

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2101

By SPECIAL COMMITTEE ON BUDGET

August 2

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and lines
2 3 through 6 and insert “401.025, 401.270, 401.305, 401.515, 453.307, 453.317, 453.520, 453.825, 466.620
3 and 654.196; repealing ORS 453.510, 453.517 and 453.527; limiting expenditures; and declaring an
4 emergency.”.

5 Delete lines 8 through 25 and delete pages 2 through 26 and insert:

6 **“SECTION 1. (1) The Oregon Legislative Assembly finds that:**

7 **“(a) The public safety communications infrastructure of the State of Oregon is rapidly**
8 **aging, outdated and at severe risk of failure;**

9 **“(b) The adopted policies and standards and specific deadlines mandated by the Federal**
10 **Communications Commission will require replacement of statewide public safety communi-**
11 **cations infrastructure in the State of Oregon;**

12 **“(c) The reliability of mission-critical public safety communications infrastructure during**
13 **a man-made or natural disaster is crucial to saving lives and property and to protecting the**
14 **public during an emergency;**

15 **“(d) The deteriorating condition of our public safety radio systems is of immediate con-**
16 **cern because it compromises the safety and well-being of the citizens of the State of Oregon**
17 **who depend upon lifesaving communications systems used by first responders;**

18 **“(e) The majority of the communications systems in the State of Oregon are unreliable,**
19 **greatly increasing the danger to first responders and law enforcement officers in carrying**
20 **out their duty to protect the citizens and property of the State of Oregon;**

21 **“(f) It is in the public interest of Oregonians to plan for improvement of the public safety**
22 **communications infrastructure to ensure long-term stability; and**

23 **“(g) Federal funding for homeland security may be available to facilitate all or part of the**
24 **development and implementation of a plan for improvement of the public safety communi-**
25 **cations infrastructure in the State of Oregon.**

26 **“(2) It is the policy of the State of Oregon:**

27 **“(a) To develop, finance, maintain and operate a single emergency response wireless**
28 **communications infrastructure that supports both the communications needs of all state**
29 **agencies and ensures communications interoperability among all state, local, tribal and fed-**
30 **eral public safety agencies, thereby maximizing shared use of this invaluable public asset.**

31 **“(b) To meet Federal Communications Commission mandates for the conversion of public**
32 **safety communications frequencies and spectrum allocation by 2013.**

33 **“SECTION 2. (1) Under the direction of the Governor, the Office of Emergency Manage-**
34 **ment shall coordinate the work of public safety agencies in the state and the State Interop-**
35 **erability Executive Council, created under section 3 of this 2005 Act, to develop a Public**

1 **Safety Wireless Infrastructure Replacement Plan that:**

2 **“(a) Guides consolidation of existing radio infrastructure;**

3 **“(b) Provides for future management of the infrastructure;**

4 **“(c) Details the engineering and technology specifications for replacement and modern-**
5 **ization of the public safety communications infrastructure, allowing for alternative options**
6 **and phased system development; and**

7 **“(d) Describes the overall benefits and cost of the system including, but not limited to,**
8 **specific descriptions of:**

9 **“(A) The capability of the system to facilitate interconnections among state, local and**
10 **federal systems;**

11 **“(B) How the system will comply with Federal Communications Commission require-**
12 **ments; and**

13 **“(C) Avoided costs the shared system can provide.**

14 **“(2) The Office of Emergency Management shall:**

15 **“(a) Submit reports on the progress of plan development to the Emergency Board and**
16 **the Joint Legislative Committee on Information Management and Technology on or before**
17 **November 30, 2005, and June 30, 2006.**

18 **“(b) Submit the final plan to the Governor, the President of the Senate and the Speaker**
19 **of the House of Representatives on or before January 12, 2007.**

20 **“(c) Concurrent with submission of the final plan, submit to the Legislative Assembly one**
21 **or more proposals for financing implementation of the plan that include consideration of the**
22 **following financial resources:**

