

# House Bill 2295

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.

Provides that fire-fighting forces and equipment of fire-fighting organization assigned under Emergency Conflagration Act include fire-fighting forces and equipment of entity that contracts with county, city or district to provide fire protection services.

Provides that board of county commissioners may adopt and enforce county fire prevention code.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to fire protection services; amending ORS 476.280, 476.290, 476.330, 476.520, 476.530,  
3 476.540, 478.910, 478.920, 478.927, 478.930, 478.940, 478.960 and 478.965; and declaring an emer-  
4 gency.

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

6 **SECTION 1.** ORS 476.280 is amended to read:

7 476.280. (1) The fire chief, or the representative of the fire chief, of any **county or** duly organ-  
8 ized municipal or rural fire protection district may extinguish any uncontrolled fire found to be  
9 burning in any unprotected area, if:

10 (a) The governing body of the city **or county** or the district board of the rural fire protection  
11 district, as the case may be, has authorized the fire chief and the representatives of the fire chief  
12 to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside  
13 of the boundaries of the city, **county** or district and that are causing or may cause an undue  
14 jeopardy to life or property; and

15 (b) The fire chief or the representative of the fire chief believes that such fire is causing or may  
16 cause undue jeopardy to life or property.

17 (2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and the rep-  
18 resentatives of the fire chief may employ the same means and resources used by them to extinguish  
19 similar fires within their jurisdiction.

20 **SECTION 2.** ORS 476.290 is amended to read:

21 476.290. (1) Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the  
22 city **or county**, or the district board of the rural fire protection district, that provided the fire  
23 [*suppression*] **protection** service **or contracted for provision of the fire protection service** may,  
24 on forms furnished by the State Fire Marshal for such purposes, bill the owner of the property in-  
25 volved in the fire for the cost of providing the fire [*suppression*] **protection** service.

26 (2) The governing body of the city **or county**, or the district board of the rural fire protection

**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 district, that provided the fire [*suppression*] **protection** service **or contracted for provision of the**  
 2 **fire protection service** may determine the cost of providing the fire [*suppression*] **protection** ser-  
 3 vice by use of a state standardized-costs schedule as approved by the State Fire Marshal.

4 (3) The cost charged for providing the fire [*suppression*] **protection** service may not be greater  
 5 than:

6 (a) The pro rata cost that would have been charged by the city, **county** or district for the  
 7 performance by the city, **county** or district of a similar fire [*suppression*] **protection** service within  
 8 its jurisdiction[.]; **or**

9 (b) **The amount the county paid for provision of the fire protection service.**

10 (4) If the cost is not paid within 30 days after the second billing, the governing body of the city  
 11 **or county**, or the district board of the rural fire protection district, that provided the fire [*sup-*  
 12 *pression*] **protection** service **or contracted for provision of the fire protection service** may bring  
 13 an action for the recovery of the unpaid cost from the owner of the real property upon which the  
 14 fire [*suppression*] **protection** service was rendered.

15 **SECTION 3.** ORS 476.330 is amended to read:

16 476.330. (1) The county court or board of county commissioners of any county may prevent and  
 17 control fire occurring within the limits of zone 2 in such county, and may for such purposes estab-  
 18 lish and maintain [*fire fighting*] **fire-fighting** and fire control facilities and contract with existing  
 19 fire control agencies, either individuals, associations, corporations, cities or rural fire protection  
 20 districts. The State Fire Marshal, upon the request of any county court or board of county com-  
 21 missioners, shall meet with and advise such county court or board of county commissioners as to  
 22 the establishment and maintenance of [*fire fighting*] **fire-fighting** and fire protection equipment and  
 23 facilities.

24 (2) If the court or board establishes [*fire fighting*] **fire-fighting** and fire protection equipment  
 25 and facilities, it shall not discontinue such equipment and facilities until at least three years after  
 26 notice of its intention to do so has been first published in a newspaper considered by the board to  
 27 be of general circulation in the county. The notice shall be published by four insertions in the  
 28 newspaper and 12 months shall elapse between each insertion.

29 (3) While the county court or board of county commissioners of any county is maintaining [*fire*  
 30 *fighting*] **fire-fighting** and fire protection equipment and facilities, the court or board **may**:

31 (a) Annually [*shall*] levy a tax upon the taxable property lying within zone 2 in the county, not  
 32 to exceed one-fourth of one percent (0.0025) of the [*real market*] **assessed** value of all taxable prop-  
 33 erty within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such  
 34 fire protection[.]; **or**

35 (b) **Arrange for optional subscription to services that prevent or control fire occurring**  
 36 **within the limits of zone 2.**

37 (4) **Under subsection (3)(a) of this section**, the court or board of county commissioners, upon  
 38 approval of the majority of the electors of zone 2 voting at a special election called for such a  
 39 purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the [*real*  
 40 *market*] **assessed** value of all taxable property within the zone, computed in accordance with ORS  
 41 308.207. This special levy may be in addition to [*the*] **a** regular levy under subsection (3)(a) of this  
 42 section.

