

Requested by Senator BAERTSCHIGER JR

**PROPOSED AMENDMENTS TO
SENATE BILL 1536**

1 On page 2 of the printed bill, line 5, delete “declaring an emergency” and
2 insert “prescribing an effective date”.

3 Delete lines 7 through 45 and delete pages 3 through 9 and insert:
4

5 **“UTILITIES**
6

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

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

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

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

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

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

1 “(c) Identify preventative actions and programs that the electric
2 company will carry out to minimize the risk of electric company fa-
3 cilities causing a wildfire.

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

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

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

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

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

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

23 “(a) Approve the submitted plan; or

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

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

28 “SECTION 3. (1) Reasonable and prudent investments and expendi-
29 tures by an electric company, including but not limited to the cost of
30 capital, that are incurred to develop, implement or operate a wildfire

1 protection plan under section 2 of this 2020 Act are recoverable in the
2 rates charged by the company. Reasonable and prudent investments
3 and expenditures by an electric company, including but not limited to
4 the cost of capital, that are incurred to mitigate the risk, severity or
5 extent of wildfires are recoverable in the rates charged by the com-
6 pany.

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

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

16 “SECTION 4. (1) As used in this section, ‘consumer-owned utility’
17 and ‘governing body’ have the meanings given those terms in ORS
18 757.600.

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

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

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

30 “SECTION 5. The Public Utility Commission shall periodically con-

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

7 **“SECTION 6. An electric company shall submit the first risk-based**
8 **wildfire protection plan required of the company under section 2 of**
9 **this 2020 Act to the Public Utility Commission no later than December**
10 **31, 2020.**

11 **“SECTION 7. A consumer-owned utility shall submit the first risk-**
12 **based wildfire mitigation plan required of the utility under section 4**
13 **of this 2020 Act to the utility governing body no later than December**
14 **31, 2021.**

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“DEFENSIBLE SPACE

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18 **“SECTION 8. (1) The State Forestry Department and the State Fire**
19 **Marshal shall jointly conduct a study to identify appropriate minimum**
20 **defensible space requirements for achieving wildfire risk reduction on**
21 **lands in areas that are susceptible to wildfire. The study shall include,**
22 **but not be limited to:**

23 **“(a) Identifying the nature and locations of lands susceptible to**
24 **wildfire;**

25 **“(b) Reviewing any existing minimum defensible space require-**
26 **ments, the lands that are subject to those requirements and any effect**
27 **on wildfire risk attributable to the requirements;**

28 **“(c) Identifying factors to be used for determining appropriate**
29 **minimum defensible space requirements for various types of lands;**

30 **“(d) The identification of minimum defensible space standards set**

1 forth in the International Wildland-Urban Interface Code (2012 Edi-
2 tion) and the reasons, if any, that the department or the State Fire
3 Marshal believes that departures from those standards would be war-
4 ranted when establishing minimum defensible space requirements;

5 “(e) An analysis of the cost of implementing, administering and
6 enforcing minimum defensible space requirements; and

7 “(f) An estimate of the time frame that would be required to im-
8 plement defensible space requirements on all lands in this state sus-
9 ceptible to wildfire.

10 “(2) The department shall report its findings from the study con-
11 ducted under this section and any resulting department or State Fire
12 Marshal recommendations to the Eighty-first Legislative Assembly in
13 the manner provided in ORS 192.245 on or before the date of convening
14 of the 2021 regular session of the Legislative Assembly as specified in
15 ORS 171.010.

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17 **“HEALTH EFFECTS**

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19 **“SECTION 9. (1) The Task Force on Wildfire Smoke Health Effects**
20 **is established.**

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

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

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

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

30 “(4) A majority of the members of the task force constitutes a

1 quorum for the transaction of business.

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

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

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

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

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

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

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

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

22 “SECTION 10. Section 9 of this 2020 Act is repealed on December
23 31, 2021.

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25 “TREATMENT PROGRAM

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27 “SECTION 11. The Legislative Assembly finds and declares that:

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

30 “(2) Fuel reduction on forestland and rangeland in this state is

1 necessary to reduce wildfire risk to communities, habitats and the
2 economy.

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

6 “(b) It is the policy of this state that state agencies are to work in
7 coordination and partnership with federal agencies having land man-
8 agement duties to prioritize and assist in the achievement of the goal
9 established in this subsection.

10 “(c) Significant public investment will be necessary to achieve the
11 goal established in this subsection.

12 “(d) State agencies and federal agencies are encouraged to seek and
13 identify public funding and to leverage public funding with other rev-
14 enue sources to carry out the goal established in this subsection.