23 **“(A) Federal funding sources;**

24 **“(B) Existing or new fee income or excise taxes; and**

25 **“(C) Cooperative local and state financing components.**

26 **“SECTION 3. (1) The State Interoperability Executive Council is created within the Office**
27 **of Emergency Management. The membership of the council shall consist of:**

28 **“(a) Two members from the Legislative Assembly, as follows:**

29 **“(A) The President of the Senate shall appoint one member from the Senate with an in-**
30 **terest in public safety communications infrastructure; and**

31 **“(B) The Speaker of the House of Representatives shall appoint one member from the**
32 **House of Representatives with an interest in public safety and wireless communications**
33 **infrastructure.**

34 **“(b) The following members appointed by the Governor:**

35 **“(A) One member from the Department of State Police;**

36 **“(B) One member from the Office of Emergency Management;**

37 **“(C) One member from the State Forestry Department;**

38 **“(D) One member from the Department of Corrections;**

39 **“(E) One member from the Department of Transportation;**

40 **“(F) One member from the Oregon Department of Administrative Services;**

41 **“(G) One member from the Department of Human Services;**

42 **“(H) One member from the Oregon Military Department;**

43 **“(I) One member from the Department of Public Safety Standards and Training;**

44 **“(J) One member of an Indian tribe as defined in ORS 97.740;**

45 **“(K) One member from a nonprofit professional organization devoted to the enhancement**

1 of public safety communications systems; and

2 “(L) One member from the public.

3 “(c) The following members appointed by the Governor with the concurrence of the
4 President of the Senate and the Speaker of the House of Representatives:

5 “(A) One member from the Oregon Fire Chiefs’ Association;

6 “(B) One member from the Oregon Association Chiefs of Police;

7 “(C) One member from the Oregon State Sheriffs’ Association;

8 “(D) One member from the Association of Oregon Counties;

9 “(E) One member from the League of Oregon Cities; and

10 “(F) One member from the Special Districts Association of Oregon.

11 “(2) Each agency or organization identified in subsection (1)(b)(A) to (I) and (1)(c) of this
12 section shall recommend a person from the agency or organization for membership on the
13 council.

14 “(3) Members of the council are not entitled to compensation, but in the discretion of the
15 Director of the Office of Emergency Management may be reimbursed from funds available
16 to the Office of Emergency Management for actual and necessary travel and other expenses
17 incurred by them in the performance of their official duties in the manner and amount pro-
18 vided in ORS 292.495.

19 “(4) Members of the Legislative Assembly appointed to the council are nonvoting mem-
20 bers and may act in an advisory capacity only.

21 “SECTION 4. The State Interoperability Executive Council created under section 3 of this
22 2005 Act shall:

23 “(1) Work with public safety agencies in the state to develop a Public Safety Wireless
24 Infrastructure Replacement Plan as provided under section 2 of this 2005 Act.

25 “(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be
26 to achieve statewide interoperability within six years of the effective date of this 2005 Act.
27 In developing the plan, the council shall:

28 “(a) Recommend strategies to improve wireless interoperability among state and local
29 public safety agencies;

30 “(b) Develop standards to promote consistent development of existing and future wireless
31 communications infrastructures;

32 “(c) Identify immediate short-term technological and policy solutions to tie existing
33 wireless communications infrastructures together into an interoperable communications
34 system;

35 “(d) Develop long-term technological and policy recommendations to establish a statewide
36 public safety radio system to improve emergency response and day-to-day public safety op-
37 erations; and

38 “(e) Develop recommendations for legislation and for the development of state and local
39 policies to promote wireless interoperability in Oregon.

40 “(3) Approve, subject to approval by the Director of the Office of Emergency Manage-
41 ment, investments by the State of Oregon in public safety communications systems.

42 “(4) Coordinate state and local activities related to obtaining federal grants for support
43 of interoperability.

