

SB 762 A STAFF MEASURE SUMMARY**Senate Committee On Natural Resources and Wildfire Recovery**

Action Date: 04/12/21**Action:** Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)**Vote:** 4-0-1-0**Yeas:** 4 - Golden, Kennemer, Patterson, Prozanski**Exc:** 1 - Heard**Fiscal:** Fiscal impact issued**Revenue:** Revenue impact issued**Prepared By:** Laura Kentnesse, LPRO Analyst**Meeting Dates:** 4/7, 4/9, 4/12

WHAT THE MEASURE DOES:

Requires the **Public Utilities Commission (PUC)** to **periodically convene workshops** for public utilities that provide electricity (public utilities), consumer-owned utilities (COUs), and electrical transmission and distribution system operators to share information related to wildfire best practices. Requires public utilities to have, and operate in compliance with, a regularly updated **risk-based wildfire protection plan** that is based on reasonable and prudent practices identified through the workshops, based on PUC standards adopted by rule, that addresses additional specified plan requirements, and that has been filed with and evaluated by the PUC. Requires the first plan to be submitted to the PUC by December 31, 2021. Requires the PUC to evaluate a public utility's plan and plan updates through a public process in consultation with others, to approve the plan or approve it with conditions provided it meets specified requirements, and to adopt rules for procedures and standards to mitigate risk. Provides for recoverability of reasonable operating costs. Authorizes the PUC to impose penalties and specifies maximum civil penalties for violation. Requires COUs to have, and operate in compliance with, a regularly updated **risk-based wildfire mitigation plan** approved by the utility's governing body. Requires COUs to submit the first plan by June 30, 2022 and to submit a copy of the approved plan to the PUC. Establishes the **definition of the wildland-urban interface (WUI)** as an area in which humans or human development meets or intermixes with wildland fuels, and repeals existing statutes to ensure consistency with new processes for WUI designation. Requires that the **Oregon Department of Forestry (ODF)**, in collaboration with others, oversee the development and maintenance of a publicly accessible, **comprehensive statewide map of wildfire risk** that contains specified components. Requires ODF by rule to establish WUI boundaries, wildfire risk criteria, and risk classes to be integrated into the statewide map. Requires ODF provide a progress report to a wildfire committee of the Legislative Assembly by December 31, 2021, and to complete the map by June 30, 2022. Requires the **State Fire Marshal** to establish **minimum defensible space requirements** on WUI lands identified on the statewide map by December 31, 2022. Requires the State Fire Marshal to select standards from the International Wildland-Urban Interface Code (2020 ed.) framework and to consult with the Oregon Fire Code Advisory Board in establishing Oregon-specific requirements. Establishes that defensible space requirements will apply statewide for all lands of the type identified in the map. Allows **local governments** to adopt more stringent defensible space requirements. Authorizes either the State Fire Marshal or a local government to **administer and enforce** the minimum defensible space requirements established by the State Fire Marshal. Directs the State Fire Marshal to administer a **community risk reduction program** that emphasizes education and prevention methods with respect to wildfire risk, defensible space enforcement, response planning, and community preparedness for wildfire. Requires the State Fire Marshal to provide financial, administrative, technical, or other assistance to local governments, and requires local governments to expend the assistance to prioritize creating defensible space on specified lands. Establishes the Community Risk Reduction Fund to carry out the program. Requires the State Fire Marshal to annually report to

