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Land Use Planning and Development

Mar 29, 2025

Senate Committee on Natural Resources and Wildfire  
Oregon Legislature  
900 Court St. NE  
Salem Oregon 97301

RE SB 83 Wildfire

Dear Chair Golden,  
Vice-Chair Nash,  
Committee Members,

My name is Bob Hart and I am a retired Land Use Consultant with more than 45 years of experience with Oregon Land Planning. More than 20 years were spent as a County Planner for Josephine County and more than 25 years as a private consultant. My experience included writing land use regulations, administering regulations and assisting private property owners conform to regulation to develop property. I think I am qualified to address the concerns addressed by the proposed legislation both good and bad.

My preference would be an outright repeal of SB 762 (2021) and the corrections in SB 80 (2023). The Wildfire Map and implementing mandates have proven to be detrimental to the residents of Oregon. The scale of the mapping and criteria used does not recognize the work done by property owners to reduce fire hazards. Unintended consequences of the Wildfire Program have included insurance cancellations and rate increases, loss of property sales and loss of property value to name but a few. While all these concerns may not be directly attributable to the Wildfire program, the timing of everything has caused the public to blame the State Wildfire Program. Additionally, the lack of management of Federal lands and the sheer size of fires on the federal lands has led the citizens to conclude that without government land changes, that the adopted Wildfire Program unfairly puts responsibility for wildfire on private property owners. Additionally, the State laws were said to be in response to the horrific fires of 2020. Nothing in the adopted laws would have prevented or even reduced the impacts of the Almeda Fire or the Santiam Fire. The good things in the adopted bills should be reviewed and re-adopted in separate bills instead of the piecemeal removal of various parts of the original bills that have proven to be a major problem.

Senate Bill 83 as originally drafted pertains to building codes in Wildfire Hazard designated areas and exempts the new standards for local jurisdictions where codes were adopted and have been implemented since July 21, 2021. There are some other minor word corrections pertaining to grants

for Wildfire mitigation with both ODF and the State Fire Marshal. If the Wildfire Mapping program and mandates from SB 762 remain, these minor corrections in the original SB 83 fix some original concerns. I would not be opposed to this original SB 83 only if the amendments proposed do not replace the existing wording.

## AMENDMENTS

This bill is completely changed with either of the two amendments being proposed for this bill. The adoption of either amendment is better than the provision of the original Wildfire Bills. The change would repeal the entire Wildfire Hazard Map and mandates for Defensive Space and Home Hardening. In the absence of a full repeal of SB 762 and SB 80, I support the proposal in both amendments to repeal the Wildfire Hazard Map required in ORS 477.490 and the numerous amendments and deletions required to remove all reference to the Wildfire Mapping Zones throughout the ORS as set forth in SECTION 1 of both amendments and the changes on page 1.

SECTION 2 Both amendments propose that the State Fire Marshal and the Oregon Fire Code Advisory Board create a model code for ‘defensible space’ that can optionally be adopted by local government. The code is to be consistent with and not exceed the standards of the 2024 International Wildland-Urban Interface Code. The wording is similar and consistent with both amendments. The new proposals prohibit the model code from being a requirement and optional in whole or in part. The provisions of optional codes allow local control and the ability to draft the code to address local concerns. I support SECTION 2 of either amendment.

## SECTIONS 3 & 4 Wildland-Urban Interface

The definition of the Wildland-Urban Interface is vague and impossible to specifically identify what lands are in the WUI. This is critical as in Section 4, the State Forestry Department is to design and **implement** (emphasis added) a program to reduce wildfire risk by “restoring resiliency and reducing hazardous fuels on public or **private** forestlands and rangelands and in communities near homes and critical infrastructure.” With the change in the definition of the WUI, the original line would be removed. The new definition does not have sufficient detail to know where the implementation takes place. No where in these sections do I see that permission is required from the private property owner. The code should be absolutely clear if any such program requires a property owner’s approval to be included in any designated program. With the vague definition of the WUI and subsection 3(C) stating that the program is to be “Focusing on treatments protective of human life and property within the WUI, implies that there are specific areas. The definition being a “geographic area in which there is a concentration of dwellings in an urban or suburban setting near wildland” there should logically be a line on a map somewhere to identify where the location is for such programs. It is my understanding that a WUI is required in order to secure federal funds for the type of projects envisioned in this section. If that is the case then the definition needs to be changed to something such as “A general area that is not property specific that the State Forester deems suitable for wildfire risk reduction based on development patterns and vegetation cover as further described in the program elements.” This description of a WUI should eliminate the need to identify individual properties as being within the WUI consistent with the changes proposed in Section entitled Conforming Amendments. (Section 6 in the -4 and Section 15 in the -5)

## SECTION 5 Wildfire Programs Advisory Council

Both amendments add someone to represent structural fire fighters. The -5 amendment also adds a representative from the Insurance Industry. I support the addition of both members as proposed in the -5 amendment. Many Council members are required to be from WUI locations. My opinion is that such a requirement is not necessary and can be removed.

