House Bill 2295

Sponsored by Representative MORGAN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor’s brief statement of the essential features of the measure as introduced.

Provides that fire chief, or representative of fire chief, of county may extinguish uncontrolled fire found to be burning in unprotected area.

Provides that governing body of county may bill owner of property for cost of extinguishing fire.

Provides that, to prevent or control fire occurring within zone 2 in county, county court or board of county commissioners may arrange for optional subscription service. Establishes that tax amount shall be on assessed value of taxable property.

Provides that fire-fighting forces and equipment of fire-fighting organization assigned under Emergency Conflagration Act include fire-fighting forces and equipment of entity that contracts with county, city or district to provide fire protection services.

Provides that board of county commissioners may adopt and enforce county fire prevention code.

Declares emergency, effective on passage.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 476.280 is amended to read:

476.280. (1) The fire chief, or the representative of the fire chief, of any county or duly organized municipal or rural fire protection district may extinguish any uncontrolled fire found to be burning in any unprotected area, if:

(a) The governing body of the city or county or the district board of the rural fire protection district, as the case may be, has authorized the fire chief and the representatives of the fire chief to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside of the boundaries of the city, county or district and that are causing or may cause an undue jeopardy to life or property; and

(b) The fire chief or the representative of the fire chief believes that such fire is causing or may cause undue jeopardy to life or property.

(2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and the representatives of the fire chief may employ the same means and resources used by them to extinguish similar fires within their jurisdiction.

SECTION 2. ORS 476.290 is amended to read:

476.290. (1) Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the city or county, or the district board of the rural fire protection district, that provided the fire suppression protection service or contracted for provision of the fire protection service may, on forms furnished by the State Fire Marshal for such purposes, bill the owner of the property involved in the fire for the cost of providing the fire suppression protection service.

(2) The governing body of the city or county, or the district board of the rural fire protection

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

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district, that provided the fire [suppression] protection service or contracted for provision of the
fire protection service may determine the cost of providing the fire [suppression] protection ser-
vice by use of a state standardized-costs schedule as approved by the State Fire Marshal.

(3) The cost charged for providing the fire [suppression] protection service may not be greater
than:

(a) The pro rata cost that would have been charged by the city, county or district for the
performance by the city, county or district of a similar fire [suppression] protection service within
its jurisdiction.; or

(b) The amount the county paid for provision of the fire protection service.

(4) If the cost is not paid within 30 days after the second billing, the governing body of the city
or county, or the district board of the rural fire protection district, that provided the fire [sup-
pression] protection service or contracted for provision of the fire protection service may bring
an action for the recovery of the unpaid cost from the owner of the real property upon which the
fire [suppression] protection service was rendered.

SECTION 3. ORS 476.330 is amended to read:

476.330. (1) The county court or board of county commissioners of any county may prevent and
control fire occurring within the limits of zone 2 in such county, and may for such purposes estab-
lish and maintain [fire fighting] fire-fighting and fire control facilities and contract with existing
fire control agencies, either individuals, associations, corporations, cities or rural fire protection
districts. The State Fire Marshal, upon the request of any county court or board of county com-
missioners, shall meet with and advise such county court or board of county commissioners as to
the establishment and maintenance of [fire fighting] fire-fighting and fire protection equipment and
facilities.

(2) If the court or board establishes [fire fighting] fire-fighting and fire protection equipment
and facilities, it shall not discontinue such equipment and facilities until at least three years after
notice of its intention to do so has been first published in a newspaper considered by the board to
be of general circulation in the county. The notice shall be published by four insertions in the
newspaper and 12 months shall elapse between each insertion.

(3) While the county court or board of county commissioners of any county is maintaining [fire
fighting] fire-fighting and fire protection equipment and facilities, the court or board may:

(a) Annually [shall] levy a tax upon the taxable property lying within zone 2 in the county, not
to exceed one-fourth of one percent (0.0025) of the [real market] assessed value of all taxable prop-
erty within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such
fire protection[.]; or

(b) Arrange for optional subscription to services that prevent or control fire occurring
within the limits of zone 2.

(4) Under subsection (3)(a) of this section, the court or board of county commissioners, upon
approval of the majority of the electors of zone 2 voting at a special election called for such a
purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the [real market] assessed value of all taxable property within the zone, computed in accordance with ORS
308.207. This special levy may be in addition to [the] a regular levy under subsection (3)(a) of this
section.

(5) To carry into effect any of the powers granted under this section, the court or board, when
authorized by a majority of the votes cast by the electors of the zone voting at an election called
for that purpose by the court or board, may borrow money and sell and dispose of general obligation
bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125) of the [real market] assessed value of all taxable property within the zone, computed in accordance with ORS 308.207.

(6) The tax limitations provided in subsections (3) and (4) of this section do not apply to taxes levied to pay principal or interest on outstanding bonds.

SECTION 4, ORS 476.520 is amended to read:

476.520. (1) The Governor may assign and make available for use and duty in any county, city or fire protection district, under the direction and command of an officer designated by the Governor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than an organization that possesses only one self-propelled pumping unit.

The Governor may make fire-fighting forces and equipment available under this section in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources.

(2) As used in this section, “fire-fighting organization” includes an entity that contracts with a county, city or fire protection district to provide fire protection services to the county, city or fire protection district.

SECTION 5, ORS 476.530 is amended to read:

476.530. The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire protection district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under the control of the chief executive or the head of the fire department, including fire-fighting forces contracted for by the county, city or fire protection district, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available.

SECTION 6, ORS 476.540 is amended to read:

476.540. Whenever the fire-fighting forces of any county, city or fire protection district, or the fire-fighting forces contracted for by any county, city or fire protection district, are rendering outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as though they were performing their duties in the political subdivision in which or by which they are normally employed.