44 “(5) Develop and provide technical assistance, training and, if requested, appropriate
45 dispute resolution services to state and local agencies responsible for implementation of the

1 **Oregon Interoperable Communication Plan.**

2 **“(6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or**
3 **before February 1 of each odd-numbered year on the development of the Oregon Interoper-**
4 **able Communication Plan and the council’s other activities.**

5 **“(7) Adopt rules necessary to carry out its duties and powers.**

6 **“SECTION 5. (1) The Director of the Office of Emergency Management shall advise the**
7 **State Interoperability Executive Council on the implementation of the Oregon Interoperable**
8 **Communication Plan and coordinate interoperability among all state agencies.**

9 **“(2) State agencies that own or operate public safety communications systems shall co-**
10 **ordinate their efforts and investments to achieve the statewide interoperability goal set by**
11 **the council and implement the Oregon Interoperable Communication Plan approved by the**
12 **director.**

13 **“SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on**
14 **expenditures established by section 2, chapter __, Oregon Laws 2005 (Enrolled House Bill**
15 **5167), for the biennium beginning July 1, 2005, as the maximum limit for payment of expenses**
16 **from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery**
17 **funds and federal funds, collected or received by the Office of Emergency Management is**
18 **increased by \$382,000 for the purpose of carrying out the provisions of sections 2, 3, 4 and 5**
19 **of this 2005 Act.**

20 **“SECTION 7. (1) The Interagency Hazard Communication Council is abolished. On the**
21 **operative date of this section, the tenure of the members of the council ceases.**

22 **“(2) All the duties, functions and powers of the Interagency Hazard Communication**
23 **Council are imposed upon, transferred to and vested in the office of the State Fire Marshal.**

24 **“(3) The chairperson of the Interagency Hazard Communication Council shall deliver to**
25 **the office of the State Fire Marshal all records and property within the jurisdiction of the**
26 **council that relate to the duties, functions and powers transferred by this section.**

27 **“SECTION 8. (1) The Oregon Homeland Security Council is created within the Office of**
28 **Emergency Management. The council shall:**

29 **“(a) Receive briefings on security matters for which the office is responsible at least**
30 **annually from state agencies and organizations as determined by the council; and**

31 **“(b) Advise state agencies with responsibility for security matters on the future direction**
32 **of the office’s planning, preparedness, response and recovery activities.**

33 **“(2) The membership of the council shall consist of:**

34 **“(a) Four members from the Legislative Assembly appointed as follows:**

35 **“(A) Two members from the Senate appointed by the President of the Senate; and**

36 **“(B) Two members from the House of Representatives appointed by the Speaker of the**
37 **House of Representatives;**

38 **“(b) The Governor;**

39 **“(c) The Adjutant General;**

40 **“(d) The Superintendent of State Police;**

41 **“(e) The Director of the Office of Emergency Management; and**

42 **“(f) Additional members appointed by the Governor who the Governor determines nec-**
43 **essary to fulfill the functions of the council, including state agency heads, elected state of-**
44 **ficials, local government officials, a member of the governing body of an Indian tribe and**
45 **representatives from the private sector.**

1 “(3) Each member appointed to the council under subsection (2)(a) and (f) of this section
2 serves at the pleasure of the appointing authority. The membership of a public official ceases
3 upon termination of the office held by the official at the time of appointment to the council.

4 “(4) The Governor shall be chairperson of the council.

5 “(5) Members of the council are not entitled to compensation but, at the discretion of the
6 director, may be reimbursed, in the manner and amount provided in ORS 292.495, from funds
7 available to the office for actual and necessary travel and other expenses incurred in the
8 performance of their duties as members of the council.

9 “**SECTION 9.** ORS 401.025 is amended to read:

10 “401.025. As used in ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, unless the
11 context requires otherwise:

12 “(1) ‘Beneficiary’ has the meaning given that term in ORS 656.005.

13 “(2) ‘Commission’ means the Seismic Safety Policy Advisory Commission established under ORS
14 401.337.

