

House Bill 2587

Sponsored by Representative MORGAN; Representatives CATE, LEVY B, SMITH DB, Senator THATCHER (Pre-session 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**.

Undoes provisions of Senate Bill 762 (2021).

A BILL FOR AN ACT

1
2 Relating to wildfire; creating new provisions; amending ORS 197.716, 205.130, 215.495, 401.025,
3 477.015, 477.025, 477.027, 477.281 and 526.360; and repealing ORS 401.851, 431A.410, 431A.412,
4 431A.415, 431A.417, 455.612, 455.614, 468A.830, 468A.833, 468A.836, 476.132, 476.390, 476.392,
5 476.394, 476.396, 476.398, 476.687, 476.690, 476.694, 476.696, 476.698, 477.150, 477.155, 477.161,
6 477.490, 477.503, 477.504, 477.698, 477.748, 526.273, 757.960, 757.963, 757.966, 757.968, 757.969 and
7 757.995 and sections 1, 5, 6, 7a, 8c, 12a, 12b, 12d, 14b, 17a, 20, 25a, 27, 29, 33a, 37, 38, 39 and 40,
8 chapter 592, Oregon Laws 2021.

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

10 **SECTION 1. ORS 401.851, 431A.410, 431A.412, 431A.415, 431A.417, 455.612, 455.614, 468A.830,**
11 **468A.833, 468A.836, 476.132, 476.390, 476.392, 476.394, 476.396, 476.398, 476.687, 476.690, 476.694,**
12 **476.696, 476.698, 477.150, 477.155, 477.161, 477.490, 477.503, 477.504, 477.698, 477.748, 526.273,**
13 **757.960, 757.963, 757.966, 757.968, 757.969 and 757.995 and sections 1, 5, 6, 7a, 8c, 12a, 12b, 12d,**
14 **14b, 17a, 20, 25a, 27, 29, 33a, 37, 38, 39 and 40, chapter 592, Oregon Laws 2021, are repealed.**

15 **SECTION 1a. ORS 477.015, 477.025 and 477.027 are added to and made a part of sections**
16 **7 to 17 of this 2023 Act.**

17 **SECTION 2. ORS 401.025 is amended to read:**

18 401.025. As used in this chapter:

19 (1) "Emergency" means a human created or natural event or circumstance that causes or
20 threatens widespread loss of life, injury to person or property, human suffering or financial loss,
21 including but not limited to:

22 (a) Fire, [*wildfire*,] explosion, flood, severe weather, landslides or mud slides, drought, earth-
23 quake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous
24 material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease,
25 blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war; and

26 (b) A rapid influx of individuals from outside this state, a rapid migration of individuals from
27 one part of this state to another or a rapid displacement of individuals if the influx, migration or
28 displacement results from the type of event or circumstance described in paragraph (a) of this sub-
29 section.

30 (2) "Emergency service agency" means an organization within a local government that performs
31 essential services for the public's benefit before, during or after an emergency, such as law

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 enforcement, fire control, health, medical and sanitation services, public works and engineering,
2 public information and communications.

3 (3) "Emergency services" means activities engaged in by state and local government agencies
4 to prepare for an emergency and to prevent, minimize, respond to or recover from an emergency,
5 including but not limited to coordination, preparedness planning, training, interagency liaison, fire
6 fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforce-
7 ment, medical, health and sanitation services, engineering and public works, search and rescue ac-
8 tivities, warning and public information, damage assessment, administration and fiscal management,
9 and those measures defined as "civil defense" in 50 U.S.C. app. 2252.

10 (4) "Local government" has the meaning given that term in ORS 174.116.

11 (5) "Major disaster" means any event defined as a "major disaster" under 42 U.S.C. 5122(2).

12 **SECTION 3.** ORS 526.360 is amended to read:

13 526.360. (1) The State Board of Forestry[,] **and** the State Forester [*and forest protective associ-*
14 *ations*] may assist to the extent [*practical*] **possible** in developing, for forestry, grazing or agricul-
15 tural uses, all forestland classified pursuant to ORS 526.328 or 526.340 for such uses, including the
16 burning of brush or other flammable material for the purpose of:

17 (a) Removing a fire hazard to any property;

18 (b) Preparing seed beds;

19 (c) Removing obstructions to or interference with the proper seeding or agricultural or grazing
20 development or use of that land;

21 (d) Promoting the establishment of new forest crops on cutover, denuded or underproductive
22 lands;

23 (e) Implementing pest prevention and suppression activities, as provided in ORS 527.310 to
24 527.370; or

25 (f) Promoting improvements to forest health, including improvements to fish and wildlife habitat.

