

House Bill 4068

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Veterans and Emergency Management for Representative Paul Evans)

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**.

Transfers Oregon Homeland Security Council to Oregon Department of Emergency Management.
Transfers Oregon Pre-Disaster Mitigation Fund to department.

Requires certain government officials and management employees to complete education on incident command, National Incident Management System and emergency response.

Directs department to create, fill and utilize six positions in support of emergency notification system.

Directs certain public bodies to conduct periodic emergency response exercises.

Directs Oregon Homeland Security Council to establish program to ensure robust stock of emergency supplies and equipment.

Directs Oregon Business Development Department to establish and administer Oregon Resiliency Partnership Program. Limits civil liability in certain circumstances.

Modifies law relating to membership of Emergency Preparedness Advisory Council.

Authorizes Governor and Department of Transportation to issue and extend commercial driver licenses in certain emergency circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to emergency preparedness; creating new provisions; amending ORS 401.109 and 401.532
3 and section 151, chapter 539, Oregon Laws 2021; repealing section 148, chapter 539, Oregon
4 Laws 2021; and declaring an emergency.

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

OREGON HOMELAND SECURITY COUNCIL

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8
9 **SECTION 1.** ORS 401.109 is amended to read:

10 401.109. (1) The Oregon Homeland Security Council is established within the [*Office of the Gov-*
11 *ernor*] **Oregon Department of Emergency Management**. The mission of the council is to assess
12 risks to the safety and security of the State of Oregon with special emphasis on matters related to
13 domestic terrorism and other major threats to the people of Oregon, including to critical
14 infrastructure, and to make formal recommendations to the Governor with respect to homeland se-
15 curity policy.

16 (2) The council may:

17 (a) Recommend strategies to the Governor for the effective coordination of information gather-
18 ing and dissemination on subjects associated with the mission.

19 (b) Request and receive briefings from state agencies or other entities for development of reports
20 and recommendations for the Governor on subjects associated with the mission.

21 (c) Facilitate interagency collaboration, cooperation and coordination on operational issues as-
22 sociated with the mission.

23 (d) Recommend policies to the Emergency Preparedness Advisory Council on subjects associated

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 with the mission.
- 2 (3) The membership of the council consists of:
- 3 (a) Four members from the Legislative Assembly appointed as follows:
- 4 (A) Two members from the Senate appointed by the President of the Senate; and
- 5 (B) Two members from the House of Representatives appointed by the Speaker of the House of
- 6 Representatives;
- 7 (b) The Governor;
- 8 (c) The Adjutant General;
- 9 (d) The Superintendent of State Police;
- 10 (e) The Director of the Oregon Department of Emergency Management;
- 11 (f) A representative of the Department of Justice appointed by the Attorney General;
- 12 (g) The State Resilience Officer;
- 13 (h) The State Fire Marshal;
- 14 (i) The Director of the Department of Public Safety Standards and Training;
- 15 (j) The Director of the Oregon Health Authority;
- 16 (k) The Director of Transportation;
- 17 (L) The State Forester;
- 18 (m) The Director of the Department of Corrections;
- 19 (n) The Superintendent of State Police;
- 20 (o) One member appointed by the Governor to act as a senior policy advisor for emergency op-
- 21 erations;
- 22 (p) A representative of the Oregon TITAN Fusion Center with the ability to organize and ex-
- 23 plain mission critical information, appointed by the Attorney General; and
- 24 (q) Additional members appointed by the [Governor] **Director of the Oregon Department of**
- 25 **Emergency Management** as the [Governor] **director** may deem necessary.
- 26 (4) Each member appointed to the council under subsection (3) of this section serves at the
- 27 pleasure of the appointing authority. The membership of a public official ceases upon termination
- 28 of the office held by the official at the time of appointment to the council.
- 29 (5) The [Governor] **director** is the chairperson of the council.
- 30 (6) The [Director of the Oregon Department of Emergency Management] **Governor** is the vice
- 31 chairperson of the council and serves as the chairperson in the absence of the [Governor]
- 32 **director**.
- 33 (7) Members of the council are not entitled to compensation under ORS 292.495. The
- 34 [Governor] **director**, in the [Governor's] **director's** discretion, may reimburse members of the council
- 35 as provided in ORS 292.495 for actual and necessary travel or other expenses incurred in the per-
- 36 formance of their duties as members of the council.
- 37 (8) A majority of the members of the council constitutes a quorum for the transaction of busi-
- 38 ness.
- 39 (9) Official action by the council requires the approval of a majority of the members of the
- 40 council.
- 41 (10) If there is a vacancy for any cause, the appointing authority shall make an appointment to
- 42 become immediately effective.
- 43 (11) The council shall meet as needed to carry out the mission of the council, at times and
- 44 places specified by the call of the chairperson or of a majority of the members of the council.
- 45 (12) The council may adopt rules necessary for the operation of the council.

