

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 80 - A11**

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Requires the Department of Forestry to establish the Prescribed Fire Liability Pilot Program. Establishes the Prescribed Fire Claims Fund and Landscape Resilience Fund and modifies the Community Risk Reduction Fund. Makes changes to the statewide wildfire hazard map. Makes certain changes related to statewide wildfire hazard map.

Government Unit(s) Affected:

Oregon Health Authority, Department of Human Services, Higher Education Coordinating Commission, Department of Justice, Employment Department, Burns Paiute Tribe, Confederated Tribes of Grand Ronde, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Siletz, Confederated Tribes of Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Coquille Indian Tribe, Cow Creek Band of Umpqua Indians, Department of Land Conservation and Development, Klamath Tribes, Department of Consumer and Business Services, Department of the State Fire Marshal, Legislative Assembly, Judicial Department, Counties, Department of Forestry

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

	2023-25 Biennium	2025-27 Biennium
Department of Consumer and Business Services		
General Fund	\$5,000,000	\$0
Other Funds*	\$5,000,000	\$0
<i>Total Funds</i>	\$10,000,000	\$0
Department of the State Fire Marshal		
General Fund	\$3,000,000	\$0
Other Funds*	\$3,000,000	\$0
<i>Total Funds</i>	\$6,000,000	\$0
Higher Education Coordinating Commission		
General Fund	\$876,173	\$390,000
<i>Total Funds</i>	\$876,173	\$390,000
Department of Forestry		
General Fund	\$592,037	\$226,862
<i>Total Funds</i>	\$592,037	\$226,862
<i>Positions</i>	1	1
<i>FTE</i>	1.00	1.00
Total Fiscal Impact	\$17,468,210	\$616,862
<i>Total Positions</i>	1	1
<i>Total FTE</i>	1.00	1.00

*Represents General Fund expended as Other Funds

Analysis:

The measure modifies requirements relating to the statewide wildfire hazard map, which displays wildfire hazard zones. Property hazard zone assignments may be appealed as a contested case hearing. The Oregon Department of Forestry (ODF) and Oregon State University (OSU) are to provide for robust community engagement, and ODF is also required to meet with county commissioners eight times, in-person, throughout the state before the draft map is released. When the draft map is released, ODF is to accept public comments on the map, and meet again with county commissioners in a meeting scheduled by the Association of Oregon Counties.

The measure establishes the Landscape Resiliency Fund, with moneys in the fund continuously appropriated to ODF for implementation of ORS 477.503, as well as landscape resiliency projects. The measure also modifies the Community Risk Reduction Fund, with both the Community Risk Reduction Fund and Landscape Resiliency Fund consisting of all moneys placed in the fund as provided by law and any gifts, grants, donations, endowments, or bequests from any public or private source.

In addition, the measure expands grantee types for the Department of Human Services (DHS) existing clean air, warming, and cooling shelter grant program, permitting grants to go to nonprofits and faith-based organizations, and for grants to be used for non-public buildings. DHS is designated as the lead state agency for supporting operations for spaces that provide cleaner air, warming, or cooling, and not necessarily the lead state agency for operating these spaces.

Finally, the measure establishes a Prescribed Fire Liability Pilot Program and requires the Oregon Department of Forestry (ODF) to administer the program. The program is intended to increase the pace and scale of prescribed fire and cultural burning, reduce barriers for conducting burns, and support coverage from losses by nonpublic entities. The measure establishes the Prescribed Fire Claims Fund in the Department of Consumer and Business Services (DCBS) and appropriates \$5 million General Fund for the purposes of paying claims for losses arising from a prescribed fire or cultural burn up to the limitations imposed by ORS 30.271. The measure requires monies unexpended and unobligated on January 2, 2028, to be reverted to the General Fund.

In addition, the measure requires ODF and DCBS to report on the progress of the program to the Legislative Assembly by April 1, 2028. These provisions are repealed on January 2, 2028, however, the recommendations for revising and improving the program included in specified sections are not subject to repeal.

The measure declares an emergency and takes effect on July 1, 2023.

Department of Consumer and Business Services

The fiscal impact for DCBS is \$5 million General Fund in the 2023-25 biennium. The measure appropriates \$5 million General Fund and requires the agency to deposit the funds into the Prescribed Fire Claims Fund for claims from losses arising from prescribed fires or cultural burns, on tribal lands, private timber lands, state forest lands, and federal forest lands, when specified conditions related to those burns are met. DCBS reports the increased workload for the Central Services Division (CSD) can be absorbed with existing resources; however, depending upon the volume of legislation impacting CSD, the agency may need to request additional resources.

Department of the State Fire Marshal (DSFM)

The fiscal impact for the DSFM is \$3 million General Fund in the 2023-25 biennium. The measure appropriates \$3 million General Fund and requires the agency to deposit the funds into the Community Risk Reduction Fund for purposes of carrying out community risk reduction and local government financial assistance. There are no additional costs for administration of these funds.

