

SENATE AMENDMENTS TO SENATE BILL 1536

By COMMITTEE ON WILDFIRE REDUCTION AND RECOVERY

February 14

1 On page 2 of the printed bill, line 5, after the semicolon insert “creating new provisions;
2 amending ORS 477.315;”.

3 Delete lines 7 through 45 and delete pages 3 through 9 and insert:
4

“UTILITIES

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6

7 “SECTION 1. Sections 2 to 8 of this 2020 Act are added to and made a part of ORS
8 chapter 757.

9 “SECTION 2. (1) As used in this section, ‘electric company’ has the meaning given that
10 term in ORS 757.600.

11 “(2) An electric company must have and operate in compliance with a risk-based wildfire
12 protection plan approved by the Public Utility Commission.

13 “(3) An electric company shall submit a risk-based wildfire protection plan to the com-
14 mission every three years. The plan must, at a minimum:

15 “(a) Identify areas within the service territory of the electric company that are subject
16 to a heightened risk of wildfire.

17 “(b) Identify a means for mitigating wildfire risk that is cost effective and reflects a
18 reasonable balancing of mitigation costs with the resulting reduction of wildfire risk.

19 “(c) Identify preventive actions and programs that the electric company will carry out
20 to minimize the risk of company facilities causing a wildfire.

21 “(d) Identify a protocol for the deenergizing of power lines and adjusting power system
22 operations to mitigate wildfires, promote the safety of the public and first responders and
23 preserve health and communication infrastructure.

24 “(e) Describe the procedures, standards and time frames that the electric company will
25 use to inspect company infrastructure in areas that the company identifies under paragraph
26 (a) of this subsection.

27 “(f) Describe the procedures, standards and time frames that the electric company will
28 use to carry out vegetation management in areas that the company identifies under para-
29 graph (a) of this subsection.

30 “(g) Identify the development, implementation and administration costs for the plan.

31 “(h) Identify the community outreach and public awareness efforts that the electric
32 company will use before, during and after a wildfire season.

33 “(4) The commission, in consultation with the State Forestry Department and local
34 emergency services agencies, shall review a wildfire protection plan that an electric company
35 submits under this section. The commission shall:

1 requirements adopted under this subsection that are greater than the minimum defensible
2 space requirements established by the State Fire Marshal. The State Fire Marshal and the
3 local government shall coordinate any inspection and enforcement efforts described in this
4 subsection.

5 “(4) If a local government contracts under subsection (2) of this section to administer
6 and enforce minimum defensible space requirements established by the State Fire Marshal
7 within the jurisdiction of the local government, the local government shall periodically report
8 to the State Fire Marshal regarding whether lands within the jurisdiction of the local gov-
9 ernment are in compliance with the applicable minimum defensible space requirements. The
10 reports shall state the extent of compliance for each property, the change in degree of
11 compliance since the previous report and any other information required by the State Fire
12 Marshal by rule. In addition to requiring periodic reports, the State Fire Marshal may at any
13 time require a local jurisdiction to report the defensible space conditions for any lands on
14 which minimum defensible space requirements are enforced by the local government.

15 “(5) The State Fire Marshal shall oversee and coordinate the development and mainte-
16 nance of a comprehensive statewide map showing lands for which the State Fire Marshal has
17 established minimum defensible space requirements under subsection (1) of this section, the
18 requirements applicable to those lands and the degree of compliance on those lands with the
19 applicable requirements.

20 “(6) The State Fire Marshal shall administer and enforce a program to provide financial,
21 administrative, technical or other assistance to a local government to facilitate the admin-
22 istration and enforcement of minimum defensible space requirements within the jurisdiction
23 of the local government. A local government shall expend financial assistance provided by
24 the State Fire Marshal under this subsection to give priority to the creation of defensible
25 space on lands owned by communities of color, indigenous communities, persons with limited
26 proficiency in English and persons of lower income as defined in ORS 456.055.

27 “SECTION 12. The Wildfire Defensible Space Fund is established in the State Treasury,
28 separate and distinct from the General Fund. Interest earned by the Wildfire Defensible
29 Space Fund shall be credited to the fund. Moneys in the fund are continuously appropriated
30 to the State Fire Marshal for the purpose of carrying out the local government financial
31 assistance program described in section 11 of this 2020 Act.

