

**SENATE AMENDMENTS TO  
A-ENGROSSED SENATE BILL 80  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 13

1 On page 1 of the printed A-engrossed bill, line 3, after “477.490” delete the rest of the line and  
2 insert “, 477.748 and 526.360 and sections 11 and 12d, chapter 592, Oregon Laws”.

3 On page 2, line 7, delete “four” and insert “three”.

4 In line 8, delete “extreme,”.

5 In line 19, delete “an extreme or” and insert “the”.

6 In line 21, delete “an extreme or” and insert “the”.

7 In line 22, delete “extreme or”.

8 In line 35, delete “extreme or” and insert “the” and delete “zones” and insert “zone”.

9 On page 4, line 5, delete “CLASSES OF” and after “INTERFACE” insert “CRITERIA”.

10 Delete lines 7 through 18 and insert:

11 “**SECTION 2.** ORS 477.027 is amended to read:

12 “477.027. (1) By rule, considering national best practices, the State Board of Forestry shall es-  
13 tablish:

14 “(a) A definition of ‘wildland-urban interface.’

15 “(b) Criteria by which the wildland-urban interface must be identified and classified.

16 “(2) The criteria:

17 “(a) Must recognize differences across the state in fire hazard, fire risk and structural charac-  
18 teristics within the wildland-urban interface.

19 “(b) May not exclude a category of land from inclusion in the wildland-urban interface.

20 “(3) Based on the criteria, the [*board shall establish five classes of*] wildland-urban interface[.]

21 “[*(4) The classes*] must be integrated into the comprehensive statewide map described in ORS  
22 477.490.”.

23 In line 45, delete “extreme or high risk” and insert “being in the high wildfire hazard zone”.

24 On page 8, delete lines 35 through 45.

25 On page 9, delete lines 1 through 22.

26 Delete lines 26 through 45.

27 On page 10, delete lines 1 through 44 and insert:

28 “**SECTION 9.** ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, and section  
29 1, chapter 76, Oregon Laws 2023 (Enrolled Senate Bill 644), is amended to read:

30 “215.495. (1) As used in this section:

31 “(a) ‘Accessory dwelling unit’ has the meaning given that term in ORS 215.501.

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

33 “(c) ‘Single-family dwelling’ has the meaning given that term in ORS 215.501.

34 “(2) Consistent with a county’s comprehensive plan, a county may allow an owner of a lot or

1 parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the  
2 lot or parcel, provided:

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

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

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

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

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

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

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

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

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

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

21 “(k) If the lot or parcel is in an area identified on the [*statewide map of wildfire risk*] **statewide**  
22 **wildfire hazard map** described in ORS 477.490 as within the wildland-urban interface, the lot or  
23 parcel and accessory dwelling unit comply with any applicable minimum defensible space require-  
24 ments for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any  
25 applicable local requirements for defensible space established by a local government pursuant to  
26 ORS 476.392;

27 “(L) The accessory dwelling unit complies with the construction provisions of section R327 of  
28 the Oregon Residential Specialty Code, if:

29 “(A) The lot or parcel is in an area identified as [*extreme or high wildfire risk*] **a high wildfire**  
30 **hazard zone** on the [*statewide map of wildfire risk*] **statewide wildfire hazard map** described in  
31 ORS 477.490; or

32 “(B) No [*statewide map of wildfire risk*] **statewide wildfire hazard map** has been adopted; and

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

34 “(A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource  
35 use;

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

38 “(C) If the accessory dwelling unit is not in an area identified on the [*statewide map of wildfire*  
39 *risk*] **statewide wildfire hazard map** described in ORS 477.490 as within the wildland-urban inter-  
40 face, the accessory dwelling unit complies with the provisions of this section and any applicable  
41 local requirements for defensible space established by a local government pursuant to ORS 476.392.

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

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

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

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

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

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

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

16 In line 45, delete “11” and insert “10”.

17 On page 11, line 6, delete “12” and insert “11”.

18 In line 7, delete “extreme and” and insert “the” and delete “zones” and insert “zone”.

19 In line 8, delete “are” and insert “is”.

20 In line 17, delete “13” and insert “12”.

21 In line 30, delete “extreme or” and insert “the”.

22 In line 31, delete “zones” and insert “zone”.

23 After line 39, insert:

24 “**SECTION 13.** Section 11, chapter 592, Oregon Laws 2021, as amended by section 4, chapter  
25 85, Oregon Laws 2022, is amended to read:

26 “**Sec. 11.** (1) As used in this section, ‘defensible space’ has the meaning given that term in ORS  
27 476.390.