26 (2) Upon request of the owner or the agent of the owner of any forestland classified pursuant
27 to ORS 526.328 or 526.340, the forester [*or a forest protective association*] may perform or supervise
28 burning operations thereon for any of the purposes stated in subsection (1) of this section. The
29 owner or the agent of the owner shall supply such personnel and equipment and shall perform such
30 fire control actions and activities as the forester [*or forest protective association*] may require while
31 there is danger of the fire spreading. The forester [*or forest protective association*] may refuse to
32 perform or supervise burning or to issue any burning permit when, in the judgment of the forester
33 [*or forest protective association*], conditions so warrant.

34 (3) To accomplish the purposes set forth in subsection (1) of this section, the board [*shall*] **may**
35 establish by rule a Certified Burn Manager program.

36 (4) The rules shall include:

37 (a) Certification standards, requirements and procedures;

38 (b) Standards, requirements and procedures to revoke certification;

39 (c) Actions and activities that a Certified Burn Manager must perform;

40 (d) Actions and activities that a Certified Burn Manager may not allow or perform;

41 (e) Limitations on the use of a Certified Burn Manager; and

42 (f) Any other standard, requirement or procedure that the board considers necessary for the safe
43 and effective administration of the program.

44 [*(5) The rules may establish and impose fees for participation in the program.*]

45 [*(6)*] (5) When a burning for any of the purposes stated in subsection (1) of this section on

1 forestland classified pursuant to ORS 526.328 or 526.340 is started under the supervision of and
 2 supervised by the forester[, *a forest protective association*] or a Certified Burn Manager, a person
 3 may not be held liable for property damage resulting from that burning unless the damage is caused
 4 by the negligence of the person.

5 **SECTION 4.** ORS 477.015 is amended to read:

6 477.015. [*As used in this section and ORS 477.025 and 477.027, “wildland-urban interface” has the*
 7 *meaning given that term in rule by the State Board of Forestry.*]

8 **As used in sections 7 to 17 of this 2023 Act, unless the context requires otherwise:**

9 (1) **“Committee” means a county forestland-urban interface classification committee.**

10 (2) **“Forestland-urban interface” means a geographic area of forestland inside a forest**
 11 **protection district where there exists a concentration of structures in an urban or suburban**
 12 **setting.**

13 (3) **“Governing body” means the board of county commissioners or county court of a**
 14 **county, as the case may be.**

15 **SECTION 5.** ORS 477.025 is amended to read:

16 477.025. The Legislative Assembly recognizes that the [*wildland-urban*] **forestland-urban** inter-
 17 face in Oregon varies by condition, situation, fire hazard and risk, that different [*wildland-urban*]
 18 **forestland-urban** interface fire protection problems exist across the state because of this variabil-
 19 ity, [*and*] that these different problems necessitate varied fire prevention and protection practices
 20 **and that, in order to give recognition to such differences and their effect on the accom-**
 21 **plishment of the public policy stated in section 9 of this 2023 Act, certain classifications of**
 22 **the forestland-urban interface within the State of Oregon are established by sections 7 to 17**
 23 **of this 2023 Act.**

24 **SECTION 6.** ORS 477.027 is amended to read:

25 477.027. [(1)] By **administrative** rule, [*considering national best practices,*] the State Board of
 26 Forestry shall establish[:]

27 [(a)] *A definition of “wildland-urban interface.”*

28 [(b)] criteria by which the [*wildland-urban*] **forestland-urban** interface must be identified and
 29 classified.

30 [(2)] The criteria[:]

31 [(a)] must recognize differences across the state in fire hazard, fire risk and structural charac-
 32 teristics within the [*wildland-urban*] **forestland-urban** interface.

33 [(b)] *May not exclude a category of land from inclusion in the wildland-urban interface.*

34 [(3)] *Based on*] The criteria **must include not less than three and not more than** [, *the board*
 35 *shall establish*] five classes of [*wildland-urban*] **forestland-urban** interface.

36 [(4)] *The classes must be integrated into the comprehensive statewide map described in ORS*
 37 *477.490.*]

38 **SECTION 7.** (1) **The Legislative Assembly finds that:**

39 (a) **The forestland-urban interface situation in Oregon is a result of both past and present**
 40 **conditions and that, given projected trends, the forestland-urban interface situation will**
 41 **continue to grow.**

42 (b) **Urban and suburban structures, real property and natural resources are subject to**
 43 **increased risks of catastrophic damage by forestland-urban interface fire events.**

44 (c) **There is greater complexity in forestland-urban interface fire protection than in ei-**
 45 **ther resource land fire protection or urban structural fire protection.**

1 (d) In dealing with the forestland-urban interface situation, major and long-term sol-
2 utions will involve local actions and efforts by property owners.

3 (e) One solution or set of solutions will not fit all situations or areas of this state.

4 (2) The Legislative Assembly declares that:

5 (a) In order to ensure the protection of human life, the safety of residents and fire ser-
6 vice personnel and the highest possible level of livability in Oregon, it is necessary to provide
7 a complete and coordinated fire protection system within the forestland-urban interface in
8 Oregon.

