House Bill 2730

Sponsored by Representative EVANS

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.

Renames Office of Emergency Management as Oregon Department of Emergency Management. Establishes department as state agency independent from Oregon Military Department. Provides that Director of Oregon Department of Emergency Management is appointed by Governor. Provides that current Director of Office of Emergency Management serves as initial director of department. Becomes operative on July 1, 2020.

A BILL FOR AN ACT


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

RENAMEING AND REORGANIZATION OF OFFICE OF EMERGENCY MANAGEMENT

SECTION 1. (1) The amendments to ORS 401.052, 401.054, 401.062, 401.072, 401.076, 401.082, 401.088 and 401.092 by sections 2 to 9 of this 2019 Act are intended to change the name of the “Office of Emergency Management” to the “Oregon Department of Emergency Management” and to establish that entity as a state agency independent from the Oregon Military Department.

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Office of Emergency Management,” wherever they occur in statutory law, other words designating the “Oregon Department of Emergency Management.”

SECTION 2. ORS 401.052 is amended to read:

401.052. (1) The [Office] Oregon Department of Emergency Management is established [in the Oregon Military Department].

(2) The [office] department shall be responsible for:

(a) Coordinating and facilitating private sector and governmental efforts to prevent, prepare for, respond to and recover from emergencies; and

(b) Coordinating exercises and training, planning, preparedness, response, mitigation and recovery activities with state and local emergency services agencies and organizations.

(3) The [office] department shall prepare a statewide emergency management plan and update the plan from time to time as necessary.

SECTION 3. ORS 401.054 is amended to read:

401.054. (1) Each of the following agencies, entities and officials shall designate an individual to act as a liaison with the [Office] Oregon Department of Emergency Management:

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.

LC 1812
(a) The Department of Consumer and Business Services;
(b) The Department of Corrections;
(c) The Department of Education;
(d) The Department of Environmental Quality;
(e) The Department of Human Services;
(f) The Department of Justice;
(g) The Department of Land Conservation and Development;
(h) The Department of Public Safety Standards and Training;
(i) The Department of State Lands;
(j) The Department of State Police;
(k) The Department of Transportation;
(L) The Department of Veterans' Affairs;
(m) The Employment Department;
(n) The Housing and Community Services Department;
o) The Judicial Department;
p) The Oregon Business Development Department;
(q) The Oregon Department of Administrative Services;
r) The Oregon Department of Aviation;
s) The Oregon Health Authority;
t) The Oregon Military Department;
u) The Oregon Tourism Commission;
v) The Public Utility Commission of Oregon;
w) The Secretary of State;
x) The State Department of Agriculture;
y) The State Department of Energy;
z) The State Department of Fish and Wildlife;
(aa) The State Department of Geology and Mineral Industries;
(bb) The State Fire Marshal;
(cc) The State Forestry Department;
(dd) The State Marine Board;
(ee) The State Parks and Recreation Department;
(ff) The Travel Information Council; and
(gg) The Water Resources Department.

(2) Each agency, entity and official required to designate a liaison under this section shall designate an individual who has authority during an emergency to allocate resources and assets of the agency, entity or official.

(3) Each individual designated as a liaison under subsection (1) of this section shall assist in the coordination of the functions of the agency, entity or official that designated the individual that relate to emergency preparedness and response with similar functions of the [Office] Oregon Department of Emergency Management.

SECTION 4, ORS 401.062 is amended to read:
401.062. (1) The [Office] Oregon Department of Emergency Management is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the [office] department.

(2) The [Adjutant General, with the approval of the Governor,] Governor shall appoint the Di-
rector of the [Office] Oregon Department of Emergency Management, who holds office at the
pleasure of the [Adjutant General] Governor.

(3) The director shall be paid a salary as provided by law or, if not so provided, as prescribed
by [the Adjutant General, with the approval of] the Governor.

(4) For purposes of administration, subject to the approval of the [Adjutant General] Governor,
the director may organize and reorganize the [office] department as the director considers neces-
sary to properly conduct the work of the [office] department.

(5) The director may divide the functions of the [office] department into administrative divi-
sions. Subject to the approval of the [Adjutant General] Governor, the director may appoint an in-
dividual to administer each division. The administrator of each division serves at the pleasure of the
director and is not subject to the provisions of ORS chapter 240. Each individual appointed under
this subsection must be well qualified by technical training and experience in the functions to be
performed by the individual.

