

A-Engrossed
Senate Bill 860

Ordered by the Senate March 19
Including Senate Amendments dated March 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for State Fire Marshal)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows the State Fire Marshal and an agency to take actions for fire protection. Makes changes related to a fire policy council. (Flesch Readability Score: 61.0).

Grants certain authorities to the State Fire Marshal and the Department of the State Fire Marshal.

Makes certain changes related to the Governor's Fire Service Policy Council.

A BILL FOR AN ACT

1
2 Relating to fire protection; creating new provisions; and amending ORS 401.935, 401.980, 476.030,
3 476.033, 476.515, 476.550, 476.680 and 476.685.

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

5 **SECTION 1.** ORS 401.935 is amended to read:

6 401.935. (1) If county, city or district equipment is assigned and used under ORS 401.930 to re-
7 spond to a structural collapse or threat of imminent structural collapse in another county, city or
8 district, the state:

9 (a) Is liable for any resulting loss of, or damage to, the equipment.

10 (b) Shall pay any expense incurred by the responding county, city or district for transportation,
11 performance or maintenance of the equipment.

12 (2) A claim for loss, damage or expense under subsection (1) of this section must be filed within
13 60 days after the loss, damage or expense is incurred, or within any extension of time for filing the
14 claim granted by the Department of [*State Police*] **the State Fire Marshal**. The claim must include
15 an itemized notice of the claim, signed under oath, and be served by mail or personally upon the
16 department.

17 **SECTION 2.** ORS 401.980 is amended to read:

18 401.980. (1) Notwithstanding the provisions of any law, rule, ordinance, policy or order to the
19 contrary, any official of a public body, as defined in ORS 174.109, must grant credentialed or docu-
20 mented representatives of news media organizations access to scenes of wildfires or natural disas-
21 ters on public lands that are otherwise closed to the public.

22 (2) Access by news media representatives to scenes of wildfires or natural disasters may be de-
23 nied at the sole discretion of an on-site scene commander or the designee of an on-site scene
24 commander.

25 (3) In compliance with voluntary guidelines for recognition of news media representatives es-

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 tablished under ORS 401.981, an official of a public body may request news media representatives
2 to present credentials verifying completion of basic fire and natural disaster site safety training
3 approved by an association representing professional news media and an association representing
4 public safety agencies. The training must include at least all of the following:

5 (a) Protocol for early phases of a fire or natural disaster before a formal public safety command
6 structure is established.

7 (b) Appropriate types of personal protective equipment and the uses of that equipment.

8 (c) Driving and parking practices at wildfire and natural disaster sites.

9 (d) Basic safety practices at wildfire and natural disaster sites.

10 (e) Authority of on-site scene commanders.

11 (4)(a) Except as described in subsection (2) of this section, an on-site scene commander or a
12 designee of an on-site scene commander may, in their sole discretion, grant credentialed or docu-
13 mented news media representatives access to a scene of a wildfire or natural disaster without es-
14 cort, provided that the news media representatives agree that entry is at their own risk and without
15 promise of rescue.

16 (b) Nothing in paragraph (a) of this subsection may be interpreted to require that credentialed
17 or documented news media representatives be granted access to a scene of a wildfire or natural
18 disaster without escort.

19 (5) News media representatives must carry personal protective equipment appropriate for the
20 scene of a wildfire or natural disaster they intend to enter. News media representatives must pro-
21 vide their own personal protective equipment and are responsible for the condition of the equipment.
22 Public bodies are not required to supply personal protective equipment to news media represen-
23 tatives and are not required to assess the appropriateness or condition of the personal protective
24 equipment of news media representatives.

25 (6) A public body or public employee may not be held liable for the injury or death of a news
26 media representative after the representative has entered the scene of a wildfire or natural disaster.

27 (7) The State Forestry Department, Department of State Police, **Department of the State Fire**
28 **Marshal** and any other state agency with responsibility for wildfire or natural disaster response
29 may provide technical assistance to professional or trade associations representing news media or
30 public bodies for the purpose of facilitating safety education.

31 (8) Representatives of news media organizations may not impede wildfire or natural disaster
32 response vehicles through actions including but not limited to inappropriately parking a vehicle or
33 failing to yield to a public safety vehicle. Any unattended vehicle that impedes public safety or
34 emergency vehicle access to a scene of wildfire or natural disaster may be towed without notice.

