan and inform the electric company of the modifications
necessary to obtain approval.
(5) The commission shall adopt rules for the submission, review, acknowledgment or
disapproval of electric company wildfire protection plans.

SECTION 3. (1) Reasonable and prudent investments and expenditures by an electric
company, including but not limited to the cost of capital, that are incurred to develop, im-
plement or operate a wildfire protection plan under section 2 of this 2020 Act are recoverable in the rates charged by the company. Reasonable and prudent investments and expenditures by an electric company, including but not limited to the cost of capital, that are incurred to mitigate the risk, severity or extent of wildfires are recoverable in the rates charged by the company.

(2) The Public Utility Commission shall establish processes and mechanisms to ensure timely cost recovery for costs associated with subsection (1) of this section. The commission shall establish the processes and mechanisms to address situations in which compliance with sections 2 to 5 of this 2020 Act results in the electric companies incurring costs for which cost recovery mechanisms otherwise authorized by law are not adequate.

SECTION 4. (1) As used in this section, “consumer-owned utility” and “governing body” have the meanings given those terms in ORS 757.600.

(2) A consumer-owned utility must have, and operate in compliance with, a risk-based wildfire mitigation plan approved by the governing body of the utility. The utility shall submit a risk-based wildfire mitigation plan to the governing body of the utility every three years.

(3) A consumer-owned utility shall conduct a wildfire risk assessment of utility facilities to determine the extent to which the facilities contribute to the direct causation of wildfires. The utility shall review and revise the assessment on a schedule the governing body deems consistent with prudent utility practices.

(4) A consumer-owned utility shall submit a copy of the risk-based wildfire mitigation plan approved by the utility governing body to the Public Utility Commission and the State Department of Energy to facilitate commission and department functions regarding statewide wildfire mitigation planning and wildfire preparedness.

(5) A consumer-owned utility shall construct, maintain and operate the electrical lines and equipment of the utility in a manner designed to reduce the likelihood of wildfire. The construction, maintenance and operation must include provision for vegetation removal that meets or exceeds National Electrical Safety Code standards for vegetation removal.

SECTION 5. The Public Utility Commission shall periodically convene workshops for the purpose of helping electric companies, consumer-owned utilities and operators of electrical distribution systems to develop and share information for the identification, adoption and carrying out of best practices regarding wildfires, including, but not limited to, risk-based wildfire protection and risk-based wildfire mitigation procedures and standards.

SECTION 6. An electric company shall submit the first risk-based wildfire protection plan required of the company under section 2 of this 2020 Act no later than December 31, 2020.

SECTION 7. A consumer-owned utility shall submit the first risk-based wildfire mitigation plan required under section 4 of this 2020 Act to the utility governing body no later than December 31, 2021.

LAND USE

SECTION 8. The Department of Land Conservation and Development shall oversee and coordinate the development and maintenance of a comprehensive statewide map of wildfire risk. The map shall be sufficiently detailed to allow the assessment of wildfire risk at the property-ownership level. The department shall collaborate with the State Forestry Department, the State Fire Marshal, other state and local governments and officials, other public
bodies, insurance companies and any other information sources that the Department of Land
Conservation and Development deems appropriate to develop and maintain the map. The de-
partment shall make the map described in this subsection accessible in electronic form to
the public without charge.

SECTION 9. (1) The Department of Land Conservation and Development, in consultation
with organizations representing cities and counties, shall adopt rules consistent with state-
wide planning goals and guidelines regarding areas subject to natural hazards to establish
minimum standards for city and county wildfire risk reduction planning and zoning and
wildfire risk reduction.

(2) The department, the State Forestry Department and the State Fire Marshal shall
provide technical assistance and resources to cities and counties to facilitate the implement-
tion and maintenance of wildfire risk planning and zoning and the development of wildfire
risk mitigation standards.

SECTION 10. The Insurance Commissioner shall order companies that issue property
insurance policies providing fire damage coverage for private property to identify and provide
incentives for policyholders to undertake wildfire risk reduction measures.

