

ANALYSIS

Item 22: Department of State Police Fire Season Costs

Analyst: John Terpening

Request: Allocate \$16,571,294 General Fund from the Emergency Fund to the Department of State Police, Office of the State Fire Marshal, for costs incurred during the 2021 and 2022 fire seasons.

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. During the 2021 fire season, OSFM mobilized firefighting resources nine times, and in 2022, OSFM mobilized five times in response to conflagrations.

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. Only three of the 14 conflagrations in the last two years have been eligible for federal reimbursement through the FMAG program, due to the remote locations. The cost estimates of the response to these 14 conflagrations in 2021 and 2022 total \$35.8 million.

OSFM previously received \$11.3 million General Fund in HB 5202 (2022) to cover initial cost estimates for the state share of 2021 fire costs. However, FEMA requirements changed resulting in the Bootleg Fire only being reimbursed at an actual rate of 32% instead of the assumed 75%. This has increased the state-borne fire costs for 2021 by \$5.1 million.

The table below details the initial cost estimates, along with the estimated federal and state share for each conflagration declared over the last two fire seasons.

2021 Fire Name	Fire Cost Estimates	Federal Share		State Share		HB 5202 (2022) Funding	Remaining State Share
Bootleg Fire	\$ 11,797,179	\$ 3,806,669	32%	\$ 7,990,510	68%	\$ 2,852,455	\$ 5,138,055
Patton Meadow Fire	\$ 2,404,411	\$ 1,803,308	75%	\$ 601,103	25%	\$ 544,745	\$ 56,358
FEMA/FMAG fires	\$ 14,201,589	\$ 5,609,977	40%	\$ 8,591,612	60%	\$ 3,397,200	\$ 5,194,412
Wrentham Market Fire	\$ 604,706	\$ -	0%	\$ 604,706	100%	\$ 593,075	\$ 11,631
Sunset Valley Fire	\$ 566,222	\$ -	0%	\$ 566,222	100%	\$ 415,141	\$ 151,081
Elbow Creek Fire	\$ 837,643	\$ -	0%	\$ 837,643	100%	\$ 871,210	\$ (33,567)
Jack Fire	\$ 1,502,792	\$ -	0%	\$ 1,502,792	100%	\$ 1,413,491	\$ 89,301
Grandview Fire	\$ 1,335,027	\$ -	0%	\$ 1,335,027	100%	\$ 1,291,697	\$ 43,330
Middle Fork Fire	\$ 1,626,311	\$ -	0%	\$ 1,626,311	100%	\$ 1,352,568	\$ 273,743
Cougar Peak Fire	\$ 2,287,364	\$ -	0%	\$ 2,287,364	100%	\$ 1,988,839	\$ 298,525
State funded fires	\$ 8,760,066	\$ -	0%	\$ 8,760,066	100%	\$ 7,926,021	\$ 834,045
2021 Totals	\$ 22,961,655	\$ 5,609,977	24%	\$ 17,351,678	76%	\$ 11,323,221	\$ 6,028,457
2022 Fire Name	Estimated Fire Costs	Federal Share		State Share		HB 5202 (2022) Funding	Remaining State Share
Miller Road Fire	\$ 3,141,916	\$ 2,356,437	75%	\$ 785,479	25%	\$ -	\$ 785,479
FEMA/FMAG fires	\$ 3,141,916	\$ 2,356,437	75%	\$ 785,479	25%	\$ -	\$ 785,479
							\$ -
Rum Creek Fire	\$ 5,798,261	\$ -	0%	\$ 5,798,261	100%	\$ -	\$ 5,798,261
Sturgill Fire	\$ 524,921	\$ -	0%	\$ 524,921	100%	\$ -	\$ 524,921
Double Creek Fire	\$ 2,006,465	\$ -	0%	\$ 2,006,465	100%	\$ -	\$ 2,006,465
Cedar Creek Fire	\$ 1,427,711	\$ -	0%	\$ 1,427,711	100%	\$ -	\$ 1,427,711
State funded fires	\$ 9,757,358	\$ -	0%	\$ 9,757,358	100%	\$ -	\$ 9,757,358
2022 Totals	\$ 12,899,274	\$ 2,356,437	18%	\$ 10,542,837	82%	\$ -	\$ 10,542,837
Total Fire Costs Request							\$ 16,571,294

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board allocate \$16,571,294 General Fund from the Emergency Fund to the Department of State Police, Office of the State Fire Marshal, for costs incurred during the 2021 and 2022 fire seasons.

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Request: Allocate \$16,571,294 from the State Emergency Fund for the costs of the 2021 and 2022 fire seasons.