1 (13) The council may employ and fix the compensation of such professional assistants and cler-
2 ical and other employees as the council deems necessary for the effective conduct of its work.

3 (14) All agencies of state government, as defined in ORS 174.111, are directed to assist the
4 council in the performance of the duties of the council and, to the extent permitted by laws relating
5 to confidentiality, to furnish information and advice the members of the council consider necessary
6 to perform their duties.

7 **SECTION 2. Section 148, chapter 539, Oregon Laws 2021, is repealed.**

8
9 **OREGON PRE-DISASTER MITIGATION FUND**

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11 **SECTION 3.** ORS 401.532 is amended to read:

12 401.532. (1) The Oregon Pre-Disaster Mitigation Fund is established in the State Treasury, sep-
13 arate and distinct from the General Fund. Moneys received from federal grants for pre-disaster
14 mitigation efforts shall be deposited into the Oregon Pre-Disaster Mitigation Fund. Moneys in the
15 fund are continuously appropriated to the [*Oregon Military Department*] **Oregon Department of**
16 **Emergency Management** to be used to:

17 (a) Help state agencies and local government units with Federal Emergency Management
18 Agency approved mitigation plans in this state prior to the occurrence of natural disasters; and

19 (b) Ensure, to the extent possible, that state and local agencies and officials are prepared to
20 respond to threats of human-caused disaster, including but not limited to acts of terrorism.

21 (2) The Oregon Pre-Disaster Mitigation Fund may receive gifts, grants, bequests, endowments
22 and donations from public and private sources for purposes related to the fund.

23 (3) The [*Oregon Military Department*] **Oregon Department of Emergency Management** shall
24 adopt rules for the disbursement of moneys from the Oregon Pre-Disaster Mitigation Fund.

25
26 **EMERGENCY INCIDENT TRAINING**

27
28 **SECTION 4.** (1) All elected officials in this state, all administrative heads of state agen-
29 cies and all persons in the management service of state government as defined in ORS
30 240.212 shall complete introductory courses offered or approved by the Federal Emergency
31 Management Agency on incident command and the National Incident Management System.

32 (2) All officials of a local government, as defined in ORS 174.116, who have or could rea-
33 sonably be expected to have emergency or disaster response responsibility shall complete
34 education on emergency response as recommended by the emergency program manager ap-
35 pointed by the local government under ORS 401.305 or the chief administrative officer of the
36 local government.

37
38 **EMERGENCY NOTIFICATION SYSTEM PERSONNEL**

39
40 **SECTION 5.** The Oregon Department of Emergency Management shall create, fill and
41 utilize six positions to provide support for the emergency notification system established
42 under ORS 401.094.

43
44 **EMERGENCY RESPONSE EXERCISES**

1 **SECTION 6.** (1) The Oregon Department of Emergency Management shall develop and
2 administer a program for periodic emergency response exercises as described in this section.

3 (2) Once per year, the department shall coordinate a multidisciplinary, all-hazards
4 emergency response exercise. The exercise must involve at least 10 percent of the public or
5 private safety agencies in this state. The department shall ensure that each public or private
6 safety agency in this state participates in at least one exercise under this subsection in each
7 10-year period.

8 (3)(a) At least once per year, each state agency shall conduct an internal exercise that
9 tests at least one element of the state agency’s emergency preparedness. Each state agency
10 may determine the nature and focus of the exercise required under this subsection. Once per
11 year, each state agency shall submit a written report to the department describing the na-
12 ture of the exercise, the metrics used by the state agency to analyze the state agency’s
13 performance and the outcome of the exercise.

14 (b) The department shall provide advice and recommendations to state agencies regard-
15 ing the requirements of this subsection.