35 (9) Nothing in this section alters the applicability of Federal Aviation Administration regu-
36 lations that govern the closure or restriction of airspace over incidents that constitute the scene
37 of a wildfire or natural disaster.

38 (10) This section does not apply to privately owned property and does not serve as an imped-
39 iment to application of trespass laws, rules or ordinances.

40 (11) This section does not apply to property owned by:

41 (a) School districts, as defined in ORS 332.002;

42 (b) Public charter schools, as defined in ORS 338.005;

43 (c) Education service districts, as defined in ORS 334.003;

44 (d) Community college districts, as defined in ORS 341.005; or

45 (e) Public universities listed in ORS 352.002.

1 (12) Nothing in this section may be construed to require a public body to issue news media
2 credentials or to maintain a list of credentialed news media representatives.

3 **SECTION 3.** ORS 476.030 is amended to read:

4 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

5 (a) The prevention of fires.

6 (b) The storage and use of combustibles and explosives.

7 (c) The maintenance and regulation of structural fire safety features in occupied structures and
8 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,
9 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private
10 residences, which are occupied for sleeping purposes, and all other places where large numbers of
11 persons work, live or congregate from time to time for any purpose except that structural changes
12 shall not be required in buildings built, occupied and maintained in conformity with state building
13 code regulations applicable at the time of construction.

14 (d) Standards for equipment used for fire protection purposes within this state including stand-
15 ard thread for fire hose couplings and hydrant fittings.

16 **(e) The administration of laws that the Department of the State Fire Marshal is charged**
17 **with administering.**

18 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties
19 as are prescribed by law.

20 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-
21 acted adequate regulations generally conforming to state and national standards concerning fire
22 prevention, fire safety measures and building construction requirements for safety, and if the gov-
23 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal
24 may exempt the area subject to such regulation either partially or fully from the statutes, rules and
25 regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the
26 State Fire Marshal may request from the Department of Public Safety Standards and Training con-
27 sideration of and recommendations regarding the exemption. The exemption may extend for a two-
28 year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal
29 following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's
30 regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall
31 furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire
32 Marshal any amendment thereto within 30 days before the effective date of such amendment. The
33 State Fire Marshal shall designate a person or division within such governmental subdivision as an
34 approved authority for exercising functions relating to fire prevention, fire safety measures and
35 building construction. Upon request of a local official having enforcement responsibility and a
36 showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make
37 investigation and appropriate recommendations.

38 (4) The State Fire Marshal, **or a designated representative of the State Fire Marshal**, may
39 investigate or cause an investigation to be made to determine the probable cause, origin and cir-
40 cumstances of any fire and shall classify such findings as the State Fire Marshal, **or a designated**
41 **representative of the State Fire Marshal**, may find appropriate to promote fire protection and
42 prevention.

43 *[(5) The State Fire Marshal shall provide training in fire safety inspection to the Department of*
44 *Human Services, area agencies, the Oregon Health Authority, community mental health programs, de-*
45 *velopmental disabilities programs and designees of the Long Term Care Ombudsman and the Resi-*

1 *dential Facilities Ombudsman. If an adult foster home has been inspected by the Department of Human*
2 *Services, the Oregon Health Authority, an area agency, a community mental health program or a de-*
3 *velopmental disabilities program and the agency conducting the inspection reasonably believes that the*
4 *adult foster home is not in compliance with applicable fire safety rules, the agency conducting the in-*
5 *spection may request the State Fire Marshal to inspect or cause an inspection to be made. If a designee*
6 *of the Long Term Care Ombudsman or the Residential Facilities Ombudsman, in the course of visiting*
7 *an adult foster home, believes that the adult foster home is not in compliance with applicable fire safety*
8 *rules, the designee shall report the problem to the appropriate agency to request a fire safety inspection*
9 *by the State Fire Marshal or by a designated representative of the State Fire Marshal.]*

10 [(6) Upon the request of the Department of Human Services, the Oregon Health Authority, an area
11 agency, a community mental health program or a developmental disabilities program, the State Fire
12 Marshal shall inspect or cause an inspection to be made to determine if the adult foster home is in
13 compliance with rules jointly adopted by the Department of Human Services and the State Fire Mar-
14 shal establishing fire safety standards for adult foster homes.]

