

SB 762 -1, -2, -3 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire Recovery

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Meeting Dates: 4/7, 4/9, 4/12

WHAT THE MEASURE DOES:

Directs the Legislative Policy and Research Office to study strategies to promote wildfire response and recovery and to report to an appropriate committee or interim committee of the Legislative Assembly by September 15, 2022. Sunsets January 2, 2023.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Requires the **Public Utilities Commission (PUC) to periodically convene workshops** for public utilities that provide electricity (**public utilities**), **consumer-owned utilities (COUs)**, and electrical transmission and distribution system operators to develop and share information related to wildfire best practices. Requires **public utilities** to have, and operate in compliance with, a regularly updated **risk-based wildfire protection plan** that is based on reasonable and prudent practices identified through the workshops, based on PUC standards adopted by rule, that addresses additional specified plan requirements, and that has been filed with and evaluated by the PUC. Requires the first plan to be submitted to the PUC by December 31, 2021. Requires the PUC in consultation with the Oregon Department of Forestry and local emergency services agencies, to evaluate a public utility's plan and plan updates through a public process, requires the PUC to approve the plan or approve it with conditions provided it meets specified requirements, and requires the PUC to adopt rules. Provides for recoverability of reasonable operating costs. Authorizes the PUC to impose penalties and specifies maximum civil penalties for violation. Requires COUs to have, and operate in compliance with, a regularly updated **risk-based wildfire mitigation plan** approved by the utility's governing body. Requires COUs to submit the first plan by June 30, 2022 and to submit a copy of the approved plan to the PUC. Requires COUs to conduct a periodic wildfire risk assessment of utility facilities. Establishes the **definition of the wildland urban interface (WUI)** as an area in which humans or human development meets or intermixes with wildland fuels. Requires that the **Oregon Department of Forestry (ODF)**, in collaboration with others, oversee the development and maintenance of a publicly accessible, **comprehensive statewide map of wildfire risk**. Requires ODF by rule to establish WUI wildfire risk criteria and classes to be integrated into the statewide map, requires the incorporation of local government input in the map development, and establishes additional map requirements. Requires ODF provide a progress report to a wildfire committee of the Legislative Assembly December 31, 2021, and map completion by June 30, 2022. Repeals the remainder of the current Wildland-Urban Interface Fire Protection statutes. Requires the **State Fire Marshal** to establish **minimum defensible space requirements** for wildfire risk reduction on lands identified on the statewide map as within the WUI, by December 31, 2022. Requires the State Fire Marshal to consult with the Oregon Fire Code Advisory Board (OFCAB) in establishing the requirements, and to select standards from the International Wildland-Urban Interface Code (2020 ed.) framework. Establishes that defensible space requirements will apply statewide for all lands of the type identified in the map. Requires the State Fire Marshal, in consultation with OFCAB, to periodically reexamine the International WUI Code standards, and update the State Fire Marshal's standards to reflect best practices. Allows **local governments** to adopt more stringent defensible space requirements, but requires that they be standards selected from the framework set

forth in the International WUI Code (2020 ed.). Authorizes either the State Fire Marshal or a local government to **administer and enforce** the minimum defensible space requirements established by the State Fire Marshal, and allows local government to administer and enforce their more stringent standards, if created. Requires a local government that elects to administer and enforce minimum defensible space requirements, to periodically report to the State Fire Marshal regarding compliance and other required information. Directs the State Fire Marshal to administer a **community risk reduction program** that emphasizes education and prevention methods with respect to wildfire risk, defensible space enforcement, response planning, and community preparedness for wildfire. Requires the State Fire Marshal to provide financial, administrative, technical, or other assistance to local governments, and requires local governments to expend financial assistance provided by the State Fire Marshal to prioritize creating defensible space: on land owned by members of socially and economically vulnerable communities, persons with limited English proficiency, and persons of lower income; for critical or emergency infrastructure; or for schools, hospitals, and senior facilities. Establishes the Community Risk Reduction Fund to carry out community risk reduction and local government financial assistance. Requires the State Fire Marshal to annual report to the legislature and establishes report requirements. Requires the **Department of Land Conservation and Development (DLCD)**, in consultation with specified state agencies and local governments, to identify and recommend needed **updates to the statewide land use planning program and local comprehensive plans and zoning codes** to incorporate wildfire risk maps and minimize wildfire risk, in a report to a wildfire committee of the Legislative Assembly by October 1, 2022. Requires the **Department of Consumer and Business Services** to adopt **R327 wildfire hazard mitigation building code standards** for new construction in high wildfire risk classes, operative December 31, 2022. Requires the **Environmental Quality Commission (EQC)** to establish a program, including a grant program, to support local communities in developing **wildfire smoke plans** and strategies to mitigate environmental and public health impacts. Requires the EQC to establish an **air quality monitoring program** to support communities in monitoring, interpreting, and communicating air quality data. Requires EQC to conduct community outreach, deploy certain air quality monitoring equipment, and monitor meteorological conditions in a manner sufficient to forecast poor air quality occurrences. Requires the **Oregon Health Authority(OHA)** to establish and implement a **clean air shelter grant program** and establishes that grant recipients must provide access to clean air shelters at no charge. Establishes that the **Office of Emergency Management (OEM)** is the lead state agency for the operations of clean air shelters. Requires OEM to: consult and collaborate with OHA to align practices for voluntary evacuation and emergency sheltering operations; to coordinate with OHA in setting priorities for grant awards; and to provide support to local agencies that take lead roles in operating and planning clean air shelters. Requires OHA to periodically report to the legislature on the use of clean air shelters. Requires OHA to establish a grant program to increase the availability of **smoke filtration systems** among persons vulnerable to the health effects of smoke who reside in areas susceptible to wildfire smoke. Authorizes OHA to issue grants to install smoke filtration systems, replacement filters, and other housing interventions that facilitate effective smoke filtration systems, in residential and commercial buildings, and buildings open to the public. Requires OHA to prioritize residential buildings occupied by persons who qualify for the Oregon Health Plan or Medicaid, and who are vulnerable to health effects of smoke. Requires OHA to periodically report to the legislature on the use of smoke filtration systems. Requires the **Office of Emergency Management (OEM)** to update its **statewide emergency plan** to prepare for or respond to wildfire emergencies on an area-wide or statewide basis, including risk mitigation and evacuation planning. Requires OEM to coordinate with cities, counties, and other specified entities to ensure local efforts align with the statewide plan, and to provide training, exercises, and community education. Requires ODF, in consultation and cooperation with others, to design and implement a **treatment program to reduce wildfire risk** on public or private forestlands and rangelands and in communities near homes and critical infrastructure, completing project operations by June 30, 2023. Requires ODF to collaborate with Oregon State University and others to identify strategic landscapes that are ready for treatment, and to give priority to projects in the highest risk geographies under the Quantitative Risk

