

# House Bill 2985

Sponsored by Representative MARSH, Senators DEMBROW, GOLDEN; Representative OWENS, Senator FREDERICK (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**.

Directs Department of Consumer and Business Services to establish Prescribed Fire Liability Pilot Program and administer program or authorize Oregon Insurance Guaranty Association to administer program.

Establishes Prescribed Fire Claims Fund in State Treasury, separate and distinct from General Fund, for purposes related to program.

Appropriates moneys to department out of General Fund for deposit in Prescribed Fire Claims Fund.

Sunset program and fund January 2, 2028.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to prescribed fires; and declaring an emergency.

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

### **SECTION 1.** (1) **As used in this section:**

4 (a) **“Cultural burn” means the intentional application of fire to land by an Indian tribe**  
5 **or cultural fire practitioner to achieve cultural goals or objectives, including subsistence,**  
6 **ceremonial activities, biodiversity or other benefits.**

7 (b) **“Cultural fire practitioner” means a person associated with an Indian tribe with ex-**  
8 **perience in burning to meet cultural goals or objectives, including subsistence, ceremonial**  
9 **activities, biodiversity or other benefits.**

10 (2) **The Department of Consumer and Business Services shall:**

11 (a) **Establish a Prescribed Fire Liability Pilot Program.**

12 (b) **Administer the program or authorize the Oregon Insurance Guaranty Association**  
13 **created by ORS 734.550 to administer the program.**

14 (3) **The program must be administered to:**

15 (a) **Increase the pace and scale of the use of prescribed fire and cultural burning.**

16 (b) **Reduce barriers for conducting prescribed fires and cultural burning.**

17 (c) **Support coverage for losses from prescribed fires and cultural burning by nonpublic**  
18 **entities such as cultural fire practitioners, private landowners and nongovernmental entities.**

19 (4) **Under the program the department or association may reimburse claims related to:**

20 (a) **A prescribed fire conducted or supervised by the State Forester, a forest protective**  
21 **association or a Certified Burn Manager, pursuant to ORS 526.360.**

22 (b) **A cultural burn conducted or supervised by a cultural fire practitioner.**

23 (5) **The department or association may only reimburse a claim if:**

24 (a) **The State Forester, a forest protective association or a Certified Burn Manager re-**  
25 **viewed and approved a burn plan before the prescribed fire or cultural burning;**  
26

27 (b) **Any necessary permit was obtained before the prescribed fire or cultural burning was**

**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 conducted; and

2 (c) The prescribed fire or cultural burning complied with any requirements under a burn  
3 plan or permit.

4 (6) The maximum amount that the department or association may pay for a claim for  
5 losses arising from a prescribed fire or cultural burn is \$1,000,000.

6 (7) The department shall:

7 (a) Consult with other relevant state agencies, cultural fire practitioners, the State  
8 Forester, forest protective associations and Certified Burn Managers to establish guidelines  
9 for the program.

10 (b) Adopt the guidelines by rule.

11 (c) Make the guidelines publicly available on a department website.

12 (8) A person who interacts with an Indian tribe or cultural fire practitioner pursuant to  
13 this section shall respect tribal sovereignty, customs and culture.

14 (9) Notwithstanding any other provision of law, the state's liability for all claims for  
15 covered losses established pursuant to this section, and the guidelines developed by the de-  
16 partment pursuant to subsection (7) of this section, shall be limited as described in this  
17 section and to the amount in the Prescribed Fire Claims Fund established by section 2 of this  
18 2023 Act.

19 **SECTION 2.** (1) There is established in the State Treasury, separate and distinct from the  
20 General Fund, the Prescribed Fire Claims Fund. Interest earned by the fund shall be credited  
21 to the fund. All moneys in the fund are continuously appropriated to the Department of  
22 Consumer and Business Services for the program described in section 1 of this 2023 Act.

23 (2) The fund shall consist of all moneys credited to the fund, including moneys appropri-  
24 ated or transferred to the fund by the Legislative Assembly.

25 (3) If the department authorizes the Oregon Insurance Guaranty Association to admin-  
26 ister the program, the department shall distribute moneys in the fund to the association as  
27 necessary for the program.

28 **SECTION 3.** (1) Sections 1 and 2 of this 2023 Act are repealed on January 2, 2028.

29 (2) Any moneys in the Prescribed Fire Claims Fund that are unexpended and unobligated  
30 on the date of the repeal shall revert to the General Fund.

31 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-  
32 ated to the Department of Consumer and Business Services, for the biennium beginning July  
33 1, 2023, out of the General Fund, the amount of \$10,000,000, for deposit in the Prescribed Fire  
34 Claims Fund established by section 2 of this 2023 Act.

35 **SECTION 5.** This 2023 Act being necessary for the immediate preservation of the public  
36 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect  
37 on its passage.

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