28 “(2) The Department of Land Conservation and Development shall identify recommended  
29 changes to the statewide land use planning program and local comprehensive plans and zoning codes  
30 that are needed in order to incorporate wildfire [*risk*] **hazard** maps and minimize wildfire risk, in-  
31 cluding the appropriate levels of state and local resources necessary for effective implementation.

32 “(3) Recommended changes may include, but need not be limited to, provisions regarding suffi-  
33 cient defensible space, building codes, safe evacuation and development considerations in areas of  
34 [*extreme and*] high wildfire risk, allowing for regional differences.

35 “(4) On or before October 1, 2022, the department shall report to a committee or interim com-  
36 mittee of the Legislative Assembly related to wildfire, in the manner provided in ORS 192.245, to the  
37 State Wildfire Programs Director and to the Wildfire Programs Advisory Council on the changes  
38 recommended by the department.

39 “(5) As necessary to identify recommended changes, the department may consult with the State  
40 Fire Marshal, the State Forestry Department, the Department of Consumer and Business Services  
41 and local governments.

42  
43 **“PRESCRIBED FIRES**

44  
45 “**SECTION 14.** (1) As used in this section:

1       “(a) ‘Cultural burn’ means the intentional application of fire to land by an Indian tribe  
2 or cultural fire practitioner to achieve cultural goals or objectives identified by a tribal or-  
3 dinance, traditional tribal custom or law of an Indian tribe, such as subsistence, ceremonial  
4 activities, biodiversity or other benefits.

5       “(b) ‘Cultural fire practitioner’ means a person associated with an Indian tribe with ex-  
6 perience in burning to meet cultural goals or objectives, including subsistence, ceremonial  
7 activities, biodiversity or other benefits.

8       “(c) ‘Indian tribe’ means a federally recognized Indian tribe in Oregon.

9       “(2) The State Forestry Department shall establish a Prescribed Fire Liability Pilot Pro-  
10 gram and administer the program.

11       “(3) Notwithstanding subsection (2) of this section, the Department of Consumer and  
12 Business Services shall administer reimbursements for claims under the program.

13       “(4) The program must be administered to:

14       “(a) Increase the pace and scale of the use of prescribed fire and cultural burning.

15       “(b) Reduce barriers for conducting prescribed fires and cultural burning.

16       “(c) Support coverage for losses from prescribed fires and cultural burning by nonpublic  
17 entities such as cultural fire practitioners, private landowners, nongovernmental entities,  
18 Certified Burn Managers as defined in ORS 526.005, companies, contractors and operators.

19       “(d) Support nonpublic entities, such as cultural fire practitioners, private landowners,  
20 nongovernmental entities, Certified Burn Managers, companies, contractors and operators,  
21 that are alleged to have caused damages resulting from prescribed fires or cultural burning.

22       “(5) Under the program, the Department of Consumer and Business Services may reim-  
23 burse claims related to:

24       “(a) A prescribed fire conducted or supervised by the State Forester, a forest protective  
25 association or a rangeland protection association, pursuant to ORS 477.315 to 477.325.

26       “(b) A prescribed fire in a forest protection district, as described in ORS 477.205 to  
27 477.281, that is conducted or supervised by a Certified Burn Manager pursuant to ORS  
28 526.360.

29       “(c) A cultural burn conducted or supervised by a cultural fire practitioner.

30       “(6) The Department of Consumer and Business Services may only reimburse a claim for  
31 recoverable damages, as described in ORS 477.089 (2), or for actual costs, as described in ORS  
32 477.068, subject to the provisions of ORS 477.120, if:

33       “(a) The State Forester, a forest protective association, a rangeland protection associ-  
34 ation or a Certified Burn Manager reviewed and approved a burn plan before the prescribed  
35 fire or cultural burning;

36       “(b) Any necessary permit was obtained before the prescribed fire or cultural burning  
37 was conducted;

38       “(c) The prescribed fire or cultural burning complied with any requirements under a burn  
39 plan or permit;

40       “(d) The claim was submitted to the Department of Consumer and Business Services not  
41 more than 60 days after an incident report was completed or as specified by rule by the State  
42 Forestry Department; and

43       “(e) The State Forestry Department has certified that the claim satisfies the require-  
44 ments of paragraphs (a) to (d) of this subsection.

45       “(7) The limitations imposed by ORS 30.271 apply to claims under this section for losses

1 arising from a prescribed fire or cultural burn.

2 “(8) The State Forestry Department:

3 “(a) Shall consult with other relevant state agencies, cultural fire practitioners, the State  
4 Forester, forest protective associations, rangeland protection associations and Certified Burn  
5 Managers to establish guidelines for the program.

6 “(b) Shall adopt the guidelines by rule.

7 “(c) Shall make the guidelines publicly available on a department website.