15 “[(3) ‘Director’ means the Director of the Office of Emergency Management.]

16 “[(4)] (3) ‘Emergency’ includes any [*man-made*] **human caused** or natural event or circumstance
17 causing or threatening loss of life, injury to person or property, human suffering or financial loss,
18 and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake,
19 volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contam-
20 ination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants
21 unmanageable by the county, civil disturbance, riot, sabotage and war.

22 “[(5)] (4) ‘Emergency management agency’ means an organization created and authorized under
23 ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to
24 provide for and assure the conduct and coordination of functions for comprehensive emergency
25 program management.

26 “[(6)] (5) ‘Emergency program management’ includes all the tasks and activities necessary to
27 provide, support and maintain the ability of the emergency services system to prevent or reduce the
28 impact of emergency or disaster conditions which includes, but is not limited to, coordinating de-
29 velopment of plans, procedures, policies, fiscal management, coordination with nongovernmental
30 agencies and organizations, providing for a coordinated communications and alert and notification
31 network and a public information system, personnel training and development and implementation
32 of exercises to routinely test the emergency services system.

33 “[(7)] (6) ‘Emergency program manager’ means the person administering the emergency man-
34 agement agency of a county or city.

35 “[(8)] (7) ‘Emergency service agency’ means an organization within a local government which
36 performs essential services for the public’s benefit prior to, during or following an emergency. This
37 includes, but is not limited to, organizational units within local governments, such as law enforce-
38 ment, fire control, health, medical and sanitation services, public works and engineering, public in-
39 formation and communications.

40 “[(9)] (8) ‘Emergency service worker’ means an individual who, under the direction of an emer-
41 gency service agency or emergency management agency, performs emergency services and:

42 “(a) Is a registered volunteer or independently volunteers to serve without compensation and is
43 accepted by the [*office*] **Office of Emergency Management** or the emergency management agency
44 of a county or city; or

45 “(b) Is a member of the Oregon State Defense Force acting in support of the emergency services

1 system.

2 “[(10)] (9) ‘Emergency services’ includes those activities provided by state and local government
3 agencies with emergency operational responsibilities to prepare for and carry out any activity to
4 prevent, minimize, respond to or recover from an emergency. These activities include, without limi-
5 tation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or haz-
6 ardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health
7 and sanitation services, engineering and public works, search and rescue activities, warning and
8 public information, damage assessment, administration and fiscal management, and those measures
9 defined as ‘civil defense’ in section 3 of the Act of January 12, 1951, P.L. 81-920 (50 U.S.C. 2252).

10 “[(11)] (10) ‘Emergency services system’ means that system composed of all agencies and or-
11 ganizations involved in the coordinated delivery of emergency services.

12 “[(12)] (11) ‘Injury’ means any personal injury sustained by an emergency service worker by
13 accident, disease or infection arising out of and in the course of emergency services or death re-
14 sulting proximately from the performance of emergency services.

15 “[(13)] (12) ‘Local government’ means any governmental entity authorized by the laws of this
16 state.

17 “[(14)] (13) ‘Major disaster’ means any event defined as a ‘major disaster’ [*by the Act of May 22,*
18 *1974, P.L. 93-288*] **under 42 U.S.C. 5122(2).**

19 “[(15)] ‘Office’ means the Office of Emergency Management of the Department of State Police.]

20 “[(16)] (14) ‘Oregon emergency management plan’ means the state emergency preparedness op-
21 erations and management plan. The Office of Emergency Management is responsible for coordinating
22 emergency planning with government agencies and private organizations, preparing the plan for the
23 Governor’s signature, and maintaining and updating the plan as necessary.

24 “[(17)] (15) ‘Search and rescue’ means the acts of searching for, rescuing or recovering, by
25 means of ground or marine activity, any person who is lost, injured or killed while out of doors.
26 However, ‘search and rescue’ does not include air activity in conflict with the activities carried out
27 by the Oregon Department of Aviation.