15 “(e) The development of a plan to achieve the goal established in
16 this subsection requires a strong partnership among state agencies,
17 federal agencies, nongovernmental entities and landowners. The State
18 Forestry Department is the appropriate agency to have primary re-
19 sponsibility for fostering that partnership and facilitating the devel-
20 opment of the plan.

21 “(4) Short-term opportunities exist for making reductions in fuel
22 levels and reductions of other wildfire risks. This state should invest
23 in those opportunities while engaged in the program development
24 process described in section 12 of this 2020 Act.

25 **“SECTION 12. (1) The State Forestry Department shall cooperate**
26 **with other state agencies, federal agencies, nongovernmental entities**
27 **and landowners to develop and implement a program to treat**
28 **forestlands and rangelands in this state for the reduction of fuel load**
29 **levels and reduction of other wildfire risks. The program must be de-**
30 **signed to treat 300,000 acres of forestland and rangeland annually, with**

1 a goal of treating 5.6 million acres over a 20-year period.

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

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

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

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

11 “(d) Maximize the use of state and federal resources to improve
12 coordination and expedite implementation of forestland and rangeland
13 treatments;

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

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

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

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

28 “(a) Treatment must be in conformance with federal law including,
29 but not limited to, the National Environmental Policy Act of 1973 (16
30 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531

1 et seq.) and the Clean Water Act (33 U.S.C. 1251 et seq.).

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

3 “(A) Inventoried roadless areas;

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

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

9 “(D) Areas protected under the federal Wild and Scenic Rivers Act
10 (16 U.S.C. 1271 et seq.), national recreation areas, national monuments
11 or areas protected under ORS 390.805 to 390.925;

12 “(E) Designated critical habitat for species listed as threatened or
13 endangered under the Endangered Species Act of 1973 or by the State
14 Fish and Wildlife Commission under ORS 496.172, unless commercial
15 thinning is already allowed under an existing environmental review
16 or recognized habitat recovery plan; or

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

19 “(c) Priority is to be given to:

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

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

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

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

1 **“(6) The department shall determine whether state policy presents**
2 **barriers to undertaking increased implementation of treatment**
3 **projects on private lands.**

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

9 **“(8) The department shall develop consistent performance measures**
10 **and condition-based metrics for monitoring and communicating the**
11 **effectiveness of state investments and project actions in mitigating the**
12 **risk of wildfire.**

13 **“(9) The program described in subsection (1) of this section must**
14 **provide for the department to identify workforce development needs**
15 **and develop funding proposals for those needs, including but not lim-**
16 **ited to program funding proposals to ensure adequate contracting ca-**
17 **capacity for undertaking increased implementation of the program.**

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19 **“PROTECTION OF LAND**

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21 **“SECTION 13. (1) As used in this section, ‘forest protection**
22 **districts’ means lands designated in State Forester rules as provided**
23 **under ORS 477.225.**

24 **“(2) The State Forester and the State Fire Marshal shall jointly**
25 **conduct a study of wildfire protection needs and wildfire fighting re-**
26 **source availability for lands that are outside of forest protection dis-**
27 **tricts and susceptible to wildfire. In conducting the study, the State**
28 **Forester and the State Fire Marshal shall consult with the State**
29 **Forestry Department, state agencies and local governments as defined**
30 **in ORS 174.116. The study shall include, but need not be limited to:**

1 “(a) A determination of appropriate baseline levels of wildfire pro-
2 tection for the lands;

3 “(b) Identification of existing wildfire fighting resources on the
4 lands;

5 “(c) Identification of wildfire fighting resources needed to meet ap-
6 propriate baseline levels of protection on the lands; and

7 “(d) The estimated cost to acquire and maintain appropriate
8 baseline levels of wildfire protection on the lands.

9 “(3) The State Forester and State Fire Marshal shall report their
10 findings from the study conducted under this section and any resulting
11 State Forester or State Fire Marshal recommendations, to the
12 Eighty-first Legislative Assembly in the manner provided in ORS
13 192.245 on or before the date of convening of the 2021 regular session
14 of the Legislative Assembly as specified in ORS 171.010.

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“JOINT PARTNERSHIPS

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18 “SECTION 14. The Governor may, as the Governor deems appro-
19 priate, authorize joint partnerships between state and federal agencies
20 to administer and enforce a wildfire strategy program based on the
21 recommendations contained in the ‘November 2019: Report and Rec-
22 ommendations’ of the Governor’s Council on Wildfire Response.

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“CAPTIONS

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26 “SECTION 15. The unit captions used in this 2020 Act are provided
27 only for the convenience of the reader and do not become part of the
28 statutory law of this state or express any legislative intent in the
29 enactment of this 2020 Act.

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