

SB 863 -1 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

Prepared By: Alexa Piscanio, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/4, 3/13

WHAT THE MEASURE DOES:

The measure strengthens the Oregon State Fire Marshal's (OSFM) ability to hold individuals who start fires financially accountable for fire suppression costs incurred by OSFM.

Fiscal impact: Fiscal impact issued

Revenue impact: No revenue impact

Detailed Summary:

Defines actual cost as costs incurred by the Oregon State Fire Marshal (OSFM) in managing a fire. Authorizes OSFM to recover costs from a person who starts a fire, requiring OSFM to mail a written demand with a 90-day deadline for payment. Authorizes OSFM to charge interest at a rate of 10% per year if the respondent is noncompliant. Grants authority to OSFM to issue a general lien against the respondent's property if the actual cost of the fire constitutes such an action. Requires that a general lien notice from OSFM must be certified under oath and filed within 12 months after the fire occurred, and lists that the property may be foreclosed upon. Authorizes the Attorney General to assist in investigating liability, issue subpoenas and prosecute cases to recover costs. Authorizes Deputy State Fire Marshal, under instruction from the State Fire Marshal to secure scenes, restrict access and preserve evidence.

ISSUES DISCUSSED:

- General Fund allocations for wildfire

EFFECT OF AMENDMENT:

-1 amendment authorizes the State Fire Marshal to enforce compliance with subpoenas related to recovering actual costs for fire suppression by taking legal action in court.

Detailed Summary:

Removes provision instructing a circuit court judge of a county to compel obedience with a subpoena. Adds provisions to allow the State Fire Marshal (OSFM) to petition a circuit court if a person fails to comply with a subpoena during an investigation into actual fire suppression costs; authorizes a court to order the person to explain why they haven't followed the subpoena and why they shouldn't be held in contempt of court. Requires OSFM to serve the individual with a document initiating the contempt action and authorizes the court to compel the person to obey the subpoena through contempt proceedings.

BACKGROUND:

The Oregon Department of Forestry (ODF) is required by law to investigate all wildfires on or near ODF-protected lands. Investigations focus on determining the wildfire's origin, cause, and identifying the responsible party. If a party is found liable, ODF can pursue cost recovery and prepare for litigation. ODF has authority to recover fire suppression costs following Oregon's accounting guidelines. Most investigation reports are done with the expectation of potential litigation due to the complexity and high costs involved. Currently, ODF does not conduct criminal investigations, but does collaborate with law enforcement when criminal activity is suspected.