9 (b) All forestland-urban interface property owners have a basic responsibility to share in
10 this complete and coordinated protection system by providing efforts against fire.

11 (c) Public and property owner education and awareness is critical to forestland-urban
12 interface solutions and must occur at multiple levels.

13 (d) In administration of sections 7 to 17 of this 2023 Act, it is the intent of the Legislative
14 Assembly that property owners who will be affected by sections 7 to 17 of this 2023 Act will
15 be:

16 (A) Involved in the processes of development of administrative rules pursuant to sections
17 7 to 17 of this 2023 Act; and

18 (B) Notified of the outcomes of classification pursuant to sections 7 to 17 of this 2023 Act.

19 (3) The purpose of sections 7 to 17 of this 2023 Act is to:

20 (a) Provide a forestland-urban interface fire protection system in Oregon that minimizes
21 costs and risk while maximizing effectiveness and efficiency for protection of the values at
22 risk from fire.

23 (b) Promote and encourage property owner efforts to minimize and mitigate fire hazards
24 and risks within the forestland-urban interface.

25 (c) Promote and encourage the involvement and interaction of all levels of government
26 and the private sector that have a direct or indirect interest and role in the forestland-urban
27 interface situation over the long term.

28 **SECTION 8.** (1) The State Forestry Department shall annually report regarding the im-
29 plementation and enforcement status of property notifications and certifications required
30 under sections 7 to 17 of this 2023 Act. The report shall include, but need not be limited to:

31 (a) General information concerning progress toward the completion and coordination of
32 the forestland-urban interface fire protection system, and measures taken to ensure that the
33 fire protection system minimizes costs and risks and maximizes the effectiveness and effi-
34 ciency of fire protection;

35 (b) Specific information for each community fire protection system regarding land iden-
36 tification and classification, system review and assessment, efforts to promote and encour-
37 age property owners to minimize and mitigate fire risk, efforts to encourage involvement and
38 participation by government and private sectors and system features to ensure the adequacy
39 of public safety and the protection of property development and natural resources; and

40 (c) Information regarding actions by the department to develop, administer and enforce
41 the fire protection system, including but not limited to any new rules or proposed rules de-
42 veloped for public safety and public education.

43 (2) The department shall make the report, including any recommendations for further
44 legislative action, to:

45 (a) The regular session of the Legislative Assembly, in the manner provided by ORS

1 192.245, no later than June 15 of each odd-numbered year; and

2 (b) An interim committee of the Legislative Assembly relating to natural resources, in
 3 the manner provided by ORS 192.245, no later than June 15 of each even-numbered year.

4 **SECTION 9.** (1) The forestland-urban interface in Oregon represents a unique fire pro-
 5 tection situation that requires that unique and special measures be taken to ensure adequate
 6 public safety and protection of property, development and natural resources. Therefore, it is
 7 declared to be the public policy of the State of Oregon to encourage and provide a complete
 8 and coordinated forestland-urban interface fire protection system.

9 (2)(a) It is recognized that forestland-urban interface areas are already subject to other
 10 laws and to regulations of other agencies. It is the intent of sections 7 to 17 of this 2023 Act
 11 to integrate with and not replace those other laws and regulations.

12 (b) In the event of an apparent conflict between the obligations imposed by sections 7 to
 13 17 of this 2023 Act and by other laws or regulations for which the State Forester is respon-
 14 sible and has jurisdiction, the State Forester shall resolve the conflict within the scope of
 15 the State Forester's authority.

16 (c) Except as provided in paragraph (d) of this subsection, the obligations imposed by
 17 sections 7 to 17 of this 2023 Act do not supersede or replace federal law or regulation, other
 18 state law or rules, or more restrictive local government ordinance or code.

19 (d) In the event of an apparent conflict between the obligations imposed by sections 7 to
 20 17 of this 2023 Act and a more restrictive local government ordinance or code, the State
 21 Forester may enter into a cooperative agreement with the governing body of a local gov-
 22 ernment, the terms of which provide that sections 7 to 17 of this 2023 Act supersede the local
 23 government ordinance or code in specified cases.

24 (e) In the event of an apparent conflict between the obligations imposed by sections 7 to
 25 17 of this 2023 Act and the declaration, bylaws, rules or regulations of a homeowners asso-
 26 ciation, the State Forester may enter into a cooperative agreement with the homeowners
 27 association that allows the declaration, bylaws, rules or regulations of the homeowners as-
 28 sociation to supersede sections 7 to 17 of this 2023 Act in specified cases. The term of a co-
 29 operative agreement entered into under this paragraph may not exceed five years.

30 (f) When a real property lot includes one or more structures that have multiple owners,
 31 the State Forester may enter into a cooperative agreement with one or more of the owners,
 32 or a person designated as the representative of the owners, for the purposes of matters re-
 33 lated to sections 7 to 17 of this 2023 Act. The term of a cooperative agreement entered into
 34 under this paragraph may not exceed five years.

