

SB 1536-1
(LC 83)
2/7/20 (CDT/ps)

Requested by SENATE COMMITTEE ON WILDFIRE REDUCTION AND RECOVERY (at the request of Governor Kate Brown)

**PROPOSED AMENDMENTS TO
SENATE BILL 1536**

1 On page 2 of the printed bill, delete lines 7 through 45 and delete pages
2 3 through 9 and insert:

3
4 **“UTILITIES**

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

8 **“SECTION 2. (1) As used in this section, ‘electric company’ has the**
9 **meaning given that term in ORS 757.600.**

10 **“(2) An electric company must have and operate in compliance with**
11 **a risk-based wildfire protection plan approved by the Public Utility**
12 **Commission.**

13 **“(3) An electric company shall submit a risk-based wildfire pro-**
14 **tection plan to the commission every three years. The plan must, at**
15 **a minimum:**

16 **“(a) Identify areas within the service territory of the electric com-**
17 **pany that are subject to a heightened risk of wildfire.**

18 **“(b) Identify a means for mitigating wildfire risk that is cost effec-**
19 **tive and reflects a reasonable balancing of mitigation costs with the**
20 **resulting reduction of wildfire risk.**

21 **“(c) Identify preventative actions and programs that the electric**

1 company will carry out to minimize the risk of electric company fa-
2 cilities causing a wildfire.

3 “(d) Identify a protocol for the de-energizing of power lines and
4 adjusting power system operations to mitigate wildfires, promote the
5 safety of the public and first responders and preserve health and
6 communication infrastructure.

7 “(e) Describe the procedures, standards and time frames that the
8 electric company will use to inspect company infrastructure in areas
9 that the company identifies under paragraph (a) of this subsection.

10 “(f) Describe the procedures, standards and time frames that the
11 electric company will use to carry out vegetation management in areas
12 that the company identifies under paragraph (a) of this subsection.

13 “(g) Identify the development, implementation and administration
14 costs for the plan.

15 “(h) Identify the community outreach and public awareness efforts
16 that the electric company will use before, during and after a wildfire
17 season.

18 “(4) The commission, in consultation with the State Forestry De-
19 partment and local emergency services agencies, shall review a
20 wildfire protection plan that an electric company submits under this
21 section. The commission shall:

22 “(a) Approve the submitted plan; or

23 “(b) Disapprove the submitted plan and inform the electric company
24 of the modifications necessary to obtain approval.

25 “(5) The commission shall adopt rules for the implementation and
26 administration of this section and section 3 of this 2020 Act.

27 **“SECTION 3. (1) Reasonable and prudent investments and expendi-**
28 **tures by an electric company, including but not limited to the cost of**
29 **capital, that are incurred to develop, implement or operate a wildfire**
30 **protection plan under section 2 of this 2020 Act are recoverable in the**

1 rates charged by the company. Reasonable and prudent investments
2 and expenditures by an electric company, including but not limited to
3 the cost of capital, that are incurred to mitigate the risk, severity or
4 extent of wildfires are recoverable in the rates charged by the com-
5 pany.

6 “(2) The Public Utility Commission shall establish processes and
7 mechanisms to ensure timely cost recovery for costs associated with
8 subsection (1) of this section. The commission shall establish the pro-
9 cesses and mechanisms to address situations in which compliance with
10 sections 2 to 5 of this 2020 Act results in the electric companies in-
11 ccurring costs for which cost recovery mechanisms otherwise author-
12 ized by law are not adequate.

13 “(3) This section does not prohibit the recovery of costs deferred
14 under ORS 757.259.

15 “SECTION 4. (1) As used in this section, ‘consumer-owned utility’
16 and ‘governing body’ have the meanings given those terms in ORS
17 757.600.

18 “(2) A consumer-owned utility must have and operate in compliance
19 with a risk-based wildfire mitigation plan approved by the governing
20 body of the utility.

21 “(3) A consumer-owned utility shall conduct a wildfire risk assess-
22 ment of utility facilities. The utility shall review and revise the as-
23 sessment on a schedule the governing body deems consistent with
24 prudent utility practices.

25 “(4) A consumer-owned utility shall submit a copy of the risk-based
26 wildfire mitigation plan approved by the utility governing body to the
27 Public Utility Commission to facilitate commission functions regard-
28 ing statewide wildfire mitigation planning and wildfire preparedness.

29 “SECTION 5. The Public Utility Commission shall periodically con-
30 vene workshops for the purpose of helping electric companies,

1 consumer-owned utilities and operators of electrical distribution sys-
2 tems to develop and share information for the identification, adoption
3 and carrying out of best practices regarding wildfires including, but
4 not limited to, risk-based wildfire protection and risk-based wildfire
5 mitigation procedures and standards.