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Assessment, on federal lands currently approved for treatment projects under the National Environmental Policy Act, and projects that meet human and ecological goals. Specifies certain project design objectives. Prohibits commercial thinning on specified protected lands. Requires ODF to develop performance measures and condition-based metrics for monitoring and communicating the effectiveness of state investments in mitigating wildfire risk. Requires ODF to report regarding the status of the program development and implementation by January 15, 2022 and again upon project completion June 30, 2023. Establishes an **Oregon Wildfire Workforce Corps Program (Program)** for the purpose of reducing the risk wildfire poses to communities and critical infrastructure, helping to create fire-adapted communities, and engaging youth and young adults in workforce training. Establishes that corps participants must be between 13 and 26 years of age, have been qualified by a youth development organization, and must be compensated by at least minimum wage equivalency. Establishes the **Oregon Wildfire Workforce Advisory Committee (Advisory Committee)**, by Governor appointment, within the **Higher Education Coordinating Commission (HECC)** to manage the program grant process, and to engage private sector funding. Establishes grant process requirements and priorities. Directs the Advisory Committee to consult with ODF to ensure the grant process awards funds to proposals that protect at-risk communities and infrastructure within the WUI, meet ODF fuel treatment standards, and include an equity lens. Requires the Advisory Committee to biennially submit a report to the legislature regarding expenditures for the Program. Establishes the Oregon Wildfire Workforce Corps Fund to be used for grantmaking of public moneys as directed by the Advisory Committee, and for related administrative expenses. Requires the Oregon Community Foundation to act as a fiscal agent for private entities to award gifts, grants, contributions and other donations to support Program grants as directed by the Advisory Committee. Directs ODF to establish a **small woodland grant program** for the purpose of providing grants, on a competitive basis, to support small woodland owners of one to 160 acres in reducing wildfire risk through the restoration of landscape resiliency and reduction of hazardous fuels on their property. Requires ODF to set criteria for assessing grant applications and awarding grants. Directs ODF to establish by rule a **Certified Burn Manager Program**. Requires ODF to consult with the Oregon Prescribed Fire Council concerning best practices for conducting the program, initiate rulemaking to establish the program, and provide a progress report to the Legislative Assembly by December 1, 2021. Requires the State Forester in collaboration with others to adopt rules establishing a **baseline level of wildfire protection** for lands outside of forest protection districts that are susceptible to wildfire, and to ensure levels are adapted to reflect regional conditions. Authorizes a **county**, in collaboration with the State Forester and State Fire Marshal, to ensure these lands are provided with wildfire protection services at the baseline level or higher, and to assist landowners, individuals, and businesses with forming wildfire protection jurisdictions or modifying existing boundaries to ensure adequate protection. Allows counties to also assist jurisdictions in developing wildfire protection facilities, equipment, training, and other resources. Authorizes the State Forester to provide financial assistance to counties for carrying out county duties. Requires counties to ensure all applicable lands within the county have baseline level or higher wildfire protection by January 1, 2026. Requires ODF to consult and coordinate with the State Fire Marshal, other state and federal agencies, local fire defense board chiefs, and private stakeholders, to determine the adequacy of state, federal, and private **wildfire response capacity**, and **adequacy of available mutual aid** to provide wildfire response on WUI lands. Requires ODF to seek to leverage state moneys to obtain federal resources, identify means for providing additional resources to enhance wildfire response capacity, continually identify workforce development needs associated with wildfire risk mitigation and response, and to develop funding proposals for meeting those needs on a sustained basis. Appropriates General Fund moneys. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