35 (g) Compliance with the obligations imposed by sections 7 to 17 of this 2023 Act does not
 36 relieve the owner of land of the requirements of other laws or regulations that might apply
 37 to the land in question.

38 (3) To encourage development of a complete and coordinated forestland-urban interface
 39 fire protection system, it is declared to be in the public interest that the State Board of
 40 Forestry and the State Forester take a lead role in statewide coordination of the
 41 forestland-urban interface situation with other state and federal agencies, local governments
 42 and private sector interests that are concerned with fire protection in the forestland-urban
 43 interface.

44 **SECTION 10.** (1) Pursuant to a request by the State Forester, the governing body of a
 45 county containing forestland-urban interface may establish a county forestland-urban inter-

1 face classification committee of five persons, of whom one shall be appointed by the State
2 Forester, one by the State Fire Marshal and three by the governing body. Of the members
3 appointed by the governing body, one must be an owner of land within the forestland-urban
4 interface who permanently resides on the land. Each appointing authority shall file with the
5 State Forester the name of its appointee or appointees, and the persons so named shall
6 constitute the committee for the county. Unless otherwise provided for by the appointing
7 authority, members of the committee shall serve a term of four years and may be reap-
8 pointed to any number of terms. Each member of the committee at all times is subject to
9 replacement by the appointing authority, effective upon the filing with the State Forester
10 by that authority of written notice of the name of the new appointee.

11 (2) The committee shall elect from among its members a chair and a secretary and may
12 elect other officers as it finds advisable. The committee shall adopt rules governing its or-
13 ganization and proceedings and the performance of its duties, and shall keep written minutes
14 of all its meetings. A quorum of the county forestland-urban interface classification com-
15 mittee for official actions is three members, and a quorum of a committee established pur-
16 suant to subsection (4)(a) of this section is four members.

17 (3) The governing body of the county may provide for the committee and its employees
18 such accommodations and supplies and such county funds not otherwise appropriated as the
19 governing body finds necessary for the proper performance of the committee's functions. The
20 members of the committee shall receive no compensation for their services, but the gov-
21 erning body may reimburse them for their actual and necessary travel and other expenses
22 incurred in the performance of their duties. By written agreement between the State
23 Forester and the governing body, the State Forestry Department may provide the functions
24 or be responsible for part or all of the expenses referred to in this subsection.

25 (4) In the interest of efficiency, by written agreement between the State Forester and the
26 governing body, if a forestland classification committee is established and active within a
27 county pursuant to ORS 526.305 to 526.340, the members of that committee may also serve
28 on the county forestland-urban interface classification committee established under sub-
29 section (1) of this section. In the event that this agreement is made, the State Forester and
30 the governing body shall ensure that either:

31 (a) A State Fire Marshal appointee and an owner of land within the forestland-urban
32 interface who permanently resides on the land are added to the county forestland classi-
33 fication committee to bring the total number of committee members to seven; or

34 (b) The State Fire Marshal approves of the current membership of the county forestland
35 classification committee and the committee includes an owner of land within the
36 forestland-urban interface who permanently resides on the land.

37 **SECTION 11.** (1) A county forestland-urban interface classification committee established
38 under section 10 of this 2023 Act shall periodically identify all land to be designated as
39 forestland-urban interface within the county based on the criteria developed pursuant to
40 ORS 477.027.

41 (2) The committee shall assign all forestland-urban interface forestland identified under
42 subsection (1) of this section to one of the forestland-urban interface classes developed pur-
43 suant to ORS 477.027.

44 (3) Before making final designations and classifications under this section, the committee
45 shall adopt proposed designations and classifications. The committee shall publish notice of

1 the proposed designations and classifications once a week for two consecutive weeks in a
2 newspaper of general circulation in the county, to be posted in three public places within the
3 county and to be mailed to the owners of land that is affected by the proposed designations
4 and classifications. The notice shall state the time and place for hearing or receiving ob-
5 jections, remonstrances or suggestions as to the proposed designations and classifications
6 and the place where maps of the proposed designations and classifications may be inspected.

7 **SECTION 12.** (1) A county forestland-urban interface classification committee shall hold
8 a public hearing at the time and place stated in the notice published under section 11 (3) of
9 this 2023 Act, or at such other time and place to which the hearing may be adjourned, to
10 receive from any interested persons objections, remonstrances or suggestions relating to the
11 proposed designations and classifications. Following the hearing, the committee may make
12 such changes in the proposed designations and classifications as it finds to be proper, hold
13 additional hearings as it finds necessary, and thereafter shall make final designations and
14 classifications.

