

House Bill 3404

Sponsored by Representative EVANS (at the request of 3160 Workgroup)

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**.

Establishes Oregon Wildfire Preparedness and Community Protection Fund and directs State Fire Marshal, State Forestry Department and Oregon Watershed Enhancement Board to make expenditures from fund for various activities related to restoration, protection and recovery from wildfires. Requires State Fire Marshal to reserve and transfer to revolving fund certain percentage of moneys from Oregon Wildfire Preparedness and Community Protection Fund for grants to rural fire protection districts.

Requires insurer each year to remit to Director of Department of Consumer and Business Services surcharge for each policy of insurance that is property insurance. Permits insurer each year to recoup from insureds amount insurer remitted to director. Requires director to deposit proceeds of surcharge into Oregon Wildfire Preparedness and Community Protection Fund.

Imposes filing fee for property taxes and requires remission of proceeds of fee, less specified percentage for administrative costs, to Oregon Wildfire Preparedness and Community Protection Fund.

Sunsets Act on July 1, 2031.

A BILL FOR AN ACT

1
2 Relating to wildfire recovery; creating new provisions; amending ORS 731.820; and providing for
3 revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1.** ORS 731.820 is amended to read:

6 731.820. (1)(a) For the purpose of maintaining **and paying the expenses of** the office of State
7 Fire Marshal [*and paying the expenses incident thereto*] **and for the purposes specified in sub-**
8 **section (4) of this section**, every insurer transacting insurance covering the peril of fire shall pay
9 a tax to the Director of the Department of Consumer and Business Services, on or before April 1
10 of each year, equal to 1.15 percent of the gross amount of premiums [*received by it or its insurance*
11 *producers*] **the insurer or the insurer's insurance producers receive** from such business, from
12 and under [*its*] **the insurer's** policies covering direct domestic risks in the preceding calendar year
13 after deducting the amount of return premiums paid and the amount of dividend payments made to
14 policyholders or, in the case of a reciprocal insurer, the amount of savings paid or credited to the
15 accounts of subscribers, with respect to such policies.

16 (b) For the purpose of paragraph (a) of this subsection the following portions of the amounts
17 required to be reported by line of business in the annual financial statement required by ORS
18 731.574 [*shall be considered*] **are** premiums for insurance covering the peril of fire:

19 (A) Fire, 100 percent.

20 (B) Homeowners and farm owners multiple peril, 65 percent.

21 (C) Commercial multiple peril, 50 percent.

22 (D) Inland marine, 20 percent.

23 (E) Automobile physical damage, eight percent.

24 (F) Aircraft physical damage, eight percent.

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.

1 (2) If an insurer ceases to do business or collect premiums on direct domestic risks, [it
2 thereupon] **the insurer** shall [make a] report to the director [of its] **concerning any** premiums sub-
3 ject to taxation as provided in subsection (1) of this section and collected or due as of the date when
4 [it] **the insurer** ceased to do business or collect premiums on direct domestic risks[, and not
5 theretofore] **that the insurer has not** reported **previously**, and shall [forthwith] **immediately** pay
6 to the director the tax [thereon] **due on the unreported policies**.

7 (3) If the director, during the period in which the director under ORS 731.836 may collect taxes
8 owing under this section, finds the amount of such taxes paid by an insurer to have been incorrect,
9 the director shall charge or credit the insurer with the difference between the correct amount of tax
10 and the amount actually paid.

11 **(4) The director shall deposit 15 percent of the amount the director collects each year**
12 **under subsection (1)(a) of this section into the Oregon Wildfire Preparedness and Community**
13 **Protection Fund.**

14 **SECTION 2.** ORS 731.820, as amended by section 1 of this 2021 Act, is amended to read:

15 731.820. (1)(a) For the purpose of maintaining and paying the expenses of the office of State Fire
16 Marshal [and for the purposes specified in subsection (4) of this section], every insurer transacting
17 insurance covering the peril of fire shall pay a tax to the Director of the Department of Consumer
18 and Business Services, on or before April 1 of each year, equal to 1.15 percent of the gross amount
19 of premiums the insurer or the insurer's insurance producers receive from such business, from and
20 under the insurer's policies covering direct domestic risks in the preceding calendar year after de-
21 ducting the amount of return premiums paid and the amount of dividend payments made to
22 policyholders or, in the case of a reciprocal insurer, the amount of savings paid or credited to the
23 accounts of subscribers, with respect to such policies.

24 (b) For the purpose of paragraph (a) of this subsection the following portions of the amounts
25 required to be reported by line of business in the annual financial statement required by ORS
26 731.574 are premiums for insurance covering the peril of fire:

27 (A) Fire, 100 percent.