15 [(7) As used in subsections (5) and (6) of this section:]

16 [(a) "Adult foster home" has the meaning given that term in ORS 443.705.]

17 [(b) "Area agency" has the meaning given that term in ORS 410.040.]

18 [(c) "Community mental health program" means a program established under ORS 430.620 (1)(b).]

19 [(d) "Developmental disabilities program" means a program established under ORS 430.620
20 (1)(a).]

21 **SECTION 4. (1) As used in this section:**

22 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

23 (b) "Area agency" has the meaning given that term in ORS 410.040.

24 (c) "Community developmental disabilities program" means a program established under
25 ORS 430.620 (1)(a).

26 (d) "Community mental health program" means a program established under ORS 430.620
27 (1)(b).

28 (2) The State Fire Marshal shall provide training in fire safety inspection to the Depart-
29 ment of Human Services, area agencies, the Oregon Health Authority, community mental
30 health programs, community developmental disabilities programs and designees of the Long
31 Term Care Ombudsman and the Residential Facilities Ombudsman.

32 (3) If an adult foster home has been inspected by the Department of Human Services, the
33 Oregon Health Authority, an area agency, a community mental health program or a com-
34 munity developmental disabilities program and the agency conducting the inspection rea-
35 sonably believes that the adult foster home is not in compliance with applicable fire safety
36 rules, the agency conducting the inspection may request that the State Fire Marshal inspect
37 or cause an inspection to be made.

38 (4) If a designee of the Long Term Care Ombudsman or the Residential Facilities Om-
39 budsman, in the course of visiting an adult foster home, believes that the adult foster home
40 is not in compliance with applicable fire safety rules, the designee shall report the problem
41 to the appropriate agency to request a fire safety inspection by the State Fire Marshal or
42 by a designated representative of the State Fire Marshal.

43 (5) Upon the request of the Department of Human Services, the Oregon Health Author-
44 ity, an area agency, a community mental health program or a community developmental
45 disabilities program, the State Fire Marshal shall inspect or cause an inspection to be made

1 **to determine if the adult foster home is in compliance with rules jointly adopted by the De-**
2 **partment of Human Services and the State Fire Marshal establishing fire safety standards**
3 **for adult foster homes.**

4 **SECTION 5.** ORS 476.033 is amended to read:

5 476.033. The State Fire Marshal may:

6 (1) Establish headquarters and regional offices of the Department of the State Fire Marshal at
7 places the State Fire Marshal considers advisable for the protection of this state;

8 (2) Operate, and authorize chief deputy state fire marshals, deputy state fire marshals and as-
9 sistants of the department to own and operate, emergency response vehicles;

10 (3) Use land and buildings for the accommodation of department employees and department ve-
11 hicles and equipment;

12 (4) Contract or otherwise cooperate with any person or public agency for the procurement of
13 necessary services or property, including by entering into lease agreements and taking title to real
14 property as necessary for the performance of the duties of the department;

15 (5) As **the head of** an emergency services agency, [*control and regulate the acquisition, operation,*
16 *use, maintenance and disposal of, and access to, motor vehicles and equipment for official state*
17 *business*] **purchase and dispose of or contract for any materials, supplies, equipment or motor**
18 **vehicles deemed necessary for carrying out the duties and authorities of the State Fire**
19 **Marshal and the department;**

20 (6) Accept and distribute gifts, grants, donations and funds from any source, including services
21 and property, to carry out the duties **and authorities** of the State Fire Marshal; and

22 (7) Perform such other duties as required by law.

23 **SECTION 6.** ORS 476.515 is amended to read:

24 476.515. If the Governor is unavailable to make timely exercise of the authority under ORS
25 476.510 to 476.610, the [*Superintendent of State Police*] **State Fire Marshal** may exercise such au-
26 thority, and if that individual is unavailable [*the State Fire Marshal*] **a chief deputy state fire**
27 **marshal** may exercise such authority. Any orders, rules or regulations issued by [*the Superintendent*
28 *of State Police or*] the State Fire Marshal **or a chief deputy state fire marshal** pursuant to this
29 section have the same force and effect as if issued by the Governor.

