

**HB 2985 A STAFF MEASURE SUMMARY**

**House Committee On Climate, Energy, and Environment**

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**Action Date:** 03/13/23

**Action:** Do pass with amendments and be referred to Ways and Means by prior reference.  
(Printed A-Eng.)

**Vote:** 8-1-1-0

**Yeas:** 8 - Helm, Kropf, Levy B, Levy E, Marsh, Osborne, Owens, Pham K

**Nays:** 1 - Wallan

**Exc:** 1 - Andersen

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Erin Pischke, LPRO Analyst

**Meeting Dates:** 1/25, 3/13

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**WHAT THE MEASURE DOES:**

Defines “cultural burn,” “cultural fire practitioner,” and “Indian tribe.” Directs Oregon Department of Forestry (ODF) to establish and administer Prescribed Fire Liability Pilot Program (Program). Directs Department of Consumer and Business Services (DCBS) to administer reimbursements for claims under the Program. Requires Program to meet certain criteria related to use of prescribed fire and cultural burning. Authorizes DCBS to reimburse claims of up to \$1,000,000 related to a prescribed fire conducted or supervised by the State Forester, a forest protective association, or a rangeland protection association. Establishes guidelines for DCBS for reimbursing claims. Requires ODF to consult with other relevant state agencies, cultural fire practitioners, the State Forester, forest protective associations, and Certified Burn Managers to establish guidelines for the Program; adopt the guidelines by rule; and make the guidelines publicly available on a DCBS website. Requires ODF to adopt rules to: 1) determine how claims under the program will be accepted and processed; 2) define “prescribed fire”; and 3) establish requirements for incident reports for prescribed fires and cultural burning. Authorizes ODF to adopt additional rules imposing requirements for eligibility for reimbursement of an eligible claim. Requires person who interacts with an Indian tribe or cultural fire practitioner to respect tribal sovereignty, customs, and culture. Establishes that the provisions of ORS 183.310 to 183.497 do not apply to rules adopted under section 1 of the Act. Establishes that section 1 of the Act does not undermine or diminish the exercise of tribal sovereignty. Establishes Prescribed Fire Claims Fund (Fund) in State Treasury, separate and distinct from General Fund, for purposes related to program. Appropriates \$10,000,000 to DCBS out of General Fund for deposit in Prescribed Fire Claims Fund (Fund). Sunsets Program and Fund January 2, 2028. Requires DCBS and ODF, 45 days before the Program sunsets, to determine the number of claims certified by ODF for recoverable damages that have not been processed. Requires any moneys in the Fund that are unexpended and unobligated on the date the Program sunsets to revert to the General Fund. Requires DCBS to determine the amount of unexpended and unobligated moneys that have not been processed, that are unexpended and unobligated. Requires ODF, in consultation with DCBS, to report to the Governor and to a committee or interim committee of the Legislative Assembly related to natural resources on the performance of the Prescribed Fire Liability Pilot Program on or before April 1, 2028. Establishes criteria for report. Modifies type of land ODF, State Forester, and forest protective associations may assist in developing for certain uses. Modifies type of land eligible for a forester or a forest protective association to perform or supervise burning operations on at the request of an owner or agent of the owner. Modifies liability exclusion for property damage resulting from burning on certain types of land. Declares emergency, effective on passage.

## HB 2985 A STAFF MEASURE SUMMARY

### ISSUES DISCUSSED:

- Forest management practices
- Availability of insurance
- Role of federal government
- Regions where prescribed burning occurs

### EFFECT OF AMENDMENT:

Modifies definitions of “cultural burn.” Defines “Indian tribe.” Removes authorization for Oregon Insurance Guaranty Association (Association) to administer Prescribed Fire Liability Pilot Program (Program). Directs Department of Consumer and Business Services (DCBS) to administer reimbursements for claims under the Program. Modifies Program criteria related to use of prescribed fire and cultural burning. Removes authorization of Association to reimburse claims. Modifies types of prescribed fires eligible to make reimbursement claims on. Removes Association from authorization to establish guidelines for reimbursing claims. Removes DCBS from requirement to consult with other entities, and establish, adopt, and make guidelines for the Program. Requires and authorizes Oregon Department of Forestry (ODF) to adopt certain rules. Establishes that the provisions of ORS 183.310 to 183.497 do not apply to rules adopted under section 1 of the Act. Establishes that section 1 of the Act does not undermine or diminish the exercise of tribal sovereignty. Requires DCBS and ODF, 45 days before the Program sunsets, to determine the number of claims certified by ODF for recoverable damages that have not been processed. Requires any moneys in the Prescribed Fire Claims Fund that are unexpended and unobligated on the date the Program sunsets to revert to the General Fund. Requires DCBS to determine the amount of unexpended, and unobligated moneys that have not been processed, that are unexpended and that are unobligated. Requires ODF, in consultation with DCBS, to report to the Governor and to a committee or interim committee of the Legislative Assembly related to natural resources on the performance of the Prescribed Fire Liability Pilot Program on or before April 1, 2028. Establishes criteria for report. Modifies type of land ODF, State Forester, and forest protective associations may assist in developing for certain uses. Modifies type of land eligible for a forester or a forest protective association to perform or supervise burning operations on at the request of an owner or agent of the owner. Modifies liability exclusion for property damage resulting from burning on certain types of land.

### BACKGROUND:

The U.S. Forest Service describes prescribed fires, also known as prescribed burns or controlled burns, as the “controlled application of fire by a team of fire experts under specified weather conditions to restore health to ecosystems that depend on fire.” Such fires may be used to reduce the risk of large severe wildfires, increase public and firefighter safety, and to meet a variety of natural resource management objectives including habitat restoration, restoration or maintenance ecosystem health, and maintenance of vegetation treatments.

House Bill 2985 A directs the Oregon Department of Forestry to establish and administer the Prescribed Fire Liability Pilot Program and establishes the Prescribed Fire Claims Fund.