28 (B) Homeowners and farm owners multiple peril, 65 percent.

29 (C) Commercial multiple peril, 50 percent.

30 (D) Inland marine, 20 percent.

31 (E) Automobile physical damage, eight percent.

32 (F) Aircraft physical damage, eight percent.

33 (2) If an insurer ceases to do business or collect premiums on direct domestic risks, the insurer
34 shall report to the director concerning any premiums subject to taxation as provided in subsection
35 (1) of this section and collected or due as of the date when the insurer ceased to do business or
36 collect premiums on direct domestic risks that the insurer has not reported previously, and shall
37 immediately pay to the director the tax due on the unreported policies.

38 (3) If the director, during the period in which the director under ORS 731.836 may collect taxes
39 owing under this section, finds the amount of such taxes paid by an insurer to have been incorrect,
40 the director shall charge or credit the insurer with the difference between the correct amount of tax
41 and the amount actually paid.

42 [(4) The director shall deposit 15 percent of the amount the director collects each year under sub-
43 section (1)(a) of this section into the Oregon Wildfire Preparedness and Community Protection Fund.]

44 **SECTION 3. Sections 4, 5 and 6 of this 2021 Act are added to and made a part of ORS**
45 **chapter 477.**

1 **SECTION 4.** (1) The Oregon Wildfire Preparedness and Community Protection Fund is
2 established in the State Treasury, separate and distinct from the General Fund. Moneys in
3 the Oregon Wildfire Preparedness and Community Protection Fund are continuously appro-
4 priated to the State Fire Marshal for the purposes specified in this section and section 5 of
5 this 2021 Act.

6 (2)(a) At the written request of the State Fire Marshal, the State Treasurer shall trans-
7 fer moneys from the balance available in the Oregon Wildfire Preparedness and Community
8 Protection Fund on August 1 of each year to the following funds in accordance with the al-
9 locations specified in each subparagraph of this paragraph:

10 (A) Sixty percent to the State Fire Marshal Fund. The State Fire Marshal shall retain
11 the transferred moneys in a special account and expend the moneys as provided in section
12 5 (1) of this 2021 Act.

13 (B) Twenty percent to the State Forestry Department Account. The State Forester shall
14 retain the transferred moneys in a special subaccount and expend the moneys as provided
15 in section 5 (2) of this 2021 Act.

16 (C) Twenty percent to the Watershed Conservation Grant Fund. The Oregon Watershed
17 Enhancement Board shall retain the transferred moneys in a special account and expend the
18 moneys as provided in section 5 (3) of this 2021 Act.

19 (b) Each agency that receives a transfer of funds from the Oregon Wildfire Preparedness
20 and Community Protection Fund under paragraph (a) of this subsection shall keep a record
21 of the account or subaccount into which the agency deposits the transferred moneys, indi-
22 cating the source of the transfer and the activity or program against which the agency
23 charges any withdrawal. An agency may invest the moneys in the applicable account or
24 subaccount described in paragraph (a)(A), (B) or (C) of this subsection in the same manner
25 as other state moneys. The agency must credit any interest earned on investments to the
26 appropriate account or subaccount.

27 (c) The State Fire Marshal shall reserve 15 percent of the moneys transferred from the
28 Oregon Wildfire Preparedness and Community Protection Fund to the State Fire Marshal
29 Fund under this subsection for transfer to the revolving fund described in section 6 of this
30 2021 Act.

31 (d) Each agency that receives a transfer of funds from the Oregon Wildfire Preparedness
32 and Community Protection Fund under paragraph (a) of this subsection may retain a portion
33 of the transferred moneys to pay the agency's costs in administering the account or subac-
34 count into which the agency deposits the transferred moneys.

35 (e) If moneys credited to an account or subaccount are withdrawn, transferred or oth-
36 erwise used for a program other than a program or activity described in section 5 of this 2021
37 Act, interest accrues at the rate specified in ORS 82.010 on the amount withdrawn from the
38 date of the withdrawal until the moneys are restored.

39 (3) The Director of the Department of Consumer and Business Services shall pay into the
40 State Treasury to the credit of the Oregon Wildfire Preparedness and Community Protection
41 Fund all moneys the director receives from the surcharge described in section 8 of this 2021
42 Act. The director may retain from the moneys the director receives an amount sufficient to
43 pay the director's costs of collecting the surcharge, and related costs.