8 “(d) Notwithstanding subsection (3) of this section, shall adopt rules to determine how  
9 claims under the program will be accepted and processed.

10 “(e) Shall adopt by rule a definition of the term ‘prescribed fire’ for purposes of imple-  
11 menting this section.

12 “(f) Shall adopt rules establishing requirements for incident reports for prescribed fires  
13 and cultural burning.

14 “(g) May adopt rules imposing requirements for eligibility for reimbursement of a claim  
15 under this section that are in addition to eligibility requirements described in subsection (6)  
16 of this section.

17 “(9) A person who interacts with an Indian tribe or cultural fire practitioner pursuant  
18 to this section shall respect tribal sovereignty, customs and culture.

19 “(10) Notwithstanding any other provision of law, the state’s liability for all claims under  
20 this section and the guidelines developed by the State Forestry Department pursuant to  
21 subsection (8) of this section, shall be limited as described in this section and to the amount  
22 in the Prescribed Fire Claims Fund established by section 15 of this 2023 Act.

23 “(11) The provisions of ORS 183.310 to 183.497 do not apply to rules adopted under this  
24 section.

25 “(12) This section does not undermine or diminish the exercise of tribal sovereignty.

26 “SECTION 15. (1) There is established in the State Treasury, separate and distinct from  
27 the General Fund, the Prescribed Fire Claims Fund. Interest earned by the fund shall be  
28 credited to the fund. All moneys in the fund are continuously appropriated to the Depart-  
29 ment of Consumer and Business Services for the program described in section 14 of this 2023  
30 Act.

31 “(2) The fund shall consist of all moneys credited to the fund, including moneys appro-  
32 priated or transferred to the fund by the Legislative Assembly.

33 “(3) If the department authorizes the Oregon Insurance Guaranty Association to admin-  
34 ister the program, the department shall distribute moneys in the fund to the association as  
35 necessary for the program.

36 “SECTION 16. (1) Sections 14 and 15 of this 2023 Act are repealed on January 2, 2028.

37 “(2) Forty-five days before the date specified in subsection (1) of this section, the De-  
38 partment of Consumer and Business Services and the State Forestry Department shall de-  
39 termine the number of claims certified by the State Forestry Department pursuant to  
40 section 14 (6)(e) of this 2023 Act that have not been processed.

41 “(3) Any moneys in the Prescribed Fire Claims Fund that are unexpended and unobligated  
42 on the date of the repeal of sections 14 and 15 of this 2023 Act by subsection (1) of this sec-  
43 tion shall revert to the General Fund.

44 “(4) The Department of Consumer and Business Services shall determine the amount of  
45 unexpended and unobligated moneys described in subsection (3) of this section, based on the

1 amount remaining in the fund and the number of claims described in subsection (2) of this  
2 section.

3 “**SECTION 17.** (1) On or before April 1, 2028, in consultation with the Department of  
4 Consumer and Business Services, the State Forestry Department shall report to the Gover-  
5 nor and to a committee or interim committee of the Legislative Assembly related to natural  
6 resources, in the manner prescribed in ORS 192.245, on the performance of the Prescribed  
7 Fire Liability Pilot Program described in section 14 of this 2023 Act.

8 “(2) The report must include:

9 “(a) The number of claims that were processed after the program was established and  
10 before the date of the report.

11 “(b) The total costs of claims paid.

12 “(c) A reference to an incident report for each claim processed or paid after the program  
13 was established and before the date of the report.

14 “(d) Recommendations for revising the program and improving administration of the  
15 program if sections 14 and 15 of this 2023 Act are not repealed on January 2, 2028, pursuant  
16 to section 16 of this 2023 Act.

17 “**SECTION 18.** ORS 526.360 is amended to read:

18 “526.360. (1) The State Board of Forestry, the State Forester and forest protective associations  
19 may assist to the extent practical in developing, for forestry, grazing or agricultural uses, [*all*  
20 *forestland classified pursuant to ORS 526.328 or 526.340*] **lands within a forest protection district,**  
21 **as described in ORS 477.205 to 477.281,** for such uses, including the burning of brush or other  
22 flammable material for the purpose of:

23 “(a) Removing a fire hazard to any property;

24 “(b) Preparing seed beds;

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

27 “(d) Promoting the establishment of new forest crops on cutover, denuded or underproductive  
28 lands;

29 “(e) Implementing pest prevention and suppression activities, as provided in ORS 527.310 to  
30 527.370; or

31 “(f) Promoting improvements to forest health, including improvements to fish and wildlife  
32 habitat.