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the legislature and establishes report requirements. Requires the Department of Land Conservation and Development (DLCD), in consultation with specified state agencies and local governments, to identify and recommend needed **updates to the statewide land use planning program and local comprehensive plans and zoning codes** to incorporate the wildfire risk map and minimize wildfire risk, in a report to a wildfire committee of the Legislative Assembly by October 1, 2022. Requires the Department of Consumer and Business Services (DCBS) to report to the Legislative Assembly by December 31, 2022 on dwellings that have been built to **R327 wildfire hazard mitigation building code standards** since the 2019 implementation of those standards, and to adopt R327 standards for new construction in high wildfire risk classes, operative December 31, 2022. Requires the Department of Environmental Quality (DEQ) to establish a program, including a grant program, to support local communities in developing **wildfire smoke response plans** and strategies to mitigate environmental and public health impacts. Requires DEQ to establish an **air quality monitoring program** to support communities in monitoring, interpreting, and communicating air quality data, and to conduct community outreach, deploy certain air quality monitoring equipment, and monitor meteorological conditions. Requires the Oregon Health Authority (OHA) to establish and implement a **clean air shelter grant program** and specifies that grant recipients must provide access to shelters at no charge. Establishes that the Department of Human Services (DHS) is the lead state agency for the operations of clean air shelters. Requires OHA to periodically report to the legislature on shelter use. Requires OHA to establish a grant program to increase the availability of **smoke filtration systems** among persons vulnerable to the health effects of smoke who reside in areas susceptible to wildfire smoke. Authorizes OHA to issue grants to install smoke filtration systems, replacement filters, and other housing interventions that facilitate effective smoke filtration systems, in residential and commercial buildings, and buildings open to the public. Requires OHA to prioritize residential buildings occupied by persons who qualify for the Oregon Health Plan or Medicaid, and who are vulnerable to health effects of smoke. Requires OHA to periodically report to the legislature on the use of smoke filtration systems. Adds "wildfire" to the state definition of "emergency." Requires the Office of Emergency Management (OEM) to update its **statewide emergency plan** to prepare for or respond to wildfire emergencies on an area-wide or statewide basis, including risk mitigation and evacuation planning. Requires OEM to coordinate with cities, counties, and other specified entities to ensure local efforts align with the statewide plan, and to provide training and community education. Requires ODF, in consultation and cooperation with others, to design and implement a **treatment program to reduce wildfire risk** on public or private forestlands and rangelands, and in communities near homes and critical infrastructure, completing project operations by June 30, 2023. Requires ODF to collaborate with Oregon State University and others to identify strategic landscapes that are ready for treatment, and to give priority to projects in the highest risk classes under the 2018 Pacific Northwest Quantitative Risk Assessment, on federal lands currently approved for treatment projects under the National Environmental Policy Act, and projects that meet human and ecological goals. Specifies certain project design objectives. Prohibits commercial thinning on specified protected lands. Requires ODF to develop performance measures and condition-based metrics for monitoring and communicating the effectiveness of state investments in mitigating wildfire risk. Requires ODF to report regarding the status of the program development and implementation by January 15, 2022 and again upon project completion June 30, 2023. Establishes an **Oregon Wildfire Workforce Corps Program** to reduce wildfire risk to communities and critical infrastructure, to create fire-adapted communities, and to engage youth and young adults in workforce training. Establishes a Governor-appointed Oregon Wildfire Workforce Advisory Committee (Advisory Committee) within the Higher Education Coordinating Commission to manage the program grant process and to engage private sector funding. Directs the Advisory Committee to consult with ODF to ensure the grant process awards funds to proposals that protect at-risk communities and infrastructure within the WUI and proposals that meet ODF fuel treatment standards. Establishes additional grant process requirements and priorities. Establishes the Oregon Wildfire Workforce Corps Fund to be used primarily for program grants, and requires the Advisory Committee to biennially submit a report to the legislature regarding program expenditures. Directs ODF to establish a **small woodland grant program** to provide competitive grants for small woodland owners of one to