43 (5) To carry into effect any of the powers granted under this section, the court or board, when  
 44 authorized by a majority of the votes cast by the electors of the zone voting at an election called  
 45 for that purpose by the court or board, may borrow money and sell and dispose of general obligation

1 bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125)  
 2 of the [*real market*] **assessed** value of all taxable property within the zone, computed in accordance  
 3 with ORS 308.207.

4 (6) The tax limitations provided in subsections (3) and (4) of this section do not apply to taxes  
 5 levied to pay principal or interest on outstanding bonds.

6 **SECTION 4.** ORS 476.520 is amended to read:

7 476.520. (1) The Governor may assign and make available for use and duty in any county, city  
 8 or **fire protection** district, under the direction and command of an officer designated by the Gov-  
 9 ernor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organ-  
 10 ization in this state other than an organization that possesses only one self-propelled pumping unit.  
 11 The Governor may make fire-fighting forces and equipment available under this section in response  
 12 to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources.

13 (2) **As used in this section, “fire-fighting organization” includes an entity that contracts**  
 14 **with a county, city or fire protection district to provide fire protection services to the**  
 15 **county, city or fire protection district.**

16 **SECTION 5.** ORS 476.530 is amended to read:

17 476.530. The chief executive of any county, city or fire protection district or the head of any fire  
 18 department of any political subdivision, including agencies of this state, if so ordered by the Gov-  
 19 ernor, shall assign and make available for duty and use in any county, city or fire **protection** dis-  
 20 trict under the direction and command of such officer as may be designated by the Governor for the  
 21 purpose, any part of the fire-fighting forces and equipment under the control of the chief executive  
 22 or the head of the fire department, **including fire-fighting forces contracted for by the county,**  
 23 **city or fire protection district**, provided that any equipment made available by loan, or otherwise,  
 24 to any county, city or fire district or this state by the United States or any agency thereof, shall  
 25 at all times be subject to the order of the United States or such agency in accordance with the  
 26 terms and conditions upon which the equipment is made available.

27 **SECTION 6.** ORS 476.540 is amended to read:

28 476.540. Whenever the fire-fighting forces of any county, city or fire **protection** district, **or the**  
 29 **fire-fighting forces contracted for by any county, city or fire protection district**, are rendering  
 30 outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces  
 31 shall have the same powers, duties, rights, privileges and immunities as though they were performing  
 32 their duties in the political subdivision in which **or by which** they are normally employed.

33 **SECTION 7.** ORS 478.910 is amended to read:

34 478.910. A district board **or board of county commissioners** may, in accordance with ORS  
 35 198.510 to 198.600, adopt a fire prevention code.

36 **SECTION 8.** ORS 478.920 is amended to read:

37 478.920. The fire prevention code may provide reasonable regulations relating to:

38 (1) Prevention and suppression of fires.

39 (2) Mobile fire apparatus means of approach to buildings and structures.

40 (3) Providing fire-fighting water supplies and fire detection and suppression apparatus adequate  
 41 for the protection of buildings and structures.

42 (4) Storage and use of combustibles and explosives.

43 (5) Construction, maintenance and regulation of fire escapes.

44 (6) Means and adequacy of exit in case of fires and the regulation and maintenance of fire and  
 45 life safety features in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheatres,

1 all buildings, except private residences, which are occupied for sleeping purposes, and all other  
 2 places where large numbers of persons work, live or congregate from time to time for any purpose.

3 (7) Requiring the issuance of permits by the fire chief of the district **or county** before burning  
 4 trash or waste materials.

5 (8) Providing for the inspection of premises by officers designated by the board of directors **or**  
 6 **board of county commissioners**, and requiring the removal of fire hazards found on premises at  
 7 such inspections.

8 **SECTION 9.** ORS 478.927 is amended to read:

9 478.927. A district **or county** adopting a fire prevention code shall provide plan review at the  
 10 agency of the city or county responsible for the issuance of building permits for the orderly admin-  
 11 istration of that portion of the fire prevention code that requires approval prior to the issuance of  
 12 building permits.

13 **SECTION 10.** ORS 478.930 is amended to read:

14 478.930. When a district **or county** has adopted a fire prevention code as provided in ORS  
 15 478.910:

16 (1) No person shall violate the provisions of the code or fail to remove hazards found on in-  
 17 spection within the time set by the inspecting officer, after written notice to either the owner or  
 18 occupant of the premises.

19 (2) No person shall burn waste materials or trash in an unguarded manner without a permit,  
 20 when a permit is required by the district code, **the county code** or this chapter.

21 **SECTION 11.** ORS 478.940 is amended to read:

22 478.940. Copies of the fire prevention code shall be filed with the State Fire Marshal's office and  
 23 a copy shall be posted at each fire station within the district **or county**.