(6) The appointment of the director is subject to confirmation by the Senate in the
manner prescribed by ORS 171.562 and 171.565.

SECTION 5. ORS 401.072 is amended to read:

401.072. (1) The Director of the [Office] Oregon Department of Emergency Management may,
by written order filed with the Secretary of State, appoint a deputy director. The deputy director
serves at the pleasure of the director, has authority to act for the director in the absence of the
director and is subject to the control of the director at all times.

(2) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all sub-
ordinate officers and employees of the [Office] Oregon Department of Emergency Management,
 prescribe their duties and fix their compensation.

SECTION 6. ORS 401.076 is amended to read:

401.076. In accordance with applicable provisions of ORS chapter 183, the Director of the
[Office] Oregon Department of Emergency Management may adopt rules necessary for the admin-
istration of the laws that the [Office] Oregon Department of Emergency Management is charged
with administering.

SECTION 7. ORS 401.082 is amended to read:

401.082. (1) To aid and advise the Director of the [Office] Oregon Department of Emergency
Management in the performance of the functions of the [Office] Oregon Department of Emergency
Management, the director may establish such advisory and technical committees as the director
considers necessary. The committees may be continuing or temporary. The director shall determine
the representation, membership, terms and organization of the committees and shall appoint their
members. The director is an ex officio member of each committee.

(2) Members of the committees are not entitled to compensation, but in the discretion of the
director may be reimbursed from funds available to the [office] department for actual and necessary
travel and other expenses incurred by them in the performance of their official duties in the manner
and amount provided in ORS 292.495.

SECTION 8. ORS 401.088 is amended to read:

401.088. The Director of the [Office] Oregon Department of Emergency Management may enter
into interagency agreements with other state agencies that the director determines are necessary
to carry out the duties of the [Office] Oregon Department of Emergency Management.

SECTION 9. ORS 401.092 is amended to read:

401.092. (1) The Director of the [Office] Oregon Department of Emergency Management is re-
sponsible for coordinating and facilitating exercises and training, emergency planning, preparedness, response, mitigation and recovery activities with the state and local emergency services agencies and organizations, and shall, with the approval of the Adjutant General or as directed by the Governor:

(a) Make rules that are necessary and proper for the administration and implementation of this chapter;

(b) Coordinate the activities of all public and private organizations specifically related to providing emergency services within this state;

(c) Maintain a cooperative liaison with emergency management agencies and organizations of local governments, other states and the federal government;

(d) Have such additional authority, duties and responsibilities authorized by this chapter or as may be directed by the Governor;

(e) Administer grants relating to emergency program management under ORS 401.305, emergency services for the state and the statewide 2-1-1 system as provided in ORS 403.430;

(f) Provide for and staff a State Emergency Operations Center to aid the Governor and the Office Oregon Department of Emergency Management in the performance of duties under this chapter;

(g) Serve as the Governor's authorized representative for coordination of certain response activities and managing the recovery process;

(h) Establish training and professional standards for local emergency program management personnel;

(i) Establish task forces and advisory groups to assist the office department in achieving mandated responsibilities;

(j) Enforce compliance requirements of federal and state agencies for receiving funds and conducting designated emergency functions;

(k) Oversee the design, implementation and support of a statewide 2-1-1 system as provided under ORS 403.415; and

(L) Coordinate the activities of state and local governments to enable state and local governments to work together during domestic incidents as provided in the National Incident Management System established by the Homeland Security Presidential Directive 5 of February 28, 2003.

Notwithstanding subsection (1) of this section, the State Forester shall serve as the Governor's authorized representative for the purpose of initiating the fire management assistance declaration process with the Federal Emergency Management Agency and administering Federal Emergency Management Agency fire management assistance grants.

FINANCE

SECTION 10. (1) The unexpended balances of amounts authorized to be expended by the Oregon Military Department for purposes of the Office of Emergency Management for the biennium beginning July 1, 2019, from revenues dedicated, continuously appropriated, appropriated or otherwise made available to the department, are transferred to and are available for expenditure by the Oregon Department of Emergency Management for the biennium beginning July 1, 2019.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Office of Emergency Management remain applicable to expenditures by
the Oregon Department of Emergency Management under this section.

**ACTION, PROCEEDING, PROSECUTION**

**SECTION 11.** The amendments to ORS 401.052, 401.054, 401.062, 401.072, 401.076, 401.082, 401.088 and 401.092 by sections 2 to 9 of this 2019 Act do not affect any action, proceeding or prosecution involving or with respect to any duties, functions and powers of the Office of Emergency Management begun before and pending as of the operative date specified in section 19 of this 2019 Act, except that the Oregon Department of Emergency Management is substituted for the Office of Emergency Management in any such action, proceeding or prosecution.