6 **“SECTION 6.** An electric company shall submit the first risk-based
7 wildfire protection plan required of the company under section 2 of
8 this 2020 Act to the Public Utility Commission no later than December
9 31, 2020.

10 **“SECTION 7.** A consumer-owned utility shall submit the first risk-
11 based wildfire mitigation plan required of the utility under section 4
12 of this 2020 Act to the utility governing body no later than December
13 31, 2021.

14
15 **“LAND USE**

16
17 **“SECTION 8.** The Department of Land Conservation and Develop-
18 ment, in coordination with cities, counties and the State Forestry
19 Department, shall oversee the development, implementation and
20 maintenance of a comprehensive statewide map of wildfire risk. The
21 map must be sufficiently detailed to allow the assessment of wildfire
22 risk at the property-ownership level. The Department of Land Con-
23 servation and Development shall collaborate with the State Forestry
24 Department, the State Fire Marshal, other state and local govern-
25 ments and officials, other public bodies, insurance companies and any
26 other information sources that the Department of Land Conservation
27 and Development deems appropriate to develop and maintain the map.
28 The department shall make the map described in this section accessi-
29 ble to the public in electronic form without charge.

30 **“SECTION 9.** (1) The Department of Land Conservation and Devel-

1 opment, in coordination with cities and counties, shall adopt rules
2 consistent with statewide planning goals and guidelines regarding
3 areas subject to natural hazards to establish minimum standards for
4 city and county wildfire risk reduction planning and zoning and
5 wildfire risk reduction.

6 “(2) The department, the State Forestry Department and the State
7 Fire Marshal shall provide technical assistance and resources to cities
8 and counties to facilitate the implementation and maintenance of
9 wildfire risk reduction planning and zoning and the development of
10 wildfire risk mitigation standards.

11

12

“INSURANCE

13

14 **“SECTION 10. (1) Insurers may adopt coverage provisions and**
15 **underwriting standards to encourage property protection approaches**
16 **that:**

17 **“(a) Harden structures against wildfire damage;**

18 **“(b) Provide for the establishment and maintenance of defensible**
19 **spaces;**

20 **“(c) Create access for emergency vehicles responding to wildfires;**
21 **or**

22 **“(d) Create wildfire evacuation routes.**

23 **“(2) Issuers of property insurance policies may use maps and data**
24 **developed by the Department of Land Conservation and Development**
25 **or the State Fire Marshal for the purpose of determining terms and**
26 **conditions of the policies.**

27 **“(3) The Department of Consumer and Business Services may work**
28 **with the State Fire Marshal and issuers of property insurance policies**
29 **to develop property protection approaches reflecting best practices for**
30 **wildfire risk mitigation.**

1 **Wildland-Urban Interface Code (2012 Edition). If a local government**
2 **adopts local requirements under this subsection, within the jurisdic-**
3 **tion of the local government the State Fire Marshal shall administer**
4 **and enforce the minimum defensible space requirements established**
5 **by the State Fire Marshal under subsection (1) of this section and the**
6 **local government shall enforce requirements adopted under this sub-**
7 **section that are greater than the minimum defensible space require-**
8 **ments established by the State Fire Marshal. The State Fire Marshal**
9 **and the local government shall coordinate any inspection and**
10 **enforcement efforts described in this subsection.**

11 **“(4) If construction or other activities occur to change land to a**
12 **type that is subject to different minimum defensible space require-**
13 **ments established by the State Fire Marshal, the State Fire Marshal**
14 **or local government responsible for enforcing those minimum**
15 **defensible space requirements on the land shall inspect to determine**
16 **whether the land continues to meet minimum defensible space re-**
17 **quirements established by the State Fire Marshal.**

18 **“(5) If a local government contracts under subsection (2) of this**
19 **section to administer and enforce minimum defensible space require-**
20 **ments established by the State Fire Marshal within the jurisdiction**
21 **of the local government, the local government shall periodically report**
22 **to the State Fire Marshal regarding whether lands within the jurisdic-**
23 **tion of the local government are in compliance with the applicable**
24 **minimum defensible space requirements. The reports shall state the**
25 **extent of compliance for each property, the change in degree of com-**
26 **pliance since the previous report and any other information required**
27 **by the State Fire Marshal by rule. In addition to requiring periodic**
28 **reports, the State Fire Marshal may at any time require a local jurisdic-**
29 **tion to report the defensible space conditions for any lands on**
30 **which minimum defensible space requirements are enforced by the**