24 **SECTION 12.** ORS 478.960 is amended to read:

25 478.960. (1) No one, within the boundaries of a district **or county**, shall cause or permit to be  
 26 initiated or maintained on one's own property, or cause to be initiated or maintained on the property  
 27 of another, any open burning of commercial waste, demolition material, domestic waste, industrial  
 28 waste, land clearing debris or field burning without first securing permission from the fire chief of  
 29 the district **or county** and complying with the direction of the fire chief. A deputy of a fire chief  
 30 has the power to perform any act or duty of the fire chief under this section.

31 (2) The fire chief shall prescribe conditions upon which permission is granted and which are  
 32 necessary to be observed in setting the fire and preventing it from spreading and endangering life  
 33 or property or endangering the air resources of this state. The Environmental Quality Commission  
 34 shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day  
 35 under schedules adopted pursuant to ORS 468A.570 and ORS 468A.595. The State Fire Marshal shall  
 36 cause all fire chiefs and their deputies in the affected area to be notified of the type and time for  
 37 burning to be allowed on each day with updating messages each day as required. A fire chief or  
 38 deputy shall grant permission only in accordance with the schedule of the Environmental Quality  
 39 Commission but may reduce hours to be allowed for burning if necessary to prevent danger to life  
 40 or property from fire. The State Fire Marshal may refuse, revoke or postpone permission when  
 41 necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire,  
 42 notwithstanding any determination by the fire chief.

43 (3) Nothing in this section relieves a person starting a fire from responsibility for providing  
 44 adequate protection to prevent injury or damage to the person or property of another. If such  
 45 burning results in the escape of fire and injury or damage to the person or property of another, such

1 escape and damage or injury constitutes prima facie evidence that the burning was not safe.

2 (4) Within a district **or county**, no person shall, during the fire season declared under ORS  
 3 477.505, operate any equipment in forest harvesting or agricultural operations powered by an inter-  
 4 nal combustion engine on or within one-eighth of one mile of forestland unless each piece of equip-  
 5 ment is provided with a fire extinguisher of sufficient size and capacity and with such other tools  
 6 and fire-fighting equipment as may be reasonably required by the fire chief of the district **or**  
 7 **county**. The provisions of this subsection do not apply to machinery regulated by ORS chapter 477.

8 (5) No person shall dispose of any building or building wreckage within a district **or county** by  
 9 fire without having first secured permission therefor from the fire chief. No person shall refuse to  
 10 comply with any reasonable requirements of the fire chief as to the safeguarding of such fire from  
 11 spreading.

12 (6) This section is not intended to limit the authority of a district **or county** to adopt a fire  
 13 prevention code as provided in ORS 478.910 to 478.940 or to issue permits when the burning is done  
 14 by mechanical burners fired by liquefied petroleum gas.

15 (7) The fire chief shall maintain records of all permits and the conditions thereof, if any, that  
 16 are issued for field burning under this section and shall submit at such times, as the Environmental  
 17 Quality Commission shall require such records or summaries thereof to the commission. The Envi-  
 18 ronmental Quality Commission shall provide forms for the reports required under this subsection.

19 (8) Notwithstanding any other provision of this section:

20 (a) A permit is required for field burning authorized pursuant to ORS 468A.550 to 468A.620 and  
 21 468A.992.

22 (b) For a permit for the propane flaming of mint stubble, the fire chief may only prescribe con-  
 23 ditions necessary to prevent the spread of fire or to prevent endangering life or property and may  
 24 refuse, revoke or postpone permission to conduct the propane flaming only when necessary to pre-  
 25 vent danger to life or property from fire.

26 **SECTION 13.** ORS 478.965 is amended to read:

27 478.965. (1) If the fire-fighting apparatus or personnel, or either of a district **or county**, are re-  
 28 quired to respond and be used actively or on a standby basis in connection with the extinguishment  
 29 or control of a fire that has been started or allowed to spread in willful violation of ORS 478.960 (1)  
 30 to (5), the person responsible therefor shall be liable to the district **or county** furnishing such ap-  
 31 paratus or personnel, or both, for the actual costs incurred by the district **or county** in controlling,  
 32 extinguishing or patrolling the fire. Such costs may be recovered in an action prosecuted in the  
 33 name of the district **or county**. The court may award reasonable attorney fees to the district **or**  
 34 **county** if the district **or county** prevails in an action under this section. The court may award  
 35 reasonable attorney fees to a defendant who prevails in an action under this section if the court  
 36 determines that the district **or county** had no objectively reasonable basis for asserting the claim  
 37 or no reasonable basis for appealing an adverse decision of the trial court.

38 (2) An itemized statement of the actual costs incurred by the district **or county**, certified under  
 39 oath by the treasurer of the district **or county**, shall be accepted as prima facie evidence of such  
 40 costs in the action authorized by this section.

41 **SECTION 14.** **This 2021 Act being necessary for the immediate preservation of the public**  
 42 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
 43 **on its passage.**