32 “SECTION 13. (1) The State Fire Marshal shall annually report regarding the status of
33 State Fire Marshal and local government activities for carrying out section 11 of this 2020
34 Act to the Legislative Assembly in the manner provided in ORS 192.245 on or before the date
35 of convening of the regular session of the Legislative Assembly as specified in ORS 171.010.

36 “(2) The report shall include, but need not be limited to:

37 “(a) A status report regarding the establishment, administration and enforcement of
38 defensible space requirements;

39 “(b) The amount of moneys expended during the year for the establishment, adminis-
40 tration or enforcement of defensible space requirements;

41 “(c) The amount of moneys expended during the year for the suppression of fires on
42 wildland-urban interface lands; and

43 “(d) Any recommendations of the State Fire Marshal for legislative action, including but
44 not limited to current or future resource needs for establishing, administering or enforcing
45 defensible space requirements.

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2
3 **“HEALTH EFFECTS**

4 **“SECTION 14. (1) As used in this section, ‘smoke filtration system’ means an air**
5 **filtration system capable of removing particulates and other harmful components of wildfire**
6 **smoke.**

7 **“(2) The Oregon Health Authority shall establish a program to increase the availability**
8 **of smoke filtration systems among persons vulnerable to the health effects of wildfire smoke**
9 **who reside in areas susceptible to wildfire smoke. The authority may issue grants for the**
10 **installation of smoke filtration systems in residential buildings, commercial buildings or**
11 **buildings open to the public in areas susceptible to wildfire smoke. The authority shall give**
12 **grant priority to installations in residential buildings occupied by persons of lower income**
13 **as defined in ORS 456.055 who are vulnerable to the health effects of wildfire smoke.**

14 **“(3) The authority may adopt rules establishing standards for smoke filtration systems**
15 **obtained with grant moneys received under this section including, but not limited to, mini-**
16 **imum acceptable efficiency for the removal of particulates and other harmful substances**
17 **generated by wildfires. The authority shall obtain information and advice from the Task**
18 **Force on Wildfire Smoke Health Effects established under section 19 of this 2020 Act.**

19 **“SECTION 15. Section 14 of this 2020 Act is amended to read:**

20 **Sec. 14. (1) As used in this section, ‘smoke filtration system’ means an air filtration system ca-**
21 **vable of removing particulates and other harmful components of wildfire smoke.**

22 **“(2) The Oregon Health Authority shall establish a program to increase the availability of smoke**
23 **filtration systems among persons vulnerable to the health effects of wildfire smoke who reside in**
24 **areas susceptible to wildfire smoke. The authority may issue grants for the installation of smoke**
25 **filtration systems in residential buildings, commercial buildings or buildings open to the public in**
26 **areas susceptible to wildfire smoke. The authority shall give grant priority to installations in resi-**
27 **dential buildings occupied by persons of lower income as defined in ORS 456.055 who are vulnerable**
28 **to the health effects of wildfire smoke.**

29 **“(3) The authority may adopt rules establishing standards for smoke filtration systems obtained**
30 **with grant moneys received under this section including, but not limited to, minimum acceptable**
31 **efficiency for the removal of particulates and other harmful substances generated by wildfires. [The**
32 **authority shall obtain information and advice from the Task Force on Wildfire Smoke Health Effects**
33 **established under section 19 of this 2020 Act.]**

34 **“SECTION 16. The amendments to section 14 of this 2020 Act by section 15 of this 2020**
35 **Act become operative on December 31, 2021.**

36 **“SECTION 17. The Wildfire Smoke Abatement Fund is established in the State Treasury,**
37 **separate and distinct from the General Fund. Interest earned by the Wildfire Smoke Abate-**
38 **ment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated**
39 **to the Oregon Health Authority for the purpose of carrying out the program required under**
40 **section 14 of this 2020 Act.**

41 **“SECTION 18. In addition to and not in lieu of any other appropriation, there is appro-**
42 **priated to the Oregon Health Authority, for the biennium ending June 30, 2021, out of the**
43 **General Fund, the amount of \$1,000,000 for deposit in the Wildfire Smoke Abatement Fund.**

44 **“SECTION 19. (1) The Task Force on Wildfire Smoke Health Effects is established.**

45 **“(2) The task force consists of seven members appointed by the Director of the Oregon**
Health Authority and having such qualifications as the director deems appropriate.

1 “(c) Significant public investment will be necessary to achieve the goal established in this
2 subsection.

3 “(d) State agencies and federal agencies are encouraged to seek and identify public
4 funding and to leverage public funding with other revenue sources to carry out the goal es-
5 tablished in this subsection.