1 **local government.**

2 **“(6) The State Fire Marshal shall oversee and coordinate the de-**
3 **velopment and maintenance of a comprehensive statewide map show-**
4 **ing lands for which the State Fire Marshal has established minimum**
5 **defensible space requirements under subsection (1) of this section, the**
6 **requirements applicable to those lands and the degree of compliance**
7 **on those lands with the applicable requirements.**

8 **“(7) The State Fire Marshal shall administer and enforce a program**
9 **to provide financial, administrative, technical or other assistance to**
10 **a local government to facilitate the administration and enforcement**
11 **of minimum defensible space requirements within the jurisdiction of**
12 **the local government. A local government shall expend financial as-**
13 **sistance provided by the State Fire Marshal under this subsection to**
14 **give priority to the creation of defensible space on lands owned by**
15 **communities of color, indigenous communities, persons with limited**
16 **proficiency in English and persons of lower income as defined in ORS**
17 **456.055.**

18 **“SECTION 12. The Wildfire Defensible Space Fund is established in**
19 **the State Treasury, separate and distinct from the General Fund. In-**
20 **terest earned by the Wildfire Defensible Space Fund shall be credited**
21 **to the fund. Moneys in the fund are continuously appropriated to the**
22 **State Fire Marshal for the purpose of carrying out the local govern-**
23 **ment financial assistance program described in section 11 of this 2020**
24 **Act.**

25 **“SECTION 13. The State Fire Marshal shall report regarding the**
26 **status of State Fire Marshal and local government activities for car-**
27 **rying out section 11 of this 2020 Act to the Eighty-first Legislative**
28 **Assembly in the manner provided in ORS 192.245 on or before the date**
29 **of convening of the 2021 regular session of the Legislative Assembly**
30 **as specified in ORS 171.010.**

1 **“HEALTH EFFECTS**

2
3 **“SECTION 14. (1) As used in this section, ‘smoke filtration system’**
4 **means a residential air filtration system capable of removing**
5 **particulates and other harmful components of wildfire smoke.**

6 **“(2) The Oregon Health Authority may adopt rules establishing**
7 **standards for smoke filtration systems including, but not limited to,**
8 **minimum acceptable efficiency for the removal of particulates and**
9 **other harmful substances generated by wildfires.**

10 **“(3) The authority shall establish a program to increase the avail-**
11 **ability of smoke filtration systems among persons vulnerable to the**
12 **health effects of wildfire smoke who reside in areas susceptible to**
13 **wildfire smoke. The authority may issue grants for the installation of**
14 **smoke filtration systems in residential buildings in areas susceptible**
15 **to wildfire smoke. The authority shall give grant priority to installa-**
16 **tions in residential buildings occupied by persons of lower income as**
17 **defined in ORS 456.055 who are vulnerable to the health effects of**
18 **wildfire smoke.**

19 **“SECTION 15. The Wildfire Smoke Abatement Fund is established**
20 **in the State Treasury, separate and distinct from the General Fund.**
21 **Interest earned by the Wildfire Smoke Abatement Fund shall be**
22 **credited to the fund. Moneys in the fund are continuously appropriated**
23 **to the Oregon Health Authority for the purpose of carrying out the**
24 **program required under section 14 of this 2020 Act.**

25 **“SECTION 16. In addition to and not in lieu of any other appropri-**
26 **ation, there is appropriated to the Oregon Health Authority, for the**
27 **biennium ending June 30, 2021, out of the General Fund, the amount**
28 **of \$1,000,000 for deposit in the Wildfire Smoke Abatement Fund.**

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

1 **“(2) The task force consists of seven members appointed by the Di-**
2 **rector of the Oregon Health Authority and having such qualifications**
3 **as the director deems appropriate.**

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

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

8 **“(b) Determine the extent to which renters are able to take advan-**
9 **tage of smoke filtration systems.**

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

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

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

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

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

21 **“(9) The task force may adopt rules necessary for the operation of**
22 **the task force.**

23 **“(10) The task force shall submit a report in the manner provided**
24 **in ORS 192.245, and may include recommendations for legislation, to**
25 **the Governor, the director and a legislative committee related to na-**
26 **tural resources no later than September 15, 2021.**

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

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

1 **force.**

2 **“SECTION 18. Section 17 of this 2020 Act is repealed on December**
3 **31, 2021.**

4
5 **“EMERGENCY MANAGEMENT**

6
7 **“SECTION 19. The Office of Emergency Management shall establish**
8 **six positions within the office whose responsibilities include, but need**
9 **not be limited to, administering the office’s mitigation and recovery**
10 **efforts for wildfire emergencies in assigned regions of this state.**