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160 acres to reduce wildfire risk on their property, and requires ODF to set criteria for assessing grant applications and awarding grants. Directs ODF to establish by rule a **Certified Burn Manager** program. Requires ODF to consult with the Oregon Prescribed Fire Council concerning best practices for conducting the program, initiate rulemaking to establish the program, and provide a progress report to the Legislative Assembly by December 1, 2021. Allows a person to conduct a **prescribed fire** that burns across land ownership boundaries if the person obtains a permit, complies with its conditions, and obtains consent from relevant landowners. Requires related ODF rulemaking to be completed by November 30, 2022. Requires the State Forester in collaboration with others to adopt rules establishing **baseline levels of wildfire protection** for lands outside of forest protection districts that are susceptible to wildfire, and to ensure levels are adapted to reflect regional conditions. Authorizes the State Forester to provide financial assistance to **counties** to assist landowners with forming or modifying wildfire protection jurisdictions to ensure adequate protection, and to develop wildfire protection facilities, equipment, training, and other resources. Requires counties to ensure all applicable lands within the county have baseline level or higher wildfire protection by January 1, 2026. Requires ODF to consult and coordinate with the State Fire Marshal, other state and federal agencies, local fire defense board chiefs, and private stakeholders, to determine the adequacy of state, federal, and private **wildfire response capacity**, and **adequacy of available mutual aid** to provide wildfire response on WUI lands. Authorizes the State Fire Marshal to enter into contracts with other states for suppression coordination and response. Directs the Governor to appoint a **State Wildfire Programs Director** (Director) and requires the Director to oversee implementation of this Act, including ensuring program coordination and compliance with deadlines, assessing financial impacts, supervising staffing of the Wildfire Programs Advisory Council, reporting at least every 60 days to the Governor and legislative leaders to summarize implementation progress, note obstacles and opportunities, and catalog possibilities for future improvements, and exploring opportunities to further reduce wildfire risk in Oregon by engaging with insurance companies, electric utilities, congressional delegations, and federal agencies at a minimum. Establishes an 18-member **Wildfire Programs Advisory Council** (Council) to advise and assist the Director by: closely monitoring implementation of this Act, including defensible space, building codes, and land use applications of the comprehensive statewide wildfire risk map; providing advice on ways to modify programs to further reduce wildfire risk and ensure regional applications are appropriate; developing strategies to ensure promotion of the program and buy-in from regions and communities; and making specific recommendations related to needed updates to the statewide land use planning program and local comprehensive plans and zoning codes in a report to the Legislative Assembly by January 15, 2023. Specifies Council membership and processes. Requires ODF, DCBS, DLCDC, and the Office of the State Fire Marshal to cooperatively staff the Council, and requires the Council to submit an annual report to the Governor and appropriate legislative committees each December, beginning in December 2022, that describes implementation progress and recommends improvements. **Appropriates \$150 million General Fund moneys** for all duties and programs required by this Act. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Urgency to mitigate future wildfires and wildfire impacts in Oregon
- Statewide, regional, and local approaches to decision-making processes
- Stakeholder input opportunities in statewide map creation and its applications
- Actions and tools to reduce wildfire risk across landscapes and land ownerships
- History of 2019 Governor's Council on Wildfire Response and 2020 wildfire legislation

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Oregon Governor Kate Brown created the Governor's Council on Wildfire Response by executive order in January of 2019. The Council was tasked with reviewing Oregon's current model for wildfire prevention, preparedness,

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and response, and analyzing whether the current model is sustainable given increasing wildfire risks. The Council met regularly for nine months and formed three active subcommittees that focused on mitigation, fire suppression, and adaptation and recovery. The product of the Council's extensive work was a final report that concluded that some or all of the current models are not sufficient to ensure Oregon is prepared for increasingly severe wildfire seasons. During the 2020 legislative session, the Governor advanced Senate Bill 1536 as the omnibus package that most comprehensively addressed the needs outlined in the final report of the Council, and additional wildfire concepts were proposed by various legislators and committees.

Senate Bill 762 A would: require the Public Utilities Commission to periodically convene workshops on wildfire best practices; require electric utilities to create regularly updated wildfire plans; establish a wildland-urban interface (WUI) definition; require the Oregon Department of Forestry (ODF) to develop and maintain a publicly accessible comprehensive statewide map of wildfire risk that includes WUI boundaries and fire risk classes; require the State Fire Marshal to establish minimum defensible space requirements based on the statewide map and the International WUI Code framework; direct the State Fire Marshal to administer a community risk reduction program; require the Department of Land Conservation and Development to identify and recommend needed updates to the statewide land use planning program; require the Department of Consumer and Business Services to adopt R327 wildfire hazard mitigation building code standards for new construction in high wildfire risk classes; require the Department of Environmental Quality to establish programs related to community smoke response plans and air quality monitoring; require the Oregon Health Authority to establish programs related to clean air shelters and smoke filtration systems; add "wildfire" to the state definition of "emergency;" require the Office of Emergency Management to update its statewide emergency plan to include wildfire and to coordinate with cities, counties, and others to ensure local efforts align with the statewide plan; require ODF to design and implement a treatment program to reduce wildfire risk on public or private forestlands and rangelands, and in communities near homes and critical infrastructure; establish an Oregon Wildfire Workforce Corps grant program that engages youth and young adults in wildfire risk reduction work in the WUI; direct ODF to establish a small woodland grant program for hazardous fuel reduction; require ODF to establish by rule a Certified Burn Manager Program and the ability to conduct prescribed fires that burn across land ownership boundaries under certain conditions; require baseline levels of wildfire protection on specified lands within each county; ensure adequacy of wildfire response capacity; establish a State Wildfire Programs Director and Wildfire Programs Advisory Council to oversee implementation of this Act and to identify opportunities to further reduce wildfire risk in Oregon, and appropriate \$150 million General Fund moneys for all duties and programs required by this 2021 Act.