

## **SB 83 -4, -5, -6, -7 STAFF MEASURE SUMMARY**

### **Senate Committee On Natural Resources and Wildfire**

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 4/1, 4/3

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#### **WHAT THE MEASURE DOES:**

The measure modifies wildfire hazard mitigation building code standards to exempt new dwellings and accessory structures and removes requirements for the State Forestry Department and Department of the State Fire Marshal to establish baseline levels or higher of wildfire protection for lands outside of forest protection districts. It also modifies consultations that are required for a grant process that supports work conducted by the Oregon Conservation Corps Program and modifies a program that protects at-risk communities and infrastructure within the wildland-urban interface. It appropriates moneys out of the General Fund to the Higher Education Coordinating Commission for funding certain grant-supported projects. Declares an emergency, effective on passage.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

#### Detailed Summary:

##### **Wildfire Hazard Mitigation Building Code Standards**

The measure modifies the building code standards in Section R327 of the 2021 Oregon Residential Specialty Code. It exempts new dwellings and their accessory structures from these standards if they comply with wildfire hazard mitigation building code standards adopted before July 19, 2021, as well as the latest version of Section R327 of the Oregon Residential Specialty Code.

Removes requirement for the State Forestry Department (ODF) and State Fire Marshal (OSFM) to adopt rules for establishing baseline levels or higher of wildfire protection for lands outside of forest protection districts and susceptible to wildfire, ensuring levels are adapted to reflect regional conditions.

Repeals section 29, chapter 592, Oregon Laws 2021, requiring counties to ensure no later than January 1, 2026, that all lands outside of forest protection districts within the county have baseline level or higher wildfire protection.

##### **Oregon Conservation Corps**

Revises the Oregon Conservation Corps Advisory Committee to add OSFM to the agencies the Higher Education Coordinating Commission (HECC) must consult with to ensure the grant process supporting the Oregon Conservation Corp's (OCC) work aligns with its goals. Requires HECC to consult with the ODF to ensure that grant process awards fund proposals that meet ODF standards for fuel treatment.

Requires ODF consult with OSFM to ensure wildfire risk reduction projects protecting at-risk communities in the wildland-urban interface involving the Oregon Conservation Corps program are consistent with OSFM objectives.

Appropriates funds to HECC for grant-supported OCC projects. Declares an emergency, effective on passage.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

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*This summary has not been adopted or officially endorsed by action of the committee.*

**-4 amendment replaces measure. Repeals the statewide wildfire map** and its application to defensible space requirements, the wildland-urban interface, wildfire programs advisory council, building codes, comprehensive planning, seller's property disclosure agreement, accessory dwelling units and replacement dwellings, and the small forestland grant program. Declares an emergency, effective upon passage.

Detailed Summary:

Repeals the following statutes:

- 455.612 Building code standards for wildfire hazard mitigation; rules.
- 455.614 Mapping tool for wildfire hazard mitigation
- 476.390 Defensible Space- Definition
- 476.394 Limitations on use of minimum defensible space requirements
- **476.398** Defensible Space Biannual reports
- 477.027 Establishment of classes of wildland-urban interface; rules
- 477.161 Fire protection for lands outside forest protection districts
- 477.490 Statewide wildfire hazard map; rules

Repeals Sections 12a, 12b, 12d, and 29, chapter 592 Oregon Laws 2021- relating to the statewide wildfire hazard map and DCBS adoption of building codes and a requirement that counties have a baseline or higher level of wildfire protection on specified lands before January 1, 2026.

**Defensible Space:**

Amends ORS 476.392 (Minimum defensible space requirements) to define "a natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur." Removes all references to the statewide wildfire hazard map within ORS 476.392 (map), including:

- Requirement that the State Fire Marshal (SFM) establish minimum defensible space standards for wildfire risk reduction on lands identified on the map as part of the wildland-urban interface.
- Application of these standards statewide for lands in the high wildfire hazard zone, as identified on the map.
- Ability for local governments to administer, consult on, and enforce defensible space requirements based on the map, including the reporting and compliance procedures tied to the map's designation.