15 (2) All final action by the committee in designating and classifying forestland-urban
16 interface shall be by formal written order, which must include a statement of findings of fact
17 on the basis of which the order is made, and must include a list of all land designated and
18 classified. The committee shall prepare one or more maps showing the final designations and
19 classifications made. The original of the order shall be filed with the county clerk of the
20 county. The order need not meet the requirements of ORS 205.232 to be filed and recorded.
21 A copy of the order certified by the secretary of the committee shall be sent to the State
22 Forester.

23 (3) Copies of the order, lists of land and maps required by this section shall be maintained
24 in designated offices of the forester where they shall be made available for public inspection.

25 **SECTION 13.** (1) Any owner of land designated and classified under sections 7 to 17 of this
26 2023 Act who is aggrieved by the designation or classification may, within 30 days after the
27 date of the order making the designation and classification, appeal to the circuit court for
28 the county. Notice of an appeal shall be promptly served on the secretary of the committee
29 or, if the designation and classification was made under section 14 of this 2023 Act, on the
30 State Forester.

31 (2) The appeal shall be tried by the circuit court as an action not triable by right to a
32 jury.

33 **SECTION 14.** (1) The State Forester may designate and classify forestland-urban inter-
34 face, consistent with and as described in sections 11, 12 and 13 of this 2023 Act, if a desig-
35 nation and classification of forestland-urban interface is not made by the county
36 forestland-urban interface classification committee within a county in which such land is
37 situated because:

38 (a) The governing body of the county fails to establish a county forestland-urban inter-
39 face committee within two years after the State Forester makes a request under section 10
40 (1) of this 2023 Act;

41 (b) The committee fails to make a designation and classification within five years after
42 being appointed, or the committee fails to make a designation and classification within five
43 years of the last designation and classification made by the committee; or

44 (c) The committee fails to make a designation and classification in a manner consistent
45 with sections 7 to 17 of this 2023 Act.

1 **(2) Designation and classification by the State Forester has the same force and effect as**
 2 **though made by a committee for that county. However, designations and classifications made**
 3 **by the State Forester cease to be effective if replaced by designations and classifications**
 4 **made pursuant to section 12 of this 2023 Act by the appropriate committee.**

5 **SECTION 15. (1)(a) The State Board of Forestry shall by rule establish minimum stan-**
 6 **dards for minimizing or mitigating:**

7 **(A) Fire hazards or risks on land within a forestland-urban interface due to the presence**
 8 **of structures or the arrangement or accumulation of vegetative fuels; and**

9 **(B) Other fire hazards or risks or combinations of fire hazards or risks.**

10 **(b) In adopting rules under this subsection, the board shall take into account the vari-**
 11 **ability of the forestland-urban interface in different parts of this state.**

12 **(c) An owner of land within a forestland-urban interface must comply with the minimum**
 13 **standards applicable to the land.**

14 **(2)(a) Except as provided in paragraph (b) of this subsection, but no more frequently than**
 15 **once every five years, the State Forester shall provide written notice of the applicable mini-**
 16 **imum standards established under this section to each owner of land within a forestland-**
 17 **urban interface, unless the owner requests a copy more frequently.**

18 **(b) The board need not give notice under paragraph (a) of this subsection to an owner**
 19 **of land if the owner is a member of a homeowners association by reason of owning the land**
 20 **and the State Forester has entered into a cooperative agreement with the homeowners as-**
 21 **sociation pursuant to section 9 (2)(e) of this 2023 Act that provides for notice to owners**
 22 **through the association.**

23 **(3) An owner of land within a forestland-urban interface must certify in writing to the**
 24 **State Forester that the owner has complied with the applicable minimum standards estab-**
 25 **lished under this section not later than two years after the order designating the land as**
 26 **being within the forestland-urban interface is filed with the county clerk under section 12 (2)**
 27 **of this 2023 Act. If a subsequent order is filed that changes the classification of the land, the**
 28 **owner of the land must make a supplemental certification in writing to the State Forester**
 29 **that reflects the measures that the owner has taken to comply with the applicable minimum**
 30 **standards established under this section for the new classification not later than six months**
 31 **after the new order is filed.**

32 **(4) The State Forester shall accept certifications made to the forester under subsection**
 33 **(3) of this section. Any owner of land whose written certification has been accepted by the**
 34 **State Forester under this subsection is not liable for the costs of suppressing a fire under**
 35 **subsection (6) of this section, unless the State Forester subsequently determines that the**
 36 **owner of land has provided a false certification.**

37 **(5) The State Board of Forestry may require periodic renewal of a certification accepted**
 38 **by the State Forester under subsection (4) of this section, and may require supplemental**
 39 **certifications from the owner of land that reflect the measures that the owner has taken to**
 40 **comply with the applicable minimum standards established under this section. An owner of**
 41 **land is responsible for maintaining the land described by the certification in compliance with**
 42 **the applicable minimum standards established under this section.**

43 **(6) The owner of land designated to be within a forestland-urban interface is liable to the**
 44 **State Forester for the costs of suppressing a fire that occurs on that land, as described in**
 45 **subsection (7) of this section, if:**

1 (a) The owner has failed to meet the applicable minimum standards established under
2 this section;

3 (b) The fire originates on the owner's land;

4 (c) The ignition or spread of the fire is directly related to the owner's failure to meet the
5 applicable minimum standards established under this section; and

6 (d) The fire requires action by the forester pursuant to ORS 477.066 (2).