30 **SECTION 7.** ORS 476.550 is amended to read:

31 476.550. When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable
32 for any loss thereof or damage thereto and shall pay any expense incurred in the operation or
33 maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within
34 60 days after it has been sustained or incurred, or within such extension of such time as may have
35 been obtained from the Department of [*State Police*] **the State Fire Marshal**, an itemized notice of
36 such claim, under oath, is served by mail or personally upon the department [*of State Police*] and
37 such loss, damage or expense shall be payable from the Emergency Fund of the state.

38 **SECTION 8.** ORS 476.680 is amended to read:

39 476.680. (1) There is created the Governor's Fire Service Policy Council. The council shall in-
40 clude the following nonvoting ex officio members:

41 [*(a) The Superintendent of State Police; and*]

42 [*(b)*] **(a)** The Director of the Department of Public Safety Standards and Training, or a designee
43 thereof.

44 **(b) A designee of the Oregon Health Authority who is involved with administering the**
45 **comprehensive emergency medical services and trauma system described in ORS 431A.050.**

1 (2) The State Fire Marshal shall serve as executive director of the council, but is not a member.
2 The council shall meet at least quarterly. The council shall select a chairperson and vice chair-
3 person at the first council meeting of each odd-numbered year. The council may elect additional of-
4 ficers as the council determines to be reasonable and necessary.

5 (3) In addition to the ex officio members identified in subsection (1) of this section, the Governor
6 may designate a representative of the Governor to serve as a nonvoting member. The Governor may
7 also appoint not more than *[nine]* **12** members to serve on the council for three-year terms. Initial
8 terms of the appointed members may be adjusted to promote council stability. An appointed member
9 may not serve more than two consecutive terms. A member appointed by the Governor must be a
10 representative of one of the following:

11 (a) The Oregon Fire Chiefs Association or a successor or other organization representing fire
12 chiefs.

13 (b) The Oregon Fire District Directors Association or a successor or other organization repre-
14 senting fire district directors.

15 (c) The Oregon Fire Marshals Association or a successor or other organization representing fire
16 marshals.

17 (d) Property and casualty insurance providers.

18 (e) Employees of the Department of the State Fire Marshal.

19 (f) The Oregon State Fire Fighters Council or a successor or other organization representing
20 professional firefighters.

21 (g) The Oregon Volunteer Firefighters Association or a successor or other organization repre-
22 senting volunteer firefighters.

23 (h) The League of Oregon Cities or a successor or other organization representing municipi-
24 palities.

25 **(i) The Special Districts Association of Oregon or a successor or other organization rep-**
26 **resenting fire districts.**

27 **(j) A representative of a structural fire response agency of a federally recognized Oregon**
28 **Indian tribe.**

29 **(k) The Oregon Fire Service Office Administrators or a successor or other organization**
30 **representing administrative personnel that serves Oregon fire service agencies.**

31 *[(i)]* **(L)** The general public.

32 (4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term
33 of a member appointed by the Governor may be adjusted to limit the number of member terms ex-
34 piring in the same year.

35 (5) To the extent funding is available from moneys appropriated to the Department of the State
36 Fire Marshal, a member of the council is entitled to compensation and expenses as provided in ORS
37 292.495.

38 (6) The council shall advise the Governor and the *[Superintendent of State Police]* **State Fire**
39 **Marshal** on fire policy issues and *[serve in an advisory capacity to the State Fire Marshal on]* strat-
40 egies for the implementation of fire and life safety issues. The council may initiate advice to the
41 State Fire Marshal, *[the Superintendent of State Police]* and the Governor on any matter related to
42 the mission of the council. The council may not participate in the discussion of traditional labor
43 relations issues.

44 (7) The Department of the State Fire Marshal shall provide staff services to the council. All
45 agencies, departments and officers of this state are directed to assist the council in the performance

1 of its functions and to furnish information and advice as the council considers necessary.

2 **SECTION 9.** ORS 476.685 is amended to read:

3 476.685. The Governor's Fire Service Policy Council shall provide a biennial report to the Gov-
4 ernor on the [*overall performance*] **council's progress in supporting the mission** of the Department
5 of the State Fire Marshal. The report shall identify significant [*successes and improvement opportu-*
6 *nities*] **accomplishments, current challenges and opportunities for improvement.**

7