11
12 **“TREATMENT PROGRAM**

13
14 **“SECTION 20. The Legislative Assembly finds and declares that:**

15 **“(1) Fuel reduction is a critical and urgent need for much of the**
16 **forestland and rangeland in this state.**

17 **“(2) Fuel reduction on forestland and rangeland in this state is**
18 **necessary to reduce wildfire risk to communities, habitats and the**
19 **economy.**

20 **“(3)(a) It is the goal of this state to treat 5.6 million acres of**
21 **forestland and rangeland during a 20-year period to reduce fuel levels**
22 **and reduce other wildfire risks.**

23 **“(b) It is the policy of this state that state agencies are to work in**
24 **coordination and partnership with federal agencies having land man-**
25 **agement duties to prioritize and assist in the achievement of the goal**
26 **established in this subsection.**

27 **“(c) Significant public investment will be necessary to achieve the**
28 **goal established in this subsection.**

29 **“(d) State agencies and federal agencies are encouraged to seek and**
30 **identify public funding and to leverage public funding with other rev-**

1 enue sources to carry out the goal established in this subsection.

2 “(e) The development of a plan to achieve the goal established in
3 this subsection requires a strong partnership among state agencies,
4 federal agencies, nongovernmental entities and landowners. The State
5 Forestry Department is the appropriate agency to have primary re-
6 sponsibility for fostering that partnership and facilitating the devel-
7 opment of the plan.

8 “(4) Short-term opportunities exist for making reductions in fuel
9 levels and reductions of other wildfire risks. This state should invest
10 in those opportunities while engaged in the program development
11 process described in section 21 of this 2020 Act.

12 **“SECTION 21. (1) The State Forestry Department shall cooperate**
13 **with other state agencies, federal agencies, nongovernmental entities**
14 **and landowners to develop and implement a program to treat**
15 **forestlands and rangelands in this state for the reduction of fuel load**
16 **levels and reduction of other wildfire risks. The program must be de-**
17 **signed to treat 300,000 acres of forestland and rangeland annually, with**
18 **a goal of treating 5.6 million acres over a 20-year period.**

19 “(2) The program described in subsection (1) of this section must:

20 “(a) Specify types and levels of treatment and fuel load levels ap-
21 propriate for achieving program goals;

22 “(b) Provide for, but not be limited to, an expansion of department
23 activities for the restoration of federal forestlands within this state
24 including, but not limited to, activities under ORS 526.274 and 526.275;

25 “(c) Be designed to evaluate and prioritize the carrying out of
26 treatment on any forestlands and rangelands in this state without re-
27 gard to ownership;

28 “(d) Maximize the use of state and federal resources to improve
29 coordination and expedite implementation of forestland and rangeland
30 treatments;

1 “(e) Identify capacity that must exist within state government in
2 order to meet the 300,000 acre per year program design; and

3 “(f) Identify the appropriate state agency to coordinate and oversee
4 rangeland treatments.

5 “(3) The program described in subsection (1) of this section must
6 provide for the department to coordinate with managers of federal
7 lands and private landowners to implement fuel reduction treatments
8 on lands that are in the four highest relative importance categories
9 identified in the United States Forest Service report titled ‘Pacific
10 Northwest Quantitative Wildfire Risk Assessment: Methods and Re-
11 sults’ and dated April 9, 2018, or on which treatment would provide a
12 substantial benefit to this state.

13 “(4) The program described in subsection (1) of this section must
14 provide that for projects on federal land:

15 “(a) Treatment must be in conformance with federal law including,
16 but not limited to, the National Environmental Policy Act of 1973 (16
17 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531
18 et seq.) and the Clean Water Act (33 U.S.C. 1251 et seq.).

19 “(b) Treatment may not include commercial thinning on:

20 “(A) Inventoried roadless areas;

21 “(B) Riparian reserves identified in the Northwest Forest Plan or
22 in Bureau of Land Management resource management plans;

23 “(C) Late successional reserves, except to the extent consistent with
24 the 2011 United States Fish and Wildlife Service Revised Recovery Plan
25 for the Northern Spotted Owl (*Strix occidentalis caurina*);

26 “(D) Areas protected under the federal Wild and Scenic Rivers Act
27 (16 U.S.C. 1271 et seq.), national recreation areas, national monuments
28 or areas protected under ORS 390.805 to 390.925;

29 “(E) Designated critical habitat for species listed as threatened or
30 endangered under the Endangered Species Act of 1973 or by the State

1 Fish and Wildlife Commission under ORS 496.172, unless commercial
2 thinning is already allowed under an existing environmental review
3 or recognized habitat recovery plan; or

4 “(F) Federally designated areas of critical environmental concern
5 or federally designated wilderness study areas.