Directs SFM to include the creation of a model code in the community risk reduction program. Requires that when establishing or revising the model code, the SFM must:

- Set standards that align with, but do not exceed, the defensible space standards outlined in the International Wildland-Urban Interface Code (sections 603 and 604).
- Consider Oregon-specific best practices when developing these standards.
- Periodically review and update these standards in consultation with the Oregon Fire Code Advisory Board to ensure they reflect the latest best practices.

Prohibits SFM from requiring local governments to adopt the model code.

**Wildland Urban Interface:**

Amends ORS 477.015 (Urban interface protections, definitions) to:

- Define "wildland" as forestland or "an unimproved area that contains enough unmanaged vegetation, at any time of the year, to constitute a fire hazard in the judgment of the forester, regardless of how the area is zoned or taxed."
- Revises definition of "wildland-urban interface" to mean a "geographic area in which there is a concentration of dwellings in an urban or suburban setting near wildland."

Specifies that ODF wildfire risk reduction program must give priority to projects that focus on treatments protective of property within the wildland-urban interface, in addition to other criteria.¿

**Wildfire programs Advisory Council:**

Removes requirement that the Wildfire Programs Advisory Council assess ways the statewide wildfire hazard map may inform the development of building codes and land use laws, rules, and decisions in a regionally appropriate manner.

Increases the council membership from 19 to 20 members. Adds a member who represents fire marshals and requires that they also must have experience with community risk reduction and prevention of structural fire within the wildland urban interface.

**Seller's Property Disclosure Agreement:**

Removes the following question from the seller's property disclosure statement: "Has the property been classified as wildland-urban interface?"

**Comprehensive Planning:**

Amends ORS 197.716 (authorizes certain counties to designate up to 10 sites outside an urban growth boundary for industrial or employment uses under specific circumstances) to remove reference to statute this amendment repeals that requires ODF to adopt a definition of the "wildland urban interface."

**Accessory Dwelling Unit and Replacement Dwellings:**

Revises ORS 215.495 to remove references to the statewide wildfire hazard map and map-related provisions in statutes authorizing a county to approve accessory dwelling units (ADUs) and replacement dwellings in high wildfire hazard zones:

- Removes requirement for ADUs to comply with any applicable state or local defensible space standards if identified on the statewide wildfire hazard map as located in a wildland-urban interface area.
- Removes requirement for ADUs or replacement dwellings to be altered, restored, or replaced to comply with the construction provisions in section R327 of the Oregon Residential Specialty Code in area identified as a high wildfire hazard zones on the statewide wildfire hazard map, or if no map has been adopted.

**Small Forestland Grant Program:**

Removes requirement for the small forestland grant program to prioritize projects in high wildfire hazard zones as described by the statewide wildfire map.

**Wildfire Hazard Zones:**

Declares any orders issued by ODF that assigns property to a wildfire hazard zone as null and void.

Declares an emergency, effective upon passage.

**-5 amendment replaces measure. Repeals the statewide wildfire map** and its application to defensible space requirements, the wildland-urban interface, wildfire programs advisory council, building codes, comprehensive planning, seller's property disclosure agreement, accessory dwelling units and replacement dwellings, and the small forestland grant program. Declares an emergency, effective upon passage.

Detailed Summary:

Repeals the following statutes:

- 455.612 (Building code standards for wildfire hazard mitigation; rules)

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- 455.614 (Mapping tool for wildfire hazard mitigation)
- 476.390 (*Defensible Space- Definition*)
- 476.394 (Limitations on use of minimum defensible space requirements)
- 477.027 (Establishment of classes of wildland-urban interface; rules)
- 477.161 (Fire protection for lands outside forest protection districts)
- 477.490 (Statewide wildfire hazard map; rules)

Repeals Sections 12a, 12b, 29, and 12d chapter 592 Oregon Laws 2021- relating to DCBS establishment of the statewide wildfire hazard map and its application to building codes.