44 (4) The total amount that the Director of the Department of Consumer and Business
45 Services and all agencies listed in subsection (2)(a) of this section may retain from the

1 moneys in the Oregon Wildfire Preparedness and Community Protection Fund to pay costs
2 associated with administering a fund, account, subaccount, expenditure, grant or program
3 described in this section or section 5 of this 2021 Act may not exceed, in the aggregate, more
4 than 10 percent of the balance of the Oregon Wildfire Preparedness and Community Pro-
5 tection Fund on August 1 of each year.

6 (5) The State Fire Marshal, the Oregon Watershed Enhancement Board and the State
7 Forestry Department may accept, from whatever source, gifts or grants of moneys given for
8 the purposes set forth in section 5 of this 2021 Act. Each agency shall deposit any such
9 moneys into the Oregon Wildfire Preparedness and Community Protection Fund. All moneys
10 deposited in this manner are available for allocation as described in subsection (2)(a) of this
11 section, unless the donor or grantor of the moneys specifies a condition for the use of the
12 moneys, in which case the agency that received the gift or grant shall use the moneys in
13 conformance with the condition the donor or grantor specified.

14 **SECTION 5.** (1)(a) The State Fire Marshal shall expend moneys or provide grants from
15 the special account of the State Fire Marshal Fund described in section 4 (2)(a)(A) of this
16 2021 Act to assist communities in:

17 (A) Preparing for and protecting against wildfires;

18 (B) Funding full-time firefighters; and

19 (C) Developing and implementing, in coordination with the State Forestry Department,
20 community wildfire protection plans and programs that are based upon or that comply with
21 standards promulgated by the National Fire Protection Association's Firewise USA and the
22 Fire Adapted Communities Learning Network or that otherwise serve community needs for
23 protection against wildfires.

24 (b) The State Fire Marshal shall adopt rules to guide the State Fire Marshal's imple-
25 mentation of the programs described in this subsection. At a minimum, the rules must:

26 (A) Specify the purposes, goals and criteria for funding projects under paragraph (a) of
27 this subsection, along with criteria for evaluating the success of each project;

28 (B) Specify the purposes, goals and eligibility criteria for grants under paragraph (a) of
29 this subsection, along with criteria for determining whether a grant recipient has made use
30 of grant moneys in accordance with the purposes and goals; and

31 (C) Provide forms and specify application procedures by means of which a community
32 may apply for a grant under this subsection.

33 (2)(a) The State Forestry Department shall use moneys from the special subaccount of
34 the State Forestry Department Account described in section 4 (2)(a)(B) of this 2021 Act to
35 provide grants or implement programs that:

36 (A) Restore landscape resiliency;

37 (B) Promote wildfire prevention education in coordination with the State Fire Marshal;

38 (C) Reduce hazardous fuel levels to improve forest health; and

39 (D) Reduce forest vulnerability to drought, insect infestation and disease by taking ap-
40 propriate forest management actions such as thinning and prescribed burning.

41 (b) In implementing the programs described in paragraph (a) of this subsection, the de-
42 partment shall give priority to programs, activities or projects that protect lives, communi-
43 ties and infrastructure, that improve and enhance watershed health, water quality and
44 resiliency in response to changes in the climate and that achieve reductions in wildfire risk.
45 After seeking and receiving necessary permissions and cooperation, the department may

1 **conduct programs on federal, state, tribal, local and private lands.**

2 **(c) The department shall establish a committee that includes representatives from other**
 3 **committees upon which the department relies for advice concerning the types of programs**
 4 **described in paragraph (a) of this subsection and representatives from insurers that are**
 5 **subject to the requirements of section 8 of this 2021 Act. The committee shall advise the**
 6 **department concerning priorities and allocation decisions the department makes under par-**
 7 **agraphs (a) and (b) of this subsection.**

8 **(3)(a) The Oregon Watershed Enhancement Board shall use moneys from the special ac-**
 9 **count of the Watershed Conservation Grant Fund described in section 4 (2)(a)(C) of this 2021**
 10 **Act to provide grants for programs, activities and projects on federal, state, tribal, local and**
 11 **private lands that:**

12 **(A) Restore landscape resiliency;**

13 **(B) Reduce hazardous fuel levels to improve forest health;**

14 **(C) Reduce forest vulnerability to drought, insect infestation and disease by taking ap-**
 15 **propriate forest management actions such as thinning and prescribed burning; and**

16 **(D) Support recovery activities such as reforestation, watershed rehabilitation, drinking**
 17 **water protection, slope stabilization and erosion control in areas that were subjected to**
 18 **wildfires.**

19 **(b) In making grants under paragraph (a) of this subsection, the board shall give priority**
 20 **to programs, activities or projects that:**