6 “(c) Priority is to be given to:

7 “(A) Treatments that have received approval under the National
8 Environmental Policy Act (42 U.S.C. 4321 et seq.);

9 “(B) The completion of restoration treatment on lands where com-
10 mercial harvesting has occurred; and

11 “(C) The treatment of lands on which there are insufficient com-
12 mercial timber resources to offset the cost of restoration activities.

13 “(5) For treatment projects on private lands, the program described
14 in subsection (1) of this section must provide for the department to
15 work with landowners and nongovernmental entities to identify ap-
16 propriate treatments and provide financial assistance for those treat-
17 ments.

18 “(6) The department shall determine whether state policy presents
19 barriers to undertaking increased implementation of treatment
20 projects on private lands.

21 “(7) The department shall ensure that forestland and rangeland
22 treatment projects under the program described in subsection (1) of
23 this section are carried out in coordination with local collaborative
24 groups, if any, Oregon State University and affected cities and coun-
25 ties.

26 “(8) The department shall develop consistent performance measures
27 and condition-based metrics for monitoring and communicating the
28 effectiveness of state investments and project actions in mitigating the
29 risk of wildfire.

30 “(9) The program described in subsection (1) of this section must

1 provide for the department to identify workforce development needs
2 and develop funding proposals for those needs, including but not lim-
3 ited to program funding proposals to ensure adequate contracting ca-
4 pacity for undertaking increased implementation of the program.

5 **“SECTION 22.** The Forestland and Rangeland Treatment Fund is
6 established in the State Treasury, separate and distinct from the
7 General Fund. Interest earned by the Forestland and Rangeland
8 Treatment Fund shall be credited to the fund. Moneys in the fund are
9 continuously appropriated to the State Forestry Department for the
10 purpose of carrying out oversight of and forestland and rangeland
11 treatment under the program described in section 21 of this 2020 Act.

12 **“SECTION 23.** In addition to and not in lieu of any other appropri-
13 ation, there is appropriated to the State Forestry Department, for the
14 biennium ending June 30, 2021, out of the General Fund, the amount
15 of \$20,000,000 for deposit in the Forestland and Rangeland Treatment
16 Fund.

17 **“SECTION 24.** The State Forestry Department shall report regard-
18 ing the status of program development and implementation under
19 section 21 of this 2020 Act to an interim committee of the Legislative
20 Assembly related to natural resources, in the manner provided under
21 ORS 192.245, no later than December 1, 2020. The report must include,
22 but need not be limited to, a summary of progress in developing pro-
23 gram components regarding project selection.

24
25 **“PROTECTION OF LAND**

26
27 **“SECTION 25.** (1) The State Forester, in collaboration with the
28 State Fire Marshal, state agencies and local governments as defined
29 in ORS 174.116, shall adopt rules establishing a baseline level of
30 wildfire protection for lands that are outside of forest protection dis-

1 **tricts and susceptible to wildfire. A county shall work in cooperation**
2 **with the State Forester and the State Fire Marshal to ensure that all**
3 **lands within the county that are outside of forest protection districts**
4 **and susceptible to wildfire are provided with wildfire protection ser-**
5 **vices at the baseline level or a higher level. As used in this subsection,**
6 **‘forest protection districts’ means lands designated in State Forester**
7 **rules as provided under ORS 477.225.**

8 **“(2) A county shall:**

9 **“(a) Assist landowners, individuals and businesses with forming ju-**
10 **risdictions to provide wildfire protection;**

11 **“(b) Assist landowners, individuals, businesses and jurisdictions**
12 **with obtaining expansion of or other changes to boundaries or facility**
13 **locations of jurisdictions that provide wildfire protection;**

14 **“(c) Assist jurisdictions to expand or adjust jurisdiction service**
15 **boundaries to ensure adequate wildfire protection for lands; and**

16 **“(d) Assist jurisdictions in developing wildfire protection facilities,**
17 **equipment, training and other resources adequate to ensure that the**
18 **jurisdiction provides timely and effective wildfire protection at the**
19 **baseline level or higher on lands described in subsection (1) of this**
20 **section throughout the jurisdiction.**

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

25 **“SECTION 26. A county shall ensure no later than January 1, 2025,**
26 **that all lands described in section 25 (1) of this 2020 Act within the**
27 **county have baseline level or higher wildfire protection as described**
28 **in section 25 of this 2020 Act.**

29
30 **“FUNDING STUDY**