## SECTIONS 6& 7 Building Code -5 Amendment

The topic of Building Codes is not in the -4 Amendment. This new Building Codes Section states the Department of Consumer and Business Services (Building Codes Division) shall adopt the Wildfire Hazard mitigation code standards of Section R327 of the 2023 Oregon Residential Specialty Code and made available for optional local adoption. This is a similar provision as the new model code for Defensive Space to be created by the State Fire Marshal. The proposal limits the new code standards to only new construction of new buildings. There is no offset included for the increased costs if the code is adopted by local government in the manner that the Defensible Space creates grant programs that can be given to create defensible space. The increased costs for Home Hardening can run thousands of dollars. Some grant program similar to Defensible Space would be consistent if that is the basis for including this new optional requirement for Home Hardening. Since the beginning of the entire Wildfire Program I have advocated for an incentive-based system and not a mandate. I support an incentive grant program to help implement Wildfire Safety for both Defensive Space and Home Hardening. I support this addition as it is optional and not a mandate.

Sections 9-15 of the -5 Amendment require agencies to report to the legislature the progress that has occurred under their responsibility for Wildfire. Some requirements are new and some are a shorter time frame. I have no objections if the reporting will be a cause for action to support what is working or remove portions of the program that have not proven to be beneficial. I have seen a number of state required reports that are slick color reports that repeat boiler plate sections report after report. I have no objection to a useful document to improve the program but I would not support redundant or just busy work.

The un-named sections are amendments to remove wording that was required by the Wildfire Hazard Map and the mandates for Defensible Space and Home Hardening. These changes are necessary in order to accomplish the primary goal to delete the map and make the mandates local options in whole or in part depending on local decisions based on model codes from the Fire Marshal and the Building Codes Division.

## ADDITIONAL CONCERN

A concern I have that has not been mentioned in any of the repeal bills or other discussions about Wildfire is Section 11 of the original SB 762 Land Use. A concern I have is that this section has not been changed to reflect the removal of the Wildfire Map. Section 11 that requires the Land Conservation and Development Department to identify updates to the statewide land use planning programs and local comprehensive plans and zoning codes that are needed to incorporate wildfire risk maps. The bill further requires that LCDC consider updates to the Land Use Code provisions of defensible space, building codes, safe evacuation and development consideration in areas of high

wildfire hazard. The initial response from the Department was a report that can be reviewed at :

[https://www.oregon.gov/.../20220930\\_DLCD-Wildfire...](https://www.oregon.gov/.../20220930_DLCD-Wildfire...)

Currently the Department of Land Conservation and Development, staff to the Commission, is developing 'Natural Hazards Risk Assessment' with what is currently using a "non-regulatory map" because there is, and hope to be was, a regulatory map in SB 762. With the maps gone, the direction to the department should also be removed. Leaving directions in the original bill to DLCD only invites that agency to address wildfire separately from this legislation and we may very well be back at the same place with a map and mandates to address State Goal 5 Natural Hazards under the direction of DLCD. This is evidenced by this copy on the DLCD website:

Under Section 11 of SB 762, the Department of Land Conservation and Development (DLCD) delivered a report to the State Wildfire Programs Advisory Council and Legislature identifying recommended updates to the statewide land use planning program and local comprehensive plans and zoning codes. The recommendations focused on changes that would need to be made to incorporate the state wildfire map and minimize wildfire risk, including the appropriate levels of state and local resources necessary for effective implementation. DLCD's Wildfire Adapted Communities Recommendations Report was completed on September 30, 2022.

The 2023 Oregon Legislature did not take formal action on the recommendations. To support local governments that would like to voluntarily implement land use strategies to reduce their community's risk to wildfire, DLCD anticipates developing guidance and models policies and code.

The additional of more codes from DLCD in addition to the codes from the State Fire Marshal and Building Codes Division appear to possibly be a heavier weight on the property owner. The changes as proposed by the amendments to SB 83 should be in place and reviewed for effectiveness before more codes are required. To prevent this possible step backward from the proposed changes in SB762 , section 11 chapter 592, Oregon Laws 2021 should be repealed.

## SUMMARY

The amendments to SB 83 accomplish what Senator Golden, the author of the original SB 762 has publically announced, that the Wildfire Hazard Map should be removed. I support the position that the Wildfire Hazard Map must be repealed and the mandatory Defensive Space and Home Hardening should become optional. My preference is that SB 762 and SB 80 should be repealed completely and each provision such as the clean air facilities and additional equipment for the Fire Marshal should be taken up separately. If forced to choose I would support the -4 amendment with a removal or modification of the WUI. I would also require the repeal of Section 11 of the original bill that is now Section 11 chapter 592, Oregon Laws 2021. The requirement for reports from state agencies regarding their progress is not objectionable and could be added to the -4 amendment.

Sincerely,

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