16 (4)(a) At least once per quarter, each county shall conduct a tabletop, scenario-based
17 learning exercise related to emergency response. An exercise conducted by a county under
18 this subsection must involve the majority of public or private safety agencies operating in
19 the county.

20 (b) The department shall provide advice and recommendations to counties regarding the
21 requirements of this subsection.

22 (5) The department shall consult with the Oregon Homeland Security Council to deter-
23 mine priorities for subjects of exercises conducted under this section.

24 (6) The department may issue grants to local governments to pay for some or all of the
25 costs of the exercises required under this section.

26 (7) The department may solicit and accept gifts, grants or donations from public or pri-
27 vate sources to fund the exercises required under this section.

28 (8) As used in this section:

29 (a) “Public or private safety agency” has the meaning given that term in ORS 181A.355.

30 (b) “State agency” means an agency, entity or official listed in ORS 401.054.

31
32 **OREGON CRITICAL DISASTER PREPAREDNESS STOCKPILE**

33
34 **SECTION 7.** (1) The Oregon Homeland Security Council shall establish by rule a program
35 to create the Oregon Critical Disaster Preparedness Stockpile.

36 (2) The purpose of the program is to ensure that Oregonians have access to a robust
37 stock of supplies and equipment for use in an emergency, including personal protective
38 equipment and raw materials for the sustained manufacture thereof, communicable disease
39 testing equipment and all-hazards emergency surge supplies, that can be deployed on a re-
40 gional basis.

41 (3) The program shall:

42 (a) Be administered by the council in cooperation with county emergency management
43 agencies and the Oregon Department of Emergency Management or its predecessor office;
44 and

45 (b) Draw upon lessons learned from the COVID-19 pandemic, the 2020 Oregon wildfire

1 season and work of the Seismic Safety Policy Advisory Commission.

2 **SECTION 8.** (1) No later than June 30, 2022, the Oregon Homeland Security Council shall,
3 in consultation with the Oregon Health Authority and other relevant state agencies:

4 (a) Develop a comprehensive list of essential equipment, materials, supplies, distribution
5 channels and manufacturing capabilities necessary to accomplish the purpose of the Oregon
6 Critical Disaster Preparedness Stockpile described in section 7 of this 2022 Act;

7 (b) Determine a statewide standard of availability, sufficient to adequately protect public
8 health and safety, for each article of personal protective equipment and each element of
9 communicable disease testing equipment on the list;

10 (c) Establish metrics and processes for real-time, transparent reporting of materials,
11 supplies, distribution channels and manufacturing capabilities for each type of equipment or
12 supply on the list that the council deems to be critical in an emergency; and

13 (d) Collaborate with hospitals, long term care facilities, provider groups and health care
14 organizations to obtain information on the extent to which each entity is able to provide
15 personal protective equipment to personnel who are in contact with patients, including usage
16 rates of personal protective equipment during normal business operations and any additional
17 personal protective equipment each entity may maintain for emergency purposes.

18 (2) Entities described in subsection (1)(d) of this section shall report the information to
19 the council as expeditiously as practicable in accordance with timelines and parameters es-
20 tablished by the council.

21 (3) The council may subpoena any witnesses or documents necessary to obtain the in-
22 formation described in subsection (1)(d) of this section.

23 (4) If an entity or witness fails to comply with a subpoena issued by the council under
24 subsection (3) of this section, a court of competent jurisdiction, upon application by the
25 council, shall compel obedience by proceedings for contempt as in the case of disobedience
26 of the requirements of a subpoena issued by the court.

27 (5) The list must, at a minimum, include personal protective equipment and raw materi-
28 als for the sustained manufacture thereof, communicable disease testing equipment and all-
29 hazards emergency surge supplies.

30 **SECTION 9.** The Oregon Homeland Security Council shall provide, no later than Sep-
31 tember 31, 2022, to the standing or interim committees of the Legislative Assembly related
32 to emergency preparedness a report on the progress made and actions taken pursuant to
33 section 8 of this 2022 Act, including an implementation strategy for achieving the robust
34 stock of supplies and equipment described in section 8 of this 2022 Act.