33 “(2) Upon request of the owner or the agent of the owner of [*any forestland classified pursuant*  
34 *to ORS 526.328 or 526.340*] **lands within a forest protection district,** the forester or a forest pro-  
35 tective association may perform or supervise burning operations thereon for any of the purposes  
36 stated in subsection (1) of this section. The owner or the agent of the owner shall supply such per-  
37 sonnel and equipment and shall perform such fire control actions and activities as the forester or  
38 forest protective association may require while there is danger of the fire spreading. The forester  
39 or forest protective association may refuse to perform or supervise burning or to issue any burning  
40 permit when, in the judgment of the forester or forest protective association, conditions so warrant.

41 “(3) To accomplish the purposes set forth in subsection (1) of this section, the board shall es-  
42 tablish by rule a Certified Burn Manager program.

43 “(4) The rules shall include:

44 “(a) Certification standards, requirements and procedures;

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

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

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

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

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

6 “(5) The rules may establish and impose fees for participation in the program.

7 “(6) When a burning for any of the purposes stated in subsection (1) of this section on [*forestland*  
8 *classified pursuant to ORS 526.328 or 526.340*] **lands within a forest protection district** is started  
9 under the supervision of and supervised by the forester, a forest protective association or a Certified  
10 Burn Manager, a person may not be held liable for property damage resulting from that burning  
11 unless the damage is caused by the negligence of the person.”.

12 In line 41, delete “APPROPRIATION” and insert “APPROPRIATIONS”.

13 Delete lines 43 through 45.

14 On page 12, delete line 1 and insert:

15 “**SECTION 19. In addition to and not in lieu of any other appropriation, there is appro-**  
16 **riated to the Department of the State Fire Marshal, for the biennium beginning July 1, 2023,**  
17 **out of the General Fund, the amount of \$3,000,000, for deposit in the Community Risk Re-**  
18 **duction Fund established under ORS 476.396.**

19 “**SECTION 20. Notwithstanding any other law limiting expenditures, the amount of**  
20 **\$3,000,000 is established, for the biennium beginning July 1, 2023, as the maximum limit for**  
21 **payment of expenses by the Department of the State Fire Marshal for community risk re-**  
22 **duction activities funded through the Community Risk Reduction Fund established under**  
23 **ORS 476.396.**

24 “**SECTION 21. Notwithstanding any other provision of law, the General Fund appropri-**  
25 **ation made to the State Forestry Department by section 1 (3), chapter \_\_, Oregon Laws 2023**  
26 **(Enrolled House Bill 5020), for the biennium beginning July 1, 2023, for the planning branch,**  
27 **is increased by \$350,000, for implementing the amendments to ORS 477.490 and 477.027 by**  
28 **sections 1 and 2 of this 2023 Act.**

29 “**SECTION 22. Notwithstanding any other provision of law, the General Fund appropri-**  
30 **ation made to the Higher Education Coordinating Commission by section 1 (9), chapter \_\_,**  
31 **Oregon Laws 2023 (Enrolled House Bill 5025), for the biennium beginning July 1, 2023, for**  
32 **public university statewide programs, is increased by \$846,173, for implementing the amend-**  
33 **ments to ORS 477.490 by section 1 of this 2023 Act.**

34 “**SECTION 23. Notwithstanding any other provision of law, the General Fund appropri-**  
35 **ation made to the Higher Education Coordinating Commission by section 1 (10), chapter \_\_,**  
36 **Oregon Laws 2023 (Enrolled House Bill 5025), for the biennium beginning July 1, 2023, for**  
37 **statewide public services, is increased by \$30,000, for implementing the amendments to ORS**  
38 **477.490 by section 1 of this 2023 Act.**

39 “**SECTION 24. In addition to and not in lieu of any other appropriation, there is appro-**  
40 **riated to the Department of Consumer and Business Services, for the biennium beginning**  
41 **July 1, 2023, out of the General Fund, the amount of \$5,000,000, for deposit in the Prescribed**  
42 **Fire Claims Fund established by section 15 of this 2023 Act.**

43 “**SECTION 25. Notwithstanding any other law limiting expenditures, the amount of**  
44 **\$5,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for**  
45 **payment of expenses by the Department of Consumer and Business Services from the Pre-**

1 scribed Fire Claims Fund established by section 15 of this 2023 Act.

2 **“SECTION 26. Notwithstanding any other provision of law, the General Fund appropri-**  
3 **ation made to the State Forestry Department by section 1 (2), chapter \_\_, Oregon Laws 2023**  
4 **(Enrolled House Bill 5020), for the biennium beginning July 1, 2023, for forest resources, is**  
5 **increased by \$242,037, for the administration of the Prescribed Fire Liability Pilot Program**  
6 **described in section 14 of this 2023 Act.”.**

7 In line 5, delete “15” and insert “27”.

8 In line 11, delete “16” and insert “28”.

9 \_\_\_\_\_