6 “(e) The development of a plan to achieve the goal established in this subsection requires
7 a strong partnership among state agencies, federal agencies, nongovernmental entities and
8 landowners. The State Forestry Department is the appropriate agency to have primary re-
9 sponsibility for fostering that partnership and facilitating the development of the plan.

10 “(4) Short-term opportunities exist for making reductions in fuel levels and reductions
11 of other wildfire risks. This state should invest in those opportunities while engaged in the
12 program development process described in section 23 of this 2020 Act.

13 “SECTION 23. (1) The State Forestry Department shall cooperate with other state agen-
14 cies, federal agencies, nongovernmental entities and landowners to develop and implement a
15 program to treat forestlands and rangelands in this state for the reduction of fuel load levels
16 and reduction of other wildfire risks.

17 “(2) The program described in subsection (1) of this section must:

18 “(a) Specify types and levels of treatment and fuel load levels appropriate for achieving
19 program goals;

20 “(b) Provide for, but not be limited to, an expansion of department activities for the
21 restoration of federal forestlands within this state including, but not limited to, activities
22 under ORS 526.274 and 526.275;

23 “(c) Be designed to evaluate and prioritize the carrying out of treatment on any
24 forestlands and rangelands in this state without regard to ownership;

25 “(d) Maximize the use of state and federal resources to improve coordination and expe-
26 dite implementation of forestland and rangeland treatments;

27 “(e) Identify for biennial budget requests the capacity that must exist within state gov-
28 ernment in order to meet the treatment goals of the program; and

29 “(f) Identify the appropriate state agency to coordinate and oversee rangeland treat-
30 ments.

31 “(3) The program described in subsection (1) of this section must provide for the de-
32 partment to coordinate with managers of federal lands and private landowners to implement
33 fuel reduction treatments on lands that are in the four highest relative importance catego-
34 ries identified in the United States Forest Service report titled ‘Pacific Northwest Quantita-
35 tive Wildfire Risk Assessment: Methods and Results’ and dated April 9, 2018, or on which
36 treatment would provide a substantial benefit to this state.

37 “(4) The program described in subsection (1) of this section must provide that for
38 projects on federal land:

39 “(a) Treatment must be in conformance with federal law including, but not limited to,
40 the National Environmental Policy Act of 1973 (16 U.S.C. 4321 et seq.), the Endangered Spe-
41 cies Act of 1973 (16 U.S.C. 1531 et seq.) and the Clean Water Act (33 U.S.C. 1251 et seq.).

42 “(b) Treatment may not include commercial thinning on:

43 “(A) Inventoried roadless areas;

44 “(B) Riparian reserves identified in the Northwest Forest Plan or in Bureau of Land
45 Management resource management plans;

1 “(C) Late successional reserves, except to the extent consistent with the 2011 United
2 States Fish and Wildlife Service Revised Recovery Plan for the Northern Spotted Owl (*Strix*
3 *occidentalis caurina*);

4 “(D) Areas protected under the federal Wild and Scenic Rivers Act (16 U.S.C. 1271 et
5 seq.), national recreation areas, national monuments or areas protected under ORS 390.805
6 to 390.925;

7 “(E) Designated critical habitat for species listed as threatened or endangered under the
8 Endangered Species Act of 1973 or by the State Fish and Wildlife Commission under ORS
9 496.172, unless commercial thinning is already allowed under an existing environmental re-
10 view or recognized habitat recovery plan; or

11 “(F) Federally designated areas of critical environmental concern or federally designated
12 wilderness study areas.

13 “(c) Priority is to be given to:

14 “(A) Treatments that have received approval under the National Environmental Policy
15 Act (42 U.S.C. 4321 et seq.);

16 “(B) The completion of restoration treatment on lands where commercial harvesting has
17 occurred; and

18 “(C) The treatment of lands on which there are insufficient commercial timber resources
19 to offset the cost of restoration activities.

20 “(5) For treatment projects on private lands, the program described in subsection (1) of
21 this section must provide for the department to work with landowners and nongovernmental
22 entities to identify appropriate treatments and provide financial assistance for those treat-
23 ments.

24 “(6) The department shall determine whether state policy presents barriers to under-
25 taking increased implementation of treatment projects on private lands.

26 “(7) The department shall ensure that forestland and rangeland treatment projects under
27 the program described in subsection (1) of this section are carried out in coordination with
28 local collaborative groups, if any, Oregon State University and affected cities and counties.