DEFENSIBLE SPACE

SECTION 11. (1) The State Fire Marshal shall establish minimum defensible space re-
quirements for wildfire risk reduction on lands in areas susceptible to wildfire. The State
Fire Marshal may establish different minimum defensible space requirements for homes and
infrastructure on different types of land. Subject to additional local requirements, a mini-
imum defensible space requirement that the State Fire Marshal establishes for a type of land
shall apply statewide for all lands of that type that are in areas susceptible to wildfire. The
State Fire Marshal shall select the minimum defensible space requirements from the stan-

(2) Except as provided in subsection (3) of this section, a local government shall admin-
ister and enforce the minimum defensible space requirements established by the State Fire
Marshals under subsection (1) of this section that are applicable to the lands within the ju-
risdiction of the local government.

(3) A local government may adopt minimum defensible space as local requirements for
defensible space on lands that have requirements that are greater than the minimum
defensible space requirements established by the State Fire Marshal. The local government
shall select any local minimum defensible space requirements from the standards set forth

(4) A local government described in this section shall inspect properties within the ju-
risdiction for compliance with the minimum defensible space requirements established by the
State Fire Marshal that apply to the lands or with any applicable local minimum defensible
space requirements. If construction or other activities occur to change land to a type that
is subject to different minimum defensible space requirements, the local jurisdiction shall
inspect to determine whether the land continues to meet minimum defensible space re-
quirements.

(5) The local jurisdiction shall periodically report to the State Fire Marshal regarding
whether lands within the jurisdiction of the local government are in compliance with the
applicable minimum defensible space requirements. The reports shall state the extent of compliance for each property, the change in degree of compliance since the previous report and any other information required by the State Fire Marshal by rule. In addition to requiring periodic reports, the State Fire Marshal may at any time require a local jurisdiction to report the defensible space conditions for any lands within the jurisdiction of the local government.

(6) The State Fire Marshal shall oversee and coordinate the development and maintenance of a comprehensive statewide map of minimum defensible space requirements for lands susceptible to wildfire and the degree of compliance on those lands. The State Fire Marshal shall base the map on the local government reports described in subsection (5) of this section.

(7) The State Fire Marshal shall administer and enforce a program to provide financial, administrative, technical or other assistance to a local government to facilitate the administration and enforcement of minimum defensible space requirements within the jurisdiction of the local government. A local government provided with financial assistance as described in this subsection shall give priority to the creation of defensible space on lands owned by communities of color, indigenous communities, persons with limited proficiency in English and persons of lower income as defined in ORS 456.055.

SECTION 12. The Wildfire Defensible Space Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Wildfire Defensible Space Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Fire Marshal for the purpose of carrying out the local government financial assistance program described in section 11 of this 2020 Act.

BUILDING CODE

SECTION 13. (1) The Department of Land Conservation and Development shall establish a program to:

(a) Assist counties and cities to adopt, administer and enforce local building code provisions that address local conditions that increase wildfire risk; and

(b) Assist local governments to adopt, administer and enforce local fire safety requirements that address local conditions that increase wildfire risk.

(2) The department, in consultation with counties, cities and the Department of Consumer and Business Services shall identify local conditions related to wildfire risk that merit the adoption of special building code requirements within a county or city that reduce that local risk. The Department of Land Conservation and Development shall assist counties and cities to develop local building code requirements that, based on local risk conditions, provide greater wildfire protection than the requirements imposed by the state building code.

(3) Notwithstanding ORS 455.030 and 455.040, a county or city that has a local condition described in subsection (2) of this section may adopt, administer and enforce a local building code requirement developed in consultation with the department under subsection (2) of this section.

(4) The department, in consultation with local governments as defined in ORS 174.116 and the State Fire Marshal shall identify local conditions related to wildfire risk that merit the adoption of special fire safety requirements within a county or city. The department shall
assist counties and cities to develop local wildfire safety requirements that, based on local
risk conditions, provide greater wildfire protection than the requirements imposed by the
state fire code.