28 “[(18)] (16) ‘Sheriff’ means the chief law enforcement officer of a county.

29 “**SECTION 10.** ORS 401.270 is amended to read:

30 “401.270. The Director of the Office of Emergency Management shall be responsible for coordi-
31 nating and facilitating emergency planning, preparedness, response and recovery activities with the
32 state and local emergency services agencies and organizations, and shall, with the approval of the
33 Superintendent of State Police or as directed by the Governor:

34 “(1) Make rules that are necessary and proper for the administration and implementation of ORS
35 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

36 “(2) Coordinate the activities of all public and private organizations specifically related to pro-
37 viding emergency services within this state;

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

40 “(4) Have such additional authority, duties and responsibilities authorized by ORS 401.015 to
41 401.105, 401.260 to 401.325 and 401.355 to 401.580 or as may be directed by the Governor;

42 “(5) Administer grants relating to emergency program management and emergency services for
43 the state;

44 “(6) Provide for and staff a State Emergency Operations Center to aid the Governor and the
45 Office of Emergency Management in the performance of duties under ORS 401.015 to 401.105, 401.260

1 to 401.325, 401.355 to 401.580 and 401.706;

2 “(7) Serve as the Governor’s authorized representative for coordination of certain response ac-
3 tivities and managing the recovery process;

4 “(8) Establish training and professional standards for local emergency program management
5 personnel;

6 “(9) Establish task forces and advisory groups to assist the office in achieving mandated re-
7 sponsibilities; [and]

8 “(10) Enforce compliance requirements of federal and state agencies for receiving funds and
9 conducting designated emergency functions[.]; **and**

10 “(11) **Coordinate the activities of state and local governments to enable state and local**
11 **governments to work together during domestic incidents as provided in the National Incident**
12 **Management System established by the Homeland Security Presidential Directive 5 of Feb-**
13 **ruary 28, 2003.**

14 “**SECTION 11.** ORS 401.305 is amended to read:

15 “401.305. (1) Each county of this state shall, and each city may, establish an emergency man-
16 agement agency which shall be directly responsible to the executive officer or governing body of the
17 county or city.

18 “(2) The executive officer or governing body of each county and any city which participates
19 shall appoint an emergency program manager who shall have responsibility for the organization,
20 administration and operation of such agency, subject to the direction and control of the county or
21 city.

22 “(3) The local governing bodies of counties and cities that have both city and county emergency
23 management programs shall jointly establish policies which provide direction and identify and define
24 the purpose and roles of the individual emergency management programs, specify the responsibilities
25 of the emergency program managers and staff and establish lines of communication, succession and
26 authority of elected officials for an effective and efficient response to emergency conditions.

27 “(4) Each emergency management agency shall perform emergency program management func-
28 tions within the territorial limits of the county or city and may perform such functions outside the
29 territorial limits as required under any mutual aid or cooperative assistance agreement or as au-
30 thorized by the county or city.

31 “(5) [Such] **The** emergency management functions shall include, as a minimum[,]:

32 “(a) Coordination of the planning activities necessary to prepare and maintain a current emer-
33 gency operations plan, management and maintenance of emergency operating facilities from which
34 elected and appointed officials can direct emergency and disaster response activities[, and];

35 “(b) Establishment of an incident command structure for management of a coordinated response
36 by all local emergency service agencies; **and**

37 “(c) **Coordination with the Office of Emergency Management to integrate effective prac-**
38 **tices in emergency preparedness and response as provided in the National Incident Manage-**
39 **ment System established by the Homeland Security Presidential Directive 5 of February 28,**
40 **2003.**

41 “**SECTION 12.** ORS 401.515 is amended to read:

42 “401.515. (1) During the existence of an emergency, the state and any local government, any
43 agent thereof or emergency service worker engaged in any emergency services activity, while com-
44 plying with or attempting to comply with ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to
45 401.580 or any rule [promulgated] **adopted** under those sections, [shall] **is** not, except in cases of

1 willful misconduct, gross negligence or bad faith, [be] liable for the death or injury of any person,
2 or damage or loss of property, as a result of that activity.