**LIABILITY, DUTY, OBLIGATION**

**SECTION 12.** (1) Nothing in the amendments to ORS 401.052, 401.054, 401.062, 401.072, 401.076, 401.082, 401.088 and 401.092 by sections 2 to 9 of this 2019 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers conferred by those statutes prior to the operative date specified in section 19 of this 2019 Act. The Oregon Department of Emergency Management may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Office of Emergency Management legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date specified in section 19 of this 2019 Act are transferred to the Oregon Department of Emergency Management. For the purpose of succession to these rights and obligations, the Oregon Department of Emergency Management is a continuation of the Office of Emergency Management and not a new authority.

**RULES, REFERENCES**

**SECTION 13.** The rules of the Office of Emergency Management in effect on the operative date specified in section 19 of this 2019 Act continue in effect until superseded or repealed by rules of the Oregon Department of Emergency Management. References in rules of the Office of Emergency Management to the Office of Emergency Management or an officer or employee of the Office of Emergency Management are considered to be references to the Oregon Department of Emergency Management or an officer or employee of the Oregon Department of Emergency Management.

**SECTION 14.** Whenever, in any statutory law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the Office of Emergency Management or an officer or employee of the Office of Emergency Management, the reference is considered to be a reference to the Oregon Department of Emergency Management or an officer or employee of the Oregon Department of Emergency Management.

**INITIAL DIRECTOR**

[5]
SECTION 15. The Director of the Office of Emergency Management on the operative date specified in section 19 of this 2019 Act shall serve as the initial Director of the Oregon Department of Emergency Management at the pleasure of the Governor and without the need for confirmation by the Senate.

CONFORMING AMENDMENTS

SECTION 16. ORS 401.165 is amended to read:

401.165. (1) The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent.

(2) All requests by a county governing body that the Governor declare an emergency shall be sent to the [Office] Oregon Department of Emergency Management. Cities must submit requests through the governing body of the county in which the majority of the city's property is located. Requests from counties shall be in writing and include the following:

(a) A certification signed by the county governing body that all local resources have been expended; and

(b) A preliminary assessment of property damage or loss, injuries and deaths.

(3)(a) If, in the judgment of the [Adjutant General] Director of the Oregon Department of Emergency Management, the Governor cannot be reached by available communications facilities in time to respond appropriately to an emergency, the [Adjutant General] director shall notify the Secretary of State or, if the Secretary of State is not available, the State Treasurer that the Governor is not available.

(b) After notice from the [Adjutant General] director that the Governor is not available, the elected state official so notified may declare a state of emergency pursuant to the provisions of subsections (1) and (2) of this section.

(c) If the [Adjutant General] director is unavailable to carry out the duties described in this subsection, such duties shall be performed by the [Director of the Office of Emergency Management] Adjutant General.

(4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to this section has the same force and effect as if issued by the Governor, except that it must be affirmed by the Governor as soon as the Governor is reached. However, if the Governor does not set aside the proclamation within 24 hours of being reached, the proclamation shall be considered affirmed by the Governor.

(5) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

(6) The governing body of each county shall establish a procedure for receiving, processing and transmitting to the [Office] Oregon Department of Emergency Management, in a timely manner, a request submitted by a city that the Governor declare an emergency.

SECTION 17. ORS 401.534 is amended to read:

401.534. (1) The Oregon Disaster Response Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys received from federal grants for disaster response efforts shall be deposited into the Oregon Disaster Response Fund. Moneys in the fund are continuously appropriated to the [Oregon Military Department] Oregon Department of Emergency Management to be used to:

(a) Help state agencies and local government units with immediate disaster response and re-
(a) Implement long-term hazard mitigation measures after a federally declared disaster in this state during the period of immediate recovery from the disaster.

(2) The Oregon Disaster Response Fund may receive gifts, grants, bequests, endowments and donations from public and private sources for purposes related to the fund.


(4) If there are expenditures from the Oregon Disaster Response Fund, the [Adjutant General of the Oregon Military Department] Director of the Oregon Department of Emergency Management shall report to the Emergency Board, or to the Legislative Assembly if it is in session, on:

(a) The nature and severity of the disaster;

(b) The actual and projected deposits into the fund;

(c) The sources of actual and projected expenditures from the fund;

(d) The nature of in-kind donations received; and

(e) The rationale for expenditures and allocation of payments to state agencies and local government units.

