

# House Bill 2595

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.

Allows board of county commissioners to adopt fire prevention code for areas within county that are outside boundaries of rural fire protection districts.

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, 478.910, 478.920,  
3 478.927, 478.930, 478.940, 478.960 and 478.965; and declaring an emergency.

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

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

6 476.280. (1) The fire chief, or the representative of the fire chief, of any **county or** duly organ-  
7 ized municipal or rural fire protection district may extinguish any uncontrolled fire found to be  
8 burning in any unprotected area, if:

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

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

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

19 **(3) To provide the services described in subsection (1) of this section, a county may**  
20 **contract with a fire contractor that:**

21 **(a) Has received training approved by, and certification from, the Department of Public**  
22 **Safety Standards and Training; and**

23 **(b) Has a contract with a 9-1-1 jurisdiction, as defined in ORS 403.105.**

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

25 476.290. (1) Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the  
26 city **or county**, or the district board of the rural fire protection district, that provided the fire  
27 [*suppression*] **protection service or contracted for provision of the fire protection service** may,

**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 on forms furnished **or approved** by the Department of the State Fire Marshal for such purposes, bill  
 2 the owner of the property involved in the fire for the cost of providing the fire [*suppression*] **pro-**  
 3 **tection** service.

4 (2) The governing body of the city **or county**, or the district board of the rural fire protection  
 5 district, that provided the fire [*suppression*] **protection** service **or contracted for provision of the**  
 6 **fire protection service** may determine the cost of providing the fire [*suppression*] **protection** ser-  
 7 vice by use of a state standardized-costs schedule as approved by the State Fire Marshal.

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

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

13 (b) **The amount the city, county or district paid for provision of the fire protection ser-**  
 14 **vice.**

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

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

21 476.330. (1) The county court or board of county commissioners of any county may prevent and  
 22 control fire occurring within the limits of zone 2 in such county, and may for such purposes estab-  
 23 lish and maintain [*fire fighting*] **fire-fighting** and fire control facilities and contract with existing  
 24 fire control agencies, either individuals, associations, corporations, cities or rural fire protection  
 25 districts, **that are served by a 9-1-1 jurisdiction, as defined in ORS 403.105.** The State Fire  
 26 Marshal, upon the request of any county court or board of county commissioners, shall meet with  
 27 and advise such county court or board of county commissioners as to the establishment and main-  
 28 tenance of [*fire fighting*] **fire-fighting** and fire protection equipment and facilities.

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

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

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

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

42 (4) **Under subsection (3)(a) of this section,** the court or board of county commissioners, upon  
 43 approval of the majority of the electors of zone 2 voting at a special election called for such a  
 44 purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the [*real*  
 45 *market*] **assessed** value of all taxable property within the zone, computed in accordance with ORS

1 308.207. This special levy may be in addition to *[the]* a regular levy under subsection (3)(a) of this  
 2 section.

3 (5) To carry into effect any of the powers granted under this section, the court or board, when  
 4 authorized by a majority of the votes cast by the electors of the zone voting at an election called  
 5 for that purpose by the court or board, may borrow money and sell and dispose of general obligation  
 6 bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125)  
 7 of the *[real market]* **assessed** value of all taxable property within the zone, computed in accordance  
 8 with ORS 308.207.

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

11 **SECTION 4.** ORS 478.910 is amended to read:

12 478.910. *[A district board may,]* In accordance with ORS 198.510 to 198.600, *adopt a fire pre-*  
 13 *vention code.]:*

14 (1) **A board of a rural fire protection district may adopt a fire prevention code for the**  
 15 **district.**

16 (2) **A board of county commissioners may adopt a fire prevention code for areas within**  
 17 **the county that are outside the boundaries of rural fire protection districts.**

18 **SECTION 5.** ORS 478.920 is amended to read:

19 478.920. The fire prevention code may provide reasonable regulations relating to:

20 (1) Prevention and suppression of fires.

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

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

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

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

26 (6) Means and adequacy of exit in case of fires and the regulation and maintenance of fire and  
 27 life safety features in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters,  
 28 all buildings, except private residences, which are occupied for sleeping purposes, and all other  
 29 places where large numbers of persons work, live or congregate from time to time for any purpose.

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

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

35 **SECTION 6.** ORS 478.927 is amended to read:

36 478.927. A district **or county** adopting a fire prevention code shall provide plan review at the  
 37 agency of the city or county responsible for the issuance of building permits for the orderly admin-  
 38 istration of that portion of the fire prevention code that requires approval prior to the issuance of  
 39 building permits.

40 **SECTION 7.** ORS 478.930 is amended to read:

41 478.930. When a district **or county** has adopted a fire prevention code as provided in ORS  
 42 478.910:

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

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

3 **SECTION 8.** ORS 478.940 is amended to read:

4 478.940. Copies of the fire prevention code shall be filed with the Department of the State Fire  
5 Marshal and a copy shall be posted at each fire station within the district **or county**.

6 **SECTION 9.** ORS 478.960 is amended to read:

7 478.960. (1) No one, within the boundaries of a district **or county**, shall cause or permit to be  
8 initiated or maintained on one's own property, or cause to be initiated or maintained on the property  
9 of another, any open burning of commercial waste, demolition material, domestic waste, industrial  
10 waste, land clearing debris or field burning without first securing permission from the fire chief of  
11 the district **or county** and complying with the direction of the fire chief. A deputy of a fire chief  
12 has the power to perform any act or duty of the fire chief under this section.

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

25 (3) Nothing in this section relieves a person starting a fire from responsibility for providing  
26 adequate protection to prevent injury or damage to the person or property of another. If such  
27 burning results in the escape of fire and injury or damage to the person or property of another, such  
28 escape and damage or injury constitutes prima facie evidence that the burning was not safe.

29 (4) Within a district **or county**, no person shall, during the fire season declared under ORS  
30 477.505, operate any equipment in forest harvesting or agricultural operations powered by an inter-  
31 nal combustion engine on or within one-eighth of one mile of forestland unless each piece of equip-  
32 ment is provided with a fire extinguisher of sufficient size and capacity and with such other tools  
33 and fire-fighting equipment as may be reasonably required by the fire chief of the district **or**  
34 **county**. The provisions of this subsection do not apply to machinery regulated by ORS chapter 477.

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

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

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

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

2 (a) A permit is required for field burning authorized pursuant to ORS 468A.550 to 468A.620 and  
3 468A.992.

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

8 **SECTION 10.** ORS 478.965 is amended to read:

9 478.965. (1) If the fire-fighting apparatus or personnel[, *or either*] of a district **or county**[,] are  
10 required to respond and be used actively or on a standby basis in connection with the  
11 extinguishment or control of a fire that has been started or allowed to spread in willful violation  
12 of ORS 478.960 (1) to (5), the person responsible therefor shall be liable to the district **or county**  
13 furnishing such apparatus or personnel[, *or both*,] for the actual costs incurred by the district **or**  
14 **county** in controlling, extinguishing or patrolling the fire. Such costs may be recovered in an action  
15 prosecuted in the name of the district **or county**. The court may award reasonable attorney fees to  
16 the district **or county** if the district **or county** prevails in an action under this section. The court  
17 may award reasonable attorney fees to a defendant who prevails in an action under this section if  
18 the court determines that the district **or county** had no objectively reasonable basis for asserting  
19 the claim or no reasonable basis for appealing an adverse decision of the trial court.

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

23 **SECTION 11. This 2023 Act being necessary for the immediate preservation of the public**  
24 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
25 **on its passage.**