(5) A local government that has a condition described in subsection (4) of this section
may adopt, administer and enforce special fire safety requirements developed in consultation
with the department under subsection (4) of this section.

SECTION 14. The Local Wildfire Risk Response Fund is established in the State Treas-
ury, separate and distinct from the General Fund. Interest earned by the Local Wildfire Risk
Response Fund shall be credited to the fund. Moneys in the fund are continuously appropri-
ated to the Department of Land Conservation and Development for the purpose of carrying
out the program described in section 13 of this 2020 Act, including but not limited to, the
issuing of grants to facilitate the adoption, administration and enforcement of county or city
building code and wildfire safety requirements under section 13 of this 2020 Act.

HEALTH EFFECTS

SECTION 15. (1) As used in this section, “smoke filtration system” means a residential
air filtration system capable of removing particulates and other harmful components of
wildfire smoke.

(2) The Oregon Health Authority shall adopt rules establishing standards for smoke
filtration systems, including but not limited to, minimum acceptable efficiency for the re-
moval of particulates and other harmful substances generated by wildfires.

(3) The authority shall establish a program to increase the availability of smoke filtration
systems among persons vulnerable to the health effects of wildfire smoke who reside in areas
susceptible to wildfire smoke. The authority may issue grants for the installation of smoke
filtration systems in residential buildings in areas susceptible to wildfire smoke. The au-
thority shall give grant priority to installations in residential properties occupied by persons
of lower income as defined in ORS 456.055 who are vulnerable to the health effects of wildfire
smoke.

SECTION 16. The Wildfire Smoke Abatement Fund is established in the State Treasury,
separate and distinct from the General Fund. Interest earned by the Wildfire Smoke Abate-
ment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
to the Oregon Health Authority for the purpose of carrying out the program required under
section 15 of this 2020 Act.

SECTION 17. (1) The Task Force on Wildfire Smoke Health Effects is established.

(2) The task force consists of seven members appointed by the Director of the Oregon
Health Authority and having such qualifications as the director deems appropriate.

(3) The task force shall identify and consult with stakeholders to:

(a) Identify barriers to the installation of smoke filtration systems in areas susceptible
to wildfire smoke, and potential solutions to identified barriers; and

(b) Determine the extent to which renters are able to take advantage of smoke filtration
systems.

(4) A majority of the members of the task force constitutes a quorum for the transaction
of business.

(5) Official action by the task force requires the approval of a majority of the members
of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the director shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report in the manner provided in ORS 192.245, and may include recommendations for legislation, to the Governor, the director and a legislative committee related to natural resources no later than September 15, 2021.

(11) The Oregon Health Authority shall provide staff support to the task force.

(12) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

SECTION 18. Section 17 of this 2020 Act is repealed on December 31, 2021.

EMERGENCY MANAGEMENT

SECTION 19. The Office of Emergency Management shall establish six positions within the office whose responsibilities include, but need not be limited to, administering the office response to wildfire emergencies within an assigned region of the state.

TREATMENT PROGRAM

SECTION 20. The State Forestry Department shall oversee a program to reduce fuel load levels on forestlands within this state. The program shall be designed to treat 300,000 acres of forestland annually. The department shall work in cooperation with units of federal, state and local government, nonprofit organizations, private parties and other interested stakeholders to identify and leverage available funding, identify priority sites for treatment and coordinate treatment efforts to maximize the amount of fuel load reduction obtained.

SECTION 21. The program required under section 20 of this 2020 Act must:

(1) Include, but not be limited to, field work, providing adequate forester staffing to execute treatment projects conducted pursuant to Good Neighbor Authority agreements and providing adequate staffing for treatment procurement and contract administration.

(2) To the extent practicable, be linked to a stable funding stream derived from multiple sources, including but not limited to, federal and state investments, timber, revenue from benefited stakeholders and other revenues.

(3) Provide for the leveraging of state investments to maximized federal investments.

(4) Be maintained for a period of not less than 19 years, with a treatment goal of not less than 5.6 million acres of forestland.