### **Defensible Space:**

Amends ORS 476.392 (Minimum defensible space requirements, rules) to remove all references to the statewide wildfire hazard map in relation to defensible space requirements. Removes the requirement for the State Fire Marshal to establish defensible space standards based on the map, the application of these standards for lands in high wildfire hazard zones, and the authority of local governments to enforce defensible space requirements tied to the map.

Requires the State Fire Marshal to create a model code for defensible space as part of their community risk reduction program. This model code must align with the International Wildland-Urban Interface Code, consider Oregon-specific best practices, and be periodically reviewed and updated. States that local governments are not required to adopt this model code, they may choose to do so voluntarily.

### **Wildland-Urban Interface:**

Amends ORS 477.015 (Urban interface protections, definitions) to revise the definition of "wildland-urban interface" to mean a geographic area in which there is a concentration of dwellings in an urban or suburban setting near wildland. Adds that the Oregon Department of Forestry's (ODF) wildfire risk reduction program will prioritize treatments for properties within the wildland-urban interface.

### **Wildfire programs Advisory Council:**

Amends ORS 476.690 (Wildfire programs advisory council) to define "defensible space" as a "natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur." Expands the Wildfire Programs Advisory Council membership from 19 to 21 members, including a representative with experience in community risk reduction and preventing structural fires in the wildland-urban interface. New members added to the council include one from the structural fire service with experience in managing or preventing wildfires in the interface, and one representing the insurance industry. Additionally, the council is now required to ensure geographic diversity with representation from across Oregon.

### **Building Code Standards:**

Requires the Department of Consumer and Business Services (DCBS) to adopt the wildfire hazard mitigation code standards from section R327 of the 2023 Oregon Residential Specialty Code and make them available for optional adoption by local governments. DCBS must establish a process for municipalities to adopt these standards, which includes notifying the department once they are adopted. These standards can only be applied to the construction of new buildings.

### **Wildfire Hazard Zones:**

Declares any orders issued by ODF that assigns property to a wildfire hazard zone as null and void.

### **Reporting Requirements and Administration:**

*This Summary has not been adopted or officially endorsed by action of the committee.*

Revises and establishes the following reporting requirements regarding wildfire:

- Revises reporting requirements of the State Wildfire Programs director to the Governor from every 60 days to every 90 days to summarize progress on implementing the activities, note obstacles and opportunities and catalog possibilities for future improvements to further reduce wildfire risk in Oregon.
- Requires Oregon Youth Works Advisory Board to submit a report annually instead of biennially on the expenditure of moneys in the Oregon Conservation Corps Fund.
- Revises the timing and content of the State Fire Marshal annual report on the status of the community risk reduction program.
- Requires ODF to annually report on the wildfire risk reduction program and the 20-year landscape resiliency plan to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on plan implementation, wildfire risk reduction efforts expenditures, and any recommendations for legislative action, including future resource and funding needs.
- Requires DEQ to annually report on community smoke response plans and the wildfire smoke monitoring program to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on the implementation of smoke response plans, smoke monitoring efforts, expenditures for smoke monitoring and plan development, recommendations for legislative action, and future resource or funding needs.
- Requires the Public Utility Commission to annually report on actions taken to reduce wildfire risk from utility infrastructure to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on the review of wildfire protection and mitigation plans filed by public utilities, summaries of wildfire mitigation best practice workshops, public safety power shutoffs, expenditures on wildfire mitigation efforts, and any recommendations for legislative action, including future resource and funding needs.

**Seller's Property Disclosure Statement:**

Removes the following question from the seller's property disclosure statement: "Has the property been classified as wildland-urban interface"

**Accessory Dwelling Units and Replacement Dwellings:**

Revises ORS 215.495 to remove references to the statewide wildfire hazard map and map-related provisions in statutes authorizing a county to approve accessory dwelling units (ADUs) and replacement dwellings in high wildfire hazard zones:

- Removes requirement for ADUs to comply with any applicable state or local defensible space standards if identified on the statewide wildfire hazard map as located in a wildland-urban interface area.
- Removes requirement for ADUs or replacement dwellings to be altered, restored, or replaced to comply with the construction provisions in section R327 of the Oregon Residential Specialty Code in area identified as a high wildfire hazard zones on the statewide wildfire hazard map, or if no map has been adopted.