3 “(2) There shall be no liability on the part of a person who owns or maintains any building or
4 premises which has been designated by any emergency management agency or emergency service
5 agency or any public body or officer of this state or the United States as a fallout shelter or a
6 shelter from destructive operations or attacks by enemies of the United States for the death of or
7 injury to any individual or damage to or loss of property while in or upon the building or premises
8 as a result of the condition of the building or premises or as a result of any act or omission, except
9 willful misconduct, gross negligence or bad faith of such person or the servants, agents or employees
10 of the person when the dead or injured individual entered or went on or into the building or prem-
11 ises for the purpose of seeking refuge therein during or in anticipation of destructive operations or
12 attacks by enemies of the United States or during tests ordered by lawful authority.

13 “(3) The provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 [shall]
14 **do** not affect the right of any person to receive benefits or compensation to which the person would
15 otherwise be entitled under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, under
16 ORS chapter 656, under any pension or retirement law or under any act of Congress.

17 “(4) Emergency service workers, in carrying out, complying with or attempting to comply with
18 any order or rule issued under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or
19 any local ordinance, or performing any of their authorized functions or duties or training for the
20 performance of their authorized functions or duties, shall have the same degree of responsibility for
21 their actions and enjoy the same immunities as officers and employees of the state and its local
22 governments performing similar work.

23 “(5) [Nothing in] This section [shall] **does not** excuse any governmental agency from liability for
24 intentional confiscation or intentional destruction of private property.

25 “(6) [There shall be no liability incurred by any] **A** person who complies with [an] **a lawful** order
26 of the Governor under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 **incurs no**
27 **liability** for damages resulting from compliance.

28 “(7)(a) **An officer, employee or agent of the federal government or another state, or an**
29 **agency or political subdivision of another state, who is accepted by the Office of Emergency**
30 **Management to act as an emergency service worker is an agent of this state for the purposes**
31 **of this section and ORS 30.260 to 30.300.**

32 “(b) **An officer, employee or agent of the federal government or another state, or an**
33 **agency or political subdivision of another state, who is accepted by a local government**
34 **emergency management agency to act as an emergency service worker is an agent of the**
35 **local government emergency management agency for the purposes of this section and ORS**
36 **30.260 to 30.300.**

37 “**SECTION 13.** ORS 453.317 is amended to read:

38 “453.317. (1) The State Fire Marshal shall develop a hazardous substance survey and distribute
39 the survey to employers in this state. The survey shall request the following information from such
40 employers:

41 “(a) The identity and hazard classification of the hazardous substance as listed on a material
42 safety data sheet;

43 “(b) The approximate amount and location of the hazardous substance;

44 “(c) The name and telephone number of personnel qualified to give technical, onsite information
45 about hazardous substances; and

1 “(d) Any procedures established by the employer for the control of hazardous substances in the
2 event of an emergency.

3 “(2) In addition to the information to be provided under subsection (1) of this section, the State
4 Fire Marshal may by rule establish additional requirements for obtaining hazardous substance in-
5 formation the State Fire Marshal considers necessary. All rules adopted under this subsection shall
6 be adopted after public hearing in accordance with ORS chapter 183.

7 “[*(3) Before the development of the initial hazardous substance survey, the State Fire Marshal*
8 *shall consult with the Interagency Hazard Communication Council established under ORS 453.510 re-*
9 *garding.*]

10 “[*(a) Interagency cooperation in the development of the hazardous substance survey; and*]

11 “[*(b) Interagency access to data collected as the result of ORS 453.307 to 453.414 and 476.030.*]

12 “[*(4)*] **(3)** Any employer receiving a hazardous substance survey shall complete the hazardous
13 substance survey and return it to the State Fire Marshal not later than March 1 of each year or
14 within 60 days after the date the State Fire Marshal mails the hazardous substance survey, which-
15 ever is later.