7 (7) The liability of an owner of land under subsection (6) of this section may not exceed
8 \$100,000. The State Forester may not seek recovery under subsection (6) of this section for
9 any portion of the costs of suppressing a fire that are the ordinary costs of the regular
10 personnel and equipment of the forest protection district in which the land is located. This
11 subsection does not limit the liability of the owner under ORS 477.120.

12 **SECTION 16.** (1) In determining the annual cost of protection pursuant to ORS 477.230,
13 the forester may consider and include the special or additional cost of fire protection for
14 property owners within a forestland-urban interface classification, including the special or
15 unique costs of assessment processing and administration.

16 (2) The forester shall identify special or additional costs identified by subsection (1) of
17 this section in the budget required by ORS 477.230 to 477.300. These special or additional
18 costs are in addition to the annual cost of ORS 477.230 (1) and may not exceed \$25 annually
19 for each real property lot. Only those owners of land within a forestland-urban interface
20 classification in a forest protection district shall bear the special or additional cost of fire
21 protection within the forestland-urban interface in a manner consistent with rules
22 promulgated by the State Board of Forestry.

23 **SECTION 17.** Sections 7 to 17 of this 2023 Act shall be known as the Oregon Forestland-
24 Urban Interface Fire Protection Act.

25 **SECTION 18.** ORS 197.716 is amended to read:

26 197.716. (1) As used in this section:

27 (a) "Economic opportunity analysis" means an analysis performed by a county that:

28 (A) Identifies the major categories of industrial uses or other employment uses that could rea-
29 sonably be expected to expand or locate in the county based on a review of trends on a national,
30 state, regional or county level;

31 (B) Identifies the number of sites by type reasonably expected to be needed to accommodate the
32 expected employment growth based on the site characteristics typical of expected uses;

33 (C) Estimates the types and amounts of industrial uses and other employment uses likely to oc-
34 cur in the county based on subparagraphs (A) and (B) of this paragraph and considering the county's
35 economic advantages and disadvantages, including:

36 (i) Location, size and buying power of markets;

37 (ii) Availability of transportation facilities for access and freight mobility;

38 (iii) Public facilities and public services;

39 (iv) Labor market factors;

40 (v) Access to suppliers and utilities;

41 (vi) Necessary support services;

42 (vii) Limits on development due to federal and state environmental protection laws; and

43 (viii) Educational and technical training programs;

44 (D) Assesses community economic development potential through a public process in conjunction
45 with state agencies and consistent with any categories or particular types of industrial uses and

1 other employment uses desired by the community as identified in an existing comprehensive plan;

2 (E) Examines existing firms in the county to identify the types of sites that may require expansion;
3

4 (F) Includes an inventory of vacant and developed lands within the county designated for industrial use or other employment use, including:

5 (i) The description, including site characteristics, of vacant or developed sites within each plan
6 or zoning district; and

7 (ii) A description of any development constraints or infrastructure needs that affect the
8 buildable area of sites in the inventory; and

9 (G) Identifies additional potential sites for designation and rezoning that could reasonably accommodate expected industrial uses and other employment uses that cannot be met by existing inventories.
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13 (b) "Industrial use" means industrial employment activities, including manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment and research and development.
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16 (c) "Listed county" means Baker, Gilliam, Grant, Harney, Lake, Malheur, Sherman, Union, Wallowa or Wheeler County.
17

18 (d) "Other employment use" means all nonindustrial employment activities, including small scale commercial use, wholesale, service, nonprofit, business headquarters, administrative, governmental or employment activities that serve the medical, educational, social service, recreational or security industries and that occupy retail, office or flexible building types of any size or multibuilding campuses.
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23 (e) "Reasonably be expected to expand or locate in the county" means that the county possesses the appropriate locational factors for the use or category of use.
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25 (f)(A) "Small scale commercial use" means the low-impact use of land primarily for the retail sale of products or services, including offices.
26

27 (B) "Small scale commercial use" does not include use of land for factories, warehouses, freight terminals or wholesale distribution centers.
28

29 (2) A listed county that has adopted an economic opportunity analysis as part of its comprehensive plan may amend its comprehensive plan, land use regulations and zoning map to designate not more than 10 sites outside an urban growth boundary that cumulatively total not more than 50 acres of land if the sites were identified in any economic opportunity analysis as additional potential sites for industrial uses or other employment uses in order to allow for industrial uses and other employment uses without requiring an exception under ORS 197.732 to any statewide land use planning goals related to:
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36 (a) Agriculture;

37 (b) Forest use; or

38 (c) Urbanization.