35 **SECTION 10.** Following the development of the list by the Oregon Homeland Security
36 Council under section 8 of this 2022 Act, the council shall, in consultation with the Oregon
37 Department of Emergency Management or its predecessor office, the Oregon Business De-
38 velopment Department, the Oregon Health Authority and the Oregon Department of Ad-
39 ministrative Services, adopt rules to implement and achieve as expeditiously as practicable
40 the program and objectives described in section 7 of this 2022 Act, including, without limi-
41 tation:

42 (1) Establishment of a rotation schedule for supplies, equipment and materials in the
43 Oregon Critical Disaster Preparedness Stockpile; and

44 (2) Establishment of quality standards for elements of the Oregon Critical Disaster
45 Preparedness Stockpile, utilizing guidance from the Centers for Disease Control and Pre-

1 vention and other public health organizations.

2 **SECTION 11.** (1) Following the development of the list by the Oregon Homeland Security
3 Council under section 8 of this 2022 Act, the Oregon Business Development Department shall
4 establish and administer the Oregon Resiliency Partnership Program.

5 (2) The program may, to the extent necessary to create and maintain the Oregon Critical
6 Disaster Preparedness Stockpile described in section 7 of this 2022 Act, provide to any eligible
7 and participating person:

8 (a) Guaranteed purchase contracts or nonguaranteed purchase contracts with the State
9 of Oregon for supplies or equipment included on the list described in section 8 of this 2022
10 Act;

11 (b) Economic incentives to encourage participation in the program; and

12 (c) Technical assistance to navigate requirements under local, state or federal law.

13 (3) Each person that participates in the program must demonstrate to the department
14 on an annual basis that:

15 (a) The person has the capacity to manufacture supplies or equipment included on the
16 list described in section 8 of this 2022 Act, including access to all the necessary equipment,
17 materials, tools, supplies and training needed to sustain manufacturing during emergency
18 surge events; and

19 (b) The person has existing contractual relationships sufficient to enable the person to
20 expand production of one or more types of supplies or equipment included on the list de-
21 scribed in section 8 of this 2022 Act during a state of emergency declared by the Governor.

22 **SECTION 12.** (1) As used in this section, “qualified good” means an item:

23 (a) Manufactured pursuant to a contract with the State of Oregon under section 11 of
24 this 2022 Act;

25 (b) Manufactured during a state of emergency declared by the Governor under ORS
26 401.165;

27 (c) Manufactured by a person that did not manufacture the type of item prior to the
28 state of emergency;

29 (d) Sold at a price:

30 (A) Not exceeding 115 percent of the cost of manufacturing if manufactured under a
31 guaranteed purchase contract; or

32 (B) Negotiated by the person and the state under a nonguaranteed purchase contract;
33 and

34 (e) Meeting the specifications for use and manufacturing established by the contract with
35 the State of Oregon.

36 (2) Except as provided in subsection (3) of this section, a person that manufactures, dis-
37 tributes, dispenses or otherwise prescribes use of a qualified good is immune from civil li-
38 ability for injuries or damages resulting from use of the qualified good.

39 (3) Subsection (2) of this section does not apply to a person that:

40 (a) Engages in gross negligence or reckless, wanton or intentional misconduct, and that
41 gross negligence or misconduct is a cause of the injury or damage;

42 (b) Commits an act or omission that constitutes negligence or willful or wanton disregard
43 for safety, and that act or omission is a cause of the injury or damage;

44 (c) Fails to make reasonable inspection of a qualified good, and that failure is a cause of
45 the injury or damage; or

1 (d) Knows or reasonably should have known of a dangerous condition about a qualified
2 good, does not make the danger known and that danger is a cause of the injury or damage.

3
4 **EMERGENCY PREPAREDNESS**
5 **ADVISORY COUNCIL**
6

7 **SECTION 13.** Section 151, chapter 539, Oregon Laws 2021, is amended to read:

8 **Sec. 151.** (1) The Emergency Preparedness Advisory Council is established within the Office of
9 the Governor. The mission of the council is to facilitate policy recommendations for catastrophic
10 disaster preparedness, mitigation and response and recovery planning, procedures and protocols with
11 special emphasis on outreach to representatives of designated state and federal emergency support
12 functions.