21 **(A) Improve and enhance watershed health, water quality and resiliency in response to**
 22 **changes in the climate; and**

23 **(B) Achieve reductions in wildfire risk.**

24 **(c) The board shall establish a committee that includes representatives of owners and**
 25 **managers of federal, state, tribal, local and private lands described in paragraph (a) of this**
 26 **subsection and representatives of insurers that are subject to the requirements of section 8**
 27 **of this 2021 Act. The committee shall advise the board concerning priorities and allocation**
 28 **decisions the board makes under this subsection.**

29 **(4) The department and the board shall each, by rule, devise appropriate standards for**
 30 **identifying and measuring improvements attributable to, and outcomes that result from, the**
 31 **respective grants, programs, activities and projects for which the department has responsi-**
 32 **bility under subsection (2)(a) of this section and for which the board has responsibility under**
 33 **subsection (3)(a) of this section. Subject to the judgment of the department or board, as ap-**
 34 **propriate, and to the advice of the appropriate committee described in subsection (2)(c) or**
 35 **(3)(c) of this section, improvements and outcomes may include, but are not limited to:**

36 **(a) The number of acres of land the grants, programs, activities and projects have**
 37 **brought to a measurable level of protection against wildfire;**

38 **(b) Comparative response times for fire protection resources before and after expenditure**
 39 **of grant moneys or implementation of the programs, activities or projects;**

40 **(c) Comparative measurements of property lost before and after expenditure of grant**
 41 **moneys or implementation of the programs, activities or projects;**

42 **(d) Estimates of savings in public expenditures for fire protection that result from ex-**
 43 **penditure of grant moneys or implementation of the programs, activities or projects;**

44 **(e) Changes in assessments of the risk of property damage or destruction before and af-**
 45 **ter expenditure of grant moneys or implementation of the programs, activities or projects;**

1 and

2 (f) Other measurements that program stakeholders identify or suggest.

3 (5) The State Fire Marshal, the State Forestry Department and the Oregon Watershed
4 Enhancement Board shall jointly:

5 (a) Consult and cooperate with each of the other agencies identified in this subsection in
6 adopting rules to implement the areas of responsibility each agency has under this section;
7 and

8 (b) Coordinate with each of the other agencies in developing and implementing programs
9 and activities to the maximum extent practicable in order to reduce duplication and over-
10 lapping or redundant efforts.

11 (6) By December 31 of each year, the State Fire Marshal, the State Forester and the
12 executive director of the Oregon Watershed Enhancement Board shall submit a joint report
13 to the Governor and to an interim committee of the Legislative Assembly with oversight
14 over forestry issues, with copies to insurers that are subject to the requirements of section
15 8 of this 2021 Act and to stakeholders associated with the agencies' grants, programs, ac-
16 tivities and projects under this section. The report must describe in detail the agencies' ac-
17 tivities under this section and, at a minimum, must include:

18 (a) A list of the amounts the agencies expended from the Oregon Wildfire Preparedness
19 and Community Protection Fund during the previous 12 months;

20 (b) A list of the projects the agencies funded or conducted in the previous 12 months,
21 together with the cost of each project and a summary of the goals and results of each
22 project;

23 (c) A list of all grants the State Fire Marshal awarded within the previous 12 months
24 under subsection (1)(a) of this section and section 6 of this 2021 Act, along with a list of the
25 grant recipients, the amount each grant recipient received and the purpose and goals of each
26 grant; and

27 (d) A list of projects, grants and other activities the agencies have planned for the up-
28 coming calendar year.

29 **SECTION 6.** (1) The State Fire Marshal shall use the amount reserved in the State Fire
30 Marshal Fund under section 4 (2)(c) of this 2021 Act to create a revolving fund from which
31 the State Fire Marshal may disburse moneys to rural fire protection districts located within
32 areas of this state that are at a high risk for wildfires and that lack necessary critical ca-
33 pacities for responding to wildfire emergencies within the boundaries of the rural fire pro-
34 tection district.

35 (2) The State Fire Marshal by rule may determine which areas of this state are at a high
36 risk of wildfires and the criteria for determining whether a rural fire protection district
37 lacks necessary critical capacity for responding to wildfire emergencies.

38 **SECTION 7.** Section 8 of this 2021 Act is added to and made a part of ORS chapter 742.