16 “[*(5)*] **(4)** The State Fire Marshal shall update the hazardous substance survey once every 12
17 months.

18 “[*(6)*] **(5)** An employer shall update and return the hazardous substance survey on or before
19 March 1 of each year or within 60 days after the date the State Fire Marshal mails the survey,
20 whichever is later, or an employer shall update the hazardous substance survey whenever any sub-
21 stantive information required to be provided changes, whichever situation occurs most often.

22 “[*(7)*] **(6)** The Director of the Department of Consumer and Business Services shall participate
23 in the development and updating of the hazardous substance survey and shall have access to the
24 data included in the survey.

25 “[*(8)*] **(7)** The State Fire Marshal may conduct an inspection to confirm the validity of a haz-
26 arduous substance survey required by this section. The inspection shall be conducted according to
27 the provisions of ORS 476.150.

28 “**SECTION 14.** ORS 453.520 is amended to read:

29 “453.520. **(1)** The Governor shall designate the [*Interagency Hazard Communication Council*] **of-**
30 **office of the State Fire Marshal** as the state emergency response commission as required by the
31 Emergency Planning and Community Right-to-Know Act of 1986 [*P.L. 99-499*] **(42 U.S.C. 11001 et**
32 **seq.)**.

33 “**(2) The office shall:**

34 “**(a) Provide, in a timely manner, advice to a state agency that is required to consult with**
35 **the office about programs that involve hazardous materials or hazardous substances; and**

36 “**(b) Undertake all duties of a state emergency response commission required by the**
37 **Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.) in-**
38 **cluding but not limited to:**

39 “**(A) Designating emergency planning districts;**

40 “**(B) Establishing local emergency planning committees within emergency planning dis-**
41 **tricts and appoint members to the local emergency planning committees; and**

42 “**(C) Providing comments on local emergency plans.**

43 “**SECTION 15.** ORS 453.825 is amended to read:

44 “453.825. **(1)** The Department of Transportation shall coordinate development of a single plan
45 and procedure for the regulation of the transportation of hazardous material and waste and radio-

1 active material and waste in Oregon.

2 “(2) In developing the plan under subsection (1) of this section, the Department of Transporta-
3 tion shall cooperate with the [*Interagency Hazard Communication Council created under ORS*
4 *453.510*] **office of the State Fire Marshal**.

5 “(3) As used in this section, ‘hazardous waste’ has the meaning given that term in ORS 466.005.

6 “**SECTION 16.** ORS 466.620 is amended to read:

7 “466.620. In accordance with the applicable provisions of ORS chapter 183, the Environmental
8 Quality Commission shall adopt an oil and hazardous material emergency response master plan
9 consistent with the plan adopted by the [*Interagency Hazard Communications Council pursuant to the*
10 *provisions of ORS 453.317 (1) to (6), 453.510,*] **Department of Transportation under ORS 453.825**
11 **and 453.835**, and after consultation with the [*Interagency Hazard Communications Council*] **office of**
12 **the State Fire Marshal**, the Oregon State Police, the Oregon Fire Chiefs Association and any other
13 appropriate agency or organization.

14 “**SECTION 17.** ORS 453.307 is amended to read:

15 “453.307. As used in ORS 453.307 to 453.414:

16 “(1) ‘Community right to know regulatory program’ or ‘local program’ means any law, rule, or-
17 dinance, regulation or charter amendment established, enforced or enacted by a local government
18 that requires an employer to collect or report information relating to the use, storage, release,
19 possession or composition of hazardous substances and toxic substances if a primary intent of the
20 law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

21 “(2) ‘Emergency service personnel’ includes those entities providing emergency services as de-
22 fined in ORS 401.025 [(8) and (10)].