39 (3) A county may not designate a site under subsection (2) of this section:

40 (a) On any lands designated as high-value farmland as defined in ORS 195.300;

41 (b) Unless the county complies with ORS 197.714; and

42 (c) If any portion of the proposed site is for lands designated for forest use, unless the county:

43 (A) Notifies the State Forester in writing not less than 21 days before designating the site; and

44 (B) Cooperates with the State Forester in:

45 (i) Updating and classifying [*wildland-urban*] **forestland-urban** interface lands in and around

1 the site;

2 (ii) Taking necessary steps to implement or update the [*wildland-urban*] **forestland-urban**
 3 interface fire protection system in and around the site as described in [*ORS 477.027*] **sections 7 to**
 4 **17 of this 2023 Act**; and

5 (iii) Implementing other fire protection measures authorized by the State Forester.

6 (4) A county may not amend its comprehensive plan, land use regulations or zoning map under
 7 this section to allow a use that would conflict with an administrative rule adopted for the purpose
 8 of implementing the Oregon Sage-Grouse Action Plan and Executive Order 15-18.

9 **SECTION 19.** ORS 205.130 is amended to read:

10 205.130. The county clerk shall:

11 (1) Have the custody of, and safely keep and preserve, all files and records of deeds and mort-
 12 gages of real property and a record of all maps, plats, contracts, powers of attorney and other in-
 13 terests affecting the title to real property required or permitted by law to be recorded.

14 (2) Record, or cause to be recorded, in a legible and permanent manner, and keep in the office
 15 of the county clerk, all:

16 (a) Deeds and mortgages of real property, powers of attorney and contracts affecting the title
 17 to real property, authorized by law to be recorded, assignments thereof and of any interest therein
 18 when properly acknowledged or proved and other interests affecting the title to real property re-
 19 quired or permitted by law to be recorded;

20 (b) Certificates of sale of real property under execution or order of court, or assignments of
 21 previously recorded certificates or of any interest in real property, when properly acknowledged or
 22 proved;

23 (c) Certified copies of death records of any person appearing in the county records as owning
 24 or having a claim or interest in land in the county. A certified copy of a death record recorded in
 25 the deed records of a county under this subsection is a public record and is not subject to the dis-
 26 closure limitations under ORS 432.350;

27 (d) Instruments presented for recording by the United States or the State of Oregon, or a poli-
 28 tical subdivision of either, that affect title to or an interest in real property or that lawfully concern
 29 real property; [*and*]

30 (e) Instruments recognized under state law or rule or federal law or regulation as affecting title
 31 to or an interest in real property if the instrument is properly acknowledged or proved[.]; **and**

32 **(f) Orders from a county forestland-urban interface classification committee filed under**
 33 **section 12 of this 2023 Act.**

34 (3) Keep and maintain:

35 (a) Deed and mortgage records;

36 (b) Statutory lien records;

37 (c) A record called the County Clerk Lien Record in which the following shall be recorded:

38 (A) The warrants and orders of officers and agencies that are required or permitted by law to
 39 be recorded; and

40 (B) All instruments presented for recordation when required or permitted by law to be recorded
 41 that affect the title to or an interest in real property, other than instruments recorded in the deed
 42 and mortgage records or the statutory lien records;

43 (d) Releases, satisfactions, assignments, amendments and modifications of recorded instruments;
 44 and

45 (e) Other instruments required or permitted by law to be recorded not affecting interests in real

1 property.

2 (4) Perform all the duties in regard to the recording and indexing of deeds and mortgages of real
3 property, contracts, abstracts of judgments, notices of pendency, powers of attorney and other in-
4 terests when required or permitted by law to be recorded that affect the title of real property, and
5 in regard to the entry of satisfaction and discharge of the same, together with other documents re-
6 quired or permitted by law to be recorded.

7 (5) Incur no civil or criminal liability, either personally or in an official capacity, for recording
8 an instrument that does not comply with the provisions of law that require or allow the recording
9 of the instrument.

10 **SECTION 20.** ORS 477.281 is amended to read:

11 477.281. (1) The obligation of an owner of timberland or grazing land for payment of assessments
12 and taxes for fire protection of forestland is limited to:

13 (a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880
14 to maintain the Oregon Forest Land Protection Fund; and

15 (b) The payment of forest protection district assessments pursuant to ORS 477.205 to 477.281
16 **and section 16 of this 2023 Act.**

17 (2) As used in this section, “obligation of an owner of timberland or grazing land for payment
18 of assessments and taxes for fire protection of forestland” does not include the duties or obligations
19 of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included
20 in a rural fire protection district pursuant to ORS 478.010.