39 **SECTION 8.** (1)(a) Every insurer that transacts insurance in this state shall remit to the
40 Director of the Department of Consumer and Business Services an annual surcharge of \$5
41 for each policy of insurance the insurer issues in this state that is property insurance, other
42 than policies of motor vehicle liability insurance or insurance that covers a tenant's loss of
43 personal property from residential premises. The surcharge is in addition to and not in lieu
44 of any other tax, fee or charge that the insurer is otherwise liable to pay. The insurer shall
45 remit the proceeds of the surcharge each calendar year as provided in paragraph (d) of this

1 subsection.

2 (b) An insurer shall pay the surcharge described in paragraph (a) of this subsection on
 3 the total number of policies the insurer retains in the insurer's portfolio on December 31 of
 4 each year.

5 (c) Regardless of the number of policies of insurance an insurer issues that are property
 6 insurance, the minimum amount that an insurer that transacts insurance in this state must
 7 remit to the director each calendar year under this subsection is \$1,000.

8 (d) Each insurer shall pay the amount due to the director under this subsection not later
 9 than July 15 of each year.

10 (2)(a) Not later than August 15 of each year, the director shall issue a notice of arrears
 11 to each insurer that fails to pay the amount due under this section by July 31 of that year.
 12 In the notice, the director shall provide an opportunity for the insurer to appeal the amount
 13 in arrears, shall specify the amount and schedule of any applicable late fees or penalties and
 14 shall indicate a date by which the insurer must pay the amount in arrears or be subject to
 15 the late fee or penalty and possible referral to the Department of Revenue for collection of
 16 the amount due.

17 (b) If the director determines after the insurer's appeal that the insurer's debt is valid
 18 and that the amount of the debt is correct or if the insurer has not paid an amount in ar-
 19 rears by the date indicated in the director's notice, the director shall make a final determi-
 20 nation of the amount due from the insurer, liquidate the debt and refer the debt to the
 21 Department of Revenue for collection under ORS 293.250.

22 (3)(a) Each insurer that is subject to the requirement set forth in subsection (1) of this
 23 section may recoup the amount for which the insurer is liable by one of the following
 24 methods:

25 (A) The insurer may each year charge and collect from each of the insurer's insureds
 26 not more than the amount of the surcharge on each of the insured's policies of insurance
 27 that is property insurance.

28 (B) The insurer may recoup the surcharge through the insurer's premium rates.

29 (b) An insurer that, in the first year after the surcharge is due, does not recoup under
 30 paragraph (a) of this subsection the entire amount the insurer remitted to the director under
 31 subsection (1) of this section may, during the following year, recoup the remaining amount
 32 by collecting a surcharge that exceeds the amount specified in paragraph (a) of this sub-
 33 section by not more than the amount necessary to recoup the surcharge.

34 (4)(a) A surcharge that an insurer collects under subsection (3) of this section is not a
 35 premium for any purpose, including liability for any tax upon premiums or any commissions
 36 that an insurance producer may receive.

37 (b) If an insurer elects to collect a surcharge under subsection (3)(a) of this section, the
 38 insurer shall disclose the amount and nature of the surcharge on a bill or policy declaration
 39 the insurer provides to an insured.

40 (5) The director shall deposit all moneys the director receives under this section into the
 41 Oregon Wildfire Preparedness and Community Protection Fund established under section 4
 42 of this 2021 Act.

43 **SECTION 9.** The surcharge described in section 8 of this 2021 Act applies to policies of
 44 insurance that an insurer issues or renews on or after the effective date of this 2021 Act.

45 **SECTION 10.** (1) An annual filing fee of \$10 is hereby imposed on all property tax ac-

1 counts in this state having a total real market value greater than \$350,000 as shown on the
2 assessment and tax roll for the property tax year to which the filing fee relates.

3 (2) The filing fee shall be shown on the assessment and tax roll and collected in the same
4 manner as ad valorem property taxes imposed on the tax account are collected, subject to
5 the same provisions relating to refunds, delinquency and appeals, as applicable.

6 (3)(a) The tax collector may withhold four percent of the amount of the filing fees col-
7 lected to reimburse the county for the costs of administration relating to the filing fee.

8 (b) The balance of the filing fees shall be deposited in the Oregon Wildfire Preparedness
9 and Community Protection Fund established under section 4 of this 2021 Act and may be used
10 for any purposes for which moneys in the fund may be used.

11 SECTION 11. Section 10 of this 2021 Act applies to property tax years beginning on or
12 after July 1, 2022.

13 SECTION 12. The amendments to ORS 731.820 by section 2 of this 2021 Act become op-
14 erative on July 1, 2031.

15 SECTION 13. Sections 4, 5, 6, 8 and 10 of this 2021 Act are repealed on July 1, 2031.
16
