

## ANALYSIS

### Item 24: Department of State Police 2021 Fire Season

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**Analyst:** John Terpening

**Request:** Increase General Fund by \$11,323,221 for the Department of State Police, Office of the State Fire Marshal for costs incurred during the 2021 fire season.

**Analysis:** The Office of the State Fire Marshal (OSFM) is responsible for mobilizing firefighting resources throughout the state when local fire agencies are not able to protect structures from fire on their own. Between June 29 and September 15 of 2021, OSFM mobilized firefighting resources nine times in response to conflagrations declared by the Governor for overwhelming wildfires.

During a mobilization firefighters and equipment from other fire protection agencies in the state are “loaned” to the local agency for the duration of the incident; OSFM coordinates such mobilizations. The Emergency Conflagration Act (ORS 476.510 - 476.610) governs mobilizations, and requires that “...the state shall reimburse the political subdivision supplying such aid...” and shall “...draw warrants on the State Treasurer for the payment of all duly approved claims...” As a practical matter, the Oregon State Police (OSP) budget initially reimburses local agencies for mobilizations, then seeks reimbursement from the federal government for eligible expenses, and finally requests state resources for the non-federally reimbursable share.

Wildfires that threaten populated areas are typically eligible for reimbursement through the Federal Emergency Management Agency’s (FEMA) Fire Management Assistance Grant (FMAG) Program. This program will reimburse states for up to 75% of the eligible costs incurred to fight large, destructive wildfires. Similarly, the federal Bureau of Indian Affairs (BIA) will reimburse states 100% of the cost of fighting wildfires on tribal lands. To be reimbursable under the FMAG program, FEMA evaluates a fire’s potential for destruction against four criteria:

- Threat to lives and improved property, including threats to critical infrastructure and watersheds
- Availability of state and local firefighting resources
- High fire danger conditions
- Potential major economic impact

Wildfires not meeting these criteria are not eligible for reimbursement through the FMAG Program. In 2021 only two fires are eligible for federal reimbursement through the FMAG program, while seven are not FMAG eligible, due to their remote locations.

The initial cost estimate of the response to these nine conflagrations in 2021 totals \$21.5 million. The table below details the initial cost estimates, along with the estimated federal or state share for each conflagration declared in 2021.

2021 Fire Name	Mobilization Dates	Initial Cost Estimates	75% Federal Share		25% State Share	
Bootleg Fire	July 7-28	\$ 11,409,819	\$ 8,557,364	75%	\$ 2,852,455	25%
Patton Meadow Fire	August 13-21	\$ 2,178,981	\$ 1,634,236	75%	\$ 544,745	25%
<b>FEMA/FMAG fires</b>		<b>\$ 13,588,800</b>	<b>\$ 10,191,600</b>	<b>75%</b>	<b>\$ 3,397,200</b>	<b>25%</b>
Wrentham Market Fire	June 30-July 6	\$ 593,075	\$ -	0%	\$ 593,075	100%
Sunset Valley Fire	July 1-6	\$ 415,141	\$ -	0%	\$ 415,141	100%
Elbow Creek Fire	July 16-24	\$ 871,210	\$ -	0%	\$ 871,210	100%
Jack Fire	July 6-13	\$ 1,413,491	\$ -	0%	\$ 1,413,491	100%
Grandview Fire	July 12-17	\$ 1,291,697	\$ -	0%	\$ 1,291,697	100%
Middle Fork Fire	August 10-17	\$ 1,352,568	\$ -	0%	\$ 1,352,568	100%
Cougar Peak Fire	September 8-15	\$ 1,988,839	\$ -	0%	\$ 1,988,839	100%
<b>State funded fires</b>		<b>\$ 7,926,021</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ 7,926,021</b>	<b>100%</b>
<b>2021 Total Cost Estimates</b>		<b>\$21,514,821</b>	<b>\$ 10,191,600</b>	<b>47%</b>	<b>\$ 11,323,221</b>	<b>53%</b>

The timing of payments to local agencies for mobilizations and reimbursement from FEMA can present a cash flow problem for OSP. Federal grant guidelines and generally accepted accounting principles require that federal reimbursement revenues be recorded when the reimbursable expenditures are incurred. This accounting treatment can present cash flow problems if reimbursements are delayed and other resources are not available to cover expenses in the near term. Over the past several biennia, the time it has taken to request and receive FMAG reimbursements from FEMA has ranged from 14 months to 30 months, requiring state General Fund to “carry” the expense until reimbursement is received.

OSP reports that it is also still waiting reimbursement from FEMA for \$18.7 million in 2020 fire season costs. However, with OSFM and Patrol Services sharing a General Fund appropriation there are sufficient funds to continue to cover the “cash float” until the federal share of costs is received.

**Recommendation:** The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$11,323,221 General Fund for the Department of State Police in a budget reconciliation bill during the 2022 legislative session, to cover estimated 2021 fire costs.

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**Request:** Appropriate \$11,323,221 General Fund for the state estimated share of the Office of the State Fire Marshal 2021 fire season costs.

**Recommendation:** Approve the request during the February 2022 Legislative Session.

**Discussion:** The Office of the State Fire Marshal (OSFM) is a division within the Department of State Police (OSP). OSFM's primary responsibility is to mobilize, manage, and direct Oregon Fire Services during emergency operations through the Conflagration Act. Under state statute, the State Fire Marshal is required to carry out statutory provisions as well as provide advice to the Governor for the most practical use of fire-fighting resources.

When a conflagration is invoked, the State Fire Marshal is responsible to mobilize, support, and provide leadership for the Oregon fire service resources that come from 305 fire departments across the state.