Oregon Department of Forestry

The fiscal impact for ODF is \$592,037 General Fund in the 2023-25 biennium and \$226,862 General Fund in the 2025-27 biennium. The measure provides a one-time \$592,037 General Fund appropriation for the following requirements:

- \$242,037 for administering the Prescribed Fire Liability Pilot Program in the 2023-25 biennium. ODF anticipates needing one Natural Resource Specialist 3 (1.00 FTE) to investigate and compile incident reports for review and potential approval of claims. The Legislative Fiscal Office (LFO) notes that although ODF was able to quantify certain costs associated with the investigation of incidents, the number, frequency, and severity of those incidents is unpredictable. LFO notes that the measure provides one-time costs for the administration of the Pilot Program, however, ODF reports the administrative support for the program may extend into the 2025-27 biennium.
- \$175,000 to contract for facilitation services for rulemaking and county engagement; and with a call center for customer support.
- \$175,000 to mail notifications to property owners.

The measure also establishes the Landscape Resiliency Fund, with moneys in the fund continuously appropriated ODF for landscape resiliency work, and for implementation of ORS 477.503. ORS 477.503 directs ODF to design and implement a program to reduce wildfire risk through the restoration of landscape resiliency and reduction of hazardous fuel. However, the measure does not specifically direct ODF to perform any landscape resiliency-related work. Additionally, Oregon Laws 2021, Chapter 592, Section 20 requires any projects under ORS 477.503 be completed by June 30, 2023. LFO notes that that the sunset for the Landscape Resiliency projects is proposed to be extend to June 30, 2025 in the program change measure to allow continued distribution of funding for the program in ODF's budget.

This section of Oregon Law requires ODF report on projects undertaken to an interim committee of the Legislative Assembly related to natural resources, the Governor, State Wildfire Programs Director, and the Wildfire Programs Advisory Council by July 15, 2023. However, the measure requires the report to include recommendations for investment in future wildfire risk reduction projects to be carried out in the 2023-25 biennium. This reporting date is after the end of the 2021-23 biennium, therefore any requests for funding related to these projects will need to be made during a Legislative Emergency Board or the 2024 legislative session. The measure does not appropriate any funding for the Landscape Resiliency Fund, and does not provide Other Funds expenditure limitation which will be needed if ODF is supposed to make expenditures from this fund.

LFO notes that the total cost for legal services for the agency is indeterminate at this time. Depending on the level of cases, ODF may need to request additional resources during the Legislative Emergency Board or the 2024 legislative session to cover legal costs.

Higher Education Coordinating Commission

The fiscal impact for OSU is \$876,173 General Fund in the 2023-25 biennium. The measure provides a one-time \$876,173 General Fund appropriation to HECC to distribute to OSU.

A total of \$681,173 will be needed for the OSU College of Forestry for map development, including updating data and scenario planning. One communication position and associated services and supplies is needed to collaborate with other agencies and perform outreach. Costs also include \$165,000 for OSU Institute of Natural Resources to host and update the Oregon Wildfire Risk Explorer and other tools and \$30,000 for the OSU Extension Service to work with the Wildfire Programs Advisory Council.

OSU reports the estimated cost for the 2025-27 biennium is \$390,000. OSU anticipates needing \$360,000 for the OSU College of Forestry for map development and ongoing costs to update data and scenario planning, \$20,000 for OSU Institute of Natural Resources to host and update the Oregon Wildfire Risk Explorer and other tools, and \$30,000 for the OSU Extension Service to work with the Wildfire Programs Advisory Council.

There is a minimal fiscal impact for HECC to transfer funds to OSU.

Department of Justice (DOJ)

The fiscal impact for DOJ is indeterminate due to the number of landowners who may challenge their property designation on the state wildfire hazard map. Depending on the actual number of challenges, DOJ may bill ODF for additional legal services.

When the last map was published, approximately 750 challenges were filed. Therefore, based on historical data, ODF and DOJ estimate 450 challenges will be filed with the updated map, given the assumption that the map may mitigate some landowner concerns. The number of cases and case complexity may vary, which could increase or decrease estimated costs.

Other entities

There is a minimal fiscal impact for the Oregon Judicial Department, Oregon Employment Department, and Counties, and no fiscal impact for the Oregon Health Authority, Department of Land Conservation and Development, Legislative Assembly or Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, Confederated Tribes of Warm Springs, Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Umatilla Indian Reservation, Coquille Indian Tribe, Cow Creek Band of Umpqua Indians, Klamath Tribes.

There is a minimal fiscal impact to DHS. The measure expands who is eligible to receive grant funding for cleaner air spaces, however the measure does not require DHS to provide additional funding. Grant funding for clean air, warming, and cooling shelters, and a position for grant administration, was phased out of the DHS current service level budget for the 2023-25 biennium.