SECTION 7, ORS 478.910 is amended to read:

478.910. A district board or board of county commissioners may, in accordance with ORS 198.510 to 198.600, adopt a fire prevention code.

SECTION 8, ORS 478.920 is amended to read:

478.920. The fire prevention code may provide reasonable regulations relating to:

(1) Prevention and suppression of fires.

(2) Mobile fire apparatus means of approach to buildings and structures.

(3) Providing fire-fighting water supplies and fire detection and suppression apparatus adequate for the protection of buildings and structures.

(4) Storage and use of combustibles and explosives.

(5) Construction, maintenance and regulation of fire escapes.

(6) Means and adequacy of exit in case of fires and the regulation and maintenance of fire and life safety features in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters,
all buildings, except private residences, which are occupied for sleeping purposes, and all other
places where large numbers of persons work, live or congregate from time to time for any purpose.
(7) Requiring the issuance of permits by the fire chief of the district or county before burning
trash or waste materials.

(8) Providing for the inspection of premises by officers designated by the board of directors or
board of county commissioners, and requiring the removal of fire hazards found on premises at
such inspections.

SECTION 9. ORS 478.927 is amended to read:
478.927. A district or county adopting a fire prevention code shall provide plan review at the
agency of the city or county responsible for the issuance of building permits for the orderly admin-
istration of that portion of the fire prevention code that requires approval prior to the issuance of
building permits.

SECTION 10. ORS 478.930 is amended to read:
478.930. When a district or county has adopted a fire prevention code as provided in ORS
478.910:
(1) No person shall violate the provisions of the code or fail to remove hazards found on in-
spection within the time set by the inspecting officer, after written notice to either the owner or
occupant of the premises.
(2) No person shall burn waste materials or trash in an unguarded manner without a permit,
when a permit is required by the district code, the county code or this chapter.

SECTION 11. ORS 478.940 is amended to read:
478.940. Copies of the fire prevention code shall be filed with the State Fire Marshal’s office and
a copy shall be posted at each fire station within the district or county.

SECTION 12. ORS 478.960 is amended to read:
478.960. (1) No one, within the boundaries of a district or county, shall cause or permit to be
initiated or maintained on one’s own property, or cause to be initiated or maintained on the property
of another, any open burning of commercial waste, demolition material, domestic waste, industrial
waste, land clearing debris or field burning without first securing permission from the fire chief of
the district or county and complying with the direction of the fire chief. A deputy of a fire chief
has the power to perform any act or duty of the fire chief under this section.
(2) The fire chief shall prescribe conditions upon which permission is granted and which are
necessary to be observed in setting the fire and preventing it from spreading and endangering life
or property or endangering the air resources of this state. The Environmental Quality Commission
shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day
under schedules adopted pursuant to ORS 468A.570 and ORS 468A.595. The State Fire Marshal shall
cause all fire chiefs and their deputies in the affected area to be notified of the type and time for
burning to be allowed on each day with updating messages each day as required. A fire chief or
deputy shall grant permission only in accordance with the schedule of the Environmental Quality
Commission but may reduce hours to be allowed for burning if necessary to prevent danger to life
or property from fire. The State Fire Marshal may refuse, revoke or postpone permission when
necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire,
notwithstanding any determination by the fire chief.
(3) Nothing in this section relieves a person starting a fire from responsibility for providing
adequate protection to prevent injury or damage to the person or property of another. If such
burning results in the escape of fire and injury or damage to the person or property of another, such
escape and damage or injury constitutes prima facie evidence that the burning was not safe.

(4) Within a district or county, no person shall, during the fire season declared under ORS 477.505, operate any equipment in forest harvesting or agricultural operations powered by an internal combustion engine on or within one-eighth of one mile of forestland unless each piece of equipment is provided with a fire extinguisher of sufficient size and capacity and with such other tools and fire-fighting equipment as may be reasonably required by the fire chief of the district or county. The provisions of this subsection do not apply to machinery regulated by ORS chapter 477.

(5) No person shall dispose of any building or building wreckage within a district or county by fire without having first secured permission therefor from the fire chief. No person shall refuse to comply with any reasonable requirements of the fire chief as to the safeguarding of such fire from spreading.

(6) This section is not intended to limit the authority of a district or county to adopt a fire prevention code as provided in ORS 478.910 to 478.940 or to issue permits when the burning is done by mechanical burners fired by liquefied petroleum gas.

(7) The fire chief shall maintain records of all permits and the conditions thereof, if any, that are issued for field burning under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection.

(8) Notwithstanding any other provision of this section:

(a) A permit is required for field burning authorized pursuant to ORS 468A.550 to 468A.620 and 468A.992.

(b) For a permit for the propane flaming of mint stubble, the fire chief may only prescribe conditions necessary to prevent the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone permission to conduct the propane flaming only when necessary to prevent danger to life or property from fire.

SECTION 13. ORS 478.965 is amended to read:

478.965. (1) If the fire-fighting apparatus or personnel, or either of a district or county, are required to respond and be used actively or on a standby basis in connection with the extinguishment or control of a fire that has been started or allowed to spread in willful violation of ORS 478.960 (1) to (5), the person responsible therefor shall be liable to the district or county furnishing such apparatus or personnel, or both, for the actual costs incurred by the district or county in controlling, extinguishing or patrolling the fire. Such costs may be recovered in an action prosecuted in the name of the district or county. The court may award reasonable attorney fees to the district or county if the district or county prevails in an action under this section. The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the district or county had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(2) An itemized statement of the actual costs incurred by the district or county, certified under oath by the treasurer of the district or county, shall be accepted as prima facie evidence of such costs in the action authorized by this section.

SECTION 14. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.