The 2021 fire season for the OSFM commenced on June 29 with the first conflagration and ended September 15<sup>th</sup>, with the ninth conflagration. OSFM deployed 57 Oregon task forces from 121 Oregon fire services in 11 counties. This fire season reported over 817,000 total acres burned in Oregon, threatened over 12,000 structures, and brought the third largest fire to Oregon's history, the Bootleg fire, which impacted many communities and two counties.

The 2021 fire season included nine conflagrations with an estimated cost of \$21.5 million total funds. Two of the nine conflagrations were eligible for the Federal Emergency Management Agency (FEMA), Fire Management Assistance Grant (FMAG) Program. FEMA will pay up to 75% of total approved costs. The \$3.4 million General Fund would be the state's estimated 25% minimum match for these fires. Seven of the conflagrations were non-FEMA declared fires and the \$7.9 million is 100% the state's responsibility.

**Legal Reference:** Appropriate \$11,323,221 from the General Fund to supplement the appropriation made by chapter 470, section 1(1), Oregon Laws 2021, for the Department of State Police, Patrol Services, Criminal Investigations, Gaming Enforcement and Office of the State Fire Marshal for the 2021-23 biennium.



**December 10, 2021**

The Honorable Senator Elizabeth Steiner Hayward, Co-Chair  
The Honorable Representative Dan Rayfield, Co-Chair  
Interim Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

Dear Co-Chairpersons:

REVISED LETTER – Office of State Fire Marshal 2021 Fire Season estimated costs

### **Nature of the Request**

The Oregon State Police (OSP) respectfully requests permission to appear before the January 2022 Interim Joint Committee on Ways and Means to request \$11,323,221 General Fund for the Office of State Fire Marshal's estimated share of the 2021 fire season costs.

### **Agency Action**

#### **Background**

The Office of State Fire Marshal (OSFM), a Division within the Oregon State Police, is responsible for mobilizing, managing and directing the Oregon Fire Service during major emergency operations through the Conflagration Act. Under ORS 476.520 – 476.610, the State Fire Marshal is required to prepare plans to carry out statutory provisions and provide advice and counsel to the Governor for the most practical use of fire-fighting resources.

The Conflagration Act is invoked by the Governor when structures and communities are threatened by wildfire that exceed their capacity. When this occurs OSFM mobilizes, supports and provides the leadership for the Oregon fire service resources that come from 305 fire departments across our State. When called upon the OSFM is also responsible for all aspects of the mobilization of the Incident Management Teams, which provide the leadership and management of these large catastrophic wildfires.

When the Conflagration is invoked, and certain thresholds are met, states may request Federal assistance from the U.S. Department of Homeland Security / Federal Emergency Management Agency (FEMA) through the Fire Management Assistance Grant (FMAG) Program. In the State of Oregon, the Oregon Department of Forestry (ODF) is the Governor's Authorized Representative and OSFM is a "sub-recipient" of ODF under the FMAG. When a FMAG is

approved, FEMA will reimburse the state up to 75% of eligible fire costs under the FMAG.

The Office of State Fire Marshal's Conflagration Costs for the 2021 fire season is estimated to be \$21,514,821, which is the second costliest fire season in the Office's history. In 2021 the OSFM mobilized the Oregon Fire Service to 9 conflagrations in protection of Oregonians and communities.

- 7 Conflagrations were non-FEMA declared fires which are 100% state cost responsibility. These conflagrations total \$7,926,021.
- 2 Conflagrations were FEMA declared fires, of which up to 75% of costs are reimbursable. The state cost responsibility, which is 25% for these 2 conflagrations is \$3,397,200.

The state cost responsibility for the 2021 Conflagrations total \$11,323,221. It is expected that the FEMA/FMAG federally eligible expenditures total \$10,191,600. These costs can take up to two years or more to be received by the state.

## **2021 Fire Season**

This year's fire season was challenging, driven by continued drought and extended dry conditions. The 2021 fire season came on heels of the devastating 2020 wildfire season and the ongoing Coronavirus Pandemic that has taxed the Oregon Fire Service. The first conflagration was declared on June 29<sup>th</sup> and the last as recent as September 8<sup>th</sup>. Over the course of 4 months, OSFM deployed 57 Oregon Task Forces from 121 Oregon Fire Service Agencies in 11 Oregon Counties. Throughout the fire season over 12,000 structures were threatened and under evacuation levels of an extended period. This year's fire season brought the 3<sup>rd</sup> largest fire in Oregon's history-the Bootleg fire, 2 months of sustained impact to communities and 817,782 total acres burned in Oregon.

Due to the remote location of the declared conflagrations, many of the large fire costs were not eligible for FEMA / FMAG reimbursement resulting in higher state costs. The 2021 fire season brought significant impacts to the communities in central and eastern Oregon, however, these fires did not meet the FEMA requirements for an FMAG.

## **Action Requested**

The Oregon State Police (OSP) respectfully requests permission to appear before the January 2022 Interim Joint Committee on Ways and Means to request \$11,323,221 General Fund to fund the estimated state's share of the 2021 fire season costs. With the significant amount of out of state resources needed this fire season and complexities with how FEMA approved the Bootleg fire, it is likely our state costs will increase.

**Legislation Affected**

HB5028, Chapter 470, section 1(1), Oregon Law 2021 - \$11,323,221

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Terri Davie".

Terri Davie  
Superintendent  
Oregon State Police

CC:       Constantin Severe, Governor's Office  
          John Terpening, Legislative Fiscal Analyst  
          Michelle Lisper, DAS/CFO Policy & Budget Analyst  
          Jon Harrington, OSP Deputy Superintendent  
          Mariana Ruiz-Temple, State Fire Marshal  
          Travis Medema, Chief Deputy State Fire Marshal  
          Jenny Cribbs, OSP Chief Financial Officer