29 “(8) The department shall develop consistent performance measures and condition-based
30 metrics for monitoring and communicating the effectiveness of state investments and project
31 actions in mitigating the risk of wildfire.

32 “(9) The program described in subsection (1) of this section must provide for the de-
33 partment to identify workforce development needs and develop funding proposals for those
34 needs, including but not limited to program funding proposals to ensure adequate contracting
35 capacity for undertaking increased implementation of the program.

36 “SECTION 24. The Forestland and Rangeland Treatment Fund is established in the State
37 Treasury, separate and distinct from the General Fund. Interest earned by the Forestland
38 and Rangeland Treatment Fund shall be credited to the fund. Moneys in the fund are con-
39 tinuously appropriated to the State Forestry Department for the purpose of carrying out
40 oversight of and forestland and rangeland treatment under the program described in section
41 23 of this 2020 Act.

42 “SECTION 25. The State Forestry Department shall report regarding the status of pro-
43 gram development and implementation under section 23 of this 2020 Act to an interim com-
44 mittee of the Legislative Assembly related to natural resources, in the manner provided
45 under ORS 192.245, no later than December 1, 2020. The report must include, but need not

1 be limited to, a summary of progress in developing program components regarding project
2 selection.

3
4 **“PROTECTION OF LAND**

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6 **“SECTION 26. (1) The State Forester, in collaboration with the State Fire Marshal, state**
7 **agencies and local governments as defined in ORS 174.116, shall adopt rules establishing**
8 **baseline levels of wildfire protection for lands that are outside of forest protection districts**
9 **and susceptible to wildfire. When establishing the baseline levels for lands, the State**
10 **Forester shall ensure that the levels are adapted to reflect regional conditions. A county, in**
11 **collaboration with the State Forester and the State Fire Marshal, may work to ensure that**
12 **all lands within the county that are outside of forest protection districts and susceptible to**
13 **wildfire are provided with wildfire protection services at the applicable baseline level or a**
14 **higher level. As used in this subsection, ‘forest protection districts’ means lands designated**
15 **in State Forester rules as provided under ORS 477.225.**

16 **“(2) A county, in collaboration with the State Forester and the State Fire Marshal, may:**

17 **“(a) Assist landowners, individuals and businesses with forming jurisdictions to provide**
18 **wildfire protection;**

19 **“(b) Assist landowners, individuals, businesses and jurisdictions with obtaining expansion**
20 **of or other changes to boundaries or facility locations of jurisdictions that provide wildfire**
21 **protection;**

22 **“(c) Assist jurisdictions to expand or adjust jurisdiction service boundaries to ensure**
23 **adequate wildfire protection for lands; and**

24 **“(d) Assist jurisdictions in developing wildfire protection facilities, equipment, training**
25 **and other resources adequate to ensure that the jurisdiction provides timely and effective**
26 **wildfire protection at the baseline level or higher on lands described in subsection (1) of this**
27 **section throughout the jurisdiction.**

28 **“(3) The State Forester may provide financial assistance to counties for carrying out**
29 **county duties under subsection (2) of this section from any funds made available to the State**
30 **Forester and designated for that purpose.**

31 **“SECTION 27. A county shall ensure no later than January 1, 2025, that all lands de-**
32 **scribed in section 26 (1) of this 2020 Act within the county have baseline level or higher**
33 **wildfire protection as described in section 26 of this 2020 Act.**

34 **“SECTION 28. ORS 477.315 is amended to read:**

35 **“477.315. As used in ORS 477.315 to 477.325:**

36 **“(1) ‘Rangeland’ means any land:**

37 **“(a) That is located in that part of the state lying easterly of the summit of the Cascade**
38 **Mountains;**

39 **“(b) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to**
40 **526.370; and**

41 **“(c) That [contains] may contain isolated tracts of forestland not so classified or not within a**
42 **forest protection district, or that is primarily land used for cultivating crops, rangeland, unde-**
43 **veloped land or undeveloped area containing sagebrush, juniper and similar growths.**

44 **“(2) ‘Rangeland protection association’ means an entity that has the purpose of protecting**
45 **rangeland from fire and is:**

1 “(a) Organized by owners of rangeland that is located within a rangeland protection system es-
2 tablished under ORS 477.320 and lies wholly outside any forest protection district; or

3 “(b) Organized with the approval of a county governing body to be a cost-neutral part of the
4 emergency management program in a county having 200,000 or more acres of rangeland that are
5 outside any forest protection district and are not protected by an association formed under para-
6 graph (a) of this subsection.