**Small Forestland Grant Program:**

Removes requirement for the small forestland grant program to prioritize projects in high wildfire hazard zones as described by the statewide wildfire map.

Declares an emergency, effective upon passage.

**-6 amendment replaces the measure.** It incorporates the changes from the -4 amendment, adding modified provisions relating to defensible space, the wildfire programs advisory council, building code standards, and reporting requirements and administration. It removes the repealing of ORS 476.398 (Defensible Space Biannual reports).

Adds the following modifications:

**Defensible Space:**

Amends ORS 476.690 (Wildfire Programs Advisory Council) to define “defensible space” as “a natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur.”

**Wildfire Programs Advisory Council:**

Expands the Wildfire Programs Advisory Council membership from 19 to 21 members, including a representative with experience in community risk reduction and preventing structural fires in the wildland-urban interface. New members added to the council include one from the structural fire service with experience in managing or preventing wildfires in the interface, and one representing the insurance industry. Additionally, the council is now required to ensure geographic diversity with representation from across Oregon.

**Building Code Standards:**

Requires the Department of Consumer and Business Services (DCBS) to adopt the wildfire hazard mitigation code standards from section R327 of the 2023 Oregon Residential Specialty Code and make them available for optional adoption by local governments. DCBS must establish a process for municipalities to adopt these standards, which includes notifying the department once they are adopted. These standards can only be applied to the construction of new buildings.

**Reporting Requirements and Administration:**

- Revises reporting requirements of the State Wildfire Programs director to the Governor from every 60 days to every 90 days to summarize progress on implementing the activities, note obstacles and opportunities and catalog possibilities for future improvements to further reduce wildfire risk in Oregon.
- Requires Oregon Youth Works Advisory Board to submit a report annually instead of biennially on the expenditure of moneys in the Oregon Conservation Corps Fund.
- Revises the timing and content of the State Fire Marshal annual report on the status of the community risk reduction program.
- Requires ODF to annually report on the wildfire risk reduction program and the 20-year landscape resiliency plan to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on plan implementation, wildfire risk reduction efforts expenditures, and any recommendations for legislative action, including future resource and funding needs.
- Requires DEQ to annually report on community smoke response plans and the wildfire smoke monitoring program to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on the implementation of smoke response plans, smoke monitoring efforts, expenditures for smoke monitoring and plan development, recommendations for legislative action, and future resource or funding needs.
- Requires the Public Utility Commission to annually report on actions taken to reduce wildfire risk from utility infrastructure to an interim legislative committee related to wildfire, the State Wildfire Programs Director, and the Wildfire Programs Advisory Council. The report must include updates on the review of wildfire protection and mitigation plans filed by public utilities, summaries of wildfire mitigation best practice workshops, public safety power shutoffs, expenditures on wildfire mitigation efforts, and any recommendations for legislative action, including future resource and funding needs.

**-7 amendment replaces the measure**, incorporating changes from the -5 amendment. It clarifies that the Department of Consumer and Business Services (DCBS) must adopt the wildfire hazard mitigation code standards

from section R327 of the 2023 Oregon Residential Specialty Code but cannot require local governments to adopt them.

**BACKGROUND:**

In 2021, the Oregon Legislative Assembly passed Senate Bill 762, a comprehensive wildfire law aimed at creating fire-adapted communities, improving landscape resiliency, and enhancing wildfire response. SB 762 directed the Department of Forestry, in partnership with Oregon State University, to create a statewide wildfire risk map that included wildland-urban interface (WUI) boundaries, categorizing properties into wildfire risk classes (extreme, high, moderate, low, and no risk). It also required the State Fire Marshal to establish defensible space standards based on the map and the International Wildland-Urban Interface Code, and for the Department of Consumer and Business Services (DCBS) to adopt building code standards (R327) for new construction in high-risk areas.