21 **SECTION 21.** ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended
22 to read:

23 215.495. (1) As used in this section:

24 (a) “Accessory dwelling unit” has the meaning given that term in ORS 215.501.

25 (b) “Area zoned for rural residential use” has the meaning given that term in ORS 215.501.

26 (c) “Single-family dwelling” has the meaning given that term in ORS 215.501.

27 (2) Consistent with a county’s comprehensive plan, a county may allow an owner of a lot or
28 parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the
29 lot or parcel, provided:

30 (a) The lot or parcel is not located within an area designated as an urban reserve as defined in
31 ORS 195.137;

32 (b) The lot or parcel is at least two acres in size;

33 (c) One single-family dwelling is sited on the lot or parcel;

34 (d) The existing single-family dwelling property on the lot or parcel is not subject to an order
35 declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

36 (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to
37 sanitation and wastewater disposal and treatment;

38 (f) The accessory dwelling unit will not include more than 900 square feet of usable floor area;

39 (g) The accessory dwelling unit will be located no farther than 100 feet from the existing
40 single-family dwelling;

41 (h) If the water supply source for the accessory dwelling unit or associated lands or gardens
42 will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within
43 an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been re-
44 stricted by the Water Resources Commission;

45 (i) No portion of the lot or parcel is within a designated area of critical state concern;

1 (j) The lot or parcel is served by a fire protection service provider with professionals who have
 2 received training or certification described in ORS 181A.410;

3 (k) *[If the lot or parcel is in an area identified on the statewide map of wildfire risk described in*
 4 *ORS 477.490 as within the wildland-urban interface,]* The lot or parcel and accessory dwelling unit
 5 comply with *[any applicable minimum defensible space requirements for wildfire risk reduction estab-*
 6 *lished by the State Fire Marshal under ORS 476.392 and any applicable local requirements for*
 7 *defensible space established by a local government pursuant to ORS 476.392]* **rules of the State**
 8 **Board of Forestry under sections 7 to 17 of this 2023 Act;**

9 (L) Statewide wildfire risk maps have been approved and the accessory dwelling unit complies
 10 with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped
 11 area; and

12 (m) The county has adopted land use regulations that ensure that:

13 (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource
 14 use;

15 (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation
 16 and staged evacuation areas; and

17 (C) If the accessory dwelling unit is not *[in an area identified on the statewide map of wildfire*
 18 *risk described in ORS 477.490 as within the wildland-urban interface,]* **subject to sections 7 to 17**
 19 **of this 2023 Act**, the accessory dwelling unit *[complies with the provisions of this section and any*
 20 *applicable local requirements for defensible space established by a local government pursuant to ORS*
 21 *476.392]* **has defensible space and fuel break standards as developed in consultation with local**
 22 **fire protection service providers.**

23 (3) A county may not allow an accessory dwelling unit allowed under this section to be used for
 24 vacation occupancy, as defined in ORS 90.100.

25 (4) A county that allows construction of an accessory dwelling unit under this section may not
 26 approve:

27 (a) A subdivision, partition or other division of the lot or parcel so that the existing single-family
 28 dwelling is situated on a different lot or parcel than the accessory dwelling unit.

29 (b) Construction of an additional accessory dwelling unit on the same lot or parcel.

30 (5) A county may require that an accessory dwelling unit constructed under this section be
 31 served by the same water supply source or water supply system as the existing single-family dwell-
 32 ing, provided such use is allowed for the accessory dwelling unit by an existing water right or a use
 33 under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the ac-
 34 cessory dwelling unit shall maintain all setbacks from the well required by the Water Resources
 35 Commission or Water Resources Department.

36 (6) An existing single-family dwelling and an accessory dwelling unit allowed under this section
 37 are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

38 (7) Nothing in this section requires a county to allow any accessory dwelling units in areas
 39 zoned for rural residential use or prohibits a county from imposing any additional restrictions on
 40 accessory dwelling units in areas zoned for rural residential use, including restrictions on the con-
 41 struction of garages and outbuildings that support an accessory dwelling unit.

42 **SECTION 22. Any moneys remaining in the Community Risk Reduction Fund and the**
 43 **Oregon Conservation Corps Fund on the effective date of this 2023 Act that are unexpended,**
 44 **unobligated and not subject to any conditions shall revert to the General Fund.**

45 **SECTION 23. The Public Utility Commission, State Board of Forestry, State Fire Mar-**

1 **shal, Oregon Health Authority, State Forestry Department and State Forester shall amend**
2 **existing rules and adopt new rules as necessary to comply with sections 7 to 17 of this 2023**
3 **Act, the repeal of statutes and session law by section 1 of this 2023 Act and the amendments**
4 **to ORS 197.716, 205.130, 215.495, 401.025, 477.015, 477.025, 477.027, 477.281 and 526.360 by**
5 **sections 2 to 6 and 18 to 21 of this 2023 Act.**

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