Recommendation: Approve the request.

Discussion: The Oregon State Fire Marshal (OSFM) is statutorily responsible for mobilizing, directing, and managing the Oregon fire service during major emergency operations through the Emergency Conflagration Act. This Act is invoked by the Governor when structures and communities are threatened by wildfires, and the community lacks sufficient resources to combat the fire. When certain thresholds are met, states may request assistance through the Federal Emergency Management Agency (FEMA) through the Fire Management Assistance Grant (FMAG) program. When an FMAG is approved, FEMA may reimburse the state for up to 75 percent of eligible fire costs.

The 2021 Fire Season had the third largest fire in Oregon's history, the Bootleg fire. The 2021 season incurred higher costs to the state because of changes to FMAG eligibility thresholds. The state's costs totaled \$17,351,678. In January 2022, \$11,323,221 General Fund was appropriated by the Legislature for these costs, under the assumption the costs would be reimbursed by FEMA at 75 percent federal and 25 percent state share. However, FEMA reimbursed these costs at 40 percent. This request is for the difference between the expected state's share of 25 percent of the costs and the actual state share of 40 percent of the costs.

The 2022 Fire Season had five declared conflagrations, one of which (the Miller Road fire) was FEMA/FMAG eligible. OSFM is estimating a total 2022 Fire Season cost of \$12,899,274 and is expecting reimbursement of \$2,356,437 for the FEMA/FMAG eligible fire. OSFM is requesting \$10,542,837 General Fund for the remaining 2022 Fire Season costs.

Legal Reference: Allocation of \$16,571,294 from the State Emergency Fund to supplement the appropriation made by chapter 470, section 1(1), Oregon Laws 2021, for the Oregon State Police, Patrol Services, Criminal Investigations, Gaming Enforcement and Office of the State Fire Marshal for the 2021-23 biennium.



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Kate Brown, Governor

Oregon State Police

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October 21, 2022

Senator Peter Courtney, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Oregon State Police (OSP) respectfully requests permission to appear before the December 2022 Emergency Board to request \$16,571,294 general fund for the Office of State Fire Marshal's 2021 fire season costs and estimated 2022 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 Emergency 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 firefighting resources.

The Emergency Conflagration Act is invoked by the governor when structures and communities are threatened by wildfire that exceed their capacity. When this occurs, the OSFM mobilizes, providing support and leadership for the Oregon fire service resources that come from 305 fire departments across our state. When called upon, the OSFM is responsible for all aspects of mobilizing the incident management teams, which provide leadership and management of these large, catastrophic wildfires.

When a 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 Oregon, the Oregon Department of Forestry (ODF) is the governor's authorized representative and the OSFM is a sub-recipient of ODF under the FMAG. When an FMAG is approved, FEMA may

reimburse the state for up to 75 percent of eligible fire costs.

The 2021 fire season had the third largest fire in Oregon's history, the Bootleg fire, with two months of sustained impact to communities and 817,782 total acres burned in Oregon. Due to FMAG eligibility thresholds, the 2021 season has resulted in a higher proportion of state-borne costs.

The state cost responsibility for the 2021 conflagrations totaled \$17,351,678. In the January 2022 Interim Joint Committee of Ways and Means, a total of \$11,323,221 GF was requested and approved of the 2021 state-borne fire costs, leaving the state balance of \$6,028,457. When this first request was made in January for the state cost of the 2021 fires, it was assumed at that time that the OSFM would be reimbursed by FEMA at 75 percent, leaving a 25 percent state cost. Because of changing FEMA requirements, FEMA reimbursed the OSFM at 40 percent, leaving the state to pay for 60 percent of the FEMA eligible 2021 fire costs instead of the 25 percent estimate.

The 2022 fire season had five declared conflagrations and one, the Miller Road Fire, FEMA/FMAG eligible. The OSFM is estimating a total 2022 fire season cost of \$12,899,274 and a reimbursement from FEMA of \$2,356,437 for the Miller Road Fire. The OSFM estimated the state's share of the 2022 fire season is \$10,542,837.

Action Requested

The Oregon State Police (OSP) respectfully requests permission to appear before the December 2022 Emergency Board to request \$16,571,294 general fund for the state's share of the 2021 fires season cost and the estimated 2022 fire season costs.

Legislation Affected

HB5028, Chapter 470, section 1(1), Oregon Law 2021 - \$16,571,294

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terri Davie", written in dark ink.

Terri Davie
Superintendent
Oregon State Police

cc: Constantin Severe, Governor's Office
John Terpening, Legislative Fiscal Analyst
April McDonald, 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