7
8 **“FUNDING STUDY**

9
10 **“SECTION 29. (1) The State Forestry Department shall contract for the services of a**
11 **private consultant to evaluate and make findings regarding:**

12 **“(a) Wildfire protection and suppression information, including but not limited to the**
13 **availability, accuracy and utility of the information;**

14 **“(b) The relative value delivered to public and private sectors from state-funded wildfire**
15 **suppression services, including but not limited to social, ecological and economic benefits;**

16 **“(c) Costs of Oregon wildfire protection and wildfire protection in similarly situated**
17 **states, adjusted to common bases suitable for comparison; and**

18 **“(d) Economic aspects of wildfire protection and suppression that vary within regions of**
19 **this state.**

20 **“(2) The consultant shall develop recommendations that include but need not be limited**
21 **to:**

22 **“(a) Possible means for producing wildfire protection and suppression information in a**
23 **manner that maximizes the value of the information without undue burdens on information**
24 **suppliers; and**

25 **“(b) Possible methods for allocating wildfire protection and suppression costs to achieve**
26 **equity in the distribution of costs and benefits.**

27 **“(3) The consultant shall report the findings and recommendations described in this**
28 **section to the Governor and an interim committee of the Legislative Assembly related to**
29 **natural resources in the manner provided by ORS 192.245 no later than September 15, 2022.**

30 **“SECTION 30. Section 29 of this 2020 Act is repealed on December 31, 2022.**

31
32 **“JOINT PARTNERSHIPS**

33
34 **“SECTION 31. The Governor may, as the Governor deems appropriate, authorize joint**
35 **partnerships between state and federal agencies to administer and enforce a wildfire strategy**
36 **program based on the recommendations contained in the ‘November 2019: Report and Rec-**
37 **ommendations’ of the Governor’s Council on Wildfire Response.**

38
39 **“COUNCIL**

40
41 **“SECTION 32. The Governor may assign duties to the Governor’s Council on Wildfire**
42 **Response as the Governor deems appropriate to assist state and local agencies and officials**
43 **to oversee and assist in the implementation of sections 2 to 27 and 29 to 31 of this 2020 Act**
44 **and the amendments to ORS 477.315 by section 28 of this 2020 Act or of other wildfire risk**
45 **reduction programs. The council’s duties may include, but need not be limited to, providing**

1 advice, suggesting priorities, recommending future actions and providing coordination with
2 federal agencies.

3 **“SECTION 33.** Section 32 of this 2020 Act is repealed on January 2, 2022.

4 **“SECTION 34.** (1) As used in this section, ‘sustainable’ means short-term and long-term
5 financial stability that provides the ability to implement, carry out, expand and maintain
6 activity.

7 **“(2)** The Governor’s Council on Wildfire Response shall report detailed recommendations
8 of the council for a sustainable model for funding a comprehensive wildfire strategy hat is
9 consistent with the recommendations contained in the ‘November 2019: Report and Recom-
10 mendations’ of the council.

11 **“(3)** The council shall report its recommendations to the Legislative Assembly as pro-
12 vided in ORS 192.245, and to the Governor, no later than October 31, 2020.

13 **“(4)** In developing recommendations and preparing the report described in this section,
14 the council:

15 **“(a)** Shall cooperate with relevant state agencies including, but not limited to, the State
16 Forestry Department, the State Fire Marshal, the Oregon Health Authority, the Office of
17 Emergency Management, the Department of Land Conservation and Development, the De-
18 partment of Consumer and Business Services, the State Department of Fish and Wildlife, the
19 Department of Environmental Quality and the Oregon Department of Administrative Ser-
20 vices;

21 **“(b)** Shall invite comments, advice or assistance from relevant federal agencies including,
22 but not limited to, the United States Forest Service and the Bureau of Land Management;

23 **“(c)** May contract with outside consultants and experts; and

24 **“(d)** Shall use the regular meetings of the council as a forum for receiving input from
25 council members and the public regarding content for the report.

26
27 **“CAPTIONS**

28
29 **“SECTION 35.** The unit captions used in this 2020 Act are provided only for the conven-
30 ience of the reader and do not become part of the statutory law of this state or express any
31 legislative intent in the enactment of this 2020 Act.

32
33 **“EMERGENCY CLAUSE**

34
35 **“SECTION 36.** This 2020 Act being necessary for the immediate preservation of the public
36 peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect
37 on its passage.”.