House Bill 2595

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.

Allows board of county commissioners to adopt fire prevention code for areas within county that are outside boundaries of rural fire protection districts.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to fire protection services; amending ORS 476.280, 476.290, 476.330, 478.910, 478.920, 478.927, 478.930, 478.940, 478.960 and 478.965; and declaring an emergency.

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.

(3) To provide the services described in subsection (1) of this section, a county may contract with a fire contractor that:

(a) Has received training approved by, and certification from, the Department of Public Safety Standards and Training; and

(b) Has a contract with a 9-1-1 jurisdiction, as defined in ORS 403.105.

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 or approved by the Department of 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] pro-
tection service.

(2) 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 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 city, county or district paid for provision of the fire protection ser-
vice.

(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 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, that are served by a 9-1-1 jurisdiction, as defined in ORS 403.105. The State Fire
Marshal, upon the request of any county court or board of county commissioners, shall meet with
and advise such county court or board of county commissioners as to the establishment and main-
tenance 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 478.910 is amended to read:

478.910. [A district board may,] In accordance with ORS 198.510 to 198.600[, adopt a fire prevention code.]

(1) A board of a rural fire protection district may adopt a fire prevention code for the district.

(2) A board of county commissioners may adopt a fire prevention code for areas within the county that are outside the boundaries of rural fire protection districts.

SECTION 5, 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 6, 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 administration of that portion of the fire prevention code that requires approval prior to the issuance of building permits.

SECTION 7, 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 inspection 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 8. ORS 478.940 is amended to read:

478.940. Copies of the fire prevention code shall be filed with the Department of the State Fire Marshal and a copy shall be posted at each fire station within the district or county.

SECTION 9. 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 10. 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 11. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.