(5) Following the final expenditure for a particular disaster, the [Adjutant General of the Oregon Military Department] director shall issue a final report to the Emergency Board, or to the Legislative Assembly if it is in session. The report must include an aggregate description of the factors described in subsection (4) of this section.

SECTION 18. ORS 401.536 is amended to read:

401.536. (1) The Oregon Local Disaster Assistance Loan and Grant Account is established as an account in the Oregon Disaster Response Fund. The account consists of moneys appropriated by the Legislative Assembly and any other moneys deposited into the account pursuant to law.

(2) Moneys in the account are continuously appropriated to the Oregon Military Department [Oregon Department of Emergency Management] for:

(a) Providing loans to local governments, as defined in ORS 174.116, and school districts to match, either in full or in part, moneys from federal programs for federally declared disaster relief that require a match;

(b) Providing loans and grants to local governments, as defined in ORS 174.116, and school districts, for the purpose of paying costs incurred by local governments and school districts in response to federally declared disasters;

(c) Providing loans and grants to local governments, as defined in ORS 174.116, and school districts for the purposes of paying costs incurred by local governments and school districts in response to disasters that are not federally declared disasters, as determined by the Legislative Assembly, if all loans and grants provided under paragraphs (a) and (b) of this subsection have been repaid, fulfilled or otherwise satisfied and moneys remain in the account; and

(d) Subject to subsection (5) of this section, paying the department's expenses for administering loans made from the account under paragraph (a) of this subsection.

(3) Loans made under subsection (2)(b) or (c) of this section shall be repaid pursuant to such terms and conditions as may be established by the Oregon Department of Administrative Services. Loans made under subsection (2)(b) or (c) of this section may be interest free, or bear interest at a rate established by the Oregon Department of Administrative Services. Amounts repaid on loans made under subsection (2)(b) or (c) of this section shall be deposited in the General Fund.

(4) The Oregon Military Department [Oregon Department of Emergency Management] shall
deposit into the account any amounts repaid on loans made under subsection (2)(a) of this section.

(5) The [Oregon Military Department] department may not charge the account more than five percent of the maximum amount in the account during a biennium for administrative expenses attributable to a loan made under subsection (2)(a) of this section.

(6) An applicant may apply to the [Oregon Military Department] department for a loan under subsection (2)(a) of this section. The department shall consider the application, make a recommendation and submit the application and recommendation to the Local Disaster Assistance Review Board established under subsection (7) of this section.

(7) The [Oregon Military Department] department shall establish a Local Disaster Assistance Review Board to:

(a) Review the recommendations of the department regarding loans under subsection (2)(a) of this section;

(b) Approve, by a majority vote of members, the amount of any loan under subsection (2)(a) of this section; and

(c) Approve, by a majority vote of members, the terms and conditions of any loan under subsection (2)(a) of this section.

(8) The review board shall include:

(a) Three members of county governing bodies, with at least one member representing a county from east of the crest of the Cascade Mountains, with membership determined by the Association of Oregon Counties;

(b) Three members of city governing bodies, with at least one member representing a city from east of the crest of the Cascade Mountains, with membership determined by the League of Oregon Cities;

(c) A representative of the office of the State Treasurer;

(d) A representative of the [Oregon Military] department;

(e) A representative of school districts, with membership determined by the Oregon School Boards Association;

(f) A representative of special districts, with membership determined by the Special Districts Association of Oregon;

(g) A representative of the Oregon Department of Administrative Services; and

(h) Two additional members determined jointly by the department, the Association of Oregon Counties and the League of Oregon Cities.


(a) A loan application process and application forms for loans under subsection (2)(a) of this section;

(b) Reasonable financial terms and conditions for loans under subsection (2)(a) of this section, including interest and the repayment of the loans;

(c) Eligibility requirements for applicants for loans under subsection (2)(a) of this section;

(d) The maximum amount an applicant for a loan under subsection (2)(a) of this section may receive;

(e) The methodology the department will use for charging the account for administrative expenses; and

(f) Procedures for submission of recommendations to the review board for loans under subsection (2)(a) of this section.
(10) The [Oregon Military Department] department shall provide staff support for the review board.

OPERATIVE DATE


UNIT CAPTIONS

SECTION 20. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.