23 “(3) ‘Employer’ means:

24 “(a) Any person operating a facility that is included in one or more of the 21 standard industrial
25 classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent
26 Decree of June 8, 1976 (8 E.R.C. 2120); or

27 “(b) Any person operating a facility designated by the State Fire Marshal.

28 “(4) ‘Fire district’ means any agency having responsibility for providing fire protection services.

29 “(5) ‘Hazardous substance’ means:

30 “(a) Any substance designated as hazardous by the Director of the Department of Consumer and
31 Business Services or by the State Fire Marshal;

32 “(b) Any substance for which a material safety data sheet is required by the Director of the
33 Department of Consumer and Business Services under ORS 654.035 and which appears on the list
34 of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment
35 by the American Conference of Governmental Industrial Hygienists; or

36 “(c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as
37 defined in ORS 453.005.

38 “(6) ‘Health professional’ means a physician as defined in ORS 677.010, registered nurse, indus-
39 trial hygienist, toxicologist, epidemiologist or emergency medical technician.

40 “(7) ‘Law enforcement agency’ has the meaning given that term in ORS 181.010.

41 “(8) ‘Local government’ means a city, town, county, regional authority or other political subdivi-
42 sion of this state.

43 “(9) ‘Person’ includes individuals, corporations, associations, firms, partnerships, joint stock
44 companies, public and municipal corporations, political subdivisions, the state and any agency
45 thereof, and the federal government and any agency thereof.

1 “(10) ‘Trade secret’ has the meaning given that term in ORS 192.501 (2).

2 “**SECTION 18.** ORS 654.196 is amended to read:

3 “654.196. (1) The Director of the Department of Consumer and Business Services may by rule
4 require employers to provide information to employees relating to the contents of piping systems.
5 The rules shall include, but need not be limited to requirements for:

6 “(a) Labeling piping systems to provide notice about hazardous chemicals contained in the sys-
7 tem; and

8 “(b) Labeling a piping system that uses asbestos as a pipe insulation material.

9 “(2) Every employer shall post a sign in the location where notices to employees are normally
10 posted to inform employees that they have a right under this section and ORS 453.317 [(7)] (6) to
11 information from the employer regarding hazardous substances found in the place of employment.

12 “(3) The sign required under subsection (2) of this section shall include, but need not be limited
13 to, the following information and shall be substantially in the following form:

14 “ _____

15

16 NOTICE TO EMPLOYEES

17 “You have a right under state law to information about hazardous substances found in your
18 place of employment. For this information, contact your employer.

19 “ _____

20

21 “(4) Notwithstanding any other provision of this chapter or ORS 192.410 to 192.505, an employer
22 may withhold the precise chemical name of a chemical only if the employer can substantiate that:

23 “(a) The chemical name is a trade secret with commercial value that can be protected only by
24 limiting disclosure; and

25 “(b) The commercial value of the product cannot be preserved by withholding the processes,
26 mixture percentages or other aspects of the production of the product instead of its chemical con-
27 stituents.

28 “(5) A trade secret designation claimed under subsection (4) of this section may be subject to
29 yearly review.

30 “(6) Notwithstanding any other provision of this chapter or ORS 192.410 to 192.505, if a treating
31 physician or health professional concludes that the chemical identity of a hazardous chemical used
32 in an employer’s place of employment is necessary to prescribe necessary treatment for a patient,
33 the employer may not require the physician or health professional to sign a confidentiality agree-
34 ment as a condition to the release of the information by the employer, manufacturer or importer.

35 “**SECTION 19. ORS 453.510, 453.517 and 453.527 are repealed.**

36 “**SECTION 20. Section 7 of this 2005 Act and the repeal of ORS 453.510, 453.517 and 453.527**
37 **by section 19 of this 2005 Act become operative on January 1, 2006.**

38 “**SECTION 21. This 2005 Act being necessary for the immediate preservation of the public**
39 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
40 **on its passage.”**

41 _____