13 (2) The council consists of:

14 (a) One member appointed by the Adjutant General to represent the Oregon Military Depart-
15 ment;

16 (b) One member appointed by the Director of the Oregon Department of Emergency Management
17 to represent the Oregon Department of Emergency Management;

18 (c) One member appointed by the State Fire Marshal to represent the Department of the State
19 Fire Marshal;

20 (d) One member appointed by the Superintendent of State Police to represent the Department
21 of State Police;

22 (e) One member appointed by the Director of the Department of Public Safety Standards and
23 Training to represent the Department of Public Safety Standards and Training;

24 (f) One member appointed by the Director of the Oregon Health Authority to represent the
25 Oregon Health Authority;

26 (g) One member appointed by the Director of Transportation to represent the Department of
27 Transportation;

28 (h) One member appointed by the Attorney General to represent the Department of Justice;

29 (i) One member appointed by the State Forester to represent the State Forestry Department;

30 (j) Seven members appointed by the Governor as follows:

31 (A) One member to represent counties;

32 (B) One member to represent cities;

33 (C) One member with experience in emergency preparedness to represent regional organizations;

34 (D) One member with experience in emergency preparedness to represent local organizations;

35 (E) One member representing the private sector;

36 (F) One member representing the nonprofit community with a designated emergency support
37 function responsibility; and

38 (G) One member to represent Indian tribes in Oregon; and

39 (k) Additional members appointed by the Governor as the Governor may deem necessary.

40 **(3) In making appointments under this section, the Governor shall, to the extent possible,**
41 **ensure that for each federal emergency support function, there is at least one member of the**
42 **council with experience or knowledge relating to that function.**

43 [(3)(a)] **(4)(a)** The council may research international and national best practices and make
44 formal recommendations to the State Resilience Officer or the Governor as needed, with special
45 emphasis given to connecting statewide policy recommendations with state and federal emergency

1 support function capabilities.

2 (b) The council shall advise and make policy recommendations to the Oregon Homeland Security
3 Council regarding federal emergency support functions.

4 [(4)] (5) A majority of the members of the Emergency Preparedness Advisory Council constitutes
5 a quorum for the transaction of business.

6 [(5)] (6) Official action by the council requires the approval of a majority of the members of the
7 council.

8 [(6)] (7) The council shall elect one of its members to serve as chairperson.

9 [(7)] (8) If there is a vacancy for any cause, the appointing authority shall make an appointment
10 to become immediately effective.

11 [(8)] (9) The council shall meet at least once quarterly at the place specified by the call of the
12 chairperson or of a majority of the members of the council.

13 [(9)] (10) The council may adopt rules necessary for the operation of the council.

14 [(10)] (11) The Oregon Department of Emergency Management shall provide staff support to the
15 council.

16 [(11)] (12) Members of the council are not entitled to compensation or reimbursement for ex-
17 penses and serve as volunteers on the council.

18 [(12)] (13) All agencies of state government, as defined in ORS 174.111, are directed to assist the
19 council in the performance of the duties of the council and, to the extent permitted by laws relating
20 to confidentiality, to furnish information and advice the members of the council consider necessary
21 to perform their duties.

22
23 **EMERGENCY POWERS RELATING TO**
24 **COMMERCIAL DRIVER LICENSES**
25

26 **SECTION 14. Section 15 of this 2022 Act is added to and made a part of ORS 401.165 to**
27 **401.236.**

28 **SECTION 15. (1) During a state of emergency declared under ORS 401.165,**
29 **notwithstanding contrary provisions of the Oregon Vehicle Code:**

30 (a) The Department of Transportation, at the direction of the Governor, may issue a
31 commercial driver license to an individual with experience operating a military motor vehicle
32 equivalent to a commercial motor vehicle. A commercial driver license issued under this
33 subsection expires upon the termination of the state of emergency.

34 (b) The department, at the direction of the Governor, may provide that a commercial
35 driver license that expires during the state of emergency remains valid and grants driving
36 privileges until the termination of the state of emergency.

37 (2) The department shall adopt rules necessary to carry out the provisions of this sec-
38 tion.

39 (3) As used in this section, “commercial driver license” has the meaning given that term
40 in ORS 801.207.

41
42 **OPERATIVE DATE**
43

44 **SECTION 16. Sections 5 and 6 of this 2022 Act and the amendments to ORS 401.109 and**
45 **401.532 by sections 1 and 3 of this 2022 Act become operative on July 1, 2022.**

UNIT CAPTIONS

SECTION 17. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

EMERGENCY CLAUSE

SECTION 18. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.