(5) Emphasize the treatment of forestlands that are in the three highest relative importance categories identified in the United States Forest Service report titled “Pacific Northwest Quantitative Wildfire Risk Assessment: Methods and Results” and dated April 9, 2018, or on which treatment would provide a substantial benefit to the state.

(6) For federal lands, prioritize forestland treatment that has received approval under the National Environmental Policy Act.
(7) For private lands, prioritize treatment work on forestlands of willing landowners.

(8) Focus publicly funded projects on the treatment of forestlands that have insufficient commercial timber resources to offset the treatment costs.

SECTION 22. The Forestland Treatment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Forestland Treatment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Forestry Department for the purpose of carrying out oversight and forestland treatment under the program described in section 20 of this 2020 Act.

PROTECTION OF LAND

SECTION 23. (1) The State Forester, in collaboration with the State Fire Marshal, state agencies and local governments as defined in ORS 174.116, shall adopt rules establishing a baseline level of wildfire protection for lands that are located in areas susceptible to wildfire. A county shall ensure that all lands within the county that are susceptible to wildfire are provided with wildfire protection services at the baseline level or a higher level.

(2) A county shall:

(a) Assist landowners with forming jurisdictions to provide wildfire protection or with obtaining changes to boundaries or facility locations of jurisdictions that provide wildfire protection;

(b) Assist jurisdictions to expand or adjust jurisdiction service boundaries to ensure adequate wildfire protection for lands; and

(c) Assist jurisdictions in developing wildfire protection facilities, equipment, training and other resources adequate to ensure that the jurisdiction provides timely and effective wildfire protection at the baseline level or higher throughout the jurisdiction.

(3) The State Forester may provide financial assistance to counties for carrying out county duties under subsection (2) of this section from any funds made available to the State Forester and designated for that purpose.

SECTION 24. A county shall ensure no later than January 1, 2025, that all lands within the county that are susceptible to wildfire have baseline level or higher wildfire protection as described in section 23 of this 2020 Act.

FUNDING STUDY

SECTION 25. (1) The State Forestry Department shall contract for the services of a private consultant to evaluate and make findings regarding:

(a) Wildfire protection and suppression information, including but not limited to, the availability, accuracy and utility of the information;

(b) The relative value delivered to public and private sectors from state-funded wildfire suppression services, including but not limited to, social, ecological and economic benefits;

(c) Costs of Oregon wildfire protection and wildfire protection in similarly situated states, adjusted to common bases suitable for comparison; and

(d) Economic aspects of wildfire protection and suppression that vary within regions of the state.

(2) The consultant shall develop recommendations that include but need not be limited
to:

(a) Possible means for producing wildfire protection and suppression information in a manner that maximizes the value of the information without undue burdens on information suppliers; and

(b) Possible methods for allocating wildfire protection and suppression costs to achieve equity in the distribution of costs and benefits.

(3) The consultant shall report the findings and recommendations described in this section to the Governor and an interim committee of the Legislative Assembly relating to natural resources in the manner provided by ORS 192.245 no later than September 15, 2022.

JOINT PARTNERSHIPS

SECTION 26. The Governor may, as the Governor deems appropriate, authorize joint partnerships between state and federal agencies to administer and enforce a wildfire strategy program based on the recommendations contained in the “Governor’s Council on Wildfire Response, November 2019: Report and Recommendations.”

COUNCIL

SECTION 27. The Governor may assign duties to the Governor’s Council on Wildfire Response as the Governor deems appropriate to assist state and local agencies and officials to oversee and assist in the implementation of sections 2 to 26 of this 2020 Act. The council’s duties may include, but need not be limited to, providing advice, suggesting priorities, recommending future actions and providing coordination with federal agencies.

SECTION 28. Section 27 of this 2020 Act is repealed on January 2, 2022.

CAPTIONS

SECTION 29. The unit captions used in this 2020 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2020 Act.

EMERGENCY

SECTION 30. This 2020 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect on its passage.