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-2 Replaces measure. Directs the Governor to appoint a **State Wildfire Programs Director (Director)** and requires the Director to: oversee implementation of any comprehensive wildfire program adopted by the Eighty-first Legislative Assembly; coordinate and integrate the activities of state agencies and other entities to optimize the efficiency and effectiveness of these programs; ensure compliance with deadlines; monitor and assess financial impacts on, and financial impact equity among, local jurisdictions; supervise staffing of the Wildfire Programs Advisory Council; report at least every 60 days to the Governor and legislative leaders to summarize implementation progress, note obstacles and opportunities, and catalog possibilities for future improvements; and explore opportunities to further reduce wildfire risk in Oregon by engaging with insurance companies, electric utilities, congressional delegations, and federal agencies for specified purposes. Establishes a **Wildfire Programs Advisory Council (Council)** to advise and assist the Director by: closely monitoring implementation, including defensible space, building codes, and land use applications of the comprehensive statewide wildfire risk map; providing advice on ways to modify the program to further reduce wildfire risk and ensure regional applications are appropriate; and developing strategies to ensure promotion of the program and buy-in from regions and communities. Requires the Council review Department of Land Conservation and Development (DLCD) findings and recommendations related to needed updates to the statewide land use planning program and local comprehensive plans and zoning codes, identify the DLCD recommendations that the Council believes should be advanced to the Legislative Assembly for future consideration, make additional relevant recommendations, and provide a report to the Legislative Assembly on these land use recommendations by January 15, 2023. Provides that the Council must consist of 17 members appointed by specified entities by September 1, 2021, and specifies members shall serve three-year terms and are eligible for reappointment. Requires the Department of Consumer and Business Services, the Department of Land Conservation and Development, the Office of the State Fire Marshal, and Oregon Department of Forestry to cooperatively staff the Council, attend Council meetings as informational resources, assist with drafting Council reports, and support the work of the State Wildfire Programs Director. Requires Council to submit an annual report to the Governor and appropriate legislative committees each December, beginning in December 2022, that describes implementation progress and recommends improvements. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

-3 Combines the -1 and -2 amendments with the following additions and modifications. Clarifies that the Public Utility Commission (PUC)'s approval of a wildfire protection plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule. Clarifies the maximum civil penalty for violation is in addition to all other penalties provided by law. Corrects reference error related to municipally owned utilities. Adds requirement for the Department of Consumer and Business Services to submit a report to the Legislative Assembly by December 31, 2022 regarding the number and general location of dwellings that have been built to R327 standards since the 2019 implementation of those standards. Replaces the Environmental Quality Commission with the Department of Environmental Quality for programs that relate to community response plans and air quality monitoring. Requires the Oregon Health Authority to consult and coordinate with the Oregon Department of Human Services (DHS), Oregon Business and Development Department and local governments in the establishment and implementation of a clean air shelter grant program, and replaces the Office of Emergency Management with the DHS as the lead state agency for clean air shelter operations. Adds federally recognized Indian tribes as a required consultation party for Oregon Department of Forestry (ODF) wildfire risk reduction treatment programs. Adds requirement to ODF report for a summary of invasive annual grass treatments to reduce wildfire risk. Specifies Oregon Wildfire Workforce Advisory Committee (Advisory Committee) may expend moneys for a promotional website and materials to effectuate the solicitation of private funds. Removes Advisory Committee requirement to consult with ODF regarding equity, and places that equity requirement to the grant

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administration process instead. Generalizes nonprofit foundation reference and removes specific directive language to that nonprofit entity. Specifies the Oregon Wildfire Workforce Corps Fund may receive contributions from individuals and private organizations. Requires ODF to adopt rules to clarify that a person may conduct a prescribed fire that burns across land ownership boundaries if the person obtains a permit and complies with its conditions, and that a person may obtain a single permit for prescribed fire that burns across land ownership boundaries if the person demonstrates to the department that they have obtained consent to conduct the fire from all persons on whose lands the fire is planned to burn. Requires rulemaking be initiated by November 30, 2021 and finalized by November 30, 2022. Condenses conforming amendment language. Authorizes the State Fire Marshal to enter into contracts with other states for suppression coordination and response. Makes explicit appropriations for all agencies and entities specified in the Act, including to ODF for the wildfire aviation program, fire protection program, agency administration, and the expansion of the partnership and planning program.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

BACKGROUND:

Senate Bill 762 would direct the Legislative Policy and Research Office to study strategies to promote wildfire response and recovery and to report to an appropriate committee of the